

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 *
* FEBRUARY 14, 2012
JOHN A. DANAHER, III, ET AL., *
Defendants. *
*
* * * * *

DEPOSITION OF ALBERT J. MASEK, JR.

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 Tuesday, February 14, 2012, at 10:03 a.m., at the Office of the Attorney General, 55 Elm Street, Hartford, Connecticut, pursuant to the Rules of Civil Procedure.

TYSZKA COURT REPORTING SERVICES

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16
17 Also Present:

18 M. Peter Kuck
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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 ALBERT J. MASEK, JR.,

2 Of Connecticut Department of Emergency Services
3 and Public Protection, 1111 Country Club Road,
4 Middletown, Connecticut 06457, having first been
5 duly sworn, was examined and testified as follows:

6
7 (Plaintiff Exhibit 62 - 78 marked for
8 identification.)

9
10 DIRECT EXAMINATION

11
12 BY MS. BAIRD:

13 Q Good morning. How are you?

14 A Good.

15 Q My name is Rachel Baird. I'm an attorney and I
16 represent Peter Kuck and James Goldberg in this case.
17 During the course of this proceeding -- I know you're
18 retired; you're a former state trooper -- how would you
19 like for me to refer to you?

20 A Whichever way you feel appropriate.

21 Q Do you feel more comfortable with "Mr. Masek" or
22 "Captain Masek"?

23 A It doesn't matter. However you choose.
24 Whichever you're comfortable with.

25 Q Well, I'll refer to you as Captain Masek then, if

1 you're comfortable with that. That was your rank when you
2 retired?

3 A Yes, ma'am.

4 Q Captain Masek, when did you retire from the
5 Connecticut State Police?

6 A I believe it was July 1st, 2009.

7 Q And at that time when you retired on July 1st of
8 2009, how long had you been a state trooper?

9 A Approximately 34 years.

10 Q At the time of your retirement, what was your
11 position with the State Police?

12 A My assignment?

13 Q Yes.

14 A I was assigned to Inspections and Accreditation I
15 believe my final assignment was.

16 Q And Inspections and Accreditation, is that within
17 a particular division within the Division of Public
18 Safety?

19 A I would have been under the lieutenant colonel of
20 Field Operations.

21 Q What I'd like to do with you is go through with
22 you the chain of command that you were in when you
23 retired, and then work back from there to the time you
24 were in the Firearms Unit. Okay?

25 So when you retired, you were within the overall

1 Division of Public Safety. Correct?

2 A Yes, ma'am.

3 Q And underneath that you were in the Connecticut
4 State Police?

5 A Yes, ma'am.

6 Q And then my understanding is within the
7 Connecticut State Police, at least at that time in 2009
8 when you retired, there were three separate administrative
9 units? Or three separate divisions?

10 A Yes, ma'am.

11 Q And what were they?

12 A We had the Office of Commissioner's Staff -- to
13 answer your question specifically, I was under the Office
14 of the Commissioner's Staff, then there's Office of Field
15 Operations, then there was Office of Administrative
16 Services. I had some duties that were under the Office of
17 Field Operations and some duties that were under the
18 Office of the Commissioner. Or Accreditation it was at
19 the time.

20 Q Okay. And Accreditation was under the Office of
21 the Commissioner at that time?

22 A I believe that's where it was on the T.O.

23 Q When did you become a member of the Office of
24 Accreditation?

25 A It would have probably been

1 Inspections/Accreditation. That would have been on
2 4/4/08.

3 Q And prior to 4/4/08 when you became a member of
4 Inspections -- or Inspections and Accreditation, what was
5 your assignment --

6 A Prior to that?

7 Q -- just prior to that? Yes.

8 A My previous assignment was Special
9 Investigations & Support, and that was from March 19th of
10 '07 and it would have been until 4/3 of '08. 4/4 of '08
11 is when I moved to my new assignment.

12 Q Okay. So from March 19th of 2007 you were in
13 what unit?

14 A Commanding officer of Special Investigations &
15 Support. And that was under the Office of Administrative
16 Services.

17 Q Who did you report to directly?

18 A At which time? Because there would be transfers
19 during that year.

20 Q Okay. You made transfers during March --

21 A No. Some of my bosses were transferred during
22 that period.

23 Q Okay. Well, let's get this straight then. In
24 commanding Special Investigations & Support, you were a
25 captain?

1 A Yes, ma'am.

2 Q Okay. And that was under the Office of
3 Administrative Services.

4 A Yes, ma'am.

5 Q And you left commanding Special Investigations &
6 Support on March 19th, 2007?

7 A No. I started on March 19th, 2007 --

8 Q Right.

9 A -- in Special Investigations & Support.

10 Q And when did you leave?

11 A It would be 4/3/08, starting my new assignment
12 4/4/08.

13 Q So between March 19th, 2007 and April 3rd, 2008,
14 who were the various supervisors that you reported to --

15 A My direct supervisors would have been for a
16 period of time Major Peter Warren, and then Major Labonte,
17 Gene Labonte.

18 Q And what positions did Warren and Labonte hold
19 that you --

20 A Rank of major.

21 Q -- that you directed -- that you reported
22 directly to them?

23 A They held rank of major.

24 Q And what was their assignment when you reported
25 directly to them during that time period?

1 A I would have to look on the T.O., but they were
2 bureau staffs or chiefs.

3 Q During this period of time from March 19th, 2007
4 to April 3rd, 2008, did you have any responsibilities with
5 regard to the Special Licensing and Firearms Unit?

6 A I did.

7 Q Prior to May 19th, 2007 did you have any
8 responsibilities with regard to the Special Licensing and
9 Firearms Unit?

10 A May 19th? Yes. May 19th, 2000 -- yes.

11 Q And what was your assignment just prior to
12 March 19th, 2007?

13 A I'd have to check the T.O., but I think I was
14 commanding officer out at Rentschler Field.

15 Q Of what?

16 A Rentschler Field.

17 Q Oh, okay. Commanding officer Rentschler Field.
18 How long were you the commanding officer of Rentschler
19 Field?

20 A Since it opened. Probably in the vicinity of
21 2003.

22 Q So it sounds to me like you were the commanding
23 officer of Rentschler Field from 2003 through March of
24 2007?

25 A Correct.

1 Q What were your duties as commanding officer
2 there?

3 A The administration -- "there" where?

4 Q At Rentschler Field.

5 A It would be the overall public safety and
6 security functions of the facility.

7 Q How many troopers did you supervise who were
8 under you?

9 A It would vary on any given day. During the week
10 I may have had one to two, and on an event day may have
11 been an excess of 70.

12 Q Was your physical assignment actually being at
13 Rentschler Field?

14 A Yes, ma'am.

15 Q And the State Police have a special office --

16 A We have an office there.

17 Q -- out there? Is it under the supervision of a
18 troop?

19 A That was under the super -- it changed on the
20 T.O. a little bit. Initially when the supervision -- it
21 moved around. It was under Homeland Security for a while,
22 then we absorbed that. Then it went to the Commissioner's
23 Staff for a while, and then to Field Operations. It moved
24 around our T.O. a little bit.

25 Q How was your assignment to Rentschler Field as

1 the commanding officer related to the Special Licensing
2 and Firearms Unit?

3 A If I could pause? You just -- I want to back up
4 one question.

5 Q Sure.

6 A There was a period of time -- without having the
7 T.O. in front of me -- that I was assigned to Professional
8 Standards just before I came to Special Investigations.

9 Q What is a T.O.?

10 A Table of organization.

11 Q If we were to obtain a T.O. of your time as a
12 member of the State Police, it would set specifically what
13 dates and periods of time you were in these different
14 positions?

15 A Correct.

16 Q And my understanding from your testimony is that
17 you basically recall, but there may be some things that --

18 A Right. I just recall Professional Standards, I
19 was there for a small block of time before I came to
20 Special Investigations.

21 Q Okay. And we'll take your testimony with that in
22 mind.

23 A Right. And we were moving around because we had
24 people that were going to military deploy -- or some
25 potential military deployments. They were usually

1 commanders.

2 Q Right. And you had indicated that while you were
3 a commanding officer of Rentschler Field between 2003 and
4 2007, that had some relation to the Special Licensing and
5 Firearms Unit?

6 A No.

7 Q No. You didn't have any responsibilities --

8 A None whatsoever.

9 Q -- with the SLFU during that period?

10 A Only from March 19th, '07 to April 3rd, '08.

11 Q Okay. How did it come that you transferred or
12 moved from being the commanding officer at Rentschler
13 Field to being the commander at the Special
14 Investigations & Support Unit in March of 2007?

15 A Department transferred me because of needs of the
16 agency. As I was saying, we thought they were going to be
17 moving military commanders around for potential
18 activation, so they moved people. Lieutenant Corona, who
19 was there prior to me had gone East and I took his spot.

20 MR. SNOOK: If I could interrupt a second?

21 Are these State Police officers that were
22 also in the Reserves?

23 THE WITNESS: We do. We have some.

24 MR. SNOOK: Okay. When you say "moved
25 East," what does that mean?

1 THE WITNESS: He went to a command down the
2 eastern part of the state, the Eastern -- we
3 have Districts: Eastern, Central --

4 BY MS. BAIRD:

5 Q Right. And did somebody take your place as
6 commanding officer at Rentschler Field when he left in
7 March 2007?

8 A I don't know what they did with the T.O. at that
9 point.

10 Q What was your understanding of your duties when
11 you became the commander of the Special Investigations
12 unit?

13 A As far as?

14 Q As far as what personnel you would be overseeing,
15 what various --

16 A I had the Special Licensing and Firearms Unit; I
17 had the Sex Offender Registry Unit; I had the Overtime
18 Unit. And some subsets within there. Special Licensing
19 and Firearms had a multitude of functions. Boxing.

20 Q And other than the three overall areas that you
21 just described -- and I believe they were the Sex Offender
22 Registry Unit, the SLFU, and the Overtime Unit --

23 A Correct.

24 Q -- were there any other overall categories of
25 units or duties that you supervised?

1 A I believe that was it.

2 Q What's the Overtime Unit?

3 A Where we have troopers that work outside
4 employment, and contractors apply to hire a number of
5 troopers for the night. That goes in and it's done on a
6 prescribed basis.

7 Q Okay. As the commander of the Special
8 Investigations Unit overseeing these three general areas,
9 who was directly under you in terms of supervision in the
10 Special Licensing and Firearms Unit?

11 A It would depend on the given time during my
12 approximately year there, but at its -- it would have been
13 Sergeant Bastura for a while, and then it was Lieutenant
14 Fox came in a little bit later and became the executive
15 officer of the unit.

16 Q Now, Sergeant Bastura was the executive officer
17 of the unit. Correct?

18 A In title. When they don't have sufficient rank
19 in particular areas, they will kind of designate someone
20 as an executive officer.

21 Q So what rank is it --

22 A He was a sergeant in the unit.

23 Q Well, what rank is it understood that an
24 executive officer in the SLFU should be, ideally?

25 A I would think it would be someone possibly -- we

1 have like a master sergeant -- sergeant master. It could
2 actually span into any of the categories. Normally we try
3 to put it under command rank.

4 Q And let me just say, when I ask you questions
5 about the SLFU we're going to focus on the time you were
6 there, March 2007 through April 2008. Because I
7 understand that you can't testify about the way it is now.
8 Correct?

9 A Or before.

10 Q Or before.

11 A Right.

12 Q Okay. So if I ask a question, you know, and if
13 you want to clarify it and say "what time frame are you
14 talking about," feel free to. But when I ask a question,
15 I am specifically narrowing it on that time frame.

16 A Yeah; it was about that 12-month plus two-week
17 period there. I was only there 13 months.

18 Q I'm still trying to understand. Sergeant Bastura
19 you had indicated was the executive officer, but you had
20 qualified that and said something about his rank or he was
21 an executive officer in name only. Could you clarify that
22 for me --

23 A Right. I don't know if that was initially on the
24 table of organization because it specifically went to
25 executive officer. I'd have to go back and refer to that.

1 Normally when we table-of-organization things we like to
2 try to make -- in a troop you would have a master sergeant
3 as executive officer and then a lieutenant. It varies by
4 where we can populate by rank.

5 Q So Sergeant Bastura --

6 A I don't know if on paper for sure, because I
7 don't recollect if he was executive officer.

8 Q Okay.

9 A On the table of organization.

10 Q Okay. Sergeant Bastura was not a master
11 sergeant. Correct?

12 A He was a sergeant.

13 Q He was a sergeant. And as executive officer or
14 filling the role of executive officer, what did you expect
15 Sergeant Bastura to do?

16 A As far as?

17 Q As far as being executive officer of the Special
18 Licensing and Firearms Unit.

19 A It would be his obligation to maintain the
20 day-to-day functions and comply with that and regulations
21 and requirements of the agency.

22 Q Did he oversee all functions of the Special
23 Licensing and Firearms Unit?

24 A I would say yes.

25 Q For example, you had mentioned boxing.

1 A Yes. Because as time -- I'm trying to give you a
2 concise answer, but things changed during the year as we
3 were able to populate more people into the unit.

4 He was with me with boxing, too. When he was
5 there, it wasn't site-specific in nature; he would be a
6 supervisor in the entire unit.

7 Q Did Sergeant Bastura have any job duties outside
8 the Special Licensing and Firearms unit?

9 A Outside of our SLFU?

10 Q Right.

11 A No.

12 Q Okay. So in the SLFU he was the highest ranking
13 trooper assigned to the SLFU that had that as his only job
14 duty?

15 A With -- I mean he would do other functions with
16 the unit. If we were doing security guards --

17 Q Right.

18 A -- or some boxing, he would also tend to
19 supervisory duties with that. I don't want to
20 compartmentalize him.

21 Q What were the kinds of things or issues that
22 Sergeant Bastura when he was fulfilling the duties of
23 executive officer of the SLFU, what are the kinds of
24 issues that he would bring to you during that time period?

25 A We would do monthly assessments of a variety of

1 the duties in the unit: What was handled by security
2 guards; registrations -- we call them "gold cards," "blue
3 cards"; it was armed, unarmed -- where there was any
4 firearms matters that needed to be -- personnel matters
5 that needed to be attended to, and in-house duties of
6 rating our personnel.

7 Q So you would have monthly assessment meetings
8 with Sergeant Bastura?

9 A Yes. And that would go up through a written
10 report direct chain of command.

11 Q And at about what point in your approximately 12
12 months as commander of the SLFU did Lieutenant Fox take
13 over as executive officer?

14 A I don't recall. But when I got there I had
15 applied to make some incremental changes, and I had to ask
16 through my bosses through position action requests that I
17 wanted to increase staffing in the unit to make them more
18 efficient. And he was one of the people that I had asked
19 to come on staff. So I'd have to check the T.O. about
20 when he arrived.

21 Q Did I get that right? Was he a lieutenant when
22 he came on board with --

23 A Correct. I believe he's a major now.

24 Q Was there a particular reason why you had asked
25 that Lieutenant Fox be brought on board for the SLFU?

1 A I did. I wanted to make incremental changes to
2 the unit so we could make sure that we worked as
3 efficiently and effectively as possible.

4 Q What became of Sergeant Bastura when Lieutenant
5 Fox came on board in the Firearms Unit?

6 A He stayed on board as the unit supervisor.

7 Q And prior to Lieutenant Fox coming in the unit,
8 who was the unit supervisor?

9 A Prior to me?

10 Q No. Lieutenant Fox coming into the unit.

11 A It would have been Sergeant Bastura.

12 Q Okay. So Sergeant Bastura before Lieutenant Fox
13 came to the Firearms Unit had been the executive officer
14 and also the unit supervisor?

15 A Correct. We have lapping functions here.

16 Q Okay.

17 A So that's his job during the day.

18 Q And so then when Lieutenant Fox came into the
19 unit --

20 A He took on a more formalized executive officer
21 role.

22 Q Okay. So that sounds like it was an increase in
23 personnel when Lieutenant Fox was brought on, because
24 previously Sergeant Bastura had been doing the executive
25 officer and unit supervisor duties; and when Lieutenant

1 Fox came, he became more of the executive officer and
2 allowed Sergeant Bastura to do the supervisory --

3 A Correct. When I arrived, I asked for increase in
4 staffing across the board, civilian and sworn.

5 Q Other than bringing Lieutenant Fox in, were you
6 successful in increasing staffing at the Firearms Unit?

7 A I was, both not only by population, but by
8 assignment. We had some troopers that placed very high on
9 a promotion exam for sergeant, and I was able to talk to
10 my bosses and they agreed to leave them in place rather
11 than transfer them out. One became an attorney, Doug
12 Hall, so he also helped with being an attorney on staff.
13 We had another sergeant that was promoted and left in
14 position Pestritto (phonetic) who took on some of the
15 other duties; the boxing. And then we increased some of
16 our support staffing. We had -- I forget the position
17 exactly, but we had a Secretary I that we were able to get
18 in place. And we had others pending for, like, office
19 assistant and various other ones that may have been
20 requested.

21 Q Now, when Sergeant Bastura became the unit
22 supervisor, who served under him in terms of sworn
23 personnel?

24 A In essence it would have been any of the sworn
25 people assigned to the unit. Because he is a State Police

1 sergeant and can tell any of them -- give them directions.

2 Q And in the Firearms Unit during the year that you
3 were the commander, were there detectives assigned to the
4 Firearms Unit?

5 A There were.

6 Q And who were the detectives assigned to the
7 Firearms Unit when you came in in March 2000 --

8 A When I came in, my recollection was Detective
9 Barb Mattson and Detective Tom Karanda.

10 Q Did that change during the year that you were
11 there?

12 A No; they were still in place for the year that I
13 was there. I think we added one; we did an internal
14 Transfer, and I'm losing the name of the detective, but he
15 came on to get cross-trained. Because in talking to my
16 bosses, we wanted to also cross-train people in the unit.

17 Q Are you familiar with -- is it a Detective Shawn
18 Musial? Does that name --

19 A I think that might be who it is. I'm having a
20 moment. I don't remember the -- I think that's who it
21 was.

22 Q Okay. And you had mentioned a Sergeant Doug
23 Hall. Correct?

24 A Correct.

25 Q Had he been in the Firearms Unit when you came to

1 the unit in 2007?

2 A He did, but he was doing our bail bonds. We also
3 regulated bail bondsmen in the state. I think he had the
4 bail bondsmen duties, is my recollection.

5 Q What was it that went into the decision of having
6 him take over certain duties in the Firearms Unit?

7 A Just an increased knowledge base. You know, when
8 you pass the Bar and you become an attorney, there is a
9 value point to that in the agency. Even though they're
10 not directly assigned to Legal Affairs, they still work in
11 concert with the unit and in concert with Legal Affairs so
12 they're getting appropriate direction.

13 Q So when he came over to the Firearms Unit, in
14 what capacity -- or what was his assignment within the
15 unit?

16 A He didn't come to the unit. He was in the unit.

17 Q Right. But when he took over certain
18 responsibilities in the Firearms Unit, what
19 responsibilities did he take over there?

20 A My recollection is he also would have under the
21 direction of Lieutenant Fox looked at various permit
22 issues.

23 Q Now, how was it decided or was it within your --
24 was it something that you decided who would represent the
25 State Police in their capacity as the issuing authority at

1 board hearings and before the Board of Firearms Permit
2 Examiners?

3 A It was my decision, per se; but Lieutenant Fox --
4 prior to me I don't know how that assignment was done.
5 Normally they took one of the attorneys in the agency and
6 assigned them to do the firearm board permit reviews.
7 When I got Lieutenant Fox, he had had some history of
8 having been there before and had done some of those cases
9 and also was an attorney, so it just seemed like the
10 appropriate fit for the agency.

11 Q And during the year that you were there -- well,
12 let's say prior to Lieutenant Fox coming on board, do you
13 know who appeared in front of the board as an attorney
14 representing the State Police?

15 A I don't. When I did my personnel requests, one
16 of the first ones that I had done was for a staff
17 attorney; and it didn't have to be a sworn attorney, it
18 could have just been an attorney that the state hired and
19 felt it was appropriate there. And I don't know if that
20 was ever done or not.

21 Q At some point while you were there, did Doug Hall
22 represent the State Police before the Board of Firearms
23 Permit Examiners?

24 A He may have. I don't recall.

25 Q And when you left, was Lieutenant Fox still the

1 executive officer of the Firearms Unit?

2 A He was.

3 Q When you became commander of the Firearms Unit,
4 were you briefed on any specific issues that were most
5 pressing with regard to the Firearms Unit?

6 A I don't recollect that I was.

7 Q Okay. When you became commander of the Firearms
8 Unit, were you aware of how the Board of Firearms Permit
9 Examiners operated? What they did?

10 A Through my readings of the statute and internal
11 dialogue with the folks, they gave me the basic process.

12 Q And when did you begin familiarizing yourself by
13 reading the statutes with what the board's function was?

14 A Contiguous with when I took command.

15 Q And when did you receive these briefings about
16 how the board operated, and the duties of the Firearms
17 Unit?

18 A I am not understanding that question.

19 Q You had indicated that you familiarized yourself
20 with the board's functions by talking to people and --

21 A Oh, internal talking to -- Sergeant Bastura gave
22 me some historical knowledge.

23 Q And am I correct from your testimony that this
24 would have occurred after you already became commander of
25 the --

1 A Yeah --

2 Q -- Special Investigations?

3 A It's a normal function when you go to any unit,
4 to try to determine what you're commanding and what you're
5 doing and what the needs are.

6 Q So when you received the assignment to be
7 commander of Special Investigations, you were basically
8 walking in not knowing what the status was or what was
9 going on there?

10 A Correct.

11 Q Okay. Did you become aware at some point after
12 you became the commander that an issue of a backlog at the
13 board had been raised by any one or a group of people?

14 A Yes. Mr. Kuck brought to my attention that there
15 had been a backlog, and we had had some conversation about
16 that. And internally in the unit I took a look at where
17 our storage area was for the boxes and I identified those
18 were the backlog issues.

19 Q Had you met Mr. Kuck, Peter Kuck prior to
20 becoming commander of Special Investigations?

21 A I don't recollect that I had.

22 Q And when you became commander of Special
23 Investigations, did you meet in a formal sense? Was there
24 some sort of gathering or meeting where you met members of
25 the Board of Firearms Permit Examiners?

1 A Mr. Kuck invited me to one of the meetings at the
2 end of a meeting and introduced me on the record as the
3 commanding officer of the unit.

4 Q And did this occur close in time to when you took
5 over your duties?

6 A I lose track of time. A month or two?

7 Q And when did you have your first discussions with
8 Mr. Kuck about the backlog, and what was it that was said
9 to you about a backlog?

10 A I recollect it was earlier than that. We met in
11 the -- at the agency, I think in the cafeteria; and I
12 believe he was with Mr. Carr. And we talked about the
13 backlog. And from that point I had internal discussions
14 within the agency, which is why I started doing the
15 increase in personnel; talking to my bosses to find out if
16 we could kind of alleviate and try to start to work on the
17 process.

18 Q Had the backlog issue been mentioned to you by
19 anyone prior to Mr. Kuck mentioning it to you?

20 A I don't recollect that it did, but I recollect
21 walking in and seeing a number of boxes and inquiring what
22 they were. And they found out it was ours; probably had a
23 backlog for what we did for the presentation of cases to
24 the board.

25 Q What was your impression at that time of what you

1 could do, if anything, about the backlog?

2 A As far as?

3 Q As far as anything. As far as being commander of
4 Special Investigations and your being told about a
5 backlog, did you have an impression that you could do
6 anything about it?

7 A Which is kind of what I was just reiterating for
8 the last few minutes; that I went to my bosses to see if
9 we could make some incremental changes to get people in
10 there to identify so we could have a better business
11 process, and that -- which would in essence, I guess for
12 lack of better words, chip away at the backlog.

13 Q When you say "chip away at the backlog," what
14 would be the better process of doing that?

15 A I would think that triaging was something we did,
16 we ultimately did; triage where we would find out what was
17 coming up for permitting and the time line to get them to
18 the board. We didn't set the board time lines. I believe
19 the board meets with due diligence, but they only have to
20 meet once every 90 days. So I guess historically, I was
21 told, they would prepare cases that would go before the
22 board and in certain varying amounts. And I recollect
23 from the agency at the time that they were on a process of
24 already -- this apparently had been brought up before, and
25 they were in the process of reviewing 20 cases one month,

1 40 cases a month, and 20 a month, as I understand it, if
2 that's correct.

3 Q Did you have any conversations -- well, let me
4 ask you this. During that year-long period when you were
5 the commander, who was the commissioner of DPS?

6 A It was Commissioner Danaher. And I know he came
7 on board right about at the time I was getting
8 transferred. So I don't know if Commissioner Boyle was
9 there for a period of time. You would have to check the
10 T.O.

11 Q Okay. Did you have any conversations directly
12 with Commissioner Danaher about the backlog at the
13 Firearms Unit? Or before the board?

14 A Initially?

15 Q Yes.

16 A I don't believe I initially did.

17 Q Okay. And during the year that you were the
18 commander, did you have any conversations with
19 Commissioner Danaher about the situation at the Firearms
20 Unit or the board that had been brought up as a backlog?

21 A I don't know if it's what you'd call
22 "conversations"; it was more directions from your boss,
23 directing what he would, you know, like us to do. My
24 recollection is he took a look at the total operation, met
25 with Lieutenant Fox, met with some other independent

1 people, and then made his judgment as to how he wanted to
2 continue our process, which he really wanted to do intact
3 with kind of the augmenting that we had done.

4 Q Okay. Were you present at any meetings that
5 Commissioner Danaher and Lieutenant Fox had about the
6 backlog?

7 A I was not.

8 Q What was the process by which you would learn
9 about what you were expected to do as commander, as a
10 result of any meetings that Commissioner Danaher and
11 Lieutenant Fox had?

12 A It would be brought back to me through Lieutenant
13 Fox or in his monthly reports that would come through me
14 and up through our chain of command.

15 Q How much discretion or how much authority did you
16 give Lieutenant Fox to carry on with whatever process
17 there was in place at the Firearms Unit to decrease the
18 backlog?

19 A Well, if the commissioner tells him to do
20 something, then my discretion's out of it. That's the
21 boss telling all of us what to do.

22 Q Okay.

23 A But he had his discretion to triage the cases,
24 try to move forward the cases heard before the board. And
25 anything that was of any concern he generally brought to

1 my attention.

2 Q I think I know what you mean by "triage the
3 cases," but that's a term that hasn't come up in any of
4 the depositions until now. Was that a term that was used
5 at that time, "triaging" --

6 A I think it's from me with the 20/40/20; kind of
7 what are you looking at and what are you doing. They
8 would look at some of the cases where maybe the court had
9 already said that the person's eligible again. A nolle
10 may have finished. I think that makes a person, if I
11 remember correctly, automatically eligible again to have
12 the permit. That would kind of be a triaging example.

13 Q What was your understanding of the Firearms
14 Unit's responsibilities when it was brought to their
15 attention that an individual's permit should be revoked?

16 A I think you'd have to -- in what regard? Revoke
17 for a felony or revoke for a disqualifying misdemeanor?

18 Q Let's just say that -- what was your
19 understanding of the Firearms Unit's responsibilities in
20 terms of investigating a situation where a permit holder's
21 suitability was in question?

22 A The bureau Administrative & Operations Manual
23 Section 8, that basically tells you what to do and how
24 it's done. And 8.6.3 deals with, if I recollect,
25 suitability and kind of gives you the parameters whether

1 it's internally through the agency, and I guess the same
2 would be conveyed to external agencies.

3 Q Is it your understanding that the Firearms Unit
4 was to conduct an investigation prior to revoking a state
5 permit?

6 A Yes.

7 Q How do you define what such an investigation
8 would entail?

9 A I think it's a broad term. There's certainly --
10 if you have a criminal investigation, we maybe used
11 certain types of paperwork and format. If it's an
12 administrative investigation the file may be populated
13 differently. The bottom line, we're looking to
14 determine -- gathering the facts and determining what the
15 appropriate cause and effect were.

16 Q And the Firearms Unit in revoking permits engages
17 in an administrative investigation, I gather from your
18 testimony?

19 A If that's the corridor that it's going to. I
20 mean they have the police powers if they need to do a
21 criminal one; but more often than not it was an
22 administrative investigation.

23 Q You mentioned an A&O Manual. Were there any
24 guidelines in the A&O Manual about what kind of
25 investigation should be conducted with regard to

1 suitability?

2 A I believe there is. If you have the A&O Manual,
3 there is 8.6.3 deals with the suitability issues and has
4 some site-specific examples of it.

5 Q Okay.

6 A And that was in place at the time I got there. I
7 don't recollect any A&O changes, large changes during the
8 time I was there.

9 Q Was it your understanding that an investigation,
10 the administrative investigation that we're talking about
11 in terms of whether permit holders' permits should be
12 revoked, whether personnel in the Firearms Unit should
13 gather facts independent of investigations, for example,
14 performed by municipal police departments?

15 A I mean, I don't know if that's necessary in all
16 cases, but we normally would try to validate and verify
17 some information.

18 Q Okay. Are there guidelines when you would want
19 to validate and verify information as opposed to just
20 accepting what is written in a police report that is
21 obtained from a municipal police department?

22 A There's investigative guidelines in our entire
23 Administrative & Operations Manual.

24 Q Are there policies and procedures that you know
25 of -- while you were there -- at the department that

1 guided you in being the designated person in the chain of
2 command under the commissioner to perform his duties in
3 revoking permits or issuing permits or denying renewals of
4 permits?

5 A I don't recollect any. We would go by the state
6 statute and the table of organization and all the duties
7 under that table of organization.

8 Q Okay. So, for example, if there were different
9 commissioners while you were the commander of Special
10 Investigations -- and I think you had indicated maybe
11 Commissioner Boyle --

12 A And I don't know that to be the case; I don't
13 have the T.O. But I know Commissioner Danaher arrived
14 right around the period of time when we were making some
15 movements.

16 Q Okay. You wouldn't have expected your job duties
17 to change in terms of revocation or denial or renewal of
18 permits based on who the commissioner was?

19 A Unless the commissioner determined there needed
20 to be a change.

21 Q Okay. And you didn't hear about any of those
22 changes when Commissioner Danaher became the commissioner
23 of Public Safety?

24 A What changes?

25 Q In terms of what authority, what scope of

1 authority you had in the chain of command as the person
2 designated to revoke or issue or --

3 A No.

4 Q -- perform renewals?

5 A Sorry.

6 Q Oh, that's okay.

7 Now, when you became the commander of the
8 Special Investigations Unit, was -- we already discussed
9 about the backlog issue that was discussed. Was there
10 any issue discussed about an audit that had been
11 performed by the New York State Police with regard to the
12 Department of Public Safety?

13 A I don't have any knowledge what the New York
14 State Police -- or I have no knowledge of the New York
15 report --

16 Q Correct.

17 A -- nothing that I recall that I either remotely
18 read site specific --

19 Q Okay.

20 A -- and I can't say that I read that cover to
21 cover -- anything to do with Special Licensing and
22 Firearms Unit.

23 Q Okay. And prior to becoming the commander of the
24 Special Investigations Unit, had that report impacted your
25 assignment or did it impact your assignment after you left

1 being commander of the Special Investigations unit?

2 A I think any report where they do fact-finding on
3 an agency impacts the entire agency for whatever the
4 corrective actions are. But again, we have varied with
5 A&O guidelines and we're also an accredited agency. And
6 throughout this time period we were coming up on our
7 annual accreditation again where all of our policies and
8 procedures and processes are reviewed. And we passed
9 accreditation.

10 Q Okay. In your job assignments during that time
11 period, 2007 onward, were there any corrective actions
12 that you were tasked with taking as a result of the New
13 York report?

14 A No, ma'am.

15 Q Okay. And you never were in the Internal Affairs
16 unit. Correct?

17 A I was. Professionally I was in Internal Affairs,
18 but I was there a brief period of time. Again, we were in
19 the process of moving people around in different
20 assignments. As a matter of fact, as an offshoot of the
21 New York report is I think how I ended up in Professional
22 Standards. They wanted to increase the amount of command
23 cadre that was there, and so I got assigned there as a
24 captain, and then the movements reoccurred at the time.
25 It was a short time; I can't remember how much time I was

1 there. That was my movement out to Special
2 Investigations.

3 Q Okay. So your time as a captain in the
4 Professional Standards unit, was that April 3rd, 2008 and
5 afterwards?

6 A No. Before. Prior. My prior assignment prior
7 to coming to Special Investigations was Professional
8 Standards.

9 Q Oh, okay. So you had been the commander of
10 Rentschler Field and then you went to Professional
11 Standards --

12 A Correct. Before when I made the correction after
13 I made the initial statement, I remembered that they had
14 sent me there.

15 Q And how long were you at Professional Standards?

16 A I don't remember. That's -- I'd have to get the
17 T.O.

18 Q Okay. Do you think it was longer than a year?

19 A No. I think it was under a year.

20 Q Okay. So less than a year.

21 A Right.

22 Q And was that when you were under the supervision
23 of Lieutenant Colonel Labonte?

24 A Duffy. It was Lieutenant Colonel Duffy at that
25 point.

1 Q Duffy. Okay. And during your time in
2 Professional Standards were there duties that you were
3 expected to perform that were in response to the findings
4 of the audit that we've been discussing out of New York?

5 A I don't recollect being given any specific
6 duties. I would just get whatever cases came that were
7 fairly new cases or cases that had been there and we
8 continued to investigate. Or I would have been given some
9 policy and procedure and process to look at. By nature of
10 our rank we can't enact policy, procedure, process; but we
11 can bring back fact-finding and then get determined by the
12 policy makers in the agency, which is generally the majors
13 and up.

14 Q And do you recall if -- well, who was the
15 commissioner at that time while you were in Professional
16 Standards?

17 A I believe it was Commissioner Boyle.

18 Q And do you recall if he had any discussions that
19 you were involved in with Lieutenant Colonel Duffy about
20 Internal Affairs and corrective actions following the New
21 York audit?

22 A No.

23 Q Okay. And you weren't at the Professional
24 Standards unit when Commissioner Danaher came on board as
25 the commissioner. Correct?

1 A No. Commissioner Boyle transferred me before he
2 left.

3 Q Okay. While you were commander -- back to the
4 Firearms Unit -- during that year-long period, were there
5 any personnel issues that came to your attention within
6 the Firearms Unit that you needed to address?

7 A No, ma'am.

8 Q Okay. Were there any complaints by any personnel
9 in the Firearms Unit about Detective Mattson that you
10 needed to address?

11 A A complaint by another trooper or complaint --

12 Q Yes.

13 A -- by an outside agency?

14 Q By another trooper.

15 A I don't recollect any.

16 Q Okay. Or were you aware of any controversy
17 between Detective Karanda and Detective Mattson while you
18 were the commander of the Special Investigations unit?

19 A I don't recollect that there was anything that
20 was of any significance.

21 Q Okay. And what, in your opinion, was the result
22 of the efforts you made to bring on Lieutenant Fox and to
23 perform the triage that you had discussed, what was your
24 impression of the effect, if any, that that had on the
25 backlog?

1 A I always try to go someplace and leave it a
2 little better than I found it. I just think that's what
3 you do. So we tried to get a good business practice in
4 place. And a lot of times when you're, you know, a police
5 department -- you have to remember that there's all sorts
6 of business practices -- your business is service. So we
7 tried to institute what we thought was reasonable
8 practices and standards to abate some of the backlog.

9 Q Did you at any time after meeting Mr. Kuck have
10 any reason to believe that he wasn't a United States
11 citizen?

12 A If my recollection serves me, we met on or about
13 my first day. It was my very first day in the unit was I
14 think when we met, and I didn't really know Mr. Kuck.

15 Q Okay.

16 A And I know there were three variations of his
17 name. He introduced himself as Peter, then there was M,
18 then there was Maurice. But like I said, we met the first
19 day. And I don't recollect we ever had an ill word.

20 Q Okay. How did it come about that you met the
21 first day? Was there a board meeting that day?

22 A No. I think it was in reference to renewal of
23 his permit.

24 Q Okay. And how did you come to meet Mr. Kuck on
25 your first day or around your first day as becoming

1 commander with regard to the renewal of his permit?

2 A I believe he showed up in my doorway.

3 Q Was that usual, that individuals who were seeking
4 to renew their permit would show up in your doorway?

5 A No.

6 Q Okay. And was your doorway -- was your office
7 right within the Firearms Unit?

8 A It was. It was in the back of the Firearms Unit.

9 Q How would he have gotten access to go right back
10 to your office?

11 A I believe he was given permission to come in; the
12 sign-in sheet. He I guess would have been escorted back.

13 Q Okay. And did Mr. Kuck --

14 MR. KUCK: Not in cuffs, either.

15 BY MS. BAIRD:

16 Q Did Mr. Kuck indicate to you why he was there at
17 your office that day?

18 A I don't recollect the full conversation. It was
19 somewhat introductory in nature. I believe he gave me a
20 little bit of his background with the Firearms Board unit,
21 and then I don't think we had a big discussion on the
22 permit that day. I don't recollect that.

23 Q Did you ever have a discussion with Mr. Kuck
24 about a case that came before the board, of Erisoty?

25 A I did.

1 Q Okay. When did that discussion occur?

2 A The time line, you know, probably --

3 Q Yes --

4 A -- my months of time line, it's just a little
5 nebulous for me.

6 Q Take your time.

7 A But it was after one of the board meetings. He
8 had raised some concerns about the way that case was
9 investigated and handled, and he asked the board to
10 prepare the entire case. And actually, I think he dropped
11 it off in my office. And what I did was I took occasion
12 to take that right to Labor Relations. I had Labor
13 Relations review the case, and I believe it's now
14 Lieutenant Rosado -- who was Sergeant Rosado at the
15 time -- is also an attorney; and I asked him to do
16 fact-finding and report back to me.

17 Q Was -- I'll call him Sergeant Rosado. He was a
18 sergeant at this time?

19 A Right.

20 Q Was he within the Firearms Unit?

21 A No.

22 Q So he was an attorney that would come in --

23 A But also in our Labor Relations unit. Because if
24 there was any potential impropriety, we would let our
25 Labor Relations unit take a look at it, which was actually

1 in-house. It was expeditious, it was steps away. And
2 normally we could send it up. He would do a review of the
3 case, and he also had -- my term -- the pedigree to take a
4 look at it. He was also an attorney, but had also done
5 some court hearings himself.

6 Q What's the difference between taking something to
7 Labor Relations and taking it to Internal Affairs? Like
8 what would make you decide this needed to be taken to
9 Labor Relations as opposed to Internal Affairs?

10 A If it appeared on its face that there was
11 misconduct. This was asked for an independent review.

12 Q Okay.

13 A And if the review determined there was
14 misconduct, we would have then sent it to Internal
15 Affairs.

16 Q What was the packet of information that Mr. Kuck
17 brought to you? Was it the transcript of the hearing?

18 A Complete transcript. It was a very thick packet.

19 Q And I'm assuming the Firearms Unit had their own
20 file about Mr. Erisoty. Correct?

21 A I don't know. I mean, I imagine it wasn't
22 retention -- we have retention issues for periods of time.

23 Q Right. But back then -- right. Back then close
24 in time to when the hearing had been held, the Firearms
25 Unit --

1 A But the answer to your question was really I took
2 the case to Labor Relations. They reviewed and responded.

3 Q And how did Labor Relations respond?

4 A That they felt that the investigation was
5 conducted appropriately.

6 Q Okay. And did you make a complaint to anyone
7 about the fact that Mr. Kuck had brought this case to you?

8 A No. I don't believe I did.

9 Q Okay. Did you see anything inappropriate about
10 Mr. Kuck bringing this case to you for review?

11 A No.

12 Q Did he say anything to you intimidating or
13 threatening about the case and how the Firearms Unit
14 should treat it?

15 A No.

16 Q And --

17 A Or no, ma'am.

18 Q Okay. And in your year while you were there, did
19 any other board members ever bring issues to you about
20 concerns they had with how cases in the Firearms Unit had
21 been handled?

22 A I think -- I don't know if -- no, not in how
23 cases were handled. It was more backlog. And Mr. Kuck
24 whenever we met in the cafeteria was with Mr. Carr, I
25 believe, and we again discussed the backlog issue.

1 Q Did any board members ever come to you with
2 complaints about any either attorneys or staff attorneys
3 that had appeared in front of the board on behalf of DPS?

4 A I don't recollect any.

5 Q Okay. Were there any complaints that any board
6 members brought to you about particular detectives in the
7 Firearms Unit and how they appeared in front of the board
8 or the work they did?

9 A Other than Mr. Kuck, no.

10 Q Okay. And what complaint did Mr. Kuck make?

11 A He -- I'd have to paraphrase. I really don't
12 have -- I'd have to go back and recall. But I thought
13 that he didn't feel that the investigators were conducting
14 their investigations properly; that they had a little too
15 much I would say maybe literary license. So that's why I
16 went back and took a look at the business process, asked
17 for the people. I could find -- I found that they didn't
18 do that from my initial findings, but I wanted to make
19 sure that was not the case. So we instituted supervisory
20 review and that's why I needed the people to do this. You
21 could have the best plan, but unless you have the people,
22 you can't do the plan. So it kind of came in concert.

23 Q And again, was there anything that you felt was
24 inappropriate about Mr. Kuck bringing an issue to you
25 about individual members of the Firearms Unit?

1 A We support the citizens, and if they can't have
2 dialogue with us, then that's inappropriate. So no, he --
3 this was fine that he brought it to me. And I'm the
4 commander of the unit and he was also a board member.

5 Q Okay. How many meetings other than the first one
6 that Mr. Kuck had invited you to did you go to? Of the
7 board.

8 A Trying to count. I'd probably say one other.

9 Q Okay. And did you communicate with the chairman
10 at that time, Christopher Adams, during the course of the
11 year you were there as the commander?

12 A I didn't have any regular communication with him.
13 I only recollect along the way, and I think it was in the
14 spring or summer when I first got there he had given me
15 one call; it was on my cellular telephone because I was
16 down taking care of a boxing event in Bridgeport; that was
17 the starting point for one of the duties. And he just
18 wanted to reaffirm that the board was there for support.
19 And he just wanted to continue to make sure we had a good
20 business and work flow. Rather quick call, as I
21 recollect, because I was on the road to the boxing and
22 never -- you can't talk on your cell phone.

23 Q No. I don't know, back then you could? I can't
24 remember.

25 A No.

1 Q Other than Detective Karanda, Detective Mattson,
2 Sergeant Bastura, Lieutenant Fox for a period of time, and
3 perhaps Detective Musial, although you may not remember
4 exactly if it was him, were there other individuals in the
5 Firearms Unit during the year you were commander?

6 A I don't recall. I mean I'd have to look at my
7 table of organization, but I don't recall. I know
8 Sergeant Hall would help out. And I think that's it.
9 Unless I --

10 Q And Sergeant Rosado would help out?

11 A Not very much. He was --

12 Q Okay.

13 A -- on to his Labor Relations. That's why in the
14 Erisoty case he was actually independent and separated
15 from the unit, but had historical knowledge and legal
16 background.

17 Q So am I correct that from what you've told me, we
18 have you as the commander of Special Investigations, and
19 under your authority is the Firearms Unit and Lieutenant
20 Fox, and you had Sergeant Bastura, and then you had
21 perhaps three detectives: Detective Karanda, Detective
22 Mattson and --

23 A Correct.

24 Q -- Detective --

25 A I think three would probably be the high point

1 for a while. And we were in the process of trying to
2 cross-train some people, and I don't know who else they
3 may have, as I was leaving, cross-trained.

4 Q And then for a time period Sergeant Hall would
5 come over to help out as the attorney representing the
6 board -- I mean representing the State Police in front of
7 the board.

8 A You are correct.

9 Q And you were not there when Sergeant Hall became
10 the supervisor in the unit. Correct?

11 A I don't believe so, but I'd have to again check
12 with the T.O. I don't remember if we formalized things
13 because Lieutenant Fox had some workings -- I don't -- I'd
14 really have to check the T.O. between Bastura and Hall
15 before I left, to answer that correctly.

16 Q Was there a process that was set in place during
17 the year you were there where when a person, as you had
18 testified earlier, became eligible again to have a permit,
19 or a change in circumstances occurred where, you know, the
20 State Police felt they should be issued a permit or the
21 permit should be reinstated, was there a process to go
22 through the files periodically to determine if
23 circumstances had changed or not?

24 A I don't believe that was initially the case when
25 I was there, but I can't say for sure. Because as we got

1 court orders in, I imagine they would go through the file,
2 pull it out and, if possible, make that person whole.

3 Q And were there circumstances where a person may
4 have been eligible to have their permit reinstated, but it
5 was determined that it would not be reinstated until --
6 and it would be left to go before the board?

7 A Can you refine that question --

8 Q Yes. In all cases where somebody became eligible
9 to have their permit reinstated, would it, in fact, be
10 reinstated or would it be --

11 A I would think if it's a de facto reinstatement
12 that they reinstated it. Based on when you became
13 eligible again. A nolle period finishing.

14 Q Okay. Let's go through some exhibits that we've
15 already premarked here. I'm going to show you Exhibit 62.
16 We will try to go through them in chronological order.

17 The first thing I'm going to ask you is if
18 you've seen this letter before?

19 A Quite some time ago.

20 Q Okay. And do you know who Steve Spellman is?

21 A He was our legislative liaison for the Department
22 of Public Safety.

23 Q How closely did you work with him? Again, during
24 the year that we're talking about when you were commander.

25 A Very little.

1 Q Okay. What was your understanding of what his
2 job -- what he did?

3 A He was our liaison with the state legislature.

4 Q Were you at all aware either during the year that
5 we've been focusing on when you were commander or prior to
6 that, of legislative proposals that the Department of
7 Public Safety had submitted to the state legislature in an
8 effort to clarify the statute with regard to carrying a
9 permit in Connecticut, whether openly carrying or
10 concealed carrying was a part?

11 A That was a normal course each year to submit
12 whatever you felt impacted your unit to the legislature,
13 and then that would go up through the chain of command. I
14 believe that was prepared as I was getting there. I don't
15 believe that I had set forth any stuff -- excuse me --
16 items on an agenda to be put forward.

17 Q Okay. When, if at any time, did you become aware
18 that Mr. Kuck had met with Senator Guglielmo about the
19 backlog?

20 A Correspondence, I believe. I think I was cc'd on
21 some correspondence.

22 Q And did you ever talk to Mr. Kuck about his
23 meeting with Senator Guglielmo?

24 A No.

25 Q When you became aware of Exhibit 62, the

1 April 5th, 2007 letter --

2 A Which I haven't really read yet.

3 Q Oh, okay.

4 A Do you want me to do that?

5 Q Yes. And then I'm going to ask you why you were
6 provided with the letter or what the expectation was.

7 A Okay.

8 (Reviewing.) Okay.

9 Q Do you recall what was said to you or what your
10 understanding was of why you were being provided with
11 Exhibit 62?

12 A No. I would imagine because I'm the commanding
13 officer of the unit and it impacted my unit.

14 Q Okay. Was there any expectation, if you recall,
15 that you would have a response to Exhibit 62?

16 A I'd have to check, but normally if this comes in
17 and it came down through the chain of command, it would
18 come down with buck slips and ask for a response.

19 Q Okay. Well, let's go through, then, because it
20 appears that something like that may have happened.

21 This is Exhibit 63, and it has a date on there
22 of April 12, 2006, but we agree that that should have
23 been --

24 A A typo.

25 Q -- 2007. Right? Well, I'll let you look at it.

1 A (Reviewing.) Okay.

2 Q Do you recall Exhibit 63?

3 A I do.

4 Q Okay.

5 A We did ask for a response, and I think they
6 outlined the reasons they do what they did, historically.

7 Q Did you have the basis of knowledge as the
8 commander of the Special Investigations Unit to dispute
9 anything that Detectives Mattson and Karanda state is
10 appropriate or lawful in Exhibit 63?

11 A I would say no. Because the date of this is
12 4/12 -- and based on the typo, '06 -- I'm there probably
13 less than a month.

14 Q Right. In reviewing this, did you note at that
15 time anything that you felt it was necessary to tell them
16 this is not correct, you should not do it this way?

17 A In regards? Can you be a little bit specific?

18 Q Right. For example -- we can go through it. On
19 Page 1 of Exhibit 63 it indicates --

20 A Excuse me.

21 Q Oh. Page 1 of Exhibit 63, under No. 1 where it
22 says "pending criminal charges."

23 A Right.

24 Q They indicate that while criminal charges are
25 pending, that the State Police hold the permit in

1 revocation status until final adjudication of their case.

2 Was it the policy of the State Police at that
3 time in 2007 to revoke and not reinstate while criminal
4 charges were pending?

5 A I believe this was the process at the time.

6 Q Okay. And is that required under the law?

7 A I don't know that it is.

8 Q But your understanding --

9 A Yeah; I mean I don't know site -- yeah, I did get
10 the site-specific long law in that circumstance.

11 Q For example, it's your understanding that until
12 somebody's convicted or pleads guilty that they're
13 innocent. Correct?

14 A Correct.

15 Q Okay. And my understanding of what it says under
16 No. 1 in Exhibit 63 was according to Detectives Mattson
17 and Karanda, at that time while criminal charges were
18 pending the permit was not reinstated until the case was
19 over.

20 A I can't dispute that.

21 Q Okay. And just again going through it, No. 2 on
22 the first page of Exhibit 63 talks about a nolle period.
23 And according to what is indicated there, Detectives
24 Mattson and Karanda would not reinstate a permit until the
25 13-month period following the actual nolle was completed.

1 Are you aware of what that 13-month period is?

2 A Is it a 12-month plus one?

3 Q Right.

4 A So that would be the 13 month.

5 Q And that it would become --

6 A Eligible.

7 Q Well, no. Is it your understanding that after a
8 nolle occurs, in 13 months a dismissal is automatic by
9 law?

10 A I don't --

11 Q Okay. So it's fair to say that Detectives
12 Karanda and Mattson had the specific knowledge with regard
13 to firearms that you relied on as the commander in
14 supervising the Firearms Unit. Correct?

15 A Correct; at that point in time. Which is why I
16 then asked for increase of staffing, which is why I asked
17 to have Lieutenant Fox brought on board, which is why we
18 kept Sergeant Fox -- Lieutenant Fox had the historic
19 background knowledge of doing the former revocations. He
20 is Major Fox now. So he had both the legal background and
21 the practical background.

22 Q Is it fair to say that when you became commander
23 of the Special Investigations Unit, there was sort of a
24 firestorm that hit you with regard to firearms issues
25 during that year?

1 A That would be an understatement. A gross
2 understatement.

3 Q And --

4 A Ma'am.

5 Q And before you became commander it's my
6 understanding you really weren't aware of what you were
7 walking into.

8 A Just as far as the firestorm.

9 Q Right. Exactly.

10 A And let me qualify. "Firestorm" is just a bevy
11 of information coming at me all at once?

12 Q Yes. And issues coming up.

13 A Yes.

14 Q I mean we haven't even gotten to the James
15 Goldberg issue yet, correct? But that's a name that's
16 familiar to you?

17 A Correct.

18 Q Okay. Because that came up in June of 2007 while
19 you were the commander.

20 A Correct.

21 Q Okay.

22 A That was a case that was just recently
23 adjudicated?

24 Q Yes. And then there was an increase, is it fair
25 to say, of activity with regard to the board from the time

1 you became commander of Special Investigations throughout
2 that year?

3 A Relative to this document or --

4 Q Relative to just overall. I mean, the board
5 changed chairmen. Correct?

6 A Correct.

7 Q Changed secretary?

8 A Correct.

9 Q Okay. And you were aware of all that while it
10 was going on?

11 A I'm independent of the board.

12 Q Right.

13 A The board does what the board does.

14 Q Right. Right.

15 A I have no impact, input, statement to the board.
16 They can change their chemistry.

17 Q But in your capacity as commander, word got to
18 you that these things were going on with the board?

19 A Well, I don't use -- I don't know about "word,"
20 but there would be some documents that I would get, like
21 Attorney Corradino became --

22 Q Right.

23 A -- secretary or chairman, I forget which; I'm
24 retired a little bit now. So what his capacity was, save
25 off of a document.

1 Q Did you become aware at any time while you were
2 commander during that year of efforts by Detective Mattson
3 and Detective Karanda to contact the Governor's office
4 with regard to Mr. Kuck being a member of the board?

5 A No, ma'am.

6 Q Are you familiar with an individual named Maryann
7 Boord who was a member of the Governor's office?

8 A No, ma'am.

9 Q Do you know of any phone call that Detective
10 Karanda made to Miss Boord about removing Peter Kuck as
11 secretary of the board?

12 A I have no knowledge of any phone call.

13 Q Okay. So sitting there today, you have no
14 information and had no knowledge of during that year that
15 Detective Mattson and Detective Karanda were making
16 efforts to get Peter Kuck off the board?

17 A No, I'm not.

18 Q Okay. Now, have you read the complaint in this
19 action, Kuck versus Danaher?

20 A No.

21 Q Okay.

22 A Which -- well, the lawsuit --

23 Q Right.

24 A You're confusing me from document to document
25 now, because you were asking me about this and we're kind

1 of jumping around a little bit.

2 Q Okay. Well, there was a complaint filed in this
3 case and I can --

4 MR. SNOOK: (Handing.)

5 BY MS. BAIRD:

6 Q I can show it to you. But it actually has an
7 exhibit number.

8 A Were we done with this one?

9 Q No. Leave that one there.

10 This is Exhibit 2. That's the complaint I'm
11 talking about and it has your name in there --

12 A Okay.

13 Q -- the third one down: Albert J. Masek, Jr. And
14 it's long, I admit; it's 54 pages and there is certainly
15 no requirement that you read it, but I was just asking.

16 A No; I wasn't sure which document you were
17 referring to.

18 Q Sure.

19 MR. SNOOK: Have you read this document?

20 THE WITNESS: How recent is this one? Yes.
21 You provided me a copy.

22 BY MS. BAIRD:

23 Q Did you mainly concentrate on the part that had
24 to do with you?

25 A I read through it and then I went back and

1 concentrated on the parts that I believe were directed to
2 me.

3 Q And do you remember anything in Exhibit 2 about
4 an allegation that Detective Karanda and Detective Mattson
5 had attempted to remove Peter Kuck from the board by
6 contacting the Governor's office?

7 A I had no firsthand knowledge of that, no.

8 Q Okay. Did you read it in this complaint?

9 A I think I did.

10 Q Did it surprise you when you read that?

11 A It did.

12 Q I mean --

13 A Which -- 54, 56 pages of material here.

14 Q But, you know, as commander in an organization
15 that has a hierarchy and chain of command that you've
16 already alluded to a number of times, if you had known
17 during that year that Detective Karanda and Detective
18 Mattson were making efforts by contacting the Governor's
19 office to remove Peter Kuck, what would you have seen as
20 your duty or authority to act upon?

21 A Going to my bosses.

22 Q Okay. And saying what?

23 A That this had occurred.

24 Q And for what reason would you have gone to your
25 bosses to say that?

1 A That that should have come through the chain of
2 command there was going to be a discussion about anybody
3 on an independent board that impacts us.

4 Q Okay. And it's my understanding that Detective
5 Mattson and Detective Karanda never came to you about
6 removing Peter Kuck from the board.

7 A No, ma'am.

8 Q What contact did you have, if any, with the
9 executive director of the board, Susan Mazzoccoli?

10 A Little if none.

11 Q Okay. It sounds like you did not engage in any
12 discussions with her about scheduling matters or matters
13 to be heard by the board, or anything like that?

14 A No. I left that to Lieutenant Fox with the
15 staff, the scheduling. The board determines when they are
16 going to meet and how often, and I think they -- correct
17 me if I'm wrong, but how many cases they can possibly
18 handle in a given month based on the time frame. Because
19 it's a voluntary board.

20 Q Let's return back to Exhibit 63 then, that
21 hopefully you still have in front of you. No. 6 on Page 2
22 of Exhibit 63, it talks about suitability. And Detectives
23 Karanda and Mattson state that local authority may request
24 revocation of a permit for cause and that the cases are
25 not settled without approval of the local authority.

1 What is your understanding of the basis, the
2 statutory or regulatory basis for not settling a case
3 without approval of the local authority?

4 A Can you tighten that question up?

5 Q For example, my --

6 A You mean statutory authority?

7 Q Yes. My understanding of the statute is that the
8 State Police have the authority under state law to revoke
9 and make revocation decisions. But No. 6 seems to
10 indicate that the State Police will not reinstate without
11 approval of a local authority. If the local authority
12 had, in fact --

13 A My recollection -- and this 247 occurred before I
14 got there, based on this, so I mean this is not my first
15 month there I didn't have 247 suitabilities.

16 Q Right.

17 A But I think the issues of suitability would go
18 before the board. Was my understanding.

19 Q Okay. And finally, going down to the bottom of
20 the second page of Exhibit 63 and on to the top, we're
21 going to get into this whole birth certificate, passport
22 issue.

23 What is the requirement that is referenced on
24 Page 3 of Exhibit 63 in that second paragraph about
25 requirements that were made post-September 11th, 2001 to

1 ensure the legal and lawful status for State of
2 Connecticut permit holders? What exactly happened after
3 September 2011 [sic] in terms of a statute or regulation
4 or requirement that individuals seeking renewal of their
5 permits be --

6 MR. SNOOK: (Handing.) Do you need copies
7 of that?

8 MS. BAIRD: Yes.

9 (Attorney Snook left the proceedings.)

10 BY MS. BAIRD:

11 Q -- be made to prove or show these documents to
12 show their legal status?

13 A I believe the agency -- I'll wait until he comes
14 back.

15 Q Yes. Do you want to wait for the document to
16 answer?

17 A In case I refer to it.

18 MR. SNOOK: It's coming.

19 MS. BAIRD: Oh, okay.

20 A Can you just give me the question again, please?
21 Restate the question?

22 BY MS. BAIRD:

23 Q Yes. The question was -- we were on Exhibit 63
24 on the bottom of the second page going into the third
25 page, and then the paragraph on the third page mentions

1 that the requirements represented by Detective Mattson and
2 Karanda that certain documents verify permit holders'
3 legal status in the United States were set forth after
4 September 11th, 2001. And I was asking you what exactly
5 those requirements were and where they were located.

6 A Okay.

7 MR. SNOOK: Would you like to have this
8 marked?

9 (Plaintiff Exhibit 79 marked for
10 identification.)

11 BY MS. BAIRD:

12 Q This is Exhibit 79. Does Exhibit 79 assist you
13 in responding to my question, Captain Masek, or --

14 A I believe -- well, one second. Do you have a
15 particular page you're on?

16 Q I'll let your counsel point --

17 MR. SNOOK: Where did I see that? It was
18 romanette i, the first page after the little i,
19 seems to indicate. And then there was something
20 I saw -- Page 6.

21 BY MS. BAIRD:

22 Q Is this a document that you're familiar with,
23 Exhibit 79?

24 A I've seen this document, and this process has
25 been in place about since 2002. It was in place in the

1 time that carried on through the time that I was there.

2 Q Okay. And what process is that?

3 A I think the easiest way for me to answer this
4 question is kind of just distill this and shape this and
5 make some continuity to it.

6 Q Okay.

7 A I think the agency had determined that through --
8 there's a number of acronyms here, so bear with me. The
9 NICS audit -- National Instant Criminal Background System
10 check; they went through periodic audits, which I think
11 might be every two years, if my recollection is right --
12 identified some items that the department, they thought,
13 weren't in compliance with. One was immigration/alien
14 inquiries. They wanted to make sure -- I think the core
15 undertone was to make sure that people who possess
16 Connecticut pistol permits legally and lawfully possess
17 them. And the agency went back to do what I think would
18 be a look-back based on the audit to make sure that that
19 was in place. And based on the aftermath of the
20 September 2001 attacks on the Trade Center, there was some
21 reference to a document here from Attorney General
22 Ashcroft; and I think this ties in to the Brady Bill, that
23 there were not background checks done before. So the
24 agency had embarked on this since 2001.

25 Now, to be very clear here, this was a one-time

1 occurrence. It was going to occur from the look-back
2 portion of anybody that had a permit; a kind of a
3 revalidation. I believe that was rooted in 29-29(d), as
4 I recollect, and that refers back to 29-28(9), for it to
5 have to be legally and lawfully in the country. And I
6 think if you look in 29-32 there is a small passage, if
7 I'm correct on it, that there's like a renunciation of
8 your citizenship might be a reason to go back and look
9 back at that. And they just wanted to make everybody
10 whole. And I don't know that this is dissimilar to the
11 new validated licenses that are just starting to occur;
12 right now it's voluntary in the State of Connecticut to
13 bring in additional documentation. I imagine at some
14 point in time it's going to be more permanent in nature.

15 But to be clear, this was one time that they
16 were going to do it, whether you had an existing pistol
17 permit, one, and I would say validated and populated on
18 the screen; and if you're new, you would do that up
19 front. And that was on the list of items to bring in,
20 and that was dated 2006 on our department renewal form.

21 That's as concise as I can make it.

22 Q Okay. So in 2002 the process began where people
23 coming in for five-year renewals would have to show a
24 passport, birth certificate, and I think --

25 A Correct. Voter registration certificate.

1 Q Right. The voter registration certificate. Now,
2 did the law actually say -- or whatever you relied on; I'm
3 not quite sure what you relied on. You said the NICS
4 audit, is that it, Exhibit 79?

5 A You'd have to go back to whoever instituted this,
6 but I'm believing it's this NICS audit, and I believe a
7 historical document in the unit. I'm not sure of that. I
8 had asked Diane Morrell to prepare a document along the
9 way and that basically comports with what I just told you.

10 Q So beginning in 2002, when individuals came in to
11 renew their permits they would be required to basically
12 show, through documentation, that they were legally in the
13 United States, United States citizens. Correct?

14 A I wasn't there 2002, but I believe the process
15 then is the same as the process was when I was there.

16 Q Okay. But once they did that on one renewal, is
17 it your testimony that the next renewal that wouldn't be
18 required; that there would be a cycle through of five
19 years and then that requirement would go away?

20 A Unless there was an inaugural permit.

21 Q Exactly. Well, of course.

22 So when you got there in 2007, this process was
23 still occurring. Right?

24 A Correct.

25 Q Okay. So it's fair to say that Mr. Kuck was

1 probably on the tail end of it.

2 A Correct. And I think he would have gotten his
3 notification prior to me getting there, because there's a
4 90-day window --

5 Q Right.

6 A -- when you're applying, then there's a thing --
7 there's one that expires, and there is a 90-day post that
8 you're still eligible for --

9 Q Okay. And is it your understanding -- and I know
10 the statute you're talking about; in Exhibit 63 I think
11 it's cited on Page 3 by Detectives Karanda and Mattson,
12 that the commissioner -- and I'm on the first full
13 paragraph there -- the commissioner may investigate any
14 applicant for a state permit and shall investigate each
15 applicant for renewal of a state permit to ensure that
16 such applicant is eligible under state law for such
17 permit?

18 A Correct.

19 Q Okay. So is it your testimony that the
20 investigation conducted into whether an individual seeking
21 renewal of their permit is legally in the United States or
22 a citizen, that investigation entails asking that
23 individual for documentation? That's the investigation?

24 A Well, "asking" can be verbally or "asking" can be
25 a document. And we've asked on the document.

1 Q So the investigation that DPS conducted was
2 asking the person seeking a permit renewal to show
3 documentation?

4 A I'm kind of -- when you're saying "asking."
5 "Asking" in -- yes. We asked the person to bring that in
6 as a requirement for the renewal.

7 Q Okay. And other than having the person bring in
8 this documentation as a requirement for renewal, what
9 other investigation did you conduct into whether that
10 person was a citizen or lawfully in the United States?

11 A I don't know what else they had conducted on that
12 matter. Normally they -- most people complied. I don't
13 know anybody else that didn't comply, so I don't have a
14 background to get back to that on.

15 Q Other than --

16 A In my time.

17 Q Other than asking individuals to bring their
18 birth certificates or passport, did the Department of
19 Public Safety have any other means of determining whether
20 somebody was a citizen or lawfully in the United States?

21 A Based on -- well, all you would have is what the
22 databases would have been, which would have been populated
23 potentially by that same document; by a driver's license
24 or -- so this -- in other words, I think the spirit of
25 this was to have the individual come in and authenticate

1 one more time, just one more time with the document, that
2 they were, in fact, who they said they were.

3 Q Okay. And was there a provision in place for
4 individuals who didn't have passports?

5 A Yes.

6 Q Okay.

7 A There was a variety of -- this cites several
8 other items you could bring in. And there's also
9 Immigration & Naturalization if that was your
10 circumstance. I think they went with marriage
11 certificates; something that was an authenticated and
12 notarized document.

13 Q So my understanding of the way Exhibit 63 reads
14 at the bottom of Page 2, "Connecticut State Police Special
15 Licensing and Firearms Unit does require permit holders to
16 bring with them upon a five-year renewal of their pistol
17 permit the following documents," and it lists four
18 documents --

19 A That was on the document -- that was on the --
20 this document what you're referring to. But you don't
21 have to bring all of them, you just have to bring one of
22 them. If I'm --

23 Q Well, certainly somebody couldn't just bring
24 their Connecticut driver's license. Correct?

25 A No; you need to bring another authentic -- if you

1 have the renewal form, a copy of it, it says which things
2 you needed to --

3 Q Okay.

4 A -- and that's our department-approved form that
5 goes up through the chain of command, is reviewed, goes to
6 our records bureau for concise continuity and then for
7 distribution.

8 Q Okay. And do you agree that with regard to No. 2
9 there are some people that may not have a U.S. passport?
10 Correct?

11 A Correct.

12 Q May not have a voter registration card? Correct?

13 A Correct.

14 Q And their birth certificate may have a different
15 name than the name they actually have now. Correct?

16 A Correct.

17 Q So what would you do in that case?

18 A I think they would work on a case-by-case --

19 Q Okay.

20 A -- basis from some authenticating document.

21 Because the spirit of this was to be customer-friendly and
22 timely, and just go through this assessment one time and
23 validate that the people that held Connecticut pistol
24 permits did so lawfully and legally.

25 Q Because the concern was after September 11th,

1 2001, that there may be individuals out there who were not
2 lawfully here, not United States citizens, but they were
3 running around Connecticut with state permits. Correct?

4 A You have to -- I can't speak for the people at
5 the time, but that seemed to be a reasonable premise.

6 Q Okay. Do you know if there was any action taken
7 after September 11th, 2001 to go through individuals who
8 had state permits to verify that they were citizens and
9 lawfully in the United States?

10 A I do not.

11 Q For example, Mr. Kuck, if he was, in fact, an
12 illegal alien in 2007, he would have been running around
13 for five years as an illegal alien before the State Police
14 knew about it. Correct?

15 A Correct. Unless unbeknownst to me there was
16 another type of investigation done between 2002 and the
17 time I got there, which I can't speak to.

18 Q Okay. Do you know if when the Firearms Unit
19 investigated -- when they conducted their revocation
20 investigations, whether they would contact the permit
21 holder and ask them questions?

22 A I don't know specifically.

23 Q Is it your understanding that the procedure used
24 at the Firearms Unit when there was an issue of revocation
25 was to either look at the police report or the incident

1 report and basically go off that?

2 A I think that might have been a source document,
3 but I do believe they would do other investigative steps.

4 Q They would do investigation on their own which
5 didn't require them to talk to the permit holder.

6 Correct?

7 A They may or may not have. I don't -- I don't
8 know whether they did.

9 Q But is it your testimony that the Department of
10 Public Safety, at least during that year while you were
11 the commander, had to get authentication from state permit
12 holders of their legal status in the United States because
13 the Department of Public Safety had no other way of
14 investigating that?

15 A I don't know that they made that a requirement to
16 do that. I think the concept was to have the individual
17 bring the document in and validate that "this is me and
18 here is what I can show you that this is me." The face
19 with the document was what I think the objective was.

20 Q I just want to show you Exhibit 64. Do you know
21 what Exhibit 64 pertains to?

22 A I do not.

23 Q I'm --

24 A This is to draft a cover letter for response
25 to --

1 Q Okay. Let me show you Exhibit 65.

2 A Okay.

3 Q And I'll let you review that because that may go
4 with 64 and jog your memory.

5 A (Reviewing.) Okay. I read it.

6 Q Does Exhibit 64 relate to the letter prepared in
7 Exhibit 65 by Lieutenant Malloy?

8 A Yes.

9 Q Okay. How do they relate? How did this letter
10 come to be drafted by Lieutenant Malloy which directs
11 Senator Guglielmo to contact you should he have any
12 questions?

13 A Chain of command.

14 Q Okay.

15 A The other source letter must have come back from
16 Steve Spellman directly through the chain of command so
17 the bosses know what's going on in each of their units.
18 And then it comes down by a buck slip and there is
19 generally a core source response that is sent back up, and
20 then the colonel amends, adjusts, accepts as he or she
21 sees fit.

22 Q Okay. So my understanding of what you just said
23 was in Exhibit 62, the letter from Senator Guglielmo to
24 Steve Spellman, that resulted in some sort of contact by
25 Steve Spellman with somebody at the department?

1 A I don't know who he -- you'd have to check with,
2 I don't know, the Senator or Steve Spellman -- he is a
3 former senator --

4 Q Okay.

5 A -- who he spoke with. This obviously came down
6 through the chain of command.

7 Q That's what I'm trying to figure out. So to keep
8 this together, from Exhibit 64 it looks like somehow it
9 landed on Lieutenant Malloy's desk.

10 A Colonel Malloy.

11 Q Lieutenant Colonel Malloy. And she was in what
12 level of the chain of command with regard to you?

13 A She would have been my direct boss in
14 Administrative Services. My highest boss in
15 Administrative Services.

16 Q Okay.

17 A Most senior boss.

18 Q And then Major Warren was your boss directly over
19 you?

20 A Depending on the time frame.

21 Q At the time in --

22 A It would either have been Major Warren or it may
23 have been Major Labonte, and I don't know when that
24 transfer took place.

25 Q Well, let me show you Exhibit --

1 A Oh, yes. Lieutenant Warren.

2 Q Okay. And this was referred to you in Exhibit 64
3 from Lieutenant Colonel Malloy to you and Major Warren,
4 and then what did you do in response to the slip on
5 Exhibit 64?

6 A The unit would do an initial draft and then we
7 would forward that back up through the direct chain of
8 command, which would go to Major Warren and then on to
9 Colonel Malloy.

10 Q And in Exhibit 65 it looks like Lieutenant
11 Colonel Malloy ended up writing a letter to Senator
12 Guglielmo. Correct?

13 A Correct.

14 Q And what part, if any, did you have in the
15 content of the April 12th, 2007 letter?

16 A I think we may have provided all the source
17 material for it.

18 Q When you say "we," did you rely on Detectives
19 Karanda and Mattson to supply a lot of the information?

20 A No. It also would have been Diane Morrell, our
21 office supervisor who has been there a number of years and
22 has all the historic knowledge.

23 Q And again, Diane Morrell, the office supervisor,
24 was she the office supervisor in the Firearms Unit?

25 A Correct. For the entire unit. She does that,

1 she would do the bail bonds.

2 Q Okay.

3 A She does a lot of site-specific work for
4 firearms.

5 Q Is she a sworn officer?

6 A Civilian.

7 Q Civilian.

8 A But is a supervisor.

9 Q Okay. So what's the relationship between a
10 civilian supervisor and the executive officer, for
11 example, in the Firearms Unit? How does that -- does she
12 supervise sworn personnel or is she --

13 A Supervises civilian personnel.

14 Q Okay.

15 A And the sworn personnel will supervise the entire
16 unit. So if she got a request from a sergeant, she would
17 do it. But she is supervisor over all her civilian
18 personnel in the unit.

19 Q Okay. What were her duties during that year?
20 Other than supervising, what were the actual functions of
21 her civilian duty?

22 A You'd have to look at her -- she just does a
23 myriad of things. You would have to check with human
24 resource to find out what her specific duties are. But
25 she would do -- help with the weapons unit, help with the

1 bail bonds, help with boxing.

2 Q Are these primarily administrative duties --

3 A Correct.

4 Q -- clerical duties?

5 A Yes.

6 Q I'm going on then to Exhibit 66.

7 A Okay.

8 Q Do you recall receiving that e-mail from
9 Mr. Kuck?

10 A I do.

11 Q Okay. At that time, on April 17th of 2007 when
12 you received the e-mail on Exhibit 66 from Mr. Kuck, what
13 was your background knowledge on April 17th of what had
14 already occurred with regard to Mr. Kuck trying to renew
15 his pistol permit?

16 A My background knowledge was that Mr. Kuck was
17 asked to supply the documents that the department
18 requested and he just had not to date. Based on the
19 information when we get a request for policy, procedure or
20 process, that goes through Legal Affairs.

21 Q And were you involved in the decision not to
22 renew Mr. Kuck's permit because he had not provided the
23 authentication documentation?

24 A As the C.O. I would say yes, taking guidance from
25 our Legal Affairs and counsel.

1 Q Do you know if there was any investigation done
2 to determine whether Mr. Kuck was lawfully in the United
3 States or a United States citizen?

4 A Additional investigation?

5 Q Yes.

6 A I don't believe there was. And I don't know for
7 a fact. They may have yet to talk to the detectives
8 again.

9 Q Was it any concern -- well, let me ask you, were
10 you of the opinion that Mr. Kuck was any other than a
11 United States citizen?

12 A I didn't know. Because like I said earlier, we
13 had just met, and it was M. Peter Kuck. "Peter Kuck" was
14 how he introduced himself and expressed himself and that's
15 how we have had dialogue back and forth. And Maurice.
16 And all the agency wanted was just an initial validation
17 that we reaffirmed that each of our permit holders were
18 legally and lawfully in the country.

19 Q Okay. Did it concern you that Mr. Kuck, who you
20 didn't know if he was lawfully in the country, was serving
21 on the Board of Firearms Permit Examiners?

22 A It would be a concern.

23 Q Okay. Did you bring that concern to any of your
24 supervisors?

25 A I don't know that I did. Because we -- I went

1 through Legal Affairs, and we were looking to make sure
2 that our process was, as best we could, consistently
3 applied.

4 Q Did you have any means of verifying that Mr. Kuck
5 had been born in the United States?

6 A Only other than what we could tell from computer
7 checks.

8 Q Okay. Do you recall where it showed that
9 Mr. Kuck was born?

10 A I don't know. It's been some time.

11 Q Okay. Do you recall if he was born in the United
12 States?

13 A I do not.

14 Q Okay. And are you aware of the various methods
15 where one loses their citizenship if they are born in the
16 United States?

17 A I can't -- I am not.

18 Q Okay. Do you know if -- well --

19 A That's --.

20 Q Show you Exhibit 68. I skipped 67, just for the
21 record.

22 A This -- okay. Go ahead.

23 Q Well, I'll ask you --

24 A Sounds like a computer snafu, but --

25 Q Okay. Have you seen Exhibit 68?

1 A Yes.

2 Q Okay. And that's a communication with Jennifer
3 Janeiro?

4 A Yes.

5 Q Who was Jennifer Janeiro?

6 A She was one of our on-staff attorneys with Legal
7 Affairs with the Department of Public Safety.

8 Q Did she have a part in this whole issue with
9 regard to Mr. Kuck's renewal of his permit?

10 A We would take the request and information and
11 forward it to the Legal Affairs office and apparently she
12 would take a look at it -- well, not "apparently; she did
13 take a look at it. Because we have other attorneys on
14 staff and it may not be sole source.

15 Q Okay. Exhibit 69. Now, I know earlier -- do you
16 recognize 69?

17 A Yes.

18 Q Okay. I know earlier you had wanted to point out
19 to me a section with regard to the requirement that a
20 passport or birth certificate be submitted upon renewal.
21 Does that attachment to Exhibit 69 have that on it or do
22 we need to go further?

23 A This is not a whole document.

24 Q Okay. We'll come to the whole document, I
25 believe. In fact --

1 A It's missing the cover sheet.

2 Q In fact, let's go to Exhibit 70 and I think
3 you'll find the whole document there.

4 A (Reviewing.)

5 Q Do you recognize Exhibit 70?

6 A Not in its entirety, but the first four pages.

7 Q Okay. And the third and fourth page to
8 Exhibit 70, does that contain the section -- excuse me?

9 A Let me catch up. Okay?

10 Q Okay. Does that contain the section that you
11 were talking about before that includes the requirement
12 for the birth certificate, passport upon renewal?

13 A I can -- it would be -- this page isn't numbered.
14 It's DPS-769-C, revised 3/06. "Pistol Permit - Renew
15 In-State," 01. And it brings you down to 4, which is what
16 the requirements were set forth.

17 Q Okay. So you're pointing out Page 3 of
18 Exhibit 70, No. 4, in the first category under "Pistol
19 Permits - New and Renewals" where it says, "Proof of
20 citizenship or legal residency must be provided for new
21 and renewals. Acceptable proof includes one of the
22 following." And then again it doesn't have the driver's
23 license there. Correct?

24 A Correct.

25 Q Okay. I know that had been on -- it had been

1 listed on the memorandum from Detective Karanda and
2 Detective Mattson, and we had discussed that --

3 A But this is the official department form --

4 Q Exactly.

5 A -- which you're referring to, 3 of '06.

6 Q Okay. So we'll go by the official department
7 form. And are you in agreement that a person -- and I'm
8 on Page 3 of Exhibit 70, No. 4 -- that a person may not
9 have a legal resident -- or a permit -- they may not have
10 a permanent resident ID?

11 A I would need a little more source. I imagine you
12 cannot have -- I don't know for sure.

13 Q Let's take it slow. Okay?

14 A Okay.

15 Q Take it slow. We're in Exhibit 70 and we're
16 going to go to the third page.

17 A Right.

18 Q Okay. And then I'm reading No. 4.

19 A Okay.

20 Q Under "pistol permits."

21 A Correct.

22 Q And it says, "proof of citizenship must be
23 provided."

24 A Okay.

25 Q Okay. The first bullet indicates: Birth

1 certificate, U.S. passport or voter's registration card.

2 Correct?

3 A Correct.

4 Q And we agree that not everybody has a U.S.
5 passport. Correct?

6 A Correct.

7 Q And we agree that not everybody has a voter's
8 registration card. Correct?

9 A Correct.

10 Q And we agree that not everybody has a birth
11 certificate with the same name on it as their pistol
12 permit. Correct?

13 A Correct. But if that had been the case they
14 should have notified the Department of Public Safety
15 within two days of a name change. Or an address change.

16 Q No; what I'm saying, for example, I have a pistol
17 permit and the name on that pistol permit is different
18 from the name I was born with, as is the case with
19 probably 50 percent of the population. Right?

20 A Right. Well, no; I don't know that.

21 Q Well, you --

22 MR. SNOOK: Oh. Married and maiden name.

23 BY MS. BAIRD:

24 Q You do agree that a large number of women, which
25 is 50 percent of the population, when they get married

1 change their name. Correct? You don't have to, but a lot
2 of them do.

3 A Well, no; I just saw the news this morning and
4 the news says that's no longer the case. I was waiting in
5 the waiting room.

6 Q Oh, come on. Come on.

7 A So based on today's news, that's --

8 MR. SNOOK: I didn't see that. But
9 whatever.

10 MR. KUCK: This is yesterday's news.

11 MR. SNOOK: Go ahead. We're with you.

12 BY MS. BAIRD:

13 Q Okay. So let's go back.

14 So we agree that there is a portion of the
15 population, a sizeable portion that when they get their
16 state permit, the name they get the state permit in is
17 not the same as the name that's on their birth
18 certificate.

19 A Potentially.

20 Q Okay. So in cases where a person does not have a
21 passport, does not have a voter's registration card, and
22 their birth certificate contains a different name, what
23 would the Department of Public Safety have done during
24 that year-long period to authenticate that they were
25 citizens or legally in the United States?

1 A There was no requirement to come in between your
2 renewal period.

3 Q Right. But I know when they did come in for
4 renewal then, what would this person have done who didn't
5 have --

6 A They would have looked for one of the source
7 documents from the person saying "my name is," you know --

8 Q Right.

9 A -- and then add that to the file. All of this is
10 meant to be user-friendly compliant and make sure that the
11 people that have permits are legally and lawfully in the
12 United States.

13 Q Right. And I guess what I'm asking, too, is if
14 it was such an important issue after September 11th, 2001
15 to make sure that people were lawfully in the United
16 States and a United States citizen, didn't DPS have
17 another way to confirm that, other than asking the people
18 just to bring in documents? I mean was there any concern
19 that the documents may not be authentic?

20 A I guess that could always be the case; but it
21 could occur if you get a motor vehicle license and, you
22 know, on and on. But I think this was the level of due
23 diligence that they think would have sufficed at the time
24 to make sure the person still qualifies and has the
25 permit.

1 MR. SNOOK: Can we go off the record for a
2 second?

3 (Brief discussion held off the record.)

4 BY MS. BAIRD:

5 Q Going on then in Exhibit 70 -- let me ask you a
6 follow-up question, though, before we go on. When
7 Mr. Kuck did not submit a birth certificate, passport or
8 voter registration card, was his renewal denied because
9 that made him unsuitable to hold a state permit?

10 A No. It lapsed.

11 Q Okay. But I mean it wasn't renewed, though.

12 A It lapsed.

13 Q He tried to get it renewed and he was denied
14 renewal. Do you agree with that?

15 A I think it lapsed based on not having the
16 supportive documentation.

17 Q Well, do you recall that he filed an appeal to
18 the board based on the denial of his renewal?

19 A Yes.

20 Q Okay. So --

21 A But I don't know who -- I didn't -- I wasn't
22 aware of the final, the permit -- what was the board's
23 statement.

24 Q Well, but do you know why his renewal was denied?

25 A For failing to bring the documents.

1 Q Okay. And in failing to bring the documents, did
2 that mean that you found that he was unlawfully in the
3 United States and not a United States citizen?

4 A No.

5 Q Okay. In not bringing the documents, did you
6 find that that made him unsuitable because he didn't bring
7 the documents?

8 A No. I just -- I think I said this a couple of
9 times. It lapsed.

10 Q Well, okay. Let's explore that. If I have a
11 permit and it expires on a certain date and I don't do
12 anything, I don't care about that permit, I don't renew
13 it, I don't even contact anybody, that would be a lapse.
14 Correct?

15 A After 90 days.

16 Q Right. But if I come in and I submit paperwork
17 and I give you money because I want to renew my state
18 permit, but you won't let me, that's not a lapse, is it?

19 A It wasn't a full compartment of information.

20 Q So are you saying that the State Police didn't
21 deny Mr. Kuck's renewal?

22 A I'm saying that the documents that went out, it
23 was a lapsing. It was just not renewed.

24 Q So how did he appeal it to the board then, if it
25 just lapsed?

1 A I think there was an appeals document that --
2 where he cites the rationale.

3 Q Okay. Let's keep going through No. 70 then. On
4 the fifth page. Do you recall engaging in correspondence
5 with Mr. Kuck?

6 A Let me just catch up because these pages aren't
7 numbered.

8 MR. SNOOK: It's a May 3rd, 2007 letter?

9 MS. BAIRD: Yes.

10 BY MS. BAIRD:

11 Q Do you recall engaging in correspondence with
12 Mr. Kuck about the decision to require him to bring in
13 birth certificate, passport or voter registration card?

14 A The "correspondence" being documentary?

15 Q Yes.

16 A The correspondence that came in I reviewed and I
17 continued to forward through Legal Affairs and they became
18 our point of contact.

19 Q Okay. And this May 3rd, 2007 letter, do you
20 recall receiving that, the fifth page of Exhibit 70?

21 A (Reviewing.) Yes.

22 Q And is it your testimony that you would refer a
23 letter such as that to Legal Affairs?

24 A Because it's policy and procedure.

25 Q Sure. And then just going forward -- we'll go

1 through this exhibit page by page -- the next page is the
2 May 7, 2007 letter. And you received a copy of that
3 letter?

4 A Yes. I was reading the letter.

5 Q And it's your understanding that that May 7, 2007
6 letter was as a result of you referring the matter to
7 Legal Affairs. Correct?

8 A Correct.

9 Q Okay. The next page is a May 25th, 2007 letter.
10 And if you could go to the July 18th, 2007 letter which
11 follows that page.

12 A From you?

13 Q Yes.

14 A Yes, ma'am.

15 Q Well, actually it's from Jennifer Janeiro --
16 you're on the right page -- July 18, 2007, to me, yes,
17 you're correct.

18 A Sorry about that.

19 Q And you've already pointed out for us today the
20 two documents referenced by Attorney Janeiro in that
21 July 18th, 2007 letter, correct --

22 A Yes, ma'am.

23 Q -- the DPS-769-C? That's what you pointed out to
24 me that has that Section 4. Okay? And then the U.S.
25 Department of Justice NICS report which is Exhibit 79.

1 Correct?

2 A Yes, ma'am.

3 Q And that's what you're relying on for the
4 requirement of the passport, birth certificate or voter
5 registration card. Correct?

6 A The -- yes, ma'am.

7 Q Okay. And also the statute that requires DPS to
8 investigate renewals.

9 A The 29-29(d) and the 29-28 Subsection 9, I
10 believe. I don't have it in front of me.

11 Q Okay. We're going to skip to Exhibit 75. Do you
12 recall receiving Exhibit 75, that e-mail dated May 24th,
13 2007, from Mr. Kuck to you?

14 A I do.

15 Q And approximately how many face-to-face,
16 in-person discussions did you have with Mr. Kuck about the
17 renewal of his permit?

18 A Not very many. I don't remember specifics, but I
19 don't believe very many.

20 Q You had testified about him showing up at your
21 office door that one day on or about your first day of
22 work. Was it discussed during that conversation? The
23 renewal of his permit.

24 A I don't recall that it was. I know we talked
25 about the backlog.

1 Q Okay.

2 A And then we went upstairs and we had coffee.

3 Q And then after that were there absolutely no more
4 face-to-face discussions --

5 A Once it became a policy and kind of a procedure
6 issue, we really direct those to Legal Affairs who can
7 give the appropriate response.

8 Q Okay. Did you have any phone conversations with
9 Mr. Kuck about it, the renewal of his permit?

10 A I don't recall any.

11 Q Okay.

12 A I don't recall any.

13 Q And with regard to Exhibit 75, would that have
14 been something that you referred to Legal Affairs or did
15 you respond to Mr. Kuck?

16 A No; any of these correspondences went to Legal
17 Affairs.

18 Q Did you draft up an opinion or arrive at a
19 decision which was final as the commander of the Firearms
20 Unit that Mr. Kuck's permit would not be renewed?

21 A I did not draft it, I think. I don't recollect
22 that, no.

23 Q Was it your decision that Mr. Kuck's permit
24 wouldn't be renewed?

25 A We take counsel from our Legal Affairs who

1 decides what the appropriate course of action is. And
2 I -- this is why I was saying it lapsed. I believe there
3 is some correspondence that says "lapsed" in it.

4 Q Okay. Well, do you think there was a basis to
5 deny Mr. Kuck? You're saying it lapsed. But do you think
6 there was a basis to deny him his state permit, the
7 renewal of his state permit?

8 A I think that the agency set forth on a process in
9 2000 until I was the commanding officer. I continued with
10 that process. And they set forth the requirements, and
11 the party either complied or didn't.

12 Q I'm going to hand you a document that's been
13 marked as Exhibit 76.

14 A I can't really read the first paragraph because
15 of the cover note, the buck slip.

16 MR. SNOOK: Is this the May 14?

17 MS. BAIRD: Yes. It's already -- the
18 actual letter has already been marked as
19 Exhibit 21.

20 BY MS. BAIRD:

21 Q But I'm showing you Exhibit 76.

22 A This one?

23 Q Yes. Exhibit 76 that has the notations on it.
24 It appears that Exhibit 76 on the top page has a little
25 memo from Major Warren to Captain Masek dated May 30th.

1 Could you explain -- well, first of all, review it to make
2 sure you remember it. And if you do, explain what Major
3 Warren was asking you to do or referring this matter to
4 you for action.

5 A Just give me a minute to read it.

6 (Reviewing.) Okay.

7 Q Okay. So you have read Exhibit 21 which is a May
8 14th, 2007 letter from Chairman Adams to Commissioner
9 Danaher?

10 A Which is the same as 76.

11 Q Correct. We'll stick with 21. Okay? And then
12 if you look at Exhibit 76, it appears that somebody handed
13 you a full copy of Exhibit 21, that letter from Chairman
14 Adams to Commissioner Danaher, and asked you to do
15 something.

16 A Correct.

17 Q Okay. Who asked you to do what?

18 A That would be Major Warren. It was a draft --
19 looks like a response letter to Attorney Adams. And I
20 don't have any recollection what the response letter is,
21 unless you have a copy.

22 Q Okay. On No. 2 of Exhibit 76, that memo, it
23 says: Then draft a response letter to Attorney Adams for
24 Commissioner Danaher's signature addressing the two issues
25 raised.

1 What did you first do when you received this
2 assignment from Major Warren?

3 A Do you have a copy of the response letter that I
4 could refer to?

5 Q That's Exhibit 9 I just handed you.

6 A (Reviewing.) I don't recollect the response that
7 I drafted. I just -- I don't have a recollection of that.
8 But if I had sent the response, it would have been
9 consistent with the other documents that I've been talking
10 with you about, with what the rationale was for the denial
11 of the permit. It would have gone back to the original
12 source document.

13 Q But my understanding of --

14 A I'm just not seeing what I would have sent to him
15 through the chain of command if, in fact, I did send
16 anything.

17 Q Okay. Let's go --

18 A May have ended up handling it more by discussion
19 because it also had a "see me" "read this."

20 Q Right. On the May 4th, 2007 letter which is
21 Exhibit 21, in full, it talks about -- Chairman Adams
22 talks about a strategy to deal with the backlog. And I
23 wanted to focus on that.

24 A Okay.

25 Q Exhibit 21, it looks like in the third paragraph

1 on Page 1 it talks about a strategy to deal with the
2 backlog, and I'm going to ask you to read that and ask if
3 you responded at all to Major Warren with an opinion about
4 that proposed strategy by Chairman Adams.

5 A "One strategy we are contemplating is providing
6 the unit more advanced notice of our hearing docket so
7 they can clear out the uncontested matters and focus on
8 the cases that will require more work on their part.
9 Presently we provide about one-month advance notice of
10 hearings. We are considering setting our calendar 90 days
11 in advance to provide the unit more lead time."

12 Q Okay. Is that paragraph familiar to you?

13 A No.

14 Q Okay. Was that a strategy that you became aware
15 of during your year at the Firearms Unit that had been
16 proposed by the board?

17 A I'm unaware of that. When we went back to the
18 beginning of today and I was talking about triaging, we
19 were trying to get what a good business process would be
20 to get to the boxes, find out what's in the boxes and
21 determine what we can do with the appropriate time frame.
22 When Lieutenant Fox came aboard later on, we then went to
23 kind of a triaging methodology and looked at what cases
24 were suitable for return on the permanent revocations, and
25 that diminished the quantity of the backlog somewhat.

1 Q Okay. Does that sound at all like what Chairman
2 Adams is talking about in paragraph three of Exhibit 21?

3 A In part.

4 Q Okay. Were there cases while you were the
5 commander that settled just prior to or on the day of the
6 board hearing?

7 A I would say yes. And I think that was consistent
8 with past commanders. I think that was the process.
9 Because when I got there, I was with the same process that
10 had occurred prior to me.

11 Q Sure. And some of those cases that settled on
12 the day of hearing or just prior to hearing, was there any
13 review of whether those cases could have been resolved
14 earlier by reinstatement?

15 A I don't believe there was. There may have been,
16 but you'd have to talk to the detectives.

17 Q What, if anything, did you do in response to
18 Major Warren's request in Exhibit 76 that you draft a
19 response to this May 14th, 2007 letter from Chairman
20 Adams?

21 A I don't -- could you do the question again?

22 Q Why don't we take a quick break. We probably
23 need one anyway.

24 (Brief discussion held off the record.)

25 MS. BAIRD: Back on the record.

1 BY MS. BAIRD:

2 Q With regard to 76 and that memorandum on the top
3 of it from Major Warren, what, if anything, did you do in
4 response?

5 A I don't have my draft to refer to.

6 Q Okay.

7 A So I don't know. It may have just been a
8 dialogue with him and then may have redirected it to
9 somebody. I don't know without having my source document.

10 Q Okay. Is it possible that Lieutenant Fox was --

11 A I don't know if he was in the unit on May 14th.

12 Q Okay. And No. 3 on Exhibit 76, the memorandum,
13 on the top page it says: Draft letter to me by June 7th.

14 A But I don't have the draft, so I can't comment
15 without having the document.

16 Q Okay. Do you recall if you did that?

17 A I don't recall. But there was also a "see me,"
18 so there may have been -- he may have drafted it, I may
19 have drafted it, or Legal Affairs may have drafted it.

20 Q Do you recall if this was a pressing issue in May
21 of 2007, this backlog issue?

22 A I would say it was starting to become a pressing
23 issue. I think it had been a defined issue since the
24 auditors' report from several years before that.

25 Q And had it become a pressing issue where you were

1 receiving indication that Commissioner Danaher was aware
2 of the issue?

3 A When you say "pressing," when we -- at the start
4 of my deposition today I indicated that we looked at the
5 business practice and tried to make it better, tried to
6 make it more efficient.

7 Q Right.

8 A So I don't know that any of this occurred because
9 it became pressing. It occurred because it was the right
10 thing to do to try to get these cases heard in the best
11 time line you could.

12 Q Okay. Was there a concern -- you mentioned the
13 auditors' report. Was there a concern from the auditors'
14 report that there was a denial of due process for
15 appellants who were waiting to hear their cases before the
16 board?

17 A Which auditors' report?

18 Q I can pull --

19 A No. One of the historic ones?

20 Q Yes. I think there's already one in evidence so
21 I could -- I could pull it out here.

22 For example, I'm showing you Plaintiff's
23 Exhibit 20. It's a June 30th, 2003 and 2004 auditors'
24 report. How far back did you review auditors' reports --

25 A I would say it would be about this time frame.

1 Q Okay. And if I could direct your attention to
2 Page 4 of that auditors' report, at the bottom where it
3 talks about the backlog.

4 A (Reviewing.)

5 Q Is that the part of the auditors' report that you
6 had testified about that you were made aware of the
7 backlog issue?

8 A This is a component.

9 Q Right.

10 A And as I tried to articulate earlier, the backlog
11 I inherited. The backlog I tried to diligently do
12 something about. The backlog, the personnel that we
13 requested, the additional cross-training. We tried to do
14 under my tenure there what we could do to kind of minimize
15 the backlog.

16 Q What do you think the board could have done, if
17 anything, differently while you were there, from your
18 observation, to have decreased the backlog?

19 A Could have met more frequently. But they are a
20 civilian board and they give of their own time. Increased
21 by maybe a second board. You'd have to validate how each
22 board weighed fairness depending on whether you had Board
23 A or Board B. And then we could have gone and populated
24 more people, which we did try to get through and triage
25 faster.

1 Q When you say "populate more people," that would
2 have been in the Firearms Unit?

3 A Correct. Be that either support staff or sworn.

4 Q You came up with these ideas about the board
5 pretty quickly; in other words, in response to my
6 question. Have these been strategies that you've thought
7 of before or --

8 A I just think it's good business practice. As I
9 said earlier in my deposition here today, that even though
10 we deliver a public service, I still approach it kind of
11 as a business entity and what would be good business
12 strategy to affirm and hold and attract some customers.

13 Q Do you agree that -- well, let me ask you this.
14 Did you notice in 2007 any increase in applications for
15 state permits? And by that I mean people who were
16 applying for temporary permits and going on to get their
17 state permits.

18 A I can't say for sure without the documents.

19 Q Who, if anyone, did you discuss this strategy or
20 idea, or business practice as you call it, for creating a
21 second board, perhaps, or increasing the number of
22 meetings even though it is a civilian review board? Was
23 that discussed within the chain of command --

24 A Yeah. I can't say, per se; but it would have
25 been probably either Major Warren or Major Labonte. Major

1 Labonte came aboard when we were starting to flourish more
2 with getting some people in and how we wanted to conduct
3 an increased business practice.

4 Q Do you know if that was discussed in the context
5 of responding to the letter from Chairman Adams dated
6 May 14th, 2007?

7 A I do not, because I don't know when Major Labonte
8 came on board and became my boss.

9 Q But with regard to Exhibit 76 where it has a memo
10 from Major Warren to you, you know, "see me" on this draft
11 letter in response, do you know if that was discussed --

12 A I don't know if at that time we discussed
13 increasing the board.

14 Q Did you ever discuss that with Commissioner
15 Danaher, increasing the board?

16 A I did not.

17 Q Okay. Do you know if a draft letter in response
18 to the May 14th, 2007 letter from Chairman Adams was, in
19 fact, drafted by June 7th?

20 A I do not.

21 Q Do you know if that means June 7th or June of
22 2007? In that memo on the front of Exhibit 76.

23 A This was probably June 7th, because we don't have
24 lingering turn-around times with things.

25 Q Okay. And going to Page 2 of Exhibit 76, what

1 does that memo dated 5/30/2007 indicate; if you know?

2 MR. SNOOK: I think it's this.

3 (Indicating.)

4 BY MS. BAIRD:

5 Q Yes.

6 A Necessary action was kind of do what needs to be
7 done.

8 Q Okay. And who was that from and who is it to?

9 A Major Warren -- it was from Colonel Malloy to
10 Major Warren.

11 Q Okay. And Colonel Malloy was directly supervisor
12 over Major Warren. Correct?

13 A Correct.

14 Q And then Page 3 of Exhibit 76 there is again a
15 memo copied on to Page 3 of Exhibit 76 from John Danaher,
16 III: Refer to Colonel Davoren, May 23rd, 2007. Do you
17 know what that indicates?

18 A It's correspondence coming down through chain of
19 command.

20 Q Okay. And Commissioner Danaher was the top of
21 the chain of command?

22 A Yes, ma'am.

23 Q Do you know what those initials next to the name
24 John Danaher mean?

25 A I'm assuming that he initialed the -- wait. Next

1 to Davoren.

2 Q I don't know. I see initials next to Danaher.

3 A Right here?

4 Q How many pages do you have? Let me see if they
5 match.

6 You have one more page than me. So good work.
7 That's the official one. Good detective work.

8 Okay. I'll go off your Page 3 of Exhibit 76
9 then. That is a referral from whom to whom?

10 A It's from Colonel Thomas Davoren to Lieutenant
11 Colonel Malloy.

12 Q Okay. And then going on to Page 4 of Exhibit 76,
13 that's from Commissioner Danaher?

14 A Commissioner to Colonel Davoren.

15 Q And going back to Page 3, the initials next to
16 Colonel Davoren, do you know what those mean? Why those
17 would be initialed?

18 A They're probably his to authenticate that no one
19 else just sent the buck slip other than him.

20 Q Okay. Then on Page 4 of Exhibit 76 there are
21 initials next to John Danaher. And when you see initials
22 next to a name, does that mean something?

23 A Normally it's the person that sent it --

24 Q Yes.

25 A -- but it could also be potentially one of the

1 staff or executive people who worked directly for him
2 could have just sent the buck slip through.

3 Q Okay.

4 MR. SNOOK: Deponent needs a break.

5 MS. BAIRD: Okay. Definitely.

6 (A recess was taken at 12:16 p.m.)

7 (The proceedings resumed at 12:25 p.m.)

8 BY MS. BAIRD:

9 Q Exhibit 78, the first page, it's a December 13,
10 2007 letter which I know wasn't to you or from you. I
11 want to direct your attention to the third paragraph of
12 Exhibit 78 where it talks about a term that you've been
13 using during your testimony today, and that is the term
14 "lapsed." It says in the third paragraph: When you
15 failed to provide the missing information referenced above
16 by the end of your grace period, your renewal application
17 lapsed. In light of the fact that you have filed an
18 appeal with the board, it appears that you do not intend
19 to provide the missing information. Accordingly, we have
20 corrected the expiration date in our system to reflect the
21 fact that the pistol permit has expired.

22 Now, do you have any idea what discussions
23 occurred to arrive at the decision to correct the
24 expiration date in our system to reflect the fact the
25 pistol permit expired?

1 A I think I can do this in summation, if I may.

2 Q Okay.

3 A Going back to the business plan trying to be
4 customer-friendly and turning the permits around as
5 expeditiously as we could, the office staff would deduce
6 that the person was going to produce the document. So
7 what they would do is they'd kind of do a precursor and
8 get the screen set up and populate the information and
9 kind of move it forward. And then pending the document
10 being submitted, they'd kind of hold it in stasis.

11 We changed after that and we just made it a lot
12 more formalized; so if you either had the information or
13 you didn't have the information, and stopped a lot of the
14 additional clerical work and misclerical work where we
15 had permits stacking, waiting, some were coming in with
16 whatever the missing document might have been.

17 It was again for the benefit of the permit
18 holder was the spirit of it.

19 Q In going through Exhibit 78, I'll direct your
20 attention to the fourth page of Exhibit 78 which should
21 read at the top Connecticut Department of Safety -- it has
22 at the top in the left-hand side, Connecticut Department
23 of Safety Dossier of Permit Holders?

24 A Correct.

25 Q Okay. And on the right-hand side on the upper

1 top it has printed 12/5/2007?

2 A Correct.

3 Q Okay. Do you know where this printout comes from
4 in terms of whether it comes from the Firearms Unit or
5 somewhere else?

6 A Yeah; I believe that's the Firearms Unit. That's
7 the screen that gets -- printout of the screen that gets
8 populated for the permit.

9 Q Okay. And this appears that it was printed out
10 on December 5th, 2007?

11 A Okay.

12 Q And it shows a place of birth on that as New York
13 City, New York. Correct?

14 A Correct.

15 Q Is the purpose of looking at a birth certificate
16 to see where a person is born?

17 A The purpose of the birth certificate was to
18 authenticate that the permit holder was legally and
19 lawfully in the country.

20 Q Okay. And a birth certificate would show that
21 how?

22 A That you were born someplace. You were born in
23 New York City. That's one of our 50 states.

24 Q Okay. But do you agree that even if you saw a
25 birth certificate that showed someone was born in New York

1 City, they could have lost their citizenship between the
2 time they were born and the time they came to renew their
3 state permit?

4 A Ergo, the reason for the check. In the 29-32 I
5 think there's a passage in there that says -- when I was
6 talking earlier today about the renunciation of
7 citizenship?

8 Q Yes.

9 A We were trying to do the one-time validation and
10 authentication.

11 Q Right. But if somebody brought a birth
12 certificate, if Mr. Kuck had brought a birth certificate
13 in 2007 showing he was born in New York City, would you
14 have done further investigation to see if he had
15 renounced his citizenship between the time he was born
16 and up to the present? Like --

17 A I don't know that they would have.

18 Q What did a birth certificate really prove?

19 A That it wasn't forged initially. The look-back
20 was for initial. Most of them coming in have a raised
21 seal, so it would at least give another document in hand
22 that's factual to corroborate that the individuals are who
23 they said they were.

24 Q Okay. Now, as a police officer, you know, which
25 you were for many years, when somebody is unwilling to

1 give you information does it make you wonder why?

2 A I would say you'd have to look at the
3 circumstance of that. Some people may just feel strongly
4 that they don't have to give you the information.

5 Q Did you think that Mr. Kuck was an illegal alien
6 and was trying to hide that from the Department of Public
7 Safety?

8 A Didn't know.

9 Q Okay. So if you didn't know, were you concerned
10 that when he applied for his original state permit he lied
11 about being born in New York City? Did you check into
12 that?

13 A I do not believe that they checked it.

14 Q Did you look to see, you know, when he was
15 appointed to the board if he had lied to the Governor or
16 anybody else about his, you know, citizenship?

17 A I don't believe they did.

18 Q Okay. Was that a concern?

19 A Well, they would be concerned with every pistol
20 permit holder.

21 Q Right.

22 A But I think, again, the people that had put this
23 process in place circa 2002, whatever, had the best
24 interests of both the permit holder and protecting the
25 people of our great state. And you certainly don't want a

1 weapon in the wrong hand, especially if we could have
2 found some information out along the way. So I think they
3 were kind of trying to find a happy medium to do this.

4 Q But when he came to renew his permit and didn't
5 give the passport, birth certificate or voter registration
6 card, he still had his permit for three months more before
7 it lapsed. Right?

8 A Under the law, yes.

9 Q Was there a concern that during that three months
10 Mr. Kuck was an illegal alien or not a United States
11 citizen and still had his permit and could run around with
12 a firearm?

13 A His permit was valid until the expiration.

14 Q Well, you could revoke it. I mean if somebody
15 is -- if you determine that somebody becomes a felon while
16 their permit is valid, you revoke it. Right?

17 A Right. To my recollection, the only difference
18 was then you could have gone out and bought more firearms.

19 Q Right. But if you determine that somebody is
20 unlawfully in the United States, they've renunciated their
21 citizenship, you would revoke their permit. Right?

22 A Correct.

23 Q But you didn't make any effort to revoke
24 Mr. Kuck's permit during that three months of the period.

25 A Did not. We were just hoping to get voluntary

1 compliance.

2 Q You didn't really believe he was an illegal
3 alien, did you?

4 A We don't know. We have to look at the documents
5 on their face.

6 MR. SNOOK: Asked and answered, Counselor.

7 Let's move on.

8 BY MS. BAIRD:

9 Q Okay. I'm done with Exhibit 78.

10 Have you discussed this case -- other than
11 counsel, have you discussed this case of Kuck versus
12 Danaher since it was filed in 2007?

13 A Have not.

14 Q And how did you become aware it was filed?

15 A Notice to our legal counsel.

16 Q Okay.

17 A Because I'm retired, the last filing came through
18 the Attorney General's office.

19 Q Okay. But you remember -- do you recall when it
20 was first filed? The original complaint?

21 A Spring or summer of when I was there, my first --

22 Q Yes. Do you remember how you first became aware
23 of it back in 2007?

24 A Through Legal Affairs.

25 Q Okay. And what do you know, if anything, about

1 the circumstances under which Mr. Kuck was replaced as
2 secretary of the board by Joe Corradino?

3 A Nothing.

4 Q Okay. And did you discuss that change with
5 anyone in the Firearms Unit?

6 A I did not.

7 Q Did you notice any change in the operation of the
8 board between the time that occurred and the time you left
9 being commander?

10 A There was one formalized letter, that I recollect
11 anyway, that Attorney Corradino had sent out, and it was
12 about if a person needed a continuance. I think it was on
13 how to handle continuances up to 48 hours.

14 Q Okay.

15 A I think we had a circumstance come up where there
16 was a court subpoena for a criminal case for an officer,
17 that may have gone into more than just that day where he
18 would have needed it back for testimony, and it would have
19 overlapped with the hearing. I think that was the case.

20 Q And were there any other procedural changes that
21 occurred in terms of reviewing cases prior to hearings or
22 providing the board with information prior to hearings?

23 A I think internally we tried to still review the
24 20/40/20 or pick up the pace in what we could on that, and
25 then just present them to the board. That's my

1 recollection.

2 Q During your year, from your observations what did
3 you attribute the backlog to?

4 A I think it's probably multifaceted. I don't know
5 how it spiked and I don't -- probably after September 1st,
6 '11 [sic] probably an increase in permits. And with that
7 comes resultant issues that come with permits: Whether
8 along the way a person has had some restraining order,
9 whether they've had a nolle case, whether there's been a
10 felony, disqualifying misdemeanor, that could lead to an
11 increase. Probably -- I'm just going to make a guess
12 here. It would be like if we had maybe out of every 100
13 permits we might get 10 percent increase in --

14 Q Right.

15 A -- and revocation. That's a reasonable,
16 probably, standard. Just an example guess on my part.

17 Q What was the reason why you left being the
18 commander of the Special Investigations Unit?

19 A I think the military commitments had abated to
20 some extent.

21 Q What do you mean by that again, "the military
22 commitments"?

23 A We have officers on the department that are in
24 the military.

25 Q Right.

1 A And they may get a deployment. And that
2 deployment could be anywhere from zero to whatever. So
3 we still have to go on with the agency, so we would
4 shuffle command people around.

5 Also, I was sent back to -- it says
6 "Inspections," but actually Inspections, slash,
7 Accreditations because we were coming up on our fall
8 review and then -- when we get outside -- out-of-state
9 people come in and review us. So I went over there to
10 assist.

11 Q And that was in 2008. Correct?

12 A Thereabouts. It was there until I left in '09.

13 Q And I think you mentioned that the department was
14 accredited?

15 A Correct. And you have to come up for review
16 again where they review your policy, procedure, and
17 process; and the final review for accreditation is very
18 arduous, so we wanted to make sure that everything was as
19 compliant as we could to get reaccredited. And I believe
20 we did because that occurred I think after I left.

21 Q One of the areas that you had oversight with
22 regard to was the Sex Offender Registry?

23 A Yes.

24 Q And that was when you were commander of Special
25 Investigations?

1 A Correct.

2 Q Was there a backlog over in the lab with regard
3 to doing --

4 A I don't have that component of it.

5 Q Oh, you didn't have that component.

6 A No. We had the population of it and what you see
7 on the screens for the library and the registration.

8 Q So you didn't get involved at all in the phase of
9 that where people would give their DNA samples --

10 A Nothing with specimen testing.

11 Q Okay.

12 A It was the document division that --

13 Q Okay. And who replaced you when you left as
14 commander?

15 A Captain Tom Snyder, I believe?

16 Q And did you brief Captain Snyder at all on the
17 situation?

18 A I did not. I just moved on to my next command.

19 Q And I think you'd already testified that you
20 haven't discussed the case with any other individuals
21 involved in the case?

22 A I have not.

23 MS. BAIRD: Okay. I don't have any
24 questions.

25 MR. SNOOK: I have just a few.

CROSS-EXAMINATION

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BY MR. SNOOK:

Q Did you testify that you were Detective Mattson's supervisor?

A Yes, sir.

Q And while you were her supervisor, was she subject to any official censure or discipline?

A No, sir. No, ma'am. No, sir. I'm sorry.

Q No problem.

A No, sir.

Q And you were satisfied with her performance under your command?

A Yes, sir.

Q And can you say the same things with Detective Karanda?

A Yes.

Q If you can answer, while you were in command of Special Licensing and Firearms Unit, to your knowledge was there ever an official process of sitting on cases, by which I mean deliberately not reviewing and moving cases in order to deny people handgun permits?

A Not to my knowledge.

Q Suitability. Currently -- is this your knowledge -- at what level within SLFU is determination of

1 suitability conducted? The detective level or
2 professional level?

3 A I had set forth a process in place that it's now
4 at the supervisor level.

5 Q That was your process?

6 A Yes. And that was when I got the increased
7 staffing.

8 Q Ah. You mentioned about a few things that you
9 had done to chip away or to reduce the backlog. Were
10 those successful to some degree?

11 A I hope so.

12 Q And are you an attorney, sir?

13 A No, sir.

14 Q When reviewing the backlog when you were
15 commander, before this case was filed, did you ever recall
16 it being discussed within SLFU as a business practice
17 issue or as a constitutional issue?

18 A Just --

19 Q Okay. That was probably the worst question ever.

20 While you were in command of the Firearms Unit,
21 you've testified you were not an attorney. The backlog
22 when you attempted to address it and to chip away, were
23 you doing this in the intent of improving the business
24 practices or because you viewed this as a constitutional
25 issue?

1 A Business practices.

2 Q Do you recall anyone bringing it up to your
3 attention as a due process issue at the time?

4 A I do not.

5 MR. SNOOK: No further questions.

6 MS. BAIRD: None for me. Thanks.

7

8 (Whereupon, the witness was excused and the
9 proceedings were concluded at 12:40 p.m.)

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SIGNATURE PAGE

I, ALBERT J. MASEK, JR., have read the foregoing transcript of the testimony given at the deposition held on FEBRUARY 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.

ALBERT J. MASEK, JR.

STATE OF CONNECTICUT
COUNTY OF _____

Sworn and subscribed to before me this _____ day of _____, 2012.

NOTARY PUBLIC

My Commission Expires: _____

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CERTIFICATE

STATE OF CONNECTICUT)
) SS: West Hartland, Connecticut
COUNTY OF HARTFORD)

I, Patricia Tyszka, a Notary Public duly commissioned and qualified in and for the County of Hartford, State of Connecticut, do hereby certify that pursuant to notice there came before me on the 14th day of February 2012, at 10:03 a.m., the following named person, to wit: ALBERT J. MASEK, JR., who was by me duly sworn to testify to the truth and nothing but the truth of his knowledge touching and concerning the matters in controversy in this cause; and that he was thereupon carefully examined upon his oath and his testimony reduced to writing under my direction; that the deposition is a true record of the testimony given by the witness; that the deposition may be signed before a Notary Public.

I further certify that I am neither attorney nor counsel for, nor related to, nor employed by any of the parties to the action in which this deposition is taken, and further that I am not a relative or employee of any attorney or counsel employed by the parties hereto or financially interested in the action.

In witness whereof, I have hereunto set my hand and affixed my notarial seal this _____ day of _____, 2012.

Patricia Tyszka, LSR, RMR
Notary Public
License No. 46

My Commission Expires
May 31, 2015

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