

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

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*
M. PETER KUCK, ET AL., *
Plaintiffs, *
* CASE NO. 3:07-CV-1390-VLB
V *
* MARCH 14, 2012
JOHN A. DANAHER, III, ET AL., *
Defendants. *
*
* * * * *

DEPOSITION OF ALARIC FOX

Taken on behalf of the Plaintiffs in the above-entitled cause, before Patricia Tyszka, Registered Merit Reporter, License No. 46, Notary Public, in and for the State of Connecticut, on Wednesday, March 14, 2012, at 9:06 a.m., at the Office of the Attorney General, 55 Elm Street, Hartford, Connecticut, pursuant to the Rules of Civil Procedure.

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1 APPEARANCES

2
3 For the Plaintiffs:

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9
10 For Defendant State of Connecticut:

11 OFFICE OF THE ATTORNEY GENERAL
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14 BY: ROBERT D. SNOOK, ESQ.
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16
17 Also Present:

18 M. Peter Kuck
19 Joseph Gasser, Legal Intern for Attorney Baird
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STIPULATIONS

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IT IS STIPULATED by counsel that formalities as to the proof of the authority of the Notary Public and sufficiency of Notice are waived.

IT IS STIPULATED and agreed between counsel that all objections, except as to form, are reserved to the time of trial.

IT IS FURTHER STIPULATED and agreed that the deposition may be signed before a Notary Public.

1 ALARIC FOX,
2 Of Connecticut Department of Emergency Services
3 and Public Protection, 111 Country Club Road,
4 Middletown, Connecticut 06457, having first been
5 duly sworn, was examined and testified as follows:

6
7 DIRECT EXAMINATION

8
9 BY MS. BAIRD:

10 Q Major Fox, good morning. My name is Attorney
11 Rachel Baird, and I represent Peter Kuck in a case that
12 was filed in 2007, Kuck versus Danaher. Have you heard of
13 that case?

14 A I have.

15 Q And are you aware that you're a party in that
16 case?

17 A I am.

18 Q And that you're here for a deposition with regard
19 to that case today?

20 A I am.

21 Q Have you been deposed before?

22 A I have.

23 Q On how many occasions?

24 A Half a dozen.

25 Q And were those occasions related to your work as

1 a state trooper?

2 A The majority.

3 Q So you're familiar with depositions, but I'll
4 review some of the ground rules just for the record today.

5 A Sure.

6 Q If you need to take a break, just indicate and
7 everybody will be in agreement to take a break.

8 If something I ask you isn't clear, ask me to
9 clarify it or to repeat it.

10 That's probably about it. Oh, the other one, if
11 you answer, say it out loud so that the court reporter
12 can take it down.

13 A Certainly.

14 Q What is your current position at the Department
15 of Emergency Services and Public Protection?

16 A I'm a State Police major assigned as chief of
17 staff to the deputy commissioner.

18 Q What does that mean in terms of your job
19 description or duties?

20 A I run the day-to-day office operations for the
21 colonel of the state police.

22 Q And who is the present colonel?

23 A Danny Stebbins.

24 Q How long have you been in this position?

25 A Since August of last year.

1 Q When were you promoted to major?

2 A December of last year.

3 Q And prior to your promotion to major, did you
4 hold a different job or position within the State Police?

5 A I did.

6 Q And what was that?

7 A Immediately prior to my position as major in this
8 assignment, I was a captain within this assignment.

9 Q What roles or assignments did you have while you
10 were a captain?

11 A From most recent working backwards, I was a
12 captain serving as chief of staff to the colonel. Prior
13 to that, I was a captain serving as the commanding officer
14 of our office of Professional Standards and Compliance.
15 Prior to that, as a captain I was the commanding officer
16 of our Selections and Training Unit.

17 Q At one time you were the commandant of the police
18 academy?

19 A My last assignment as a State Police lieutenant
20 was as the commanding officer of the training academy.

21 Q Now, at some point while you were a lieutenant,
22 you had a position within the Special Licensing and
23 Firearms Unit. Correct?

24 A Within the Special Investigations And support
25 Services Unit, which included the Special Licensing and

1 Firearms Unit.

2 Q Okay. And what was your position within the
3 Special Investigations Unit?

4 A I was the executive officer of Special
5 Investigations and Support Services.

6 Q As executive officer did you oversee the Special
7 Licensing and Firearms Unit?

8 A I'm somewhat hesitant as to the word "oversee."
9 It certainly was in the umbrella of units that fell within
10 my responsibility, yes.

11 Q And what responsibilities did you have as
12 executive officer in terms of the Firearms Unit and its
13 mission?

14 A Well, I assisted the commanding officer of
15 Special Investigations and Support Services in running or
16 overseeing Special Licensing and Firearms, the Special
17 Duty or Overtime office, and the Sex Offender Registry.

18 Q Who preceded you? Who was your immediate
19 predecessor in that position?

20 A I don't -- there was not an executive officer in
21 that position prior to my being assigned there.

22 Q Was it a newly created position for you or had
23 the position existed previously, but not just been filled?

24 A I believe it was the latter of the two.

25 Q Okay. And do you know prior to you being

1 executive officer, who had been the most recent executive
2 officer?

3 A I believe that for lack of a better phrase,
4 Sergeant Ron Bastura had served in that role while serving
5 as the sergeant and the supervisor of Special Licensing
6 and Firearms.

7 Q And when you became the executive officer, was
8 there someone who fulfilled the sergeant position within
9 the Firearms Unit?

10 A Sergeant Bastura was there. Sergeant Hall was
11 there.

12 Q How long had Sergeant Bastura been serving in the
13 sergeant position and somewhat fulfilling the duties of
14 executive officer before you came and took over those
15 duties of executive officer?

16 A A considerable period of time in years. I don't
17 know how long.

18 Q Was there a reason why you were appointed or
19 assigned to be the executive officer where there hadn't
20 been an executive officer in that position for some years?

21 A I don't know if I could answer that.

22 Q Okay. Were you told when you took over the
23 position of executive officer that there were specific
24 issues that needed your attention as the executive
25 officer?

1 A I don't know that I was told that. I think I
2 was -- it would be fair to say I was generally aware of
3 it, but there was no specific sit-down where someone
4 brought me in and said these are your marching orders.

5 Q And you're an attorney. Correct?

6 A I am.

7 Q When did you graduate from law school?

8 A 1990.

9 Q And did you take the Bar right after that?

10 A I did.

11 Q And when were you actually admitted?

12 A We were sworn in December of 1990.

13 Q When you were sworn in as an attorney in December
14 of 1990, were you already a state trooper?

15 A I was not.

16 Q Did you practice law prior to becoming a state
17 trooper?

18 A I did.

19 Q And what kind of practice did you have?

20 A I worked for Siegal, O'Connor, Schiff & Zangari
21 out of Hartford and New Haven. We did primarily public
22 sector labor law work.

23 Q How long were you with that firm?

24 A Approximately two years.

25 Q After that firm did you go to another firm or

1 another kind of law practice?

2 A After that I went to the State Police.

3 Q And you've been with the State Police ever since?

4 A Correct.

5 Q Let's go back to when you went to the assignment

6 of being an executive officer with the Special

7 Investigations Unit. About what time was that? What

8 month and year?

9 A 11/23/07.

10 Q Where was your office located?

11 A The first floor of headquarters at 111 Country

12 Club Road, Middletown.

13 Q Was that office located near the Firearms Unit?

14 A Yes.

15 Q Was it located within the Firearms Unit?

16 A It's a separate office, but yes, it's immediately

17 off of the Special Licensing and Firearms Unit.

18 Q Who was in the Firearms Unit when you were

19 assigned to be executive officer of Special Investigations

20 on 11/23/07?

21 A There were probably 20 to 25 people.

22 Q And of those 20 to 25 people, were some

23 specifically assigned to revocations and denials and

24 renewals and issuance of state permits?

25 A They were not -- the answer as I believe you

1 phrased the question is yes.

2 By point of clarification, they were not
3 relegated to only that type of work; but on a day-to-day
4 basis that was the work that they did engage in, yes.
5 I'm sorry. In other words, there was an element of
6 cross-training and cross-ability. But as I believe you
7 intend the question, yes.

8 Q Were two of those individuals who performed
9 primarily functions within the revocations and state
10 permit portion of the Firearms Unit, Detective Karanda and
11 Detective Mattson?

12 A That is correct.

13 Q What supervisory role, if any, did you have over
14 Detective Karanda and Detective Mattson in your position
15 as executive officer?

16 A I suppose it's fair to say that I supervised
17 their supervisor. They were not direct reports to me.

18 Q And their supervisor was Sergeant Bastura?

19 A And Sergeant Hall.

20 Q Other than Detective Karanda and Detective
21 Mattson when you came to the Special Investigations Unit
22 on 11/23/07, were there any other detectives performing
23 primarily the function within the revocation and issuance
24 of state permit portion of the Firearms Unit that they
25 were performing?

1 A At some point Detective Musial became involved in
2 those cases, but he was just being educated. And at a
3 point, at a much later point another detective was brought
4 in, but I don't believe it was within the dates when I was
5 there.

6 Q And what detective are you referring to there?

7 A Imbimbo. As a matter of fact, as I think about
8 it, I'm sure that was outside of my window.

9 Q Are you familiar with the name Kubish?

10 A I am.

11 Q Was he a detective in the Firearms Unit while you
12 were the executive officer on or after 11/23/07?

13 A I don't believe so.

14 Q Other than Sergeant Bastura, Sergeant Hall,
15 Detective Karanda, Detective Mattson, and at some point
16 perhaps Detective Musial, were there any other individuals
17 that you were aware of performing that function within the
18 Firearms Unit of addressing state permits while you were
19 the executive officer?

20 A No.

21 Q What kind of contact on a day-to-day basis would
22 you have with -- well, how long were you executive
23 officer?

24 A 11/23/07 to 4/4/08. Four-and-a-half months or
25 so.

1 Q While you were the executive officer during those
2 four-and-a-half months, did you appear before the Board of
3 Firearms Permit Examiners on behalf of the issuing
4 authority?

5 A I did.

6 Q Did you appear on a regular basis during those
7 four-and-a-half months?

8 A I did.

9 Q Did you share the duties with anyone during those
10 four-and-a-half months of appearing before the board?

11 A There may have been months where backup coverage
12 was necessary because someone had a scheduling conflict.
13 But I believe that I covered all of those dates or almost
14 all of those dates.

15 Q Before being assigned to be the executive officer
16 on 11/23/07, had you appeared in front of the Board of
17 Firearms Permit Examiners on behalf of the issuing
18 authority?

19 A Much before, yes.

20 Q In terms of years, how much before?

21 A 2002 -- approximately August of 2002 to
22 approximately June 2004.

23 Q And prior to August 2002, had you appeared in
24 front of the Board of Firearms Permit Examiners
25 representing the issuing authority?

1 A I had not.

2 Q Have you ever appeared in front of any other
3 boards, representing the Department of Public Safety
4 either as an attorney or as an advocate for the Department
5 of Public Safety?

6 A I had argued cases relative to bail bondsmen once
7 or twice. That falls within the broader umbrella of
8 Special Investigations and Support Services. But not
9 beyond that.

10 Q Where are those arguments held on behalf of the
11 bail bondsmen?

12 A Headquarters.

13 Q And who do you argue them in front of?

14 A An agency employee assigned to serve as an
15 administrative or adjudicative judge, for lack of a better
16 phrase.

17 Q Subsequent to April 4th, 2008 when you left your
18 position as executive officer with Special Investigations,
19 did you appear in front of the Board of Firearms Permit
20 Examiners representing the issuing authority?

21 A For a brief period, yes.

22 Q And do you know when that brief period was?

23 A I don't. I was ultimately -- when I was moved
24 from that unit, my job responsibilities no longer would
25 have included putting on those cases. However, because

1 there was not an immediate heir apparent, I was asked,
2 told, instructed to continue to do the cases as I was
3 slowly weaned out of that additional role.

4 Q And who asked or told you to fill in or perform
5 those duties during that time period when there may have
6 not been anybody else available?

7 A Major Mark Newland.

8 Q What position did he hold?

9 A He was a State Police major, and he was in charge
10 of Bureau of Training and Support Services.

11 Q On November 23rd, 2007 when you were assigned to
12 be the executive officer, who was the commissioner of the
13 department at that time?

14 A John Danaher.

15 Q Do you know when he became the commissioner?

16 A I would be guessing. I'm sorry.

17 Q Do you know if it was in 2007, or previously?

18 A I would -- I mean I wouldn't dispute it if you
19 said that was the year, but I really -- I couldn't tell
20 you with certainty.

21 Q Okay. When he did become commissioner, whenever
22 that was, did you know who he was?

23 A I did not.

24 Q You had not met him prior to him becoming
25 commissioner?

1 A Correct.

2 Q And for purposes of this hearing, former
3 commissioner Danaher is now a judge. Are you aware of
4 that?

5 A I am.

6 Q So I'll refer to him as Judge Danaher since he's
7 a judge.

8 A Certainly.

9 Q When Judge Danaher became the commissioner, did
10 you have an opportunity at that time or soon thereafter to
11 meet with him for any reason?

12 A At general command staff level meetings.

13 Q And were you part of the general command staff at
14 that time?

15 A Yes.

16 Q And you were a lieutenant?

17 A I was.

18 Q How is that defined in terms of who is a member
19 of the general command staff? Does it go by rank?

20 A Lieutenants and higher.

21 Q And when did you become a lieutenant?

22 A July 2004.

23 Q How often would these general command staff
24 meetings be held?

25 A Different colonels and commissioners have had

1 them on a more or less regular basis. I would say at the
2 most frequent they were once a month, and at the less
3 frequent they were perhaps twice a year. In that time
4 frame they were probably somewhere between those two
5 extremes.

6 Q And they would be held at headquarters?

7 A Correct.

8 Q And would the commissioner be present for those
9 general command staff meetings?

10 A Yes.

11 Q Do you recall specifically any general command
12 staff meetings that occurred after Judge Danaher became
13 the commissioner and prior to you leaving the position of
14 executive officer of the Special Investigations Unit in
15 April 2008?

16 A I remember the first command staff meeting where
17 he was introduced to us. After that, they all, candidly,
18 kind of merged together.

19 Q How many people would be in attendance?

20 A At a command staff meeting?

21 Q Yes.

22 A Counting the civilian managers that also
23 attended, occasionally executive officers, master
24 sergeants would attend. Sixty?

25 Q Do you know a person named Diane Morrell?

1 A I do.

2 Q Does she work in the Special Investigations Unit?

3 A She does. Well, she works within the Special
4 Licensing and Firearms Unit within the broader Special
5 Investigations and Support Services Unit.

6 Q And is she a civilian?

7 A She is.

8 Q What supervisory role does she have within the
9 SLFU?

10 A I don't know what her job title is. She does
11 have a supervisory position.

12 Q She didn't have any supervisory authority over
13 you while you were in the Special Investigations Unit.
14 Correct?

15 A Correct.

16 Q Do you know if she had supervisory authority over
17 the detectives who worked with the state permitting?

18 A She did not.

19 Q Were there any other civilians assigned to the
20 Special Licensing and Firearms Unit while you were there?

21 A There were many.

22 Q Many?

23 A Yes.

24 Q Would you term Diane Morrell as the civilian
25 within the SLFU that had the most authority? Or the most

1 supervisory authority?

2 A She had one -- it happened to be another
3 female -- civilian supervisor counterpart, if you will.
4 And they at least in terms of job classification were on
5 equal footing.

6 Q And who was that person?

7 A I'm sorry. I don't know. I can picture her. I
8 don't know her name.

9 Q Okay. While Judge Danaher was commissioner of
10 the department, did you have any meetings with him where
11 no one else was present?

12 A While I was in Special Investigations and Support
13 Services?

14 Q We could start with that.

15 A None.

16 Q Okay. And that means during that four-and-a-half
17 months that you were with Special Investigations, you did
18 not meet with Commissioner Danaher where no one else was
19 present.

20 A Correct.

21 Q Prior to 11/23/07 and subsequent to April 4th,
22 2008, did you have any meetings with Commissioner Danaher
23 while he was the commissioner, where no one else was
24 present?

25 A I'm somewhat hesitant on the word "meetings," but

1 there certainly were instances where he and I through
2 happenstance were alone together in an office. I recall
3 three or four times where he was at the training academy,
4 typically before municipal police graduations, and he
5 would be in my office because he would get there early and
6 he would want to use the computer or, you know, look at
7 the last version of his speech. I'm hesitant to call them
8 "meetings," but they certainly were two people alone in a
9 location where other people were not present.

10 Q Do you recall if any of these not necessarily
11 meetings, but interactions where no one else was present,
12 do you recall on these occasions discussing issues related
13 to the Firearms Unit?

14 A No.

15 Q Do you recall discussing issues related to the
16 state permitting process?

17 A No.

18 Q Now, as an attorney and also a state trooper, did
19 your assignments as a state trooper require you to render
20 legal advice to others in the department?

21 A Certainly not in a -- certainly not in a formal
22 legal sense. Any such legal advice that was needed would
23 be -- formal legal advice that was needed was obtained
24 from the Attorney General's office.

25 MR. SNOOK: Can I interrupt?

1 Major, does the what was then known as the
2 Department of Public Safety have a legal affairs
3 office?

4 THE WITNESS: Yes.

5 MR. SNOOK: Did they have in-house counsel?

6 THE WITNESS: Yes.

7 MR. SNOOK: When commissioners or colonels
8 requested legal advice, would they typically go
9 to either the Attorney General's office or their
10 legal department within the agency?

11 THE WITNESS: Yes.

12 MR. SNOOK: Did they ever rely on you for
13 formal legal advice?

14 THE WITNESS: Not for formal legal advice.

15 BY MS. BAIRD:

16 Q Were you ever assigned to the Office of Legal
17 Affairs within the department?

18 A No.

19 Q Am I correct when I say that you have never
20 formed an attorney-client privilege with any member of the
21 State Police?

22 A I'm not sure I can answer that comfortably. I
23 mean I think that calls for certain legal conclusions that
24 are beyond my ability to answer that. I didn't give
25 formal legal advice. No one within the State Police ever

1 paid for my services. But I think the attorney-client
2 privilege issue raises matters that are beyond my ability
3 to answer.

4 Q Okay. You're familiar with the term, though.
5 Correct?

6 A I am.

7 MR. SNOOK: Did you ever yourself have
8 conversations with Dawn Hellier?

9 THE WITNESS: I did.

10 MR. SNOOK: Regarding legal matters?

11 THE WITNESS: I did.

12 MR. SNOOK: Were those privileged?

13 THE WITNESS: I would certainly think they
14 were.

15 BY MS. BAIRD:

16 Q Well, were they privileged where she had the duty
17 not to disclose what was in the conversation or were they
18 privileged where you had the duty because you were the
19 attorney? I'm not sure I --

20 MR. SNOOK: Object to the question because
21 either party can claim the privilege. He does
22 not have to disclose conversations he had with
23 counsel.

24 BY MS. BAIRD:

25 Q How close in your -- well, I'll get back to that.

1 In your position as executive officer of the
2 Special Investigations Unit, you had within your umbrella
3 I think you termed it the Firearms Unit. Correct?

4 A Correct.

5 Q And what else was within that umbrella?

6 A The Sex Offender Registry and the Special Duty
7 Unit.

8 Q And during your four-and-a-half months as
9 executive officer, are you able to look back and give me
10 an idea of how you divided your time among those three
11 units under your umbrella?

12 A They were more or less equal. Perhaps Special
13 Duty took the least of the three, but they were -- they
14 were roughly equal.

15 Q When you were assigned to be executive officer in
16 2007, were you told of any specific issues to pay
17 attention to or that needed resolution within the Special
18 Duty Unit?

19 A Special Duty Unit, unfortunately, seems to always
20 have -- that's the unit that calls out the overtime, calls
21 out the extra-duty jobs. Some individuals, myself not
22 included, are very vested in their opportunity to earn
23 overtime. There were and, unfortunately, will always be
24 inordinate interest in that unit. So that was, you know,
25 one of the assignments on my radar screen.

1 Q Were there any specific issues that needed
2 particular attention that you can identify sitting here
3 today that you spent time working on or addressed?

4 A I mean, ensuring that overtime assignments were
5 properly called out. Ensuring the computer system was
6 working appropriately. Ensuring that disputes between the
7 people in the unit and employees getting the jobs were
8 resolved as amicably as possible. I mean, that was the
9 general responsibility and that was also the specific
10 responsibility. There was no specific within the
11 specifics, if that's what your question is driving at.

12 Q Yes. I mean was there some sort of controversy
13 going on about misuse or abuse that needed to be addressed
14 specifically that you can recall?

15 A Well, there were allegations of misuse of
16 overtime, who was getting jobs, whether people were
17 favored children, so to speak, that had surfaced
18 immediately prior to that. But that was no -- that was no
19 more on my radar screen than any other piece of that
20 assignment was. It was one of a myriad of job
21 responsibilities that would have belonged to me.

22 Q Is what you just discussed that was on your radar
23 screen specific to the Special Duty Unit, was that
24 alleviated in any way or resolved in any way prior to you
25 leaving?

1 A I think the -- I think the problem was -- I'm
2 comfortable with "alleviated." Certainly lessened. Yes.

3 Q And how was that accomplished?

4 A There was a change of employees within that unit.
5 The change actually preceded me, but there was a change of
6 employees in the unit.

7 Q Were there any policies or procedures that were
8 changed?

9 A I'm sure there were. I recall one in particular
10 where employees were not allowed to visit the Special Duty
11 office to try to obtain not-filled jobs. And I'm sure
12 there were others, but they escape me at present.

13 Q Have you had any occasion to review or look at or
14 have knowledge of whether the changes that were put in
15 place that alleviated the situation back when you served
16 as executive officer have remained so?

17 A I believe that they have.

18 MR. SNOOK: If I can interrupt?

19 This particular branch of Special
20 Investigations, it sounds like it's overtime
21 work; am I correct?

22 THE WITNESS: It is, sir.

23 MR. SNOOK: I'm not entirely sure what that
24 means. This is completely new to me. The
25 reason I'm asking is because I'm not sure what

1 connection it has to the existing lawsuit. I
2 thought we were doing primarily Firearms Unit
3 issues. Can you help me with the relevancy?

4 MS. BAIRD: No. I'm just going to keep
5 asking questions. I mean we'll get through it
6 faster.

7 MR. SNOOK: Okay. There is a point.

8 MS. BAIRD: Yes.

9 BY MS. BAIRD:

10 Q Now, with regard to the Sex Offender Registry,
11 that was within your umbrella when you were the executive
12 officer. Correct?

13 A Correct.

14 Q Again, when you came there, were there any
15 specific identifiable issues other than the routine ones
16 that always exist that were brought to your attention and
17 indicated to you that you should pay special attention to
18 while you were the executive officer?

19 A There were no specific issues beyond the general
20 very high-profile nature of the work that was being done
21 in that unit. The need to make sure that the information
22 that was posted was posted in timely fashion, that it was
23 accurate. There was discussion in this time period about
24 whether or not the state should be assessing or rating the
25 relative dangerousness of the people on the Registry.

1 Those were all, again, the myriad of issues that were in
2 the world of the Sex Offender Registry Unit and,
3 therefore, became part of my world.

4 Q Was your role impacted in any way or related to
5 the samples that were taken from individuals who were
6 convicted of felonies and needed to give their DNA to the
7 lab?

8 A I believe that was going on at the same time, but
9 it was nothing that I would have personal knowledge of.

10 Q And that had nothing to do with your role in the
11 Sex Offender Registry?

12 A That responsibility, without regard to when it
13 occurred, would have belonged to people within the unit
14 and therefore would have fallen, once again to use the
15 phrase from earlier, under my umbrella. It was nothing
16 that I was directly involved in.

17 Q So for example, if there was a backlog at the lab
18 in inputting results from DNA tests performed on felons,
19 that wasn't part -- or that didn't impact your role as
20 executive officer of the Sex Offender Registry?

21 A Correct.

22 Q And then the third unit under your umbrella, the
23 Firearms Unit, when you were -- well, when did you become
24 aware that you were going to become the executive officer
25 of the Special Investigations unit?

1 A Perhaps a week before then.

2 Q And is this an assignment that you had sought?

3 A No.

4 Q How did it come to be that you were given that
5 assignment as executive officer?

6 A I believe that Captain Masek had asked for the
7 assignment of an executive officer to aid him in his
8 function. I was notified by Lieutenant Colonel Duffy that
9 I was going to be transferred to that position.

10 Q Lieutenant Colonel Duffy. I'm trying to recall.
11 Just prior to that you were at the training academy?

12 A No. Just prior to that I was at Internal
13 Affairs.

14 Q Where is the Internal Affairs office located at
15 DPS?

16 A The Meriden Complex. The Mulcahey Complex.

17 Q How long had you been in Internal Affairs?

18 A February 2007 to November 2007.

19 Q Were you asked if you wanted to make the transfer
20 from Internal Affairs to the Special Investigations unit?

21 A I don't know that I could be comfortable with the
22 word "asked." I mean I certainly suppose I could have
23 expressed either excitement or vehemence for the
24 assignment, but I wouldn't say "asked," no.

25 Q Did you express either of those emotions?

1 A I was -- wherever they send me is the nature of
2 my job.

3 Q Did you ask for what reason after nine months you
4 were being sent from your assignment in Internal Affairs
5 to the Special Investigations Unit?

6 A I don't know if I asked or I was told, but it was
7 certainly in -- in either event, it was in response to
8 Captain Masek's request for an executive officer to be
9 assigned to assist him.

10 Q Did you know Captain Masek prior to being told
11 you were going to be sent to the Special Investigations
12 Unit?

13 A I -- not socially, but I certainly knew him as a
14 work colleague.

15 Q In what capacities had you worked with him?

16 A We had never been assigned to the same place at
17 the same time. He had called with questions over the
18 years. We would see each other at command staff meetings
19 or at, you know, all-hands-on-deck type meetings out of
20 headquarters. That was the extent of it.

21 Q Did Captain Masek, if you know, ask for you
22 specifically?

23 A I believe that he did.

24 Q Do you know why he asked for you specifically?

25 A I can't know with certainty.

1 Q Do you know if it -- did he tell you why he asked
2 for you specifically?

3 A He was complimentary as to my skill set upon my
4 arrival and said that was why he wanted me.

5 Q Did he say that one of the reasons was because
6 you were an attorney?

7 A Yes.

8 Q And what were the other reasons? How did he
9 compliment you?

10 A It sounds rather self-serving.

11 Q Yes. Well, that's okay.

12 A He offered that I had an administrative skill
13 set. He offered that I had a positive work ethic. He
14 offered that I was reasonably astute. I don't remember
15 the exact words, but I do remember meeting with him upon
16 my assignment and that he was very -- he was a gentleman.
17 He was always a gentleman. And he was very complimentary
18 and appreciative as to my assignment.

19 Q You were the commander of Troop C at some point?

20 A I was.

21 Q Did he indicate to you that the Special
22 Investigations Unit needed an executive officer who had
23 leadership skills?

24 A I don't have a specific recollection of that, but
25 it certainly sounds like something one might say.

1 Q Did he compliment you on your leadership skills?

2 A I don't have a specific recollection. I'm sorry.

3 Q Okay. Did he indicate to you that the Special
4 Investigations Unit needed an executive officer who was a
5 take-charge sort of person?

6 A Again, I can't recall that with certainty.

7 Q Okay. In your opinion, did the Special
8 Investigations Unit need at that time in November of 2007
9 someone of your skill set?

10 A I'm very flattered that anyone might perceive
11 that as to me, but I didn't feel that they were in any
12 more need of leadership or take charge, any more or less
13 of need of that than any other unit may be.

14 Q Well, when you came into the unit in
15 November 2007 and were there for four-and-a-half months,
16 in your opinion was your skill set a good addition or did
17 it aid the mission of the Special Investigations Unit?

18 A Once again, not trying to be trite or cute, but I
19 like to think that my assignment wherever they've put me
20 has improved the function of that unit. So the answer to
21 that would be yes.

22 Q Okay. Can you point to specific ways in which
23 during that four-and-a-half months the unit -- and I'm
24 going to focus on the one part of the umbrella, the
25 Firearms Unit -- the Firearms Unit improved or some

1 problems were alleviated or issues addressed while you
2 were there?

3 A I cannot.

4 Q Is it fair to say that when you were assigned as
5 executive officer in November 2007 and then left in April
6 of 2008, the Firearms Unit had basically stayed the same?

7 A Basically.

8 Q Now, getting back to when -- let me ask you this.
9 You found out about a week ahead of time before you became
10 executive officer that you were going to have that
11 assignment?

12 A Correct.

13 Q During that week between when you found out and
14 when you actually started in the position, did you have a
15 conversation with Captain Masek?

16 A I did meet with Captain Masek in regard to the
17 assignment and it -- it certainly wasn't any -- it
18 certainly wasn't any earlier than when I was notified and
19 it certainly wasn't any later than I reported. It was
20 probably -- it was therefore probably during that week as
21 I was transitioning and moving boxes and the like. But I
22 don't recall specifically when it occurred.

23 Q Did Captain Masek identify for you any specific
24 issues within the Firearms Unit for you to be aware of
25 that were going on at that time in November 2007?

1 A I don't know if he identified or if I was
2 generally aware that issues before the Board of Firearms
3 Permit Examiners had become contentious.

4 Q When did you first become aware that issues
5 before the Firearms Unit board had become contentious?

6 A When I read about it in the newspaper.

7 Q Do you recall what newspaper that was?

8 A The Hartford Courant.

9 Q And what was the article about?

10 A A Mr. Goldberg.

11 Q And are you referring to James Goldberg?

12 A I don't know his first name.

13 Q What was it in particular about that article that
14 you out of all the articles in the paper paid attention
15 to?

16 A It had to do with a State Police unit. It had to
17 do with matters before the board where I had argued cases
18 previously. It had to do with the propriety or alleged --
19 alleged propriety of the seizure of his state pistol
20 permit.

21 Q Did you discuss that Goldberg issue with Captain
22 Masek?

23 A I'm sure we did.

24 Q Was there any other information that came to you
25 prior to November of 2007, other than the newspaper

1 article you've just told us about, that conveyed to you
2 that there were issues of contention at the Firearms
3 Board?

4 A No.

5 Q Between the time when you read the article in the
6 newspaper about Mr. Goldberg and became the executive
7 officer of the Special Investigations Unit, did you
8 discuss the Goldberg issue with any other members of the
9 State Police?

10 A No.

11 Q Did you discuss with Captain Masek in any of the
12 first meetings that you had after you were assigned as
13 executive officer a member of the board by the name of
14 Peter Kuck?

15 A I don't believe I ever discussed Mr. Kuck with
16 Captain Masek. No.

17 Q Okay. Did you have any knowledge that there were
18 any issues of contention in the Board of Firearms Permit
19 Examiners involving Mr. Kuck?

20 A No.

21 Q Sitting here today, are you aware of any issues
22 of contention between 2007 and today between Mr. Kuck and
23 the Board of Firearms Permit Examiners?

24 A Yes.

25 Q So when did you first become aware of issues of

1 contention between Mr. Kuck and the board?

2 A Some time after my assignment.

3 Q So during your four-and-a-half-month assignment
4 it did come to your attention in some manner that there
5 were issues of contention between Mr. Kuck and the board?

6 A Yes.

7 Q And did you observe those issues directly or were
8 you informed of them by other means?

9 A I suspect both.

10 Q Well, let's start with did you observe the issues
11 directly of contention between Mr. Kuck and the board?

12 A Yes.

13 Q What did you observe?

14 A Mr. Kuck doesn't get along with other members of
15 the board.

16 Q When did you first observe that?

17 A Would have been during hearings.

18 Q And these hearings were hearings where you
19 represented the issuing authority?

20 A Correct.

21 Q Would you tell me what exactly you observed that
22 led you to believe that Mr. Kuck didn't get along with
23 other members of the board?

24 A Other members of the board appeared at odds with
25 Mr. Kuck, both substantively and as to how cases were

1 being handled before the board. There were certainly body
2 language interpretations that I made. There were
3 certainly moments where there were -- I wouldn't say nasty
4 words exchanged, but it was clear that the relationship
5 wasn't harmonious.

6 Q Did Detective Mattson express to you any issues
7 of contention or did she ever complain to you about Peter
8 Kuck?

9 A I knew there was general animosity.

10 Q And how did you know that?

11 A Discussions with Detective Mattson.

12 Q What did she say about Peter Kuck?

13 A I don't recall any specifics.

14 Q Did Detective Mattson ever file with you a formal
15 complaint against Peter Kuck?

16 A No.

17 Q And Detective Karanda, did you ever discuss with
18 him any complaints he had about Peter Kuck?

19 A Yes.

20 Q And what were his complaints about Peter Kuck?

21 A General frustration and animosity.

22 Q Did you ever take any action with regard to the
23 issues of contention brought to you by Detective Karanda
24 and Detective Mattson?

25 A I did not.

1 Q Was there any action you could have taken?

2 A I don't believe there was.

3 Q In your current position, do you have any input
4 into presenting names to the Governor's office for
5 possible nominees to the position on the Board of Firearms
6 Permit Examiners in the position that Joseph Corradino now
7 holds, the DPS nominee?

8 A I do not.

9 Q Okay. Do you know who does?

10 A It's the commissioner's appointee. Presumably
11 the commissioner does.

12 Q Okay. So the commissioner does that all by
13 himself.

14 A I don't know. I mean, I know it's the
15 commissioner's appointee.

16 Q Do you know if back in 2007 -- well, let me ask
17 it this way. Did Detective Mattson ever discuss with you
18 efforts to remove Peter Kuck from the board?

19 A No.

20 Q Did Detective Karanda discuss with you efforts to
21 remove Peter Kuck from the board?

22 A No.

23 Q Do you know of any efforts Detective Mattson made
24 to remove Peter Kuck from the board?

25 A I have no such knowledge.

1 Q Do you know of any efforts Detective Karanda made
2 to remove Peter Kuck from the board?

3 A I have no such knowledge.

4 Q Have you ever contacted anyone in the Governor's
5 office to express an opinion about any member on the Board
6 of Firearms Permit Examiners?

7 A I have not.

8 Q Did you know when you were assigned executive
9 officer back in November 2007 that Peter Kuck had a case
10 pending before the board regarding his state permit?

11 A I did not.

12 Q Did you become aware of that?

13 A I did.

14 Q And how did you become aware of that?

15 A Because his case came up for hearing sometime
16 after November 23rd, 2007.

17 Q Other than the Goldberg issue that you had read
18 about in the newspaper and knew previously that that was
19 an issue in the Firearms Unit, did you know of any other
20 issues in the Firearms Unit when you came on board as the
21 executive officer in November 2007 that needed your
22 attention?

23 A I did not.

24 Q Are you familiar with a term that was used during
25 that time to describe the number of appeals pending, the

1 term "backlog"?

2 A Yes.

3 Q Before November 2007, did you know or had you
4 become aware that there were some individuals that
5 believed there was a backlog of appeal cases at the
6 Firearms Unit and before the board?

7 A Sure.

8 Q When did you become aware of that?

9 A That the concern or assertion or allegation about
10 backlog certainly existed prior to my ever appearing
11 before the board in that '02 to '04 time frame.

12 Q And back in 2002 to 2004, you were appearing in
13 front of the board?

14 A Correct.

15 Q And at that point it's your recall that there was
16 an issue that some were terming a "backlog"?

17 A Correct.

18 Q And back in 2002 to 2004, did you see the number
19 of cases pending before the board as a backlog?

20 A Well, I mean there's by definition always a
21 backlog. I was not dialed in to the number of cases that
22 were in the queue. You know, in 2002 to 2004, I would
23 step in and I would argue cases once a month.

24 Q Okay.

25 A I had no involvement in SLFU beyond that.

1 Q So when you became the executive officer in 2007,
2 what kind of involvement did you have in the Firearms
3 Unit, specifically the appeals pending before the board?

4 A I would argue the cases on behalf of Special
5 Investigations and Support Services, more specifically the
6 commissioner, before the board.

7 Q Did you get involved in any of the revocation
8 decisions?

9 A No.

10 Q Do you know who was responsible for the
11 revocation decisions? And when I say "revocation," I mean
12 revocation of state permit decisions within the Firearms
13 Unit while you were there.

14 A Directly, Detective Karanda, Detective Mattson,
15 supervised by Sergeant Hall and Sergeant Bastura.
16 Primarily Sergeant Hall.

17 Q Was Sergeant Hall in the Firearms Unit when you
18 arrived in November 2007?

19 A He was.

20 Q Do you know a Trooper Hatfield?

21 A I do.

22 Q Did he have any involvement in the Firearms Unit
23 during that four months when you were the executive
24 officer?

25 A No.

1 Q Did you know Sergeant Hall previous to
2 November 2007?

3 A I did.

4 Q Had you worked with him?

5 A Yes.

6 Q In what offices or units?

7 A He was a trooper under my command when I was the
8 commanding officer at Troop C. He was a trooper in the
9 Mansfield Resident Trooper's office.

10 Q Did you ever discuss any revocation decisions
11 with Sergeant Hall while you were the executive officer?

12 A I'm sure we did.

13 Q That would have been within your role?

14 A Yes.

15 Q Did you discuss reinstatement decisions with
16 Sergeant Hall while you were the executive officer?

17 A Again, I'm sure we did. I don't have specific
18 recollection of the discussion of either revocations or
19 reinstatements.

20 Q During that four-and-a-half months did you meet
21 with Commissioner Danaher, either with others present or
22 alone, to discuss issues in the Firearms Unit with regard
23 to the permitting process?

24 A Yes.

25 Q Approximately how many meetings did you have with

1 him?

2 A One.

3 Q And when did that meeting occur?

4 A I don't know the date. It would have been in the
5 window that we're describing, the four-and-a-half-month
6 window.

7 Q And how did that meeting come to be scheduled?

8 A I believe a letter was written by Michael Beal to
9 the commissioner requesting the meeting. And the
10 commissioner agreed to take the meeting and asked me to
11 join him.

12 Q Was Michael Beal present at that meeting?

13 A He was.

14 Q Who else?

15 A There was another gentleman, a retired state
16 trooper whose name escapes me. Darren? Darren Edwards it
17 might have been?

18 Q So other than Darren Edwards, Michael Beal,
19 yourself, and Commissioner Danaher, anyone else present?

20 A No.

21 Q Did you know the purpose of that meeting before
22 you arrived?

23 A I surmised its general agenda.

24 Q And what was the agenda that you expected or
25 that -- what was your -- what did you surmise it would be

1 about?

2 A I expected Mr. Beal, and I -- again, I apologize.
3 I think his name is Darren Edwards. I expected Mr. Beal
4 and Mr. Edwards, assuming I have the name correctly, to
5 offer their criticisms of the revocation action taken
6 within SLFU.

7 Q Of a particular revocation action?

8 A I'm sure both. The general way in which it was
9 being done, and I'm sure there were -- I'm sure I expected
10 them to focus on specifics as well.

11 Q Okay. And why did you expect them to be
12 critical?

13 A Because that was their -- and I don't know how I
14 knew this, but that was the general -- that was their
15 general theme that they had previously expressed.

16 Q Do you mean in the letter that Mr. Beal had
17 written?

18 A I think in the letter requesting the meeting and
19 perhaps more generally as well.

20 Q Did you feel that the Firearms Unit was under
21 siege while you were there during that four-and-a-half
22 months?

23 A I don't know that I would agree with the "under
24 siege" characterization. It certainly was an area that
25 needed or warranted or was getting some attention.

1 Q How long did the meeting last?

2 A Less than 30 minutes. More than 15, less than
3 30. It's a guess.

4 Q And what was discussed at the meeting?

5 A Mr. Beal and Mr. Edwards offered their criticisms
6 as to the way that SLFU was making revocation and denial
7 permitting decisions.

8 Q And at that point you hadn't even been there --
9 even if the meeting took place at the end of your tenure,
10 you hadn't even been there four-and-a-half months.
11 Correct?

12 A Correct.

13 Q And however long you'd been there prior to this
14 meeting, did you believe that you had enough background or
15 enough knowledge to respond to their concerns?

16 A I did.

17 Q And how did you respond to their concerns?

18 A I thought their concerns were without merit.

19 Q Did you believe at that time that there was any
20 problem with what people were terming a "backlog" at the
21 Firearms Unit? Or before the board?

22 A There was certainly a desire on the part of
23 certain members of the board to have cases heard in a more
24 expeditious fashion. That wasn't our call. We didn't
25 schedule those cases. We didn't schedule the docket. So

1 I was aware that there were some individuals that wanted
2 cases heard more rapidly.

3 Q Exhibit 12. This is a letter that's already been
4 identified as Exhibit 12 in these proceedings. Have you
5 seen this letter, Major Fox? And I'll give you an
6 opportunity to look at it. Just indicate to me when
7 you're ready to go on.

8 A (Reviewing.) I have not seen it before.

9 Q Okay. If I could direct your attention to the
10 first page of Plaintiffs' Exhibit 12. There is a
11 representation in this document by Mr. Beal, and I
12 quote -- it's about nine lines down in the first full
13 paragraph -- "It was disturbing to hear him" -- and he's
14 referring to you -- "say that he would take the
15 'conservative' side and 'take the permit'."

16 Do you recall that you said anything like that
17 or said that?

18 A Something like that.

19 Q Okay. And in what context or what were you
20 responding to when you said something like that?

21 A Thank you, because Mr. Beal takes the statement
22 woefully out of context.

23 In the discussion that we were having about the
24 position that SLFU took in regard to pistol permit
25 revocations and denials, the discussion generally ebbed

1 into if a person is suitable, if a person has the mental
2 faculties and physical faculties and has all the
3 prerequisites to get the permit, then they get the
4 permit. If a person is clearly unsuitable, then they
5 don't get a permit. If a person might be suitable or
6 might not be suitable, if they might be sane or they
7 might be insane, if they might be a danger to themselves,
8 but they might not be a danger to themselves, SLFU's
9 responsibility was to put that case on to the board for
10 adjudication. That is the reference to being
11 conservative or taking a permit. It is certainly not
12 some -- some political antirearms bent.

13 Q And moving forward in this Plaintiffs'
14 Exhibit 12, there is -- it's about halfway into that first
15 paragraph, and I quote, "It was disturbing to hear him" --
16 referring to you -- "lecture me about the state conferring
17 the 'privilege' of a license in response to my comment
18 that there is a property right in the legally possessed
19 physical permit."

20 Do you recall using the term as regards a
21 license that it's a privilege?

22 A I do.

23 Q Okay. And again I'll give you the opportunity to
24 describe in response to what that was made or the context
25 in which it was made.

1 A Mr. Beal, as I recall, was representing that
2 there was some inalienable right for people to have their
3 firearms and that SLFU couldn't or shouldn't or wouldn't
4 be in a position to be taking pistol permits away from
5 individuals. It's in that context that we discussed
6 generally that the ability to carry a firearm is not an
7 absolute. And it is in that context that the word
8 "privilege" would have been used.

9 Q And it would be the Firearms Unit who confers the
10 privilege? Where does the -- who gives the person the
11 privilege?

12 A I don't know that anyone gives the privilege. My
13 use of the word "privilege" in the conversation was meant
14 to denote that it was not an absolute.

15 Q Was the use of the term "privilege" meant to
16 denote that it's not a right?

17 A I -- I would not say that.

18 Q Just giving you an opportunity to testify whether
19 some other statements in here are accurate.

20 Moving on in that first paragraph, Mr. Beal
21 indicates that "you candidly offered that you had not
22 read them" -- and he's talking about case law -- "even
23 though I had cited them in my earlier correspondence to
24 you."

25 Do you recall discussing case law with Mr. Beal

1 about suitability?

2 A I recall discussing suitability. I do not recall
3 the specific discussion about case law. Understand that
4 Mr. Beal was out of control. Mr. Beal lost his temper,
5 began screaming and yelling and eventually stormed out of
6 the meeting in an extraordinarily inappropriate,
7 unprofessional manner. He was -- there were points where
8 it was very difficult to even follow his train of thought.

9 Q Have you talked to Mr. Beal since that meeting?

10 A No.

11 Q What happened after Mr. Beal left that meeting,
12 if anything? Did the meeting continue?

13 A It did.

14 Q And it continued with you, Mr. Edwards, and
15 Commissioner Danaher?

16 A Correct.

17 Q What was discussed during the time period when
18 Mr. Beal left the meeting and the end of the meeting?

19 A More of the same. Mr. Edwards offered his
20 opinion, albeit in a more fluid, coherent manner, that
21 SLFU was making revocation or denial decisions
22 inappropriately.

23 Q Did Mr. Edwards or Mr. Beal specifically address
24 the Goldberg case during that meeting?

25 A I imagine they did. I have no -- I don't have a

1 specific recollection of that.

2 Q While you were appearing in front of the board
3 between 2002 and 2004, and then during that
4 five-and-a-half-month [sic] time frame we've been talking
5 about in 2007 to 2008 when you were the executive officer,
6 did you ever have opportunity to review auditing reports
7 prepared by the state of the Board of Firearms Permit
8 Examiners?

9 A I did not.

10 Q Other than the one meeting that you've just
11 testified to that you had with Darren Edwards, Mr. Beal,
12 and the commissioner, did you have any other meetings with
13 Commissioner Danaher about what we're terming or what has
14 been termed the "backlog" of appeals before the board?

15 A No.

16 Q Did you while you were the executive officer of
17 the Special Investigations Unit take any action to
18 decrease what has been termed by some the "backlog" of
19 cases before the board?

20 A I was on the instruction of Commissioner Danaher
21 instructed to instruct the sergeant to instruct the
22 troopers --

23 Q Okay.

24 A -- to conduct a review -- this would have been
25 the second review -- of the cases that were pending for

1 hearing before the board.

2 Q So the instruction that came from Commissioner
3 Danaher to do that, did it come directly to you?

4 A Yes.

5 Q In what form of communication?

6 A Verbally.

7 Q Was that during a meeting?

8 A I think it was on the heels of this meeting,
9 although I'm not -- I'm not certain.

10 Q Okay. What did Commissioner Danaher say to you
11 in terms of what specifically you were to instruct
12 Sergeant Bastura to do for him to instruct the detectives
13 to do?

14 A Sergeant Bastura or Sergeant Hall.

15 Q Okay.

16 A That he requested -- assigned, effectively --
17 that review be done of the pending cases to cull out any
18 where the individuals had through the passage of time or
19 through documentation that might have been provided now,
20 or the expiration of court orders or whatever other
21 factors might influence the individual's ability to have a
22 permit, to cull out any cases that would be or were
23 appropriate for reinstatement.

24 Q Do you know -- and I guess the only way you would
25 know is if he told you -- what led him to give that

1 instruction to you to pass down through the chain of
2 command?

3 A I can only -- I don't know. I don't know.

4 Q The instruction that you're talking about
5 followed, however, the meeting with Mr. Beal and
6 Mr. Edwards?

7 A I think so. I'm not certain. I remember the
8 instruction and I remember the meeting. It seems logical
9 for me to put them in that order, but that is an
10 assumption on my part.

11 Q Do you recall at about what stage or what point
12 in the four-and-a-half-month period you were executive
13 officer that this instruction came down?

14 A I do not. It was such a short, compressed period
15 of time.

16 Q Were you given any specifics about how to go
17 about complying with this directive or order from
18 Commissioner Danaher?

19 A No.

20 Q If Commissioner Danaher had not given you this
21 instruction to pass down through the chain of command,
22 would you have on your own passed down an instruction
23 through the chain of command to look into any pending
24 cases before the board?

25 A No.

1 Q Why not?

2 A Because it had already been done.

3 Q When had it been done?

4 A Prior to my arrival.

5 Q And how did you know that?

6 A I learned that upon my arrival in the unit, and
7 it was reiterated when the instruction came to do it a
8 second time. What turned out to be the second time.

9 Q Who told you that this had already been done when
10 you came into the unit?

11 A I believe Detective Mattson. It could have been
12 Karanda.

13 Q Did you know Detective Mattson before November of
14 2007 when you became executive officer?

15 A I had met her. Well, I'm sorry. Before 2007?

16 Q Yes.

17 A Yes.

18 Q Well, before 2007 when you became executive
19 officer. So before November 23rd, 2007.

20 A Yes.

21 Q Had you worked with her?

22 A No.

23 Q Did you just know her in her capacity as another
24 state trooper?

25 A Correct.

1 Q And since leaving as executive officer in
2 April 2008, have you had contact with Detective Mattson?

3 A Yes.

4 Q For what reason?

5 A We work in the same building. We run into each
6 other with some regularity.

7 Q While you were the executive officer and any time
8 previously or since, has Detective Mattson ever expressed
9 the opinion to you that civilians should not, in fact,
10 possess firearms; that that should be law enforcement?

11 A No.

12 Q Do you hold that opinion?

13 A No.

14 Q The cases that had already been looked at prior
15 to you coming into the unit, did you learn that through
16 one of your discussions with Captain Masek?

17 A I learned that either upon my assignment to the
18 unit or upon assigning my subordinates to conduct the
19 second audit. I believe that I -- I believe that I
20 indicated I was not sure which one. I also don't know,
21 and I apologize, with certainty when it was that I learned
22 that information. I became aware that a first audit had
23 been done as I passed on the instruction to do the second
24 audit.

25 Q How specific were your instructions with regard

1 to the second audit?

2 A I'm sorry?

3 Q Did you give instructions to Sergeant Bastura or
4 Sergeant Hall about specifically what they should be
5 looking for or doing when performing the audit?

6 A No.

7 Q Did you just say "perform an audit"?

8 A I explained to them that they were being
9 requested, assigned -- they would have understood the
10 words interchangeably -- to cull through the pending cases
11 to determine whether or not there were individuals that
12 were either eligible for reinstatement, appropriately; or
13 perhaps statutorily barred; or out of state, if we could
14 determine that; or passed away, if we could determine
15 that, in order to cull cases out of the pending backlog --
16 using the quotes around that word. I would not -- I could
17 not have gotten down into the weeds as to the individual
18 decisions that were being made and the propriety of the
19 suitability decisions, determinations that were being
20 made. That was not my direct province or responsibility.

21 Q Was it established how you would be informed when
22 this process was complete?

23 A That they would report back to me.

24 Q And did they, in fact, do that?

25 A I believe they did, yes.

1 Q Was it in written form or just a meeting?

2 A I recall being told verbally.

3 Q And who told you?

4 A Detective Mattson.

5 Q And did you discuss with Sergeant Bastura or
6 Sergeant Hall the results of the audit?

7 A I may very well have. I don't recall.

8 Q And what do you recall being told by Detective
9 Mattson?

10 A That a handful of cases had been culled out, but
11 that, as expected, the number was low as a result of the
12 fact that this was audit No. 2, and audit No. 1 had been
13 completed in the very distant past.

14 Q What do you mean "the very distant past"?

15 A Immediately prior to -- at some point immediately
16 prior to my assignment there.

17 Q Okay. Did you discuss the results of the audit
18 that had been performed prior to your assignment?

19 A No.

20 Q Do you know how many cases were culled out during
21 that first audit?

22 A I do not.

23 Q Did you discuss with Sergeant Bastura or Sergeant
24 Hall the results of the first audit?

25 A I do not. I did not. Or I do not recall any

1 such discussion.

2 Q So is it fair to say a lot of your information
3 was coming from Detective Mattson about the two audits?

4 A I can't characterize where I learned or how I
5 learned different pieces of the information. I was aware
6 there was an audit. I was aware that the first audit had
7 culled out a number of cases. Audit No. 2, the
8 instruction was passed on, and after that instruction was
9 passed on I learned the results of that I believe from
10 Detective Mattson. There would have been general office
11 discussion about the audits, but I can't parse out what I
12 learned from who.

13 Q How did you report back, if you did report back,
14 to Commissioner Danaher the results of the second audit?

15 A I believe that I advised Captain Masek.

16 Q And what did you advise Captain Masek of?

17 A That the audit had been completed and that a
18 relatively small number of individuals' action had been
19 taken up.

20 Q Can I just show you Exhibit 3. Major Fox, are
21 you familiar with the format of Plaintiffs' Exhibit 3?

22 A I am.

23 Q And is it fair to say that the date of this
24 letter, June 27th, 2007, preceded your assignment as
25 executive officer?

1 A That is correct.

2 Q Have you had occasion to see this notice of
3 revocation previously?

4 A This specific one?

5 Q Yes. I mean this is a copy of the original,
6 obviously.

7 A No. Understand. Understanding I'm to take the
8 copy as the original --

9 Q Okay.

10 A -- the answer to your question is no.

11 Q Okay. Have you seen other notices of revocation
12 then with regard to Mr. Goldberg? Is that what you're --

13 A No, I have not. Not as to Mr. Goldberg.

14 Q Okay. When you came into the unit, was there any
15 reason in particular -- well, let me ask you this. When
16 you came into the unit, did you take occasion -- well, not
17 the unit. When you became an executive officer, did you
18 take occasion to review Mr. Goldberg, Mr. James Goldberg's
19 file for any reason?

20 A I did not.

21 Q Okay. And other than the one article in the
22 paper that you've already referred to, did you see any
23 other articles in the newspaper about Mr. James Goldberg?

24 A No, I did not.

25 Q When you came into the unit, when you became

1 executive officer, were you aware that before the Board of
2 Firearms Permit Examiners there were changes going on with
3 regard to the chairmanship and who was the secretary?

4 A I was not.

5 Q Did you become aware at some point that Mr. Kuck
6 had been the secretary of the board for some period of
7 time?

8 A I was aware of that.

9 Q And did you become aware at some point that he
10 was voted -- that someone else was voted in as secretary
11 of the board?

12 A I wouldn't have known it was by vote. I did know
13 that somebody else became the secretary of the board.

14 Q Okay. Was that something that was discussed,
15 that you discussed with Captain Masek or Detective Mattson
16 or Detective Karanda for any reason?

17 A No.

18 Q Did you have any contact with Sue Mazzoccoli in
19 your capacity as executive officer?

20 A We perhaps spoke three or four times in aggregate
21 as to lawyers that wanted continuances or cases that were
22 on the docket of cases that she wished to move. She would
23 call me when she couldn't get ahold of Hall, Bastura,
24 Karanda or Mattson.

25 Q Did you discuss in any of these conversations --

1 not conversations, but contacts that you just described,
2 resolving cases with Susan Mazzocoli? Resolving any
3 appeals that were pending before the board?

4 A I'm sure there were instances where we told her
5 that a case was being settled or a case was being
6 resolved, but I don't have any specific recollection of
7 it. You know, in the context of a case would be coming
8 off the docket.

9 Q At some point in time did you become aware that
10 Mr. Goldberg had an appeal from his revocation pending
11 before the state Board of Firearms?

12 A Yes.

13 Q Okay. Were you aware of that before you came
14 into the unit, before you became executive officer in
15 November 2007?

16 A I suspect yes, from the tenor of the newspaper
17 article.

18 Q And after you became executive officer, did you
19 become aware that Mr. Goldberg applied for a temporary
20 state permit with the Wethersfield Police Department?

21 A I did learn of that, yes.

22 Q And how did you learn of that?

23 A Because Chief Cetran was soliciting advice as to
24 what he should do.

25 Q Okay. Did Chief Cetran solicit advice from you?

1 A He did.

2 Q And do you know if he solicited advice, as you
3 put it, from anyone else?

4 A I don't know. I don't have personal knowledge of
5 that.

6 Q Did anyone come to you and say, "Chief Cetran
7 called me up about Goldberg's permit"?

8 A No one came to me and said -- no.

9 Q So in terms of this solicitation of advice that
10 Chief Cetran sought from you, was that through a phone
11 call to your office?

12 A It was.

13 Q When about did this phone call occur; do you
14 know?

15 A Sometime -- I'm sorry. I can only put it between
16 those dates for you: 11/23/07 and 4/4/08.

17 Q And prior to that phone call from Chief Cetran,
18 did you know that Chief Cetran was the chief of the
19 Wethersfield Police Department?

20 A I did not.

21 Q How many phone calls did you have with Chief
22 Cetran about James Goldberg?

23 A One.

24 Q And am I correct that Chief Cetran would have
25 spoken first in this phone call and presented the issue to

1 you?

2 A Correct.

3 Q And what did he say?

4 A That he was confronted with an application for a
5 temporary permit that had been advanced by Mr. Goldberg to
6 him, and he was trying to calculate what he should do.

7 Q Okay. And how did you respond, if you did
8 respond?

9 A I advised the chief as to information that he
10 already knew, which was that Mr. Goldberg's state permit
11 had been revoked and was pending in the revocation pile.

12 Q And did Chief Cetran know that already? Did he
13 express to you that he knew that?

14 A He did.

15 Q Okay. So how did the conversation go from there?

16 A He proceeded to ask whether or not it was
17 appropriate or advisable -- I forget which word he used,
18 but it was of that tenor -- to issue a temporary permit to
19 Mr. Goldberg while the state permit remained in the
20 revocation revoked status.

21 Q Did Chief Cetran ask you if it was lawful to do
22 that?

23 A I believe that he did.

24 Q Okay. And did you provide Chief Cetran with any
25 guidance or your opinion about whether it was, in fact,

1 lawful to issue a temporary state permit while a permit
2 was in revocation status and pending hearing before the
3 board?

4 A I wasn't in a position to give the chief legal
5 advice and I was not willing to do that. I was aware that
6 this was a contested issue and, as a result, I didn't
7 think it advisable or appropriate for me to render legal
8 advice to the chief.

9 Q Well, let me ask you this. If Chief Cetran had
10 called you up and said, "Lieutenant Fox, I got a guy here
11 who applied for a temporary state permit and he's a felon.
12 Am I able to issue the temporary state permit," would you
13 have been able to respond to that?

14 A Would I have been able to respond? Yes, I would
15 have been able to respond to that.

16 Q Right. Because being a felon is a disqualifier
17 from holding a state permit. Correct?

18 A Correct.

19 Q Is the fact that someone's in revocation status,
20 the fact that their state permit has been revoked, is that
21 a disqualifier from applying for a temporary state permit?

22 A Well, I think that calls for a legal conclusion
23 that I'm not prepared to make and I wasn't prepared to
24 make then for the chief.

25 Q Okay. Well, when you were the executive officer

1 and you were overseeing the Firearms Unit which was within
2 your umbrella of authority, you could not -- you did not
3 know or you didn't have an opinion about whether being a
4 felon was a disqualifier or not?

5 A Being a felon was clearly a disqualifier.

6 Q Okay. I mean that was part of your job
7 responsibility to know what the disqualifiers were.
8 Correct?

9 A And being a felon was clearly a disqualifier.

10 Q All right. And I'm asking you if having your
11 state permit in revocation status is clearly a
12 disqualifier?

13 A I was not prepared to answer that for the chief.

14 Q Okay. Well, but I'm asking you today because
15 it's relevant to this case. Because as you -- are you
16 aware that Chief Cetran did issue a temporary state permit
17 to Mr. Goldberg?

18 A I am aware.

19 Q Okay. Let me show you Exhibit 33. Do you
20 recognize that as a temporary state permit that local
21 issuing authorities issue?

22 A I do.

23 Q Okay. Have you seen this one in particular?

24 A No, I have not.

25 Q How did it come to your knowledge that Chief

1 Cetran following the phone call that you had with him did,
2 in fact, issue the temporary state permit to Mr. Goldberg?

3 A The chief wrote about it in a letter that he
4 prepared.

5 Q Okay. And let me show you that exhibit. This is
6 Exhibit 36.

7 MS. BAIRD: Mr. Snook, this is the exhibit
8 we've had problems with. For some reason the
9 second page is not present. But I'll ask Major
10 Fox to look at the first page and see if he at
11 least recognizes the first page as the letter
12 he's referencing.

13 A I do.

14 BY MS. BAIRD:

15 Q Okay. How did this letter come to your attention
16 that's Exhibit 36?

17 A Sometime after it was sent, a copy of it was
18 provided to me in my position within the Special Licensing
19 and Firearms piece of Special Investigations and Support
20 Services.

21 Q Was it your testimony that this February 26, 2008
22 letter was your first knowledge that Chief Cetran had went
23 ahead and issued that temporary state permit to
24 Mr. Goldberg?

25 A I believe so.

1 Q Exhibit 35.

2 A (Reviewing.)

3 Q Have you seen Exhibit 35 previously, Major Fox?

4 A Not before today.

5 Q Okay. In looking at Exhibit 35 which is dated

6 February 20th, 2008, it indicates in there that

7 Mr. Goldberg's temporary state permit to carry pistols and

8 revolvers was revoked, and it gives two reasons: The

9 result of an involvement in the June 21st, 2007 incident.

10 Do you know, sitting here today, if that

11 June 21st, 2007 incident involved the arrest of

12 Mr. Goldberg in Glastonbury?

13 A It did.

14 Q Do you know what happened to that case?

15 A I don't have firsthand knowledge.

16 Q Okay. Did you receive any information that that

17 case was dismissed?

18 A That's my understanding.

19 Q Okay. When cases are dismissed in criminal

20 court, what if any impact -- and I know you can just speak

21 to your four-and-a-half months there as executive officer

22 with the Firearms Unit under your umbrella -- what effect,

23 if any, do you know that a dismissal of a case has on the

24 revocation of a state permit?

25 A There's no direct impact. It certainly is a

1 factor that has some relevance. It's certainly a factor
2 that one would presume the board would consider. It's
3 certainly a factor in the advancing of the case by SLFU.
4 But it does not as a matter of law cause the reinstatement
5 of the permit.

6 Q Okay. And is there anything about an arrest that
7 as a matter of law requires the revocation of a state
8 permit?

9 A In certain instances there are certain arrests
10 that would require the revocation of the permit.

11 Q Okay. And are you talking about arrests where
12 there is a protective order issued?

13 A Felony arrests, restraining orders, protective
14 orders, events of those ilk.

15 Q Okay. Is it your testimony that a felony arrest
16 requires the revocation of a state permit?

17 A Felony convictions and certain disqualifying
18 misdemeanors.

19 Q Okay. But what I was asking you, whether there
20 are arrests that require the revocation of a state permit?

21 A The arrest itself would not require it. The
22 attendant circumstances would require it.

23 Q And the attendant circumstances go to
24 suitability?

25 A Or restraining orders or protective orders or

1 other statutory considerations.

2 Q Now, in looking at Plaintiffs' Exhibit 35, in
3 addition to talking about that June 21st, 2007 incident it
4 also talks about, "As you know, your state pistol permit
5 was revoked based upon the June 21, 2007 incident."

6 Do you know if in the decision to revoke
7 Mr. Goldberg's temporary state permit issued by Chief
8 Cetran in 2008, what effect, if any, it had on the
9 Firearms Unit that Mr. Goldberg was in revocation status
10 already?

11 MR. SNOOK: Excuse me. Objection.

12 Foundation.

13 May I ask a few questions?

14 Major, have you seen this before today?

15 THE WITNESS: Not before today.

16 MR. SNOOK: Were you involved in this
17 letter in any way, to your recollection --
18 excuse me. Is this letter issued during your
19 period as executive officer?

20 THE WITNESS: It is.

21 MR. SNOOK: Were you involved in this
22 letter in any way?

23 THE WITNESS: I was not.

24 MR. SNOOK: Do you have any personal
25 knowledge of any of the reasons that this first

1 paragraph was written this way?

2 THE WITNESS: I do not.

3 BY MS. BAIRD:

4 Q So let me give you an opportunity then to answer
5 and maybe we could cut off a lot of questions.

6 What involvement, if any, did you have in the
7 decision to revoke Mr. Goldberg's temporary state permit
8 that was issued by Chief Cetran on February 4th, 2008?

9 A I don't recall having any involvement in it.

10 Q Okay. Do you know who did have involvement in
11 it?

12 A It would be a guess on my part.

13 Q Okay. It's your testimony that Detective Karanda
14 never approached you to talk about whether the temporary
15 state permit issued by Chief Cetran should be revoked or
16 what action should be taken on that?

17 A I have no recollection of any such discussion.

18 Q Okay. And that you would have never discussed
19 that with Commissioner Danaher?

20 A I have no recollection of any such discussions.

21 Q Okay. The discussions could have occurred, but
22 you just don't recollect.

23 A I think I would recollect. I don't recall any
24 such discussions.

25 Q But you're an attorney, and you know there is a

1 real difference between saying "the discussion didn't
2 occur" or "I don't remember it."

3 A I certainly do.

4 Q Okay. There is a difference.

5 A Mm-hmm.

6 Q Okay. So what I'm just trying to determine is if
7 when you say you don't recollect, you mean that you just
8 don't remember, or that it didn't happen.

9 A To the extent that I recall, I do not recall any
10 such discussions. This certainly occurred during the time
11 frame when I was there. It certainly was an issue that
12 was on the front burner. Having said those two things, I
13 do not recall ever engaging in any discussions over this
14 specific issue and the decision to revoke the temporary
15 state permit, the subsequent temporary state permit that
16 was issued.

17 Q Okay. And you appeared before the board in
18 response to Mr. Goldberg's motion for an expedited appeal
19 following the revocation of his temporary state permit.
20 Correct?

21 A I did.

22 Q And to do that you would have had to prepare for
23 the hearing.

24 A Yes, I would have.

25 Q Okay. And at the hearing, do you recall calling

1 the fact that Mr. Goldberg had applied for a temporary
2 state permit while his permit was in revocation status as
3 a glitch in the law?

4 A I may very well have.

5 Q Or as a loophole in the law?

6 A I don't recall using either of those words, but
7 certainly I'm well aware that statements made before the
8 board are recorded. So to the extent that word was spoken
9 by me, that word was spoken by me. I don't recall using
10 either of those words specifically.

11 Q Well, let me ask you this. Do you think that is
12 a glitch in the law where someone whose permit is in
13 revocation status with an appeal pending before the board
14 can, in fact, apply for a temporary state permit?

15 MR. SNOOK: Excuse me. Objection to the
16 extent that you're asking a personal opinion of
17 a state official. That is privileged and immune
18 from any testifying.

19 If the deponent is aware of any policies or
20 procedures on behalf of the State Police or any
21 statement by the organization that there is a
22 problem in this area, then the deponent can, in
23 fact, respond.

24 MS. BAIRD: Well, I think what we need to
25 do, we have the audio of various statements that

1 Major Fox made. And he made them. So if we
2 could play them, then I could ask you about
3 them. So why don't we take a break and I can
4 get them.

5 (A recess was taken at 10:39 a.m.)

6 (The proceedings resumed at 10:52 a.m.)

7 (Mr. Gasser did not rejoin proceedings.)

8 BY MS. BAIRD:

9 Q When you testified earlier about the second audit
10 and said that a handful of cases had been identified, I
11 just wanted to make clear what your definition of "a
12 handful" is.

13 A I don't know an exact number. I'm estimating in
14 the neighborhood of half a dozen.

15 Q And were those specific cases, approximately half
16 a dozen or a handful, as you've termed them, were the
17 specific nature of the cases and the circumstances brought
18 to your attention?

19 A Generally, but not specifically.

20 (Mr. Gasser rejoined proceedings.)

21 BY MS. BAIRD:

22 Q Did Commissioner Danaher ask you to go through
23 the cases that were pending for hearing before the board
24 and take a look at the cases through your eye as a
25 practicing attorney?

1 A No.

2 Q Did Commissioner Danaher tell you to look at the
3 cases and scrub the inventory?

4 A No.

5 Q Did Commissioner Danaher tell you to look at the
6 cases that you considered marginal and dispose of them
7 instead of waiting for the board to call them up?

8 A Me specifically?

9 Q Yes.

10 A No.

11 Q Did Commissioner Danaher tell you to look at the
12 cases that were considered marginal and dispose of them
13 and not wait for the board to call them up, by directing
14 somebody else to do that?

15 A The instruction behind his audit was did that
16 take place, yes.

17 Q Okay. Did Commissioner Danaher communicate to
18 you that he wanted you to follow procedure where you would
19 have people in place to review revocations when the person
20 filed for an appeal before the board?

21 A I believe that procedure was in place. I'm not
22 sure I understand the question.

23 Q Well, let me ask you this. When you came to be
24 executive officer in November 2007, do you know who had
25 the authority to make final decisions on revocations?

1 A I can't tell you the dates. I do know that early
2 on it was the detectives, and I can tell you that at a
3 subsequent point a level of supervisory approval, most
4 often by Sergeant Hall, occasionally by Sergeant Bastura
5 in Hall's absence, was implemented.

6 Q Okay. So did Commissioner Danaher, in fact, tell
7 you then to implement a procedure during that
8 four-and-a-half months where the revocations would be
9 reviewed by someone over the detectives?

10 A I believe Captain Masek told me.

11 Q Did you ever report to Commissioner Danaher that
12 as a result of the audit, you had disposed of about 60
13 cases?

14 A I believe I advised Captain Masek as to the
15 results of the second audit. I don't think the number was
16 as high as 60. I think 60 might have been the first
17 audit.

18 Q Okay. And that first audit would have been
19 performed before your assignment as executive officer?

20 A Correct.

21 Q Is it your testimony that you never directly
22 reported to Commissioner Danaher about the results of any
23 audit that was performed?

24 A Correct.

25 Q Did you take part directly in reviewing requests

1 for revocations that came in during that time period when
2 you were executive officer? Requests for revocations that
3 came in from the arresting agency, the municipality.

4 A I did not.

5 Q What was your understanding, if you had any
6 understanding while you were the executive officer, of
7 what kind of investigation was to be performed by the
8 Firearms Unit before sending out a notice of revocation?

9 A Well, the Firearms Unit was empowered to do
10 further work if they wished, but that was not the
11 protocol.

12 Q What was your understanding during that
13 four-and-a-half months of what kinds of investigation the
14 Firearms Unit did prior to sending out notices of
15 revocation?

16 A I don't think they did investigations. The
17 investigation was the local or State Police investigation
18 that we relied upon.

19 Q Do you know if in the James Goldberg matter of
20 his state permit there was any additional investigation
21 done after the initial revocation in June of 2007?

22 A I'm aware that there was.

23 Q And did that investigation occur while you were
24 the executive officer?

25 A It did not.

1 Q Then how are you aware that there was subsequent
2 investigation after the first revocation in June 2007?

3 A I learned it in meeting with counsel.

4 Q Okay.

5 MR. SNOOK: Excuse me. When was that
6 meeting?

7 THE WITNESS: My meeting with you?

8 MR. SNOOK: Yes.

9 THE WITNESS: Last week.

10 BY MS. BAIRD:

11 Q But other than discussions with counsel, you were
12 not made aware of any subsequent investigation?

13 A No.

14 Q After your conversation with Chief Cetran in
15 early 2008, and prior to your becoming aware that the
16 State Police had revoked Mr. Goldberg's temporary state
17 permit -- and I believe you said you became aware of that
18 through Exhibit 36 -- do you know if any investigation
19 occurred into Mr. Goldberg's temporary state permit?

20 A Within those -- between what time frame again?
21 I'm sorry.

22 Q Talking to Chief Cetran --

23 A Yes.

24 Q -- when you first became aware that Mr. Goldberg
25 applied for a temporary state permit, and then learning

1 that that permit had been revoked by the State Police.

2 A I don't think there was any investigation done by
3 the State Police in that window of time, other than the
4 paperwork and the packet that had been received in the
5 original event.

6 Q Did you express to Chief Cetran that Mr. Goldberg
7 could not be issued a temporary state permit due to the
8 pendency of his appeal before the board on the revocation
9 of his other permit, his state permit?

10 A I don't believe I stated that as an absolute.

11 Q Do you know of any occasion when Mr. Kuck sought
12 a meeting with Commissioner Danaher?

13 A I know that he sought such a meeting.

14 Q And how do you know that?

15 A I learned about it as it was occurring.

16 Q Other than knowing that Mr. Kuck sought a meeting
17 with the commissioner, did you know anything further about
18 the details?

19 A I do not.

20 Q Do you know if that meeting came to pass?

21 A I don't believe it did.

22 Q Do you know why?

23 A I don't know.

24 Q Did you discuss with Commissioner Danaher the
25 potential for a meeting with Mr. Kuck?

1 A No.

2 Q Did you ever have any discussions with Mr. Kuck
3 while you were the executive officer?

4 A Early on in that stretch, I don't know that I
5 would characterize it as a discussion. Polite banter,
6 exchanges. But we didn't have any in-depth discussions.

7 Q Was there ever any interaction with Mr. Kuck that
8 was of a hostile or contentious nature?

9 A I think it fair to say that our positions at the
10 board are not -- do not concur with one another, but
11 certainly not hostile, aggressive, do violence to one
12 another.

13 Q Were you ever of the opinion -- well, let me put
14 it this way. Did anything that came to your knowledge as
15 a member of the State Police or in your position as an
16 executive officer lead you to have cause to believe that
17 Mr. Kuck was an alien or unlawfully in the United States?

18 A I didn't have any information one way or the
19 other.

20 Q Okay. And is it your testimony that in your
21 position as an executive officer you had no means of
22 finding out whatsoever whether Mr. Kuck was an alien or
23 unlawfully in the United States?

24 A That I had no means whatsoever of finding that
25 out?

1 Q Right.

2 A It is not true that we had no means whatsoever of
3 finding out.

4 Q Did you take any action to find out whether
5 Mr. Kuck was an alien or unlawfully in the United States?

6 A I certainly did not.

7 Q Would it concern you as a State Police officer
8 that a member of the Board of Firearms Permit Examiners
9 was an alien or unlawfully in the United States?

10 A Certainly it would.

11 Q But you didn't check into that?

12 A No, I did not.

13 Q Why not?

14 A Why would I? Why should I?

15 Q Well, are you aware that Mr. Kuck was denied
16 renewal of his state permit because he did not present
17 paperwork purportedly showing that he was lawfully in the
18 United States or a citizen?

19 A I am aware of that.

20 Q And did Mr. Kuck not showing paperwork to support
21 that he was a citizen or lawfully in the United States
22 lead you to believe that he was unlawfully in the United
23 States?

24 A This was not a decision that I had anything to do
25 with. It was not a decision that occurred during my time

1 period at SLFU.

2 Q Okay. Were you aware while you were the
3 executive officer that state permits are effective or --
4 or not in effect, but the period of validity for a state
5 permit is five years?

6 A Yes.

7 Q And that when that five-year period is up, a
8 person seeks renewal of a state permit?

9 A Yes.

10 Q And when a person seeks renewal of the state
11 permit and the State Police deny that renewal, is that an
12 issue that can go before the board? The denial of a
13 renewal of a state permit?

14 A I presume that it can.

15 Q Okay. Is there a difference between a denial of
16 the renewal of a state permit and a person who allows
17 their state permit to lapse?

18 A I am not comfortable answering that. I don't
19 know.

20 Q Okay. That issue never arose while you were as
21 executive officer of the Firearms Unit that you had to
22 address?

23 A Well, I mean if a person allowed their permit to
24 lapse, they could -- I presume they could get themselves
25 on the docket and then they could argue their case to the

1 board. But I don't know how the board would handle that.
2 That was not anything that I ever had to deal with. I
3 mean it comes up in Mr. Kuck's case, but it was not
4 anything that I ever confronted in a direct fashion.

5 Q Okay. When you say "it comes up in Mr. Kuck's
6 case," are you saying that it comes up because he allowed
7 his state permit to lapse?

8 A Because he failed or declined or refused to
9 produce the paperwork that SLFU had requested of him, his
10 permit was not renewed, which effectively caused it to
11 lapse.

12 Q And it was not renewed because the State Police
13 would not renew it. Correct?

14 A Well, I was not part of that decision-making.

15 Q Okay. Well, who other than the State Police
16 decides whether state permits should be renewed?

17 A The State Police decide. The people within the
18 State Police. I was not in the unit. I was not party to
19 that decision.

20 Q Okay. I had asked you questions previously and
21 then we took a break to set up the laptop here because I
22 wanted to give you an opportunity to hear and to confirm
23 whether it was, in fact, your statement and then if I
24 could ask questions about it. And I understand there may
25 be an objection to it, but we'll --

1 MR. SNOOK: For the record, any comments
2 made by any State Police officer acting in a
3 prosecutorial -- quasi-prosecutorial fashion
4 before the board we believe is covered by
5 absolute or quasi-judicial immunity.

6 Having recorded that objection for the
7 record, I'm telling the deponent he is free to
8 answer if he has necessary personal knowledge
9 and can otherwise properly answer.

10 MS. BAIRD: If I could just place on the
11 record approximately how long this is?

12 MR. GASSER: I believe this is about three
13 minutes long.

14 MS. BAIRD: Okay.

15
16 (Tape started.)

17
18 SPEAKER: Any questions from the board
19 to -- Lieutenant, would you like to be heard on
20 the issues that I raised, that laundry list, to
21 the extent that you wish to address us?

22 LIEUTENANT FOX: I would, sir.

23 At the outset, let me assure the board or
24 at least offer to the board that the Department
25 of Public Safety is not necessarily and per se

1 taking a position that can be described as
2 contrary to the Wethersfield Police Department.
3 Rather, I would describe it for you as in
4 support of the Glastonbury Police Department;
5 and I would vehemently disagree with the
6 representation that this was a case that
7 specifically pits DPS against Wethersfield.
8 Rather, I would offer to the board and for your
9 consideration in this matter that we have merely
10 taken a position in support of the original
11 agency that was involved in this case, the
12 Glastonbury Police Department.

13 Earlier on in your questions,
14 Mr. Secretary, you inquired and Attorney Baird
15 answered as to whether or not anyone could do
16 this. And the fact that anyone could do this is
17 exactly the problem. The statute appears to
18 have -- and I'm not going to begin to read into
19 the mind of what the General Assembly intended.
20 The statute appears to either intentionally or
21 accidentally have a glitch in it. My analogy I
22 would offer to you is that if the Department of
23 Motor Vehicles suspends your driver's license at
24 the Wethersfield headquarters, you're not
25 allowed to go into the Willimantic branch and

1 say, I'm here to apply for a driver's license.

2 In our case the statutes, either
3 intentionally or otherwise, read to the
4 contrary. The fact that an individual is
5 revoked does not appear as a matter of law in
6 the statute to be an absolute bar to the
7 application for yet another new temporary state
8 permit.

9 SPEAKER: Do you think that that would be
10 an appropriate topic for a declaratory ruling by
11 the board, to fill that gap in the sense that I
12 discussed it with Ms. Baird; that that might be
13 the something that would be guidance to the
14 appellant and guidance to the department?

15 LIEUTENANT FOX: My answer to that has to
16 be yes. Either action by the board --

17 FEMALE SPEAKER: I'm sorry. Sir, I'm
18 sorry, you can't speak because we only have the
19 one mic and--

20 SPEAKER: Oh, I'm sorry.

21 FEMALE SPEAKER: -- and the conversation
22 will -- all over again. Thank you.

23 SPEAKER: Thank you.

24 FEMALE SPEAKER: Okay.

25 LIEUTENANT FOX: Whether the action by the

1 board or action by the General Assembly, this
2 hole in the statute, whether intentional or
3 otherwise, is something that needs to be
4 addressed. It's been represented to you that
5 this situation is unique because Mr. Goldberg is
6 the first one who's done this. Well, if he's
7 the first one who's done this so far and if he
8 found the hole, intentionally or otherwise, in
9 the statute, and this board finds this case
10 unique because of that fact or at least in part
11 based on that fact, I submit to you that it will
12 be less than a month before this case will play
13 out again and again and again; and you will have
14 before you other cases that are purportedly
15 unique because an individual has gone and found
16 a local police department that for whatever
17 reason has opted to grant that temporary state
18 permit. Now, the state --

19 SPEAKER: -- be a local police department
20 or a local board of selectmen.

21 LIEUTENANT FOX: Correct.

22 SPEAKER: So it could be anywhere that the
23 person has some kind of residence.

24 LIEUTENANT FOX: I think it is predictable,
25 although I certainly am not going to speak in

1 absolutes and I am not going to speak in a
2 wholesale fashion what the Department of Public
3 Safety would do in any case other than this one.
4 But I do think it's predictable for the Board to
5 expect that in the hypothetical that we envision
6 where there is a revocation and then an
7 application to a temporary authority, that the
8 Department of Public Safety in an effort to be
9 consistent with its own position would likely,
10 after the issuance of that second permit, the
11 temporary state permit, do what it is
12 statutorily empowered to do. Therefore, this
13 situation is not unique. It might be first, but
14 it's not unique. And if the facts that appear
15 before you are adequate for you to say
16 Mr. Goldberg gets to go to the front of the
17 line, I submit to you that in April of 2008 you
18 will have a litany of individuals who are aware
19 of the same loophole, intentional or otherwise,
20 and take the same action until either the board
21 clears it up or the General Assembly clears it
22 up.

23 Now, more specifically in answer to your
24 questions --

25 SPEAKER: The board wouldn't clear it up by

1 bringing Mr. Goldberg's case forward and
2 adjudicating it. That would definitely be --

3 LIEUTENANT FOX: Correct. It would have to
4 be the declaratory judgment or legislative
5 action.

6 SPEAKER: And there would be nothing in the
7 administrative appeal that would get to the
8 Superior Court for the court to secure -- to
9 address that loophole, because if Mr. Goldberg
10 were to be reinstated he would have his permit
11 and the commissioner would only appeal -- or
12 could only appeal on suitability and if he were
13 to be -- if the commissioner was to affirm --

14

15 (Tape Stopped)

16

17 BY MS. BAIRD:

18 Q Let me ask you this. Was that your voice? Or
19 one of the voices on that tape was you. Correct?

20 A Correct.

21 Q And I understand, and correct me if I'm wrong,
22 that you were appearing as an attorney and as an advocate
23 before the Board of Firearms Permit Examiners on behalf of
24 the State Police. Correct?

25 A Correct.

1 Q Okay. What I'm going to ask you is prior to that
2 appearance, had you had any input into a determination
3 that Mr. Goldberg's temporary state permit issued by Chief
4 Cetran should be revoked because he had a pending appeal
5 on a state permit before the board?

6 A It would have been an office topic discussion. I
7 was not the decision-maker.

8 Q Okay. Do you know who the decision-maker was?

9 A Well, the detectives would have made the decision
10 subject to the supervisory approval, ultimately subject to
11 chain of command approval.

12 Q So there's no one person in a decision like that
13 that could be held accountable; is that your testimony?

14 A No, that's not my testimony. The decision is
15 made by the detectives, subject to the sergeant's review.
16 They operate within the broader agency chain of command.

17 Q So if the revocation letter went out over
18 Detective Karanda's signature, would he be the detective
19 that made the decision or is it possible that even though
20 the letter went out with his signature on it, somebody
21 else made the decision?

22 A I couldn't be -- I wouldn't be comfortable
23 speculating about whether someone else sent the letter.
24 But certainly if it went over his signature, it was his
25 letter and presumably his decision.

1 Q Do you recall any conversation and what your
2 input was in that conversation with members of the
3 Firearms Unit and the hierarchy about whether the fact
4 that Mr. Goldberg's permit was under revocation and
5 pending appeal before the board impacted the decision to
6 revoke his temporary state permit?

7 A I do not recall any such decision -- any such
8 discussion.

9 Q In your capacity as executive officer did you
10 have knowledge of whether the Firearms Unit, meaning the
11 State Police, had the authority to revoke a temporary
12 state permit issued by a local issuing authority?

13 A I believe that they did.

14 Q Okay. What do you base that belief on?

15 A Because it produces an illogical conclusion to
16 believe that it is permissible for the state to revoke the
17 state permit, for whatever reason, to then have the
18 individual that then is the appellant proceed through one
19 or more 60-day permits. It defies logic. Furthermore, an
20 individual who gets a 60-day permit then has to apply to
21 the state for the full permit.

22 Those two conclusions cause me now, as they
23 caused me then, to come to the conclusion that it's
24 illogical to believe that the state could not revoke the
25 temporary permit.

1 Q Okay. Exhibit 4 is a document dated
2 January 31st, 2008, which I believe was during the time
3 frame while you were still the executive officer. So I'll
4 ask you, have you seen Plaintiffs' Exhibit 4 previously?

5 A I have not.

6 Q Okay. Did the issuance of the temporary state
7 permit by Chief Cetran in early 2008 lead you or cause you
8 to either yourself, or direct one of the detectives, to
9 review the Goldberg file much as files have been reviewed
10 during the audit, to determine if this was a permit that
11 was subject to reinstatement?

12 A I would not have reviewed the Goldberg file.

13 Q Okay. And you wouldn't have directed anybody to
14 do so?

15 A I don't believe so.

16 Q Sitting here today and looking back on it, it
17 basically sounds to me as your testimony is saying the
18 Goldberg case was no different than any other case while
19 you were executive officer. You had no real cause to pay
20 attention to it any more than any other case or look at it
21 more than any other case; that you left that to the
22 detectives.

23 A The Goldberg case had gained notoriety and media
24 attention. My role within the SLFU as to the Board of
25 Firearms Permit Examiners was primarily and almost

1 exclusively to present the cases before the board. That
2 entailed prepping the cases a week or 10 days before the
3 cases were to be argued, and going through them at that
4 point and getting my presentation ready for the 6, 8, 10,
5 12 or 15 cases that might be coming up later on in a week
6 or 10 days. To that degree, Goldberg was not on my radar
7 screen until such time as it was time to argue, from the
8 recording that you heard, other than the fact that it was
9 generally a case that had some notoriety and it was out
10 there.

11 Q Okay. So there was nothing about the notoriety
12 that it had gathered that led you to take a position in
13 the Goldberg case that he would not be reinstated?

14 A I never took any such position, pro or con.

15 Q Okay.

16 A The Goldberg case was docketed before the board.
17 The Goldberg case would have been argued before the board
18 in the due course that it came up. And, frankly, I would
19 have never seen the Goldberg case, I would never even have
20 touched the file, had we not had the nuance at the end
21 where he asked for the hearing during the time frame when
22 I was there.

23 Q Okay. Was there anything -- are you familiar
24 with a man by the name of Ed Peruta?

25 A I am.

1 Q Was there anything about his -- well, do you
2 know, sitting here today, whether he had any involvement
3 in communicating on behalf of James Goldberg or in his
4 case?

5 A I wouldn't be surprised to learn that he did, but
6 I have no direct knowledge.

7 Q Okay. So you had no direct knowledge of
8 Mr. Peruta's involvement in any capacity in the Goldberg
9 case?

10 A Well, they were all -- they all presented as if
11 they were on the same team, if you will. But I can't
12 point you to a conversation or a letter or a phone call
13 from Peruta to me about Goldberg. I don't know that I've
14 ever even spoken to Mr. Peruta for more -- relative to
15 these matters for more than a "good morning," "good
16 afternoon," and that would be at the most.

17 Q Okay. So there's nothing, I gather from your
18 testimony, about Mr. Peruta's involvement in the case that
19 led to any position on the part of the Firearms Unit that
20 Mr. Goldberg's permit would not be reinstated.

21 A Correct.

22 Q Are you familiar with a computer database used by
23 the Special Licensing and Firearms Unit?

24 A I am.

25 Q Is it your understanding that database tracks

1 notes or events or occurrences relative to a person's
2 state permit?

3 A Generally, yes.

4 Q Well, what is your understanding of what that
5 database is used for?

6 A The database is the electronic version of the
7 status of a person's pistol permit.

8 Q Okay. Did you ever have occasion to make entries
9 into the database?

10 A Never.

11 Q I want to direct your attention to Exhibit 61.

12 MS. BAIRD: I don't have my copy with me
13 today, Mr. Snook, so that's why I'm looking it
14 up in my computer. The computer is not coming
15 up immediately, but it'll be up in a second.

16 MR. SNOOK: If we can take two minutes I'll
17 go get mine.

18 MS. BAIRD: Okay.

19 (A recess was taken at 11:24 a.m.)

20 (The proceedings resumed at 11:27 a.m.)

21 BY MS. BAIRD:

22 Q Major Fox, I'm going to direct your attention to
23 five pages out of this complete document. The first page
24 that I'll direct your attention to is Page 1.

25 First of all, do you recognize what these pages

1 are copies of?

2 A I don't recognize it. I can presume it's the
3 SLFU database from your questions, but I haven't seen this
4 before.

5 Q Okay. Well, let me direct your attention then to
6 Page 1, understanding that you can't testify about what
7 this actually is. But Page 1 in the upper left-hand
8 corner there is a date of 5/12/2009. That talks about
9 reinstatement, and then over to the right there's a column
10 that says "miscellaneous." And in that column that is two
11 columns over from the date of 5/12/2009, it mentions
12 almost near the bottom, an entry of 7/30/08, and I'll read
13 it into the record.

14 "App called looking for the return of his
15 firearms. Contacted Lieutenant Fox who will reply to
16 this request."

17 Then it talks about 5/12/09, "Spoke with State's
18 Attorney Gedansky at GA 19. No charges pending. No
19 psych papers or risk warrant done by Troop K.
20 Reinstate." And I assume that's Douglas Hall.

21 Do you remember that particular reinstatement
22 decision and your input into it?

23 A I remember the 7/30/08. I don't know the
24 5/12/09.

25 Q Well, do you know why as executive officer you

1 would have been drawn into that particular state permit
2 reinstatement determination or follow-up?

3 A Yes.

4 Q Why?

5 A I was acquainted with the individual that this is
6 about.

7 MR. SNOOK: Can I interrupt one second?

8 7/30/08, were you executive officer at that
9 point?

10 THE WITNESS: I was not.

11 MS. BAIRD: Oh. Good point. Thank you.

12 BY MS. BAIRD:

13 Q Well, even more so, do you know why when you were
14 not even the executive officer, why you would have been
15 drawn into this reinstatement determination or issuance
16 determination of a state permit?

17 A I wouldn't say the issuance. I would say the
18 return of the firearms.

19 Q Okay.

20 A And to that degree, it was because I was familiar
21 with the party.

22 Q I'm not asking you to name the party, of course;
23 but when you say "the party," do you mean the person who
24 held the state permit?

25 A The person -- yes.

1 Q Okay.

2 A Although I'm not focusing on the permit. I
3 wasn't involved in the permit. It was the request for the
4 return of the firearms.

5 Q The person who owned the firearms.

6 A Correct.

7 Q Okay. And looking at that notation from 7/30/08,
8 it indicates, "App called looking for the return of his
9 firearms." Correct?

10 A Yes.

11 Q And when you say you were familiar with the
12 party, was the party related to you? Or how were you
13 familiar?

14 A The person was not related to me. The person was
15 a former co-worker.

16 Q And when you say "co-worker," do you mean a
17 member of the State Police?

18 A Correct.

19 Q And do you know why when you were not the
20 executive officer or had any authority over the Firearms
21 Unit, Trooper Karanda contacted you about that?

22 A Because the person wasn't going to get their guns
23 back, and they wanted someone who could explain that to
24 the person.

25 Q Okay. And did you explain that to the person?

1 A I did.

2 Q And were you involved at all in the 5/12/09
3 reinstatement decision?

4 A I was not.

5 Q Then if I could direct your attention to --

6 MR. SNOOK: Can I interrupt?

7 When a person -- just personal information
8 so I can understand these things better. If a
9 person has a permit that is revoked, do they
10 surrender any handguns? Is that correct?

11 THE WITNESS: Not necessarily, no.

12 MR. SNOOK: Oh. Okay. Thank you.

13 BY MS. BAIRD:

14 Q Page 179. There's an entry in the upper left
15 dated 5/21/2008. I'll give you an opportunity to look at
16 two columns over, if you wish. Your name is mentioned. I
17 was going to ask you the similar questions that I asked
18 you about the other entry.

19 A That's not me.

20 Q That's Trooper First Class Fox?

21 A Yes.

22 Q And that's a different individual?

23 A That is a different individual.

24 Q Okay. Going then to Page 268. And again the
25 entry is 4/8/2008. I'll let you look at that, first of

1 all, see if it's you and then to read it.

2 A (Reviewing.) I am "Lieutenant Fox," yes.

3 Q Okay. Were you still the executive officer on
4 4/8/2008?

5 A 2/4/08?

6 Q 4/8/2008.

7 MR. SNOOK: May the record reflect that the
8 reference to "Lieutenant Fox" appears to be the
9 2/4/08.

10 MS. BAIRD: Okay. Well, I was looking in
11 the upper left-hand corner, 4/8/2008.

12 MR. SNOOK: Oh, okay.

13 BY MS. BAIRD:

14 Q That's about when you left the unit. Correct?

15 A Correct.

16 Q Okay. And then looking at the entry that
17 pertains to you, 2/4/2008, do you remember being involved
18 in this particular state permit issue?

19 A No.

20 Q Okay.

21 A It appears that my involvement, to the extent
22 this is what it's purported to be, is that I provided a
23 letter from the appellant's attorney to Detective Mattson.
24 This does not in any way ring a bell.

25 Q Okay. Moving on then to Page 427. In the upper

1 left it has a February 11th, 2010 date, but two columns
2 over it has an entry dated 5/4/2006. First of all, is it
3 referring to you? And then I'll go on.

4 A (Reviewing.) It would have to be, yes.

5 Q Okay. And do you remember any involvement in
6 this particular issue that's referenced in these blocks
7 that has a date on the left, 2/11/2010?

8 A Do I remember? No, I do not remember.

9 Q What was your assignment back in May of 2006?

10 A Commanding officer at Troop C in Tolland.

11 Q Was this contact you believe related to that
12 assignment as commander?

13 A Correct.

14 Q And you have no particular recall of it?

15 A No.

16 Q Okay. And finally, Page 443. So on Page 443
17 there is a date in the upper left-hand corner, 8/5/2009,
18 and over two columns it has a marking "approved by
19 Lieutenant Fox." And it looks like it's continued over.
20 I'm not sure if it's continued over or not. Let me check.

21 Do you know if that's referring to you,
22 Lieutenant Fox, and do you recall your involvement in
23 that state permit issue?

24 A Well, I'm the only Lieutenant Fox that we have,
25 but this doesn't -- I mean this doesn't sound like it was

1 me or would have been me. But I don't have any
2 recollection of it, in any event.

3 Q Do you know what it's referring to when it says
4 "approved by Lieutenant Fox"?

5 A It appears to represent that I authorized the
6 person's permit reinstated, which I don't do and didn't
7 do. I would question this entry. And the other
8 entries -- the first one I'm sure was me. The other ones
9 likely were me, but I don't remember them. This one seems
10 out of context to me, especially with that date and
11 because I don't approve the reinstatement of permits. And
12 because even if I did, I don't know that I would approve
13 this one. This one I would question.

14 Q Okay. And from looking at it, it doesn't even
15 give a date when the approval was given by you. Correct?
16 I don't see a date.

17 A I don't either.

18 Q Okay. And then finally, Page 706. The second
19 entry on the left dated 12/17/2007, it makes reference to
20 a Lieutenant Fox about two-thirds of the way down.

21 MR. SNOOK: Would that be Page 707?

22 MS. BAIRD: I have 706. And I think it's
23 continued.

24 MR. SNOOK: I have 707 on mine.

25 MS. BAIRD: It starts on 706 and it's

1 continued to 707.

2 BY MS. BAIRD:

3 Q These events listed in the entry starting on
4 Page 706 took place all around December of 2007. You were
5 the executive officer then. Correct?

6 A Correct.

7 Q Okay. And do you remember this particular chain
8 of events?

9 A There are two or three times I've had occasion to
10 call judges. This appears to be one of them.

11 Q Okay. In this case were you involved in the
12 revocation decision?

13 A No.

14 Q And what was it, if you know, that brought this
15 case to your attention and resulted in your making
16 contacts?

17 A We have had two or three instances where state
18 court judges contrary to the dictates of the relevant
19 federal law have said that people can possess their
20 firearms, effectively endeavoring to carve out exceptions
21 to the law, which I don't believe is permissible under
22 state law, but certainly may be within the judge's
23 province. It has been necessary to educate judges that
24 the relevant federal law precludes them from doing that
25 even if the state law did permit it.

1 On perhaps two or maybe three occasions I have
2 called judges or judges' law clerks or judges'
3 secretaries and tried to advise them that the order that
4 they put -- in this case that someone could have their
5 gun during their work hours -- was perhaps highly
6 ill-advised. And that appears to be what this is.

7 Q And did you speak with Judge Abrams directly?

8 A I don't -- I don't know. I don't believe so. I
9 don't know. Very rarely do you get the judge. More often
10 you get the clerk.

11 Q And in a conversation with whomever you had, what
12 was it that -- in addition to the contrariness of such an
13 order to, you know, federal law, was there any other
14 matter that you discussed, such as reinstatement or
15 whether the order should stay in place or how it should be
16 revised?

17 A Never.

18 Q And it says on here that Judge Abrams stated he
19 doesn't want app to lose his job and rescind the order.

20 Again, that's an entry made by Detective
21 Karanda. If you go to the next page, "TMK." That entry
22 wasn't made by you?

23 A No.

24 Q Do you know how Detective Karanda would have
25 gotten information about that contact with the court?

1 A Presumably because I would have reported my
2 telephone call with the judge or the judge's surrogate
3 back to Karanda.

4 Q And were you aware that after your telephone call
5 that the judge ultimately lifted the protective order in
6 full?

7 A I was not.

8 Q Okay. And were you aware that at some point
9 close to that, apparently 12/17/07, that the app's permit
10 was reinstated?

11 A I was not. My job here was limited to letting
12 the judge know, as I mentioned, as it happened a couple of
13 times in the past, that the judge had put themselves in a
14 bit of a bind; that they had taken a position that they
15 needed to be aware they -- that perhaps was ill-advised.
16 So I suppose they had options to lift orders in full or to
17 keep the order in place and to cull out their "you can
18 have your gun during work hours." My job was not to tell
19 the judge which of those options to take, or to follow up
20 on what was going to happen with the pistol permit. No.

21 Q While you were executive officer or just in --
22 you know, I mean you were a commandant at the police
23 academy. Correct?

24 A I was.

25 Q Did you ever give classes related to firearms

1 laws?

2 A No.

3 Q Were there specific instructors that did that?

4 A I don't know that the recruit level curriculum
5 has anything to do with firearms laws in it --

6 Q Okay.

7 A -- beyond perhaps personnel from the unit
8 generally presenting the protocol for revocations, which
9 would be what entry-level troopers would need to know.

10 Q What period of time were you the commandant at
11 the police academy?

12 A April, '08 through July, '09 as a lieutenant as
13 the commandant, and from July, '09 through March -- 2010?
14 2011. I'm sorry, 2011 -- I was the captain in charge of
15 selections and training which included the training
16 academy, and I continued to be housed there.

17 Q Did you review those dates prior to today's
18 testimony?

19 A Yes, I did.

20 Q Oh, okay. I was just asking about how you
21 recalled them so specifically. But you recalled them for
22 that purpose for today?

23 A Well, I have -- I can roughly sketch out where I
24 was and when I was there, but I ever endeavored
25 specifically to pigeonhole the dates associated with my

1 SLFU time.

2 Q And during these periods of April of '08 through
3 July of '09 when you were the commandant lieutenant, and
4 then July, '09 to March 2011 captain of selections and
5 training, do you --

6 A I'm sorry. I misspoke, and I apologize for the
7 interruption. The second date should be July 2010 is when
8 I was promoted to captain and moved into that other job --
9 2011. I believe I misspoke.

10 Q Well, whatever dates --

11 A Whatever dates.

12 Q Well, whatever dates they were, do you know if
13 there was any instruction regarding the law in Connecticut
14 as to whether a valid state permit holder needed to carry
15 his or her weapon concealed or whether the law allowed the
16 open carry?

17 A There was no such instruction.

18 Q Okay. And do you know if during that time,
19 April 2008 to July 2009, whether it was the position of
20 the State Police that there was some ambiguity in the law
21 with regard to open carry of a firearm by a valid state
22 permit holder?

23 A I think it fair to say that reasonable minds
24 could differ on it.

25 Q And do you know if the State Police had sought an

1 amendment to a statute, the applicable statute seeking
2 specificity with regard to a requirement that concealed
3 carry be required?

4 A I believe they did.

5 Q Were you involved in any way in drafting or
6 giving input into such an amendment?

7 A I was not.

8 Q And in your position now, do you have any input
9 or is that part of your job description to determine
10 whether, you know, it's the State Police position that
11 certain laws should be clarified or amended?

12 A Well, in a general sense, yes. I mean in a
13 general sense those matters are addressed by the
14 commissioner and deputy commissioner, so there are public
15 acts where they are required to take a position either
16 contrary to or in support of the public act. There have
17 been two or three of those instances. Nothing to do with
18 open carry.

19 Q Okay. Who were the other judges that you
20 contacted while you were the executive officer of the
21 special --

22 A I'm sorry. I would have no idea.

23 Q Do you have the occasion to come in contact with
24 judges in your -- have you had occasion to come in contact
25 with judges in your career as a state trooper?

1 A I have.

2 Q Okay. So while you were executive officer, was
3 it the case that it wasn't that outstanding or an unusual
4 occurrence that you would remember who the judges were?

5 A The first time I ever had to call a judge to
6 advise them that they had created an exception to the
7 protective order that the law did not allow for would have
8 been in that '02, '03, '04 time frame.

9 Q Okay.

10 A So the name of the judge from 10 years or so ago
11 I have no idea.

12 The second time that we know for certain would
13 have been the reference to Judge Abrams that's in here.
14 Those are the only ones that I can remember with
15 certainty. There may have been one other occasion, but
16 there wouldn't have been any more than three total.

17 And no, I don't remember any of the names and
18 I'm not surprised by that.

19 Q Did the issue come to your attention in
20 Mr. Goldberg's case, or in any other case while you were
21 the executive officer, that a municipality had taken
22 physical possession of a state permit from a valid permit
23 holder at the time of his or her arrest?

24 A That is generally the process, but I -- something
25 specifically tied to my time as the executive officer I

1 would need further assistance on.

2 Q Well, do you know if that was the practice while
3 you were the executive officer?

4 A That was a practice. That is a practice.

5 Q And directing your attention to Exhibit 3 which
6 you didn't specifically recall, but I think you identified
7 it as a format letter that you recognize --

8 A I do.

9 Q -- that letter even takes into account that a
10 municipality may have already taken physical possession of
11 someone's permit.

12 A It does.

13 Q Does a municipality have the authority to seize
14 state permits from individuals?

15 A Acting as an agent of the commissioner, yes.

16 Q Okay.

17 A Beyond that I'm not comfortable answering it from
18 a legal perspective.

19 Q Okay. So in the instances while you were
20 executive officer, your understanding of the practice
21 where municipalities would seize state permits upon the
22 arrest of an individual was based on them acting as agents
23 of the commissioner?

24 A At a minimum they can do it as agents of the
25 commissioner. I'm not comfortable telling you legally

1 whether they have an independent, statutory basis to do
2 it.

3 Q Okay. Yes, and I wasn't -- I understand your
4 counsel's objection. I'm trying not to ask you for legal
5 opinions, I'm trying to pinhole it in what your practice
6 was or your understanding of what the practice was while
7 you were the executive officer.

8 A Thank you.

9 Q If we could listen to one clip. This clip has to
10 do with -- it occurred -- I'm representing that it
11 occurred, and you may disagree after you listen to it, on
12 March 13th, 2008, during the motion for expedited hearing
13 that James Goldberg requested. And the purpose of my
14 playing it is to not blindsides you, it is to have you
15 listen to it and then ask you questions based on your
16 assignment as an executive officer within the unit.

17

18 (Tape Started.)

19

20 LIEUTENANT FOX: -- of events. There is no
21 exigency, there are no unexpected, as the
22 definition implies that word to mean, there is
23 no emergency here before you that justifies
24 placing this case at the front of the line.

25 Mr. Secretary, you also asked what effect

1 does this matter have on the pending federal
2 case, and I submit to you that it does not.
3 5/09, which is the latest we expect that
4 Mr. Goldberg's matter will be heard, will be in
5 the date that is long before the federal suit
6 will be resolved in the federal court system.
7 5/09, assuming it's that far away is, from this
8 month, 14 months away; and therefore, whether
9 you hear this case next month or whether you
10 hear this 14 months from now, we will know what
11 action you took, which I would footnote for you
12 I do not think is dispositive of the resolution
13 of the federal action. You will, in either
14 case, hear and resolve this matter before that
15 matter proceeds to adjudication in the federal
16 court system.

17 That due process rights are implicated, I
18 submit to you that no due process rights are
19 implicated. And if those rights are, in fact,
20 implicated, a 5/09 resolution of this case
21 satisfies whatever, if any -- and let me be
22 clear I don't find them invoked. But if there
23 are due process rights at play, 5/09 satisfies
24 whatever obligation the state and this board has
25 to Mr. Goldberg. In fact, the civil suit itself

1 and judges to decide.

2 To the extent, as indicated in the recording,
3 that due process rights were in play, the board was still
4 getting to the issues in this case before Mr. Goldberg
5 was ever getting to court.

6 And finally and most importantly, we didn't
7 schedule the cases. The board scheduled the cases. The
8 board has addressed the backlog at present because the
9 board has agreed to hear more cases and is hearing them
10 at a more rapid rate. I wasn't concerned about the speed
11 at which cases were being heard because it wasn't my
12 province. I couldn't control it.

13 Q So am I hearing you that if there were any due
14 process concerns, that it was the board that had the power
15 and the authority to address those due process concerns?

16 A That's certainly one piece of my answer, yes.

17 Q And what, if anything, did you view the board as
18 doing or not doing during that four-and-a-half months that
19 led to what some have termed a "backlog"?

20 A Well they were -- they were meeting more
21 regularly than they were required to meet. The rate at
22 which they were hearing cases was not allowing them to
23 keep up with the number of cases that were in the queue,
24 so to speak. So I wasn't paying much attention to it. It
25 wasn't my area of concern, but certainly, you know, the

1 rate the cases were going out was slower than the rate
2 that the cases had come in.

3 Q While you were there during that four-and-a-half
4 months, for example, if the board had been able to meet
5 four times a month, do you think that would have impacted
6 the number of appeals the board could have heard?

7 A It certainly would have.

8 Q And did you have any concerns while you were the
9 executive officer that the amount of personnel assigned
10 specifically on the state permit issues was not sufficient
11 to allow the Firearms Unit to do the work that it could
12 have done had there been no issues of adequate personnel
13 or adequate budget?

14 A Well, it was not sufficient. Having said that,
15 it was the cart pulling the horse, not the -- I'm sorry --
16 it was the horse pulling the cart and not the other way
17 around. The Special Licensing and Firearms would have by
18 definition had to have devoted more staff to the
19 preparation and presentations of cases if the board
20 started calling them in a more expeditious fashion. But
21 it wasn't anything that we had to confront because the
22 board was taking them at the rate that they were taking
23 them, and the staffing within SLFU allowed that rate to be
24 covered.

25 Q Exhibit 30. Have you seen Exhibit 30 previously?

1 A I have not.

2 Q Were you ever asked to in your capacity as
3 executive officer contact Judge Norko about the Goldberg
4 case?

5 A No, I was not.

6 Q And I know this order preceded while you were in
7 the unit. Did it not?

8 A Correct.

9 Q Were you aware of the fact that at the time of
10 the arrest, Glastonbury Police Department seized
11 Mr. Goldberg's pistol on June 21st, 2007?

12 A I was aware of that.

13 Q Okay. And do you know if that pistol was held by
14 the State Police?

15 A I don't know.

16 Q And are you aware of what happened to that
17 pistol?

18 A I am not.

19 Q Why don't we listen to the third and final.
20

21 (Tape Started.)

22

23 LIEUTENANT FOX: A comment made, or the
24 board discussed issues where a local P.D. or a
25 first selectman denies -- I believe the

1 hypothetical was an application, a pistol permit
2 application. I would simply remind those
3 present that the Connecticut State Police do not
4 have the statutory authority to override first
5 selectmen or the town manager, as the case may
6 be on this issue. This is a statutory plight
7 that I believe that the board, and I mean this
8 respectfully, needed to be reminded on in a
9 recent hearing.

10 We work with local chiefs of police and
11 often convince them in advance, the position
12 that they are taking might be ill-advised.
13 There seems to have come along the line
14 somewhere that the local chiefs are sacrosanct
15 and that the State Police are the evil-doers
16 here. But I have to tell you that you don't --
17 (unintelligible). You don't know what you don't
18 know. I don't know what I don't know. You
19 don't know the cases where the local chief of
20 police have denied and these cases come in where
21 the chief says, "I don't give out pistol
22 permits." Or "There's too much gun violence in
23 this town." And then personnel perhaps on a few
24 have to call the chief and, frankly, cajole,
25 convince, encourage or beg that chief to make

1 the appropriate decision.

2 What often works -- and those are cases
3 that don't get added to your docket because you
4 don't see them because we take care of those
5 behind the scenes. As self-serving as the
6 statement is going to sound, there are a
7 considerable number of those cases.

8 SPEAKER: For the record, I'm assuming
9 you'd have to consider the -- (unintelligible).

10 LIEUTENANT FOX: Thank you.

11 SPEAKER: (Unintelligible.)

12 LIEUTENANT FOX: What we are left with when
13 a chief or a first selectman or a town manager
14 or a --

15 SPEAKER: -- that category. I don't think
16 that. I don't think that.

17 SPEAKER: I think the town manager is --

18 SPEAKER: That doesn't change the issue --
19 (unintelligible).

20 LIEUTENANT FOX: We are left on occasion
21 with cases that we know are less than
22 presentable, and we are statutorily hemmed in
23 with presenting those cases. Now, I will tell
24 you that in an effort to not embarrass the first
25 selectman, if there is any shred of viability to

1 the case, we will put the case on to the best of
2 our ability. But I have to tell you, I'm on the
3 cusp some day of pushing a first selectman
4 before you and saying, "Board, meet the first
5 selectman. First selectman, meet the board.
6 Tell them what you want them to know." And then
7 the board can with a certain degree of
8 admonishment explain to that individual why they
9 can't do what they've done. It's not that you
10 are even considering a change to the statute
11 that will allow DPS the authority to override
12 and perhaps --

13
14 (Tape Stopped.)

15
16 BY MS. BAIRD:

17 Q Are you aware at a certain point in time that the
18 Firearms Unit did, in fact, stop representing local
19 issuing authorities in denial cases?

20 A I am.

21 Q And did that happen while you were the executive
22 officer?

23 A No.

24 (Mr. Kuck left the proceedings.)

25

1 BY MS. BAIRD:

2 Q Were you involved in that decision to make that
3 happen?

4 A No.

5 Q But is it fair to say that that was a development
6 that you would not have opposed while you were the
7 executive officer?

8 A That is fair to say.

9 Q Okay. Now, you were not appearing before the
10 board at any particular hearing when you made those
11 comments that we just heard. Correct?

12 A Oh, no; I was.

13 Q Oh. Was it a subcommittee hearing? I meant an
14 appellant's hearing. You weren't appearing in front of
15 the board on an appeal.

16 A There was one session that we went to in
17 Wethersfield at the police department, where the board
18 opened it to the public for people to come in and comment
19 on the firearms backlog, and we went and spoke that -- I
20 went and spoke. That may have been from that. But to the
21 extent that I can recognize the voices -- and by the way,
22 and I understand it's not your fault, but other than
23 myself I can't pick up the other statements. I don't know
24 who is saying what in response. That sounds like a board
25 hearing to me.

1 Q Okay. Fair enough.

2 MR. SNOOK: To the extent that it is a
3 board hearing, we preserve our rights under the
4 absolute immunity doctrine.

5 BY MS. BAIRD:

6 Q There was some previous testimony in this case,
7 and I think it was by Commissioner Danaher, Judge Danaher,
8 that while he was the commissioner he had some concerns
9 about a backlog at the lab regarding DNA. Were you
10 familiar with any backlog at the lab about processing DNA?

11 A Generally, yes.

12 Q Okay. I'm asking this because I saw a couple of
13 questions ago when you used the term "backlog," you put
14 each of your hands up and your two fingers as if to quote
15 it, as if you may have questions about whether there
16 really is a backlog of appeals before the board.

17 Let me just try to understand. Is it your
18 testimony that if even there's two cases that are waiting
19 to be heard, well, that's a backlog of two cases? Does
20 that sound fair?

21 A Yes.

22 Q Okay. And if there's a hundred cases waiting to
23 be heard, then there is a backlog of a hundred cases.
24 Right?

25 A Yes.

1 Q So any time there is something waiting, it's a
2 backlog.

3 A I think by definition that's true.

4 (Mr. Kuck rejoined proceedings.)

5 BY MS. BAIRD:

6 Q Okay. So I guess what I'm going to ask you is
7 while you were the executive officer, was the number of
8 cases waiting to be heard, the quantity of cases waiting
9 to be heard, was that an issue that you thought was a
10 problem for the appellants?

11 I mean did you have a concern that the rights of
12 the appellants were being violated because of the number
13 of cases because of the wait period the appellants had to
14 wait for a board hearing?

15 A I did not have any such concern. It was the
16 board's province to schedule the hearings. I didn't give
17 it any thought beyond that.

18 Q Okay. So when Commissioner Danaher asked you to
19 look through the cases to see if some could be culled out
20 to decrease what some people were calling a backlog, I
21 understand your testimony that you did it, but -- and you
22 did do it. Correct?

23 A I directed individuals to do it, yes.

24 Q Right. But it really wasn't something that you
25 saw as necessary; am I correct?

1 A I saw it as necessary to the extent that the
2 commissioner saw it as necessary and to the extent that
3 there were certainly factions within the board that saw it
4 as necessary. Legally? The due process issue, if any,
5 was not anything that I had concerns about.

6 Q Did you not have concerns about it because the
7 board had control over it and you didn't?

8 A I didn't have concerns about it, as I think I
9 tried to touch on earlier, because I don't believe there
10 are due process rights that were implicated by the delay,
11 because the SLFU was doing everything that it possibly
12 could; because the board scheduled the hearings and we did
13 not; and because if there were any due process rights, we
14 were certainly getting to the hearings quicker than any
15 court would have ever gotten to the hearings. If we got
16 rid of the board and appellants had to go to court, they
17 wouldn't be getting a resolution any quicker than that.
18 The myriad of those reasons caused me not to be
19 inordinately concerned.

20 Q Well, when you say "go to court," though, are you
21 talking about going to court on an administrative appeal
22 or are you talking about going to court in a federal case?

23 A Going to court in an administrative appeal.

24 Q Okay.

25 A If there was no board, I don't know that an

1 appellant would get their due of justice any quicker than
2 the board was providing it to them. And again, that is
3 one of the reasons, one of the several reasons that I
4 attempted to just reiterate why it wasn't an inordinate
5 concern on my part.

6 MS. BAIRD: If we could just go off the
7 record to discuss timing.

8 (Brief discussion held off the record.)

9 MS. BAIRD: Back on.

10 BY MS. BAIRD:

11 Q Exhibit 11.

12 MR. SNOOK: What's the date on that?

13 THE WITNESS: 1/7/08.

14 BY MS. BAIRD:

15 Q I've handed you Plaintiffs' 11 dated 1/7/08, and
16 it has a signature appearing to be Commissioner Danaher at
17 the time, to Mr. Beal.

18 Have you seen this letter, Major Fox?

19 A I have not.

20 Q So it's fair to say you didn't participate in
21 drafting it?

22 A That is correct.

23 Q Okay. Do you have Exhibit 13 in there? Have you
24 ever seen Exhibit 13?

25 A No.

1 Q Okay. Exhibit 17. Exhibit 17 is two pages, and
2 my name actually appears at the top and there is a "from"
3 and a "to"; but underneath there it's an e-mail marked
4 from Doug Hall to Mark Cassista. And for purposes of my
5 questions to you -- and I know you can't verify that this
6 is, in fact, an e-mail from Sergeant Hall, but for
7 purposes of this it will be based on my representation
8 that it is.

9 I'm going to ask questions about it to see if
10 it's consistent with what your experience was in contacts
11 that you had while you were executive officer.

12 A (Reviewing.) Okay. I'm comfortable with the
13 letter.

14 Q Okay. If I could ask you to go five paragraphs
15 down, it begins, "with the limitations." Actually, it's
16 the sixth paragraph down. It starts with "Understanding
17 that passion for one's job is admirable, it must be
18 tempered when dealing with statutory requirements.
19 Imposing one's beliefs can prove to be detrimental to the
20 revocation process. I have spoken to Sergeant
21 Kostrzewa" -- you might have to help me with that.

22 A Kastreeva (phonetic).

23 Q -- "Kostrzewa and expressed my concerns. I do
24 not, and have not, doubted Trooper First Class Mattson's
25 drive or knowledge of the protocol or revocations process

1 and do not write this as a negative commentary. It is
2 partially her strong beliefs and drive that raise my
3 concerns."

4 Do you know or have any knowledge of what
5 Sergeant Hall was referring to when he talked about as
6 Trooper First Class Mattson's strong beliefs?

7 A No.

8 Q In your contacts with Trooper Mattson while you
9 were executive officer, did you ever observe any strong
10 beliefs on her part that impacted her job?

11 A I believe she's a strong -- I'm not sure how to
12 respond to "strong beliefs." She's very, very, very good
13 at what she does. She's extremely knowledgeable. I have
14 not seen her take any positions that I deemed to be
15 inappropriate.

16 Q Do you know anything about an Internal Affairs
17 investigation that was conducted upon a comment that
18 Trooper Karanda had made with regard to wanting to punch
19 Detective Mattson in her face?

20 A I do not have any direct knowledge of it.

21 Q Have you seen the Internal Affairs report?

22 A I have not.

23 Q Do you know of any dissension that you observed
24 between Detective Karanda and Detective Mattson?

25 A I did not personally observe it.

1 Q In your capacity as executive officer, did any
2 problems come to your attention that involved Detectives
3 Karanda and Mattson?

4 A Not during my period as executive officer, no.

5 Q Were you asked to give any statements or comment
6 at all in the course of the Internal Affairs investigation
7 into the matter?

8 A I was not.

9 Q Were you ever aware of a concern raised by
10 Trooper Hatfield that Detective Mattson had destroyed any
11 documents coming into the Firearms Unit?

12 A Never.

13 Q Exhibit 21. Have you seen Exhibit 21 previously?

14 A I have not.

15 Q When Commissioner Danaher spoke with you about
16 that second audit you've testified about, did he mention
17 at all that he had received an inquiry from the chairman
18 of the Board of Firearms regarding a backlog?

19 A No.

20 Q And in looking at Exhibit 21 dated May 14, 2007
21 where Mr. Adams writes in the second paragraph, "The board
22 would greatly appreciate the assistance of the Department
23 of Public Safety in devising strategies to reduce this
24 backlog in the interest of due process," again, do you
25 think that request by Chairman Adams was misplaced?

1 A "Misplaced" meaning not followed up on or
2 "misplaced" meaning out of order?

3 Q Out of order. That there was really nothing DPS
4 could do.

5 A Well, I mean I think we could have offered -- as
6 he's asking for, we could have offered guidance. We could
7 have offered a strategy or a thought. But ultimately, as
8 we didn't control the docket we didn't schedule the cases.

9 Q And based on your experience as the executive
10 officer, what guidance or strategy may the State Police
11 have offered the board to decrease the backlog?

12 A They would have had to have taken cases at a more
13 rapid rate.

14 Q Were you in front of the board on an occasion
15 when the issue arose about whether the issuing authority
16 or the appellant prevailed on a tie vote?

17 A I was.

18 Q How did that issue come up? Were you -- well,
19 let me ask this. Were you the individual representing the
20 issuing authority at the time?

21 A I was.

22 Q And did the issue arise during deliberations?

23 A It did.

24 Q Okay. How did that issue come up? Was there, in
25 fact, a tie vote?

1 A There was.

2 Q And was there disagreement about who would
3 prevail on a tie vote?

4 A There was.

5 Q And what was your position?

6 A That the appellant was appealing from the
7 decision that had been made and, therefore, the burden of
8 proof was upon them to convince the board at large that
9 their permit should be reinstated.

10 Q Okay. And was that the way that you looked at
11 cases going in to appeal hearings, in the manner that it
12 was the appellant's burden to show that his or her permit
13 should be reinstated?

14 A I had never contemplated it before. This came up
15 in the context of this one tie vote.

16 Q Well, how about within the Firearms Unit was
17 there any practice or policy that was exercised which
18 presumed that it was the appellant who had to show the
19 unit or provide evidence to the unit that reinstatement
20 was warranted?

21 A No.

22 Q And what, if you recall, was the outcome of that
23 disagreement on whether a tie should go to the appellant
24 or the issuing authority?

25 A The board took a contrary position to mine.

1 Q Okay. And is your position still contrary to
2 that?

3 A My position is that the board has taken the
4 position that ties go to the appellant.

5 MR. SNOOK: For the record, any further
6 questions on that line?

7 MS. BAIRD: No.

8 BY MS. BAIRD:

9 Q Do you know what ultimately happened to
10 Mr. Goldberg's appeal on his June 21st, 2007 revocation?

11 A I know that his permit was reinstated and,
12 therefore, the need for the appeal was mooted.

13 Q Did you have any input into the decision to
14 reinstate Mr. Goldberg's permit?

15 A I did not. I was gone from the unit.

16 Q Exhibit 69. No, scratch that. I don't want that
17 one. Yes, Exhibit 69.

18 A (Reviewing.)

19 Q Exhibit 69 is dated April 26, 2007. That was
20 prior to you coming to the unit?

21 A Correct.

22 Q And have you ever seen this document before?

23 A I suspect that I have.

24 Q Did you review Mr. Kuck's file when you came into
25 your position as executive officer?

1 A I did not.

2 Q And do you know why you would have seen this
3 note?

4 A Because at a later point Mr. Kuck's case came up
5 for hearing before the board.

6 Q Okay. And you would have reviewed it then?

7 A I think that very likely.

8 Q And when Mr. Kuck's case came before the board,
9 did it come up as a denial from a renewal?

10 A It was in a bit of a "no man's land" because it
11 wasn't a revocation and it wasn't truly a denial. For
12 lack of a better phrase, I suppose it was a denial of a
13 renewal.

14 MS. BAIRD: Can we have this marked as an
15 exhibit.

16 (Plaintiff Exhibit 96 marked for
17 identification.)

18 BY MS. BAIRD:

19 Q This is Exhibit 96 that you already had been
20 looking at your counsel's copy of it. It's section 29-32b
21 of the General Statutes. Have you had occasion to see
22 this section of the General Statutes?

23 A I have.

24 Q Okay. In section b it talks about any person
25 aggrieved by any refusal to issue or renew a permit.

1 When you reviewed Mr. Kuck's case in preparation
2 for the hearing before the board, did you view it as the
3 State Police refused to renew his permit?

4 A Yes. Sure.

5 Q Okay. And Exhibit 93. I'm going to be focusing
6 on -- Exhibit 93 is quite a packet there, and if you need
7 to look through it just tell me; but I'm going to be
8 focusing on about 11 pages in where the computer database
9 notes start. And I'll tell you exactly where that is.
10 It's the eleventh page in.

11 You've already testified that you didn't make
12 entries into this database --

13 A I did not.

14 Q -- Major Fox? Okay.

15 Did you ever refer to entries in the computer
16 database to, you know, review cases or get information?

17 A I did not.

18 Q Did you look at these notes in paper format?
19 Were these notes ever printed out on paper and put into
20 files?

21 A I'm sure they were printed out and put into
22 files, but that was not -- it was not anything that I ever
23 dealt with. I prepped cases to get them ready for
24 argument, and that would have been based on reports,
25 witnesses, and that information; it would not have been

1 based on this. To the contrary, I found this information
2 by definition to be an encapsulation of the events and, as
3 a result, I did not want to rely on these.

4 Q So it's fair to say in the Goldberg matter you
5 did not find occasion to refer to the notes in the
6 computer database.

7 A Correct.

8 Q When Chief Cetran contacted you to talk about
9 Mr. Goldberg's case, did you know what case he was talking
10 about, first of all?

11 A I did.

12 Q Did you review any notes or the file prior to
13 talking to Chief Cetran?

14 A I did not.

15 Q In looking at the computer database, there is in
16 the exhibit that we have, a break in the notes from
17 September 13th, 2007 -- excuse me -- from September 17th,
18 2007 to September 22nd, 2008. And the page I'm referring
19 to is eight pages from the back of the document.

20 Do you have any knowledge of why there aren't
21 any entries between September 17th, 2007 and
22 September 22nd, 2008 on that page?

23 A I do not. I can only presume there was nothing
24 to enter in that time period.

25 Q Okay. And you didn't make any order or any

1 directive not to put notes in the computer database.

2 Correct?

3 A Absolutely not.

4 MS. BAIRD: If I could have about 15
5 minutes just to review what we've gone through
6 and see what we have left, I think we're almost
7 done.

8 (A recess was taken at 12:28 p.m.)

9 (The proceedings resumed at 12:39 p.m.)

10 BY MS. BAIRD:

11 Q In conducting the second audit, the only audit
12 while you were the executive officer, did you personally
13 look at any of the cases to determine if reinstatement was
14 appropriate?

15 A I did not.

16 Q You didn't review any of the files?

17 A Absolutely not.

18 Q Or look at the computer database?

19 A No.

20 Q Did Detective Karanda or Detective Mattson come
21 to you with any particular file and say, you know, what's
22 your opinion about this?

23 A No.

24 Q Did Sergeant Hall or Sergeant Bastura come to you
25 with any particular file and ask you what your opinion

1 was?

2 A No.

3 Q Did you review the Goldberg case in the course of
4 that audit at all to determine if reinstatement was
5 appropriate?

6 A I can only presume that it would have been one of
7 the audited cases because it was on the pending pile. But
8 whether it was specifically reviewed by them, they would
9 have to answer that for you. I'm sorry, I cannot.

10 Q Did you make any determinations during your
11 four-and-a-half months as executive officer whether it was
12 appropriate to reinstate Mr. Goldberg's state permit?

13 A I did not.

14 Q Did anyone within the Firearms Unit come to you
15 to discuss whether Mr. Goldberg's permit should be
16 reinstated?

17 A No.

18 Q Did the occasion ever arise where it came to your
19 knowledge that Detective Mattson or Detective Karanda or
20 anyone making revocation decisions in the Firearms Unit
21 had made a revocation decision that was contrary to your
22 opinion in your capacity as executive officer whether
23 revocation was warranted?

24 A They never made a decision that was contrary to
25 my position. There were cases that were prepped for

1 hearing where we would take a look at it prior to going
2 into a hearing and say this one is -- the circumstances
3 are such that the individual is suitable, let's reinstate
4 that individual. I mean there wasn't a disagreement about
5 a revocation, but there were discussions about
6 reinstatement prior to cases being presented. I mean I
7 didn't become involved in the cases until the back end
8 when it was time to present them. I was not involved in
9 the decision at the front end, is perhaps the way I'd try
10 to phrase my answer to that question.

11 Q And did Commissioner Danaher ask you to become
12 involved in decisions at the front end at any point?

13 A No.

14 Q You referred -- and correct me if I'm wrong
15 because I don't have the transcript, obviously. But I
16 believe you referred previously to a faction on the Board
17 of Firearms Permit Examiners that you disagreed with.
18 Does that sound familiar?

19 A Yes.

20 Q I may have misstated exactly what you said, but
21 correct me if I'm wrong.

22 A I think you're correct.

23 Q Okay. And may I assume that Mr. Kuck was part of
24 that faction?

25 A Correct.

1 Q Can you identify anybody else who was part of
2 that faction?

3 A There were -- Mr. Kuck was the leader, if you
4 will, of that faction. There were other individuals who
5 on a case-by-case basis tended to ebb and tide toward one
6 faction or the other. I would characterize them like
7 Supreme Court Justices: There might be some polar
8 extremes, but the majority of the individuals on the board
9 are somewhere in the middle. And on given cases, there
10 were individuals that leaned in Mr. Kuck's direction.

11 Q Were you present at hearings or in the course of
12 appeals where Mr. Kuck would speak out about the backlog?

13 A I was.

14 Q And when he spoke out, did you take him to hold
15 the Department of Public Safety responsible for the
16 backlog?

17 A I think he held the board responsible; I think he
18 held the Department of Public Safety responsible; I think
19 he held everybody responsible.

20 Q Did he hold the appellants responsible?

21 A I think he -- if he could have figured out a way
22 to, he would have.

23 Q But he never figured out a way?

24 A Not so far.

25 Q I think you already answered this, too, but let

1 me just tie it up. Other than Judge Abrams that you've
2 already talked about and the judge that you don't recall
3 back in 2002 to 2004 that you may have contacted either
4 directly or through someone else, do you recall specific
5 issues that you've had to, I think as you termed it,
6 educate judges on?

7 A Only the restraining/protective order issue that
8 I alluded to earlier.

9 Q Okay. Let me ask you this. You were a member of
10 the FBI at one point?

11 A I was.

12 Q How long were you in the FBI?

13 A Two years.

14 Q And were you assigned to Connecticut?

15 A No. I processed out of Connecticut. After that
16 I was not in Connecticut.

17 Q Okay. And did you leave the FBI to go to law
18 school?

19 A No. I had gone to law school prior to going to
20 the FBI.

21 Q And what was the reason why you left the FBI?

22 A Job dissatisfaction. It was not anything like
23 what I expected it to be.

24 Q Okay. Were you terminated from the FBI?

25 A Absolutely not.

1 Q You resigned?

2 A Under good terms.

3 MS. BAIRD: Okay. No further questions.

4

5 CROSS-EXAMINATION

6

7 BY MR. SNOOK:

8 Q First of all, thank you, Mr. Fox. I have very
9 few questions.

10 Did I understand your testimony to the effect
11 that there have been times when you were the executive
12 officer of the SLFU, that members of -- staff of the SLFU
13 attempted to convince local police chiefs to reconsider
14 denials?

15 A Yes, sir.

16 Q And that was not infrequent, necessarily?

17 A Correct.

18 Q Do you believe that people, citizens of the State
19 of Connecticut not otherwise disqualified have the right
20 to vote?

21 A I do.

22 Q Can that right to vote be conditioned for various
23 reasons?

24 A Yes, it can.

25 Q For example, if a person is a convicted felon?

1 A Correct.

2 Q To the extent that right is conditioned, would
3 you consider that therefore a privilege?

4 A Yes, I would.

5 Q Do you believe that private citizens have the
6 right to bear arms?

7 A I do.

8 Q Do you believe that right is conditioned by
9 statute in Connecticut?

10 A It is.

11 Q And to that extent would you describe that as, in
12 your terms, a privilege?

13 A I would.

14 Q Have you in your experience as a sworn police
15 officer -- excuse me. I'm going to take a step back and
16 lay some foundation.

17 As a State Police officer, were you ever serving
18 as a line officer?

19 A I have.

20 Q And in the course of your experience as a police
21 officer or in the FBI, have you seen law enforcement
22 investigations that were based upon the sworn reports of
23 other police officers?

24 A Yes, sir.

25 MR. SNOOK: That's it for me.

1

2

REDIRECT EXAMINATION

3

4 BY MS. BAIRD:

5

Q We had heard I think in one of the audio clips

6

today a mention of there not being any antagonism or it

7

wasn't a matter of pitting the Wethersfield police chief

8

against the Glastonbury police chief. But with regard to

9

the Goldberg decision, there had been a decision to abide

10

by the Glastonbury Police Department decision. Do you

11

recall hearing that --

12

A I do.

13

Q -- audio? While you were the executive officer

14

during that time period, had you met Chief Sweeney of the

15

Glastonbury Police Department previously?

16

A I believe that I had.

17

Q Was he somebody you had worked with?

18

A He was an individual that I had had in training

19

classes.

20

Q Okay. So he had attended training classes at the

21

police academy when you were an instructor?

22

A He had attended municipal re-cert training

23

classes that I had put on.

24

Q Was there any relationship that you developed

25

with Chief Sweeney other than having taught one of these

1 classes?

2 A No, ma'am.

3 Q Had you ever had occasion to work with him?

4 A Never.

5 Q Did you know his reputation as a police chief?

6 A I did.

7 Q And what was it?

8 A Very positive.

9 Q And how did you know that?

10 A He is -- generally speaking, he is well liked,
11 well respected, well-spoken. He was and I believe is a
12 gentleman.

13 Q Okay. And with regard to Chief Cetran, had you
14 ever taught him in any classes?

15 A I believe that he would have been in re-cert
16 classes that I taught.

17 Q And did you know his reputation as a police
18 chief?

19 A Not to the same degree, no.

20 Q Okay. Do you have an opinion about his abilities
21 as a police chief?

22 A I wouldn't have an opinion as to his abilities as
23 a chief.

24 Q Okay. I thought I had heard in one of the audio
25 clips that you had expressed, and I think some of the

1 questions your counsel just asked you you had expressed
2 some dissatisfaction or some disagreement with some of the
3 decisions made by local police chiefs on applications for
4 temporary state permits?

5 A Occasionally, yes.

6 Q Okay. So on occasion it was brought to your
7 attention through denials by local issuing authorities
8 that perhaps you did not always agree with local police
9 chiefs about their decision-making?

10 A Correct.

11 Q Was there a reason -- or what was the basis that
12 when you had a local police chief in Wethersfield issuing
13 a temporary state permit and a local police chief in
14 Glastonbury having made the arrest of Mr. Goldberg, that
15 you chose to go with the Glastonbury Police Department
16 decision?

17 MR. SNOOK: Excuse me. To the extent we
18 set a foundation.

19 Did you make a choice between these two
20 police chiefs at any point?

21 THE WITNESS: No.

22 MS. BAIRD: I'll probably need to replay
23 the audio. I thought it --

24 MR. SNOOK: Can we go off the record for a
25 minute?

1 (Brief discussion held off the record.)

2 BY MS. BAIRD:

3 Q What is your recall of the statement that you
4 made with regard to the Goldberg case and the Wethersfield
5 decision and the Glastonbury arrest?

6 A The representation was made by counsel to the
7 board that this was -- and it was well done, but it was
8 done dramatically -- that this was an instance of the
9 State Police and the Wethersfield Police Department being
10 at odds. And the presentation of the representation to
11 the board was that this was somehow indicative of an
12 overarching, overbearing State Police Department.

13 My comments to the chair and to the board were
14 pre-prepared and ready to go. However, I opened my
15 comments by responding to that specific assertion because
16 I thought that was a misrepresentation of the situation.
17 I stated then as I would state now, that we had not taken
18 a position at odds, contrary to, we weren't battling with
19 the Wethersfield Police Department; rather, we were
20 supporting the Glastonbury Police Department. There has
21 been a tendency before the board for the State Police to
22 be represented to be the bad guys in these stories, and I
23 thought it was important to air out to the board in the
24 opening salvo of my response that that was not the case
25 that was at play here.

1 Q Okay. So do you know on what basis the decision
2 was made to support the Glastonbury Police Department and
3 not the Wethersfield Police Department?

4 A Do I have direct firsthand knowledge? I was -- I
5 was not the decision-maker in that. I was obviously
6 involved at a later point.

7 Q Okay. Well, if someone on the board had asked
8 you, well, what was that decision based on to support the
9 Glastonbury Police Department and not the Wethersfield
10 Police Department, would you have been able to respond?

11 A I would.

12 Q And what would the response have been?

13 A The Glastonbury Police Department's position was
14 correct under the circumstances.

15 Q Okay. And does that mean that the Wethersfield
16 Police Department decision was not correct?

17 A Well, Wethersfield doesn't -- Wethersfield was
18 not part of the decision to revoke the permit based on the
19 wearing of the gun in an open format at the Chili's.
20 Glastonbury's decision is based on that. So to that
21 degree we supported Glastonbury's position.

22 Wethersfield didn't make that decision. They
23 made a subsequent decision to issue the temporary permit.

24 Q Are you saying that it was your understanding the
25 Wethersfield Police Department did not review the

1 circumstances of the arrest made on June 21st, 2007?

2 A Well, they reviewed it as part of the subsequent
3 permit. They weren't the ones that made the initial
4 referral. They weren't involved in the initial referral.

5 MR. SNOOK: Can I just ask a question?

6 MS. BAIRD: Go ahead.

7 MR. SNOOK: Again, I'm not sure of the date
8 of the transcript we just heard. Was the
9 purpose of that hearing to review the revocation
10 decision of the Glastonbury Police Department?

11 THE WITNESS: A slight variation on it.
12 The purpose of that was to determine whether or
13 not Mr. Goldberg was entitled to an expedited
14 hearing.

15 MR. SNOOK: Of the revocation decision.

16 THE WITNESS: Yes, sir.

17 MR. SNOOK: But not anything to do with the
18 temporary permit issued by the Wethersfield
19 Police Department at that point.

20 THE WITNESS: Correct.

21 MS. BAIRD: I don't have any further
22 questions. Thank you.

23

24 (Whereupon, the witness was excused and the
25 proceedings were concluded at 12:54 p.m.)

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SIGNATURE PAGE

I, ALARIC FOX, have read the foregoing transcript of the testimony given at the deposition held on MARCH 14, 2012, and it is true and accurate to the best of my knowledge as originally transcribed or with the changes as noted on the attached Errata Sheet.

ALARIC FOX

STATE OF CONNECTICUT
COUNTY OF _____

Sworn and subscribed to before me this _____ day of _____, 2012.

NOTARY PUBLIC

My Commission Expires: _____

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