

INTERVIEW
of
Sally A. Fields, Esq.

for the

SENATE JUDICIARY COMMITTEE

April 23, 2001
10:00 a.m.
Committee Room 2
State House Annex
Trenton, New Jersey

PRESENT AT INTERVIEW:

Michael Chertoff, Esq. (Special Counsel to the Committee)
Scott Louis Weber, Esq. (Special Counsel to the Committee)
Jo Astrid Glading, Esq. (Democratic Counsel to the Committee)
Douglas Wheeler, Esq. (Democratic Counsel to the Committee)

* * * * *

TABLE OF CONTENTS

Page

Allison E. Accurso, Esq.
Assistant Attorney General

1

Brian G. Flanagan, Esq.
Deputy Attorney General

1

Sally A. Fields, Esq.
Deputy Attorney General

1

rs: 1 - 31
lmb: 32 - 57

SCOTT LOUIS WEBER, ESQ.: Ms. Fields, good morning.

My name is Scott Weber. I'm the Deputy Special Counsel to the Senate Judiciary Committee on the racial profiling investigation. We apologize for the short notice on bringing you down here and appreciate you cooperating with us in coming down on short notice and coming down on a voluntary basis. You have not been subpoenaed. So, on behalf of the Committee, thank you.

I don't anticipate we'll be long today, but if at any point in time you need to take a break, just let me know, although my sincere hope is that between now and the next time you need to take a bathroom break we'll be done.

MS. GLADING: We have a caucus meeting, and I may need to leave and leave Doug here if that runs too long.

MR. WEBER: Okay.

Before we start, why don't we just have everyone identify themselves for the record.

I'll ask that Mr. Wheeler start.

MR. WHEELER: Douglas Wheeler. I'm with the Senate Democratic Office. I'm Assistant Counsel.

MS. GLADING: Jo Astrid Glading, Staff Counsel, Senate Democratic Office.

ASSISTANT ATTORNEY GENERAL ALLISON ACCURSO: Allison Accurso, Assistant Attorney General, Division of Law.

DEPUTY ATTORNEY GENERAL BRIAN G. FLANAGAN: Brian Flanagan, Deputy Attorney General, Division of Law.

DEPUTY ATTORNEY GENERAL SALLY A. FIELDS: Sally A. Fields, Senior Deputy Attorney General, Division of Law.

HEARING REPORTER: Linda Brokaw, OLS, Hearing Reporter.

MR. WEBER: Ms. Fields, if you would repeat after me, I'd like to swear

you in.

(Oath administered)

Thank you.

Ms. Fields, just very briefly, if you could detail for the Committee your tenure at the Attorney General's Office -- when you started-- Just take us up through your positions to your current position.

DEPUTY ATTORNEY GENERAL FIELDS: I'll just go chronologically, which includes one position outside of the Attorney General's Office. I'm a certified criminal trial attorney. I've been a member of the Bar of New Jersey since 1976. From 1976 to 1981, I was in the Division of Criminal Justice in the trial section and the civil remedies section. From 1981 to 1985, I was with the Mercer County Prosecutor's Office as a Senior Assistant Prosecutor, leading a trial team in charge of a pretrial intervention program for the prosecutor. From '85 to '87, I returned to Criminal Justice, doing Medicaid fraud prosecutions. From '87 to '93, I was with the Division of Law, acting as the lead counsel for the State in the three litigations resulting in the creation of State-operated school districts in Jersey City, Paterson, and Newark, doing a couple years of environmental work, complex cost recovery. From '93 to '96, I went to the Office of the Attorney General, outside the Division of Law, in the Legal Affairs office, doing litigation involving the Department of Law and Public Safety. In 1996, returned to the Division of Law, representing the State Police in civil rights litigation and acting as Internal Affairs counsel on disciplinary matters, providing advice and also prosecuting disciplinary matters. In '99 onward--

MR. WEBER: That was '96 through '99.

DEPUTY ATTORNEY GENERAL FIELDS: Right, '96 through '99. From '99 onward, in my current assignment, I represent the Governor's Office of

Employee Relations on labor matters heard at PER, Public Employment Relations Commission -- unfair practice cases and arbitrations.

MR. WEBER: Okay. You were in the Office of the Attorney General, that's on the eighth floor, from '93 to '96.

DEPUTY ATTORNEY GENERAL FIELDS: That's correct.

MR. WEBER: Okay. And did you remain in the Office of the Attorney General through Deborah Poritz being the Attorney General?

DEPUTY ATTORNEY GENERAL FIELDS: In, roughly, February of '96, Legal Affairs was disbanded while Deborah Poritz was the Attorney General. And I returned to the Division of Law.

MR. WEBER: Okay. So February of 1996 is when you went back down to-- I don't mean back down, but that's when you went back to the Division of Law.

DEPUTY ATTORNEY GENERAL FIELDS: Transferred back to.

MR. WEBER: Transferred back to the Division of Law.

And when you were transferred back to the Division of Law, did you immediately begin your involvement with the State Police in representing them in connection with civil rights litigation?

DEPUTY ATTORNEY GENERAL FIELDS: I had already been involved representing the State Police with Legal Affairs. That was one of my primary assignments from '93 to '96, other than I did get diverted to do the Newark school litigation for a significant period of time. But I did continue to represent the State Police.

MR. WEBER: I've put two documents in front of you, and we'll mark the first document, which-- The first page says news from NJ Senate Democrats. We'll mark that as SF-1. And the second document, which starts with a draft

of the May 7, 1999 letter, we'll mark that as SF-2.

SF-1 contains a copy of a letter from Senator Codey to Senator DiFrancesco dated May 7, 1999. And it discusses a *Philadelphia Inquirer* article, and attaches the *Philadelphia Inquirer* article.

First off, have you ever seen a copy of the May 7, 1999 letter from Senator Codey to Senator DiFrancesco before today?

DEPUTY ATTORNEY GENERAL FIELDS: Yes.

MR. WEBER: And have you seen a copy -- ever seen a copy of the *Philadelphia Inquirer* article from May 7 entitled "Verniero's Office Knew of Profiling Issues for Two Years?"

DEPUTY ATTORNEY GENERAL FIELDS: Yes.

MR. WEBER: The second exhibit, SF-2, contains two drafts of a May 7, 1999 letter. The first draft is from Governor Whitman to Senator DiFrancesco. The second draft is from Attorney General Verniero to Senator DiFrancesco. Have you seen these two draft letters before today?

DEPUTY ATTORNEY GENERAL FIELDS: Yes.

MR. WEBER: Then there is the file version of the May 7 letter of Senator DiFrancesco signed by Attorney General Verniero. Have you seen that letter before today?

DEPUTY ATTORNEY GENERAL FIELDS: No.

MR. WEBER: Okay. Today is the first time you've seen the final May 7, 1999 letter signed by Attorney General Verniero to Senator DiFrancesco.

DEPUTY ATTORNEY GENERAL FIELDS: Correct.

MR. WEBER: Then there are some handwritten notes, three pages, that complete exhibit SF-2. Have you seen those three pages before today?

DEPUTY ATTORNEY GENERAL FIELDS: Yes.

MR. WEBER: Do you know whose handwriting it is in the notes?

DEPUTY ATTORNEY GENERAL FIELDS: My handwriting.

MR. WEBER: Your handwriting. Okay.

I just wanted you to identify these documents for the record.

When was the first time you saw the May 7, 1999 letter from Senator Codey to Senator DiFrancesco, which is contained in SF-1?

DEPUTY ATTORNEY GENERAL FIELDS: If that's a Friday, it was probably that day, May 7, 1999.

MR. WEBER: May 7, 1999. And how about the *Philadelphia Inquirer* article?

DEPUTY ATTORNEY GENERAL FIELDS: Same day.

MR. WEBER: May 7, 1999.

DEPUTY ATTORNEY GENERAL FIELDS: Correct.

MR. WEBER: When was the first time -- let's turn to SF-2 -- you saw the May 7, 1999 draft letter from Governor Whitman to Senator DiFrancesco?

DEPUTY ATTORNEY GENERAL FIELDS: That same day, May 7, 1999.

MR. WEBER: And how about the second draft of the letter, which is for Attorney General Verniero's signature?

DEPUTY ATTORNEY GENERAL FIELDS: That same day, May 7, 1999.

MR. WEBER: And then-- You've already stated this, but just for the record, the final version, May 7, 1999, with then Attorney General Verniero's signature-- Today's the first day you saw a copy of that letter.

DEPUTY ATTORNEY GENERAL FIELDS: That's correct.

MR. WEBER: And I take it the notes that are part of SF-2, which you've identified as being your notes, were written contemporaneously with whatever day is indicated on the notes, correct?

DEPUTY ATTORNEY GENERAL FIELDS: Is SF-2 the two draft letters?

MR. WEBER: It's the two draft letters, the final letter to Senator DiFrancesco, and then the three handwritten pages of notes.

DEPUTY ATTORNEY GENERAL FIELDS: With the exception of the final letter, the handwriting is mine, and it was-- Did you ask when the notes were done?

MR. WEBER: Yeah.

DEPUTY ATTORNEY GENERAL FIELDS: May 7th, 1999--

MR. WEBER: No, no, no. Let's go to the last three pages of that--

DEPUTY ATTORNEY GENERAL FIELDS: Oh, the last three pages.

MR. WEBER: --which are just your straight handwritten notes.

DEPUTY ATTORNEY GENERAL FIELDS: Okay.

MR. WEBER: I take it that whatever date is indicated above the entries, that's when those entries were made, correct?

DEPUTY ATTORNEY GENERAL FIELDS: That's correct.

MR. WEBER: So the entries reflecting May 13, 1998, starting with "Bob Manning, (phonetic spelling) call me, extension 6507" -- those notes were taken on May 13, 1998.

DEPUTY ATTORNEY GENERAL FIELDS: Right. And I have to tell you, at the top of the first of the three pages -- actually all of them -- I see some handwritten notes, which I'm guessing are one of your staff counsel's -- 4-12-01, No. 4. That printing is not mine.

MR. WEBER: Is not yours.

DEPUTY ATTORNEY GENERAL FIELDS: And that's at the top -- No. 5 and No. 6. I see that. That's right underneath the telefax. That's not my printing.

MR. WEBER: Okay.

Let's go back, now, to Senator Codey's letter, created May 7, 1999. How did a copy of that letter come to you on May 7, 1999?

DEPUTY ATTORNEY GENERAL FIELDS: I was asked to review the letter.

MR. WEBER: Who asked you to review the letter?

DEPUTY ATTORNEY GENERAL FIELDS: Roger Shatzkin called me and asked me whether I had seen the *Philadelphia Inquirer* article. And I told him I had not. I had not read the *Philadelphia Inquirer* that day. And I was asked to come over to his office to look at the article and also-- I don't know whether he mentioned the attached letter by Senator Codey at the time that he called me about the article or whether he told me when I went to his office. But they were hand in hand. So I was asked to read the letter -- the May 7, '99 letter from Senator Codey in the article when I went over to Roger's office, which, ultimately, I did.

MR. WEBER: Did Mr. Shatzkin explain to you why he came to you to ask you about this *Philadelphia Inquirer* article?

DEPUTY ATTORNEY GENERAL FIELDS: There was a reference to something called the Jim Smith Special. And Jim Smith was a plaintiff in a lawsuit that I had been handling for quite some time. I wasn't handling it at that point in time. But he thought that I would have knowledge about that report. I'm assuming that. But he may have even told me that. I'm not sure.

MR. WEBER: You said that Jim Smith was a plaintiff in a case you were handling. What case was that?

DEPUTY ATTORNEY GENERAL FIELDS: The *Davis* lawsuit.

MR. WEBER: Okay. This is *Davis v. New Jersey State Police*.

DEPUTY ATTORNEY GENERAL FIELDS: Correct.

MR. WEBER: When did you begin handling the *Davis v. New Jersey State Police*? If it's okay with you, we'll just refer to it as the *Davis* case.

DEPUTY ATTORNEY GENERAL FIELDS: That's fine.

MR. WEBER: When did you begin handling the *Davis* case?

DEPUTY ATTORNEY GENERAL FIELDS: When I was in Legal Affairs in 1993, and probably most of my tenure in Legal Affairs. Some of the *Davis* plaintiffs had filed EEOC complaints. So I was handling-- It was not a litigation then, but it was an EEOC investigation.

MR. WEBER: Do you remember when the EEOC investigation commenced on the *Davis* matter?

DEPUTY ATTORNEY GENERAL FIELDS: The complaints were filed sometime in 1993, I believe. And I'm not sure when the EEOC officially began their investigation. I know between '93 and certainly '96, while I was diverted to do the Newark School case, there were various requests for information from the EEOC, in connection with their investigation.

MR. WEBER: Were you still handling the-- And again, just so the record's clear-- If we refer to the *Davis* case, can we agree that that will include both the EEOC investigation and then a subsequent civil lawsuit?

DEPUTY ATTORNEY GENERAL FIELDS: Sure.

MR. WEBER: Okay. Were you handling the EEOC -- the *Davis* case from 1993 through 1996, even while you were working on the Newark School case?

DEPUTY ATTORNEY GENERAL FIELDS: Yes. I had-- There was another attorney in Legal Affairs who was helping with day-to-day document production, but I was responsible for the investigation at that point.

MR. WEBER: Who was the attorney that was handling the day-to-day

document production?

DEPUTY ATTORNEY GENERAL FIELDS: Deputy Attorney General Carol Johnston.

MR. WEBER: Okay. So Mr. Shatzkin -- just to step back for a second-- Mr. Shatzkin, as you understood it, contacted you because he thought you had some involvement in the case that Jim Smith brought, and there was the mention of the Smith Special in this May 7, 1999 *Philadelphia Inquirer* article, correct?

DEPUTY ATTORNEY GENERAL FIELDS: That's correct.

MR. WEBER: Okay. You go to a meeting with Mr. Shatzkin. At that time is when you see the article and you think you also probably see the letter from Senator Codey, correct?

DEPUTY ATTORNEY GENERAL FIELDS: That's correct.

MR. WEBER: Did Mr. Shatzkin ask you to do anything as a result of receiving this information? Did he ask you any questions?

DEPUTY ATTORNEY GENERAL FIELDS: He and another individual did ask my knowledge of the Jim Smith report in the context of the article and the letter. And I think at that point, there was a plan, I thought, to write a letter in response. And my role was to give accurate information on what I knew of the Jim Smith Special.

MR. WEBER: Who was the other individual at the meeting?

DEPUTY ATTORNEY GENERAL FIELDS: Brian Litten, L-I-T-T-E-N.

MR. WEBER: Anyone else at the meeting?

DEPUTY ATTORNEY GENERAL FIELDS: Allison Accurso arrived, I think, after I had gathered with Brian and Roger.

MR. WEBER: Okay. So it's Brian Litten, Allison Accurso, Roger

Shatzkin, you. Anyone else?

DEPUTY ATTORNEY GENERAL FIELDS: No, not that I recall at that point.

MR. WEBER: What information did you provide to the group of people that were at the meeting concerning the Smith Special?

DEPUTY ATTORNEY GENERAL FIELDS: I remembered that the Smith Special was specifically mentioned in, I believe, it was Paragraph 222 of the 249 count amended *Davis* complaint and was inferentially referred to in Paragraph 64 of the amended *Davis* complaint. And I know that I had, in my initial disclosures on the case, in December of '97, referenced, in those two paragraphs, the report.

MR. WEBER: Now, when you say--

DEPUTY ATTORNEY GENERAL FIELDS: And I--

MR. WEBER: I'm sorry. When you say-- I just want to break this up a little bit. When you say in your initial disclosures, I take it -- as of December 1997 or sometime before that, the civil lawsuit then was filed, and it was removed to Federal court.

DEPUTY ATTORNEY GENERAL FIELDS: That's correct. The civil lawsuit was filed sometime in the summer of '97. It was removed to Federal court -- initial disclosures, at least, by the State Police were done in December of '97. And the report was also attached to a letter by plaintiffs' counsel in May of '98 -- the two-page Jim Smith Special Report.

MR. WEBER: Had the Smith Special Report been produced in connection with the EEOC part of the *Davis* case?

DEPUTY ATTORNEY GENERAL FIELDS: I can't answer that question. I don't know. There were voluminous documents that were produced during the

EEOC investigation. And I would only be guessing. And I know the Jim Smith Special Report was in January of '96. The EEOC investigation spanned from '93, and I'm not sure when it ended. If it ended before the date of the Special Report, then the answer would be it would not have been produced. But I don't know when the EEOC investigation ended.

MR. WEBER: Did the plaintiffs in the EEOC case produce documents?

DEPUTY ATTORNEY GENERAL FIELDS: At the EEOC stage, State Police had no access to any documents that they produced. I don't know the answer to that. We were defending EEOC charges or an investigation.

MR. WEBER: I mean-- Instead of beating around the bush here, let me try to stick to our 20 to 30 minute estimation here on the length of the deposition. It has become abundantly clear to everyone who's followed the racial profiling hearings that there is an issue about the timing of the Smith Special and when the Smith Special may have been in the hands of then Attorney General Peter Verniero. There's a July 27, 1999 memo from then executive assistant Alexander Waugh to Attorney General Verniero enclosing several documents for the Attorney General's review. One of the documents is the Smith Special. And as you pointed out, the Smith Special is dated sometime in January of 1996.

There is then the *Philadelphia Inquirer* article in May of 1999, which mentions the Smith Special. There's now an issue as to how did the Smith Special get into Alexander Waugh's hands to then get into Attorney General Verniero's hands. As best as you can recall, when do you first remember seeing the Smith Special?

DEPUTY ATTORNEY GENERAL FIELDS: My recollection is a bit hazy, but it may have been attached to the original complaint in the *Davis* case.

MR. WEBER: And the original complaint in the *Davis* case was filed

when?

DEPUTY ATTORNEY GENERAL FIELDS: I'm estimating June of '97.

MR. WEBER: June of 1997.

DEPUTY ATTORNEY GENERAL FIELDS: That's an estimate.

MR. WEBER: Would you have files that would have a copy of the original complaint filed in the *Davis* civil suit, not the EEOC part of it, but in the *Davis* civil suit? Would you have a copy of that?

DEPUTY ATTORNEY GENERAL FIELDS: I no longer have files containing that.

MR. WEBER: Who would have those files?

DEPUTY ATTORNEY GENERAL FIELDS: The case is currently being handled by the DeCotiis law firm.

MR. WEBER: I take it then the DeCotiis law firm would have copies of all pleadings that were filed in that matter. They should.

DEPUTY ATTORNEY GENERAL FIELDS: I'm certain that at one point, my files contained the original complaint, and it would have been turned over to the DeCotiis law firm. And I would say, also, it's a matter of public record.

MR. WEBER: Okay. So, as best as you can recall, the original complaint filed in the *Davis* matter -- again, this is the civil action component of it, which occurred, you think, probably in June of 1997, may have had a copy of the Smith Special attached to it.

DEPUTY ATTORNEY GENERAL FIELDS: I wouldn't say as best I can recall. All I can say is it may have contained it. And I'm not even sure why I vaguely remember that. I mean, I know that the Smith Special was mentioned specifically in one of those paragraphs in the complaint.

MR. WEBER: Ms. Accurso and Mr. Flanagan, if we could make a request

that you contact the DeCotiis law firm and see if they've got a copy of the original complaints, as well as the -- there was a reference to an amended complaint -- and whatever exhibits are attached to those pleadings, to get copies to the Committee, we'd appreciate that.

ASSISTANT ATTORNEY GENERAL ACCURSO: No problem.

MR. WEBER: Did you ever find out, and let's assume for purposes of the testimony that there was a copy of the Smith-- Well, let me strike that.

There was a record of the Smith Special in the original pleading filed in the *Davis* matter, correct?

DEPUTY ATTORNEY GENERAL FIELDS: There's a reference in the complaint and in the amended complaint, sure.

MR. WEBER: Did you ever find out how the plaintiffs in the *Davis* matter knew of the existence of the Smith Special?

DEPUTY ATTORNEY GENERAL FIELDS: Smith was a plaintiff.

MR. WEBER: Okay. So Smith is the author of the January 1996 report. He's a plaintiff in the *Davis* matter, and clearly, he would have had the ability to provide his counsel with a copy of whatever documents he authored, correct?

DEPUTY ATTORNEY GENERAL FIELDS: He certainly could have done that.

MR. WEBER: Okay. So we now have the June 1997 filing of the Smith complaint. You then have the July 29, 1997 memo from Alexander Waugh to then Attorney General Peter Verniero. Was Mr. Waugh, at all, involved in the *Davis* case?

DEPUTY ATTORNEY GENERAL FIELDS: We worked on the *Davis* matter together with another attorney when I was in Legal Affairs, and he was

the director of Legal Affairs. He was involved a bit after he moved up to be executive assistant attorney general.

From the filing of the lawsuit on, I did not work with Alex Waugh on the *Davis* litigation. At that point, I had returned to the Division of Law. I was no longer in the Office of the Attorney General.

MR. WEBER: Someone else, I then take it, was responsible for interacting with Mr. Waugh on the *Davis* matter?

DEPUTY ATTORNEY GENERAL FIELDS: I can't answer that question. I was the counsel in the Division of Law who was responsible for *Davis* when it was assigned to me. I don't know what happened, with respect to *Davis*, if anything. And Alex Waugh-- Well, he was still executive assistant attorney general. The *Davis* case was a litigation that -- at that point was within the Division of Law.

MR. WEBER: So when you-- I just want to try and get the timing down here.

When the *Davis* matter was filed in June of 1997, you were still involved in the *Davis* case at that point, correct?

DEPUTY ATTORNEY GENERAL FIELDS: That's correct.

MR. WEBER: And how long thereafter did you remain involved in the *Davis* case?

DEPUTY ATTORNEY GENERAL FIELDS: Until approximately October of 1998, roughly.

MR. WEBER: Okay. Why did you discontinue your involvement in October of 1998?

DEPUTY ATTORNEY GENERAL FIELDS: The case had been in mediation for many months. And the mediation ultimately ended. The case was

returning back to a litigation track. And outside counsel was retained to handle the *Davis* case.

MR. WEBER: Prior to the filing of the civil complaint in June of 1997, I take it Mr. Waugh had been aware of the EEOC component of the *Davis* matter, correct?

DEPUTY ATTORNEY GENERAL FIELDS: I'm not going to testify as to what he was aware of. Certainly, he and I worked on it together.

MR. WEBER: Well, he knew there was an EEOC matter following the *Davis* plaintiffs.

DEPUTY ATTORNEY GENERAL FIELDS: Absolutely, yes.

MR. WEBER: And you worked on that with him.

DEPUTY ATTORNEY GENERAL FIELDS: Yes, that's correct.

MR. WEBER: When the complaint came in, in June of 1997, did you get a copy of the complaint?

DEPUTY ATTORNEY GENERAL FIELDS: Certainly.

MR. WEBER: How did you get a copy of the complaint?

DEPUTY ATTORNEY GENERAL FIELDS: I can't remember if it was by mail or hand delivery or what. It was a rather large complaint.

MR. WEBER: Did you advise anyone in the Division of Law and Public -- in the Department of Law and Public Safety that the *Davis* plaintiffs had filed a civil action?

DEPUTY ATTORNEY GENERAL FIELDS: Oh, I'm certain I did.

MR. WEBER: Okay. Did you advise Mr. Waugh?

DEPUTY ATTORNEY GENERAL FIELDS: Probably not, because he was in the Office of the Attorney General, and I was in the Division of Law.

MR. WEBER: Not even as a courtesy? I mean no disrespect by the

question. But he had worked on the EEOC component of it -- even to just update it and say, "Hey, I know you're not working on this anymore, but just for point of interest, they filed a civil complaint?"

DEPUTY ATTORNEY GENERAL FIELDS: If I saw him, I may well have. But I know I would not have given him a copy of the complaint, because at that point, we were in different offices. I may well have mentioned it.

MR. WEBER: Did you know, at any point in time, that the United States Department of Justice was investigating the New Jersey State Police about the issue of racial profiling?

DEPUTY ATTORNEY GENERAL FIELDS: I knew very vaguely that there was something that was ongoing while I was doing -- while I was representing the State Police on other matters.

MR. WEBER: Okay. Let's try and narrow it down to a year, and we'll see if we can narrow it down even further. What year did you become aware of the existence in the Department of Justice investigation?

DEPUTY ATTORNEY GENERAL FIELDS: That's very difficult. I was in the Division of Law, doing State Police litigation from '96 to '99 -- anywhere in between that time.

MR. WEBER: Did you know at the time of the filing of the *Davis* -- the civil action in June of 1997, that the Department of Justice was investigating the New Jersey State Police?

DEPUTY ATTORNEY GENERAL FIELDS: I don't recall if I knew one way or the other.

MR. WEBER: Did anyone advise you at any point in time that documents were being produced in the Department of Justice and to the extent that in your representation of the State Police you came across documents that might be

responsive to the Department of Justice investigation, you should contact a certain person within the Department of Law and Public Safety?

DEPUTY ATTORNEY GENERAL FIELDS: Can you break down your question?

MR. WEBER: Sure. We've got the Department of Justice investigation, and I will represent to you -- commences in December of 1996. There were documents that were being produced to the Department of Justice in connection with their investigation. At any point in time, were you advised that any documents you came across, in connection with your representation of the State Police that may fall into certain categories -- that may address the issue of racial profiling -- you should advise one of your colleagues, because they could then make sure that those documents were produced to the Department of Justice?

DEPUTY ATTORNEY GENERAL FIELDS: That never happened.

MR. WEBER: In addition to the *Davis* case, were you involved in any other lawsuits in which either racial profiling or racial discrimination allegations were made by State Troopers?

DEPUTY ATTORNEY GENERAL FIELDS: Yes.

MR. WEBER: What other cases?

DEPUTY ATTORNEY GENERAL FIELDS: The names of cases?

MR. WEBER: Well, how many cases? We'll start with the numbers. Approximately how many other cases were you involved in from February of 1996, let's say, until February of 1999?

DEPUTY ATTORNEY GENERAL FIELDS: That's very difficult to give a number to. It could be as small as 10 or 15, as high as 20. It's very difficult to say.

MR. WEBER: And again--

DEPUTY ATTORNEY GENERAL FIELDS: I'm guessing on that. I don't want to guess.

MR. WEBER: Just so the record is clear, though, those cases -- specifically interested in the cases that would have -- there would have been allegations of either racial profiling or allegations of discrimination against minority State Troopers.

DEPUTY ATTORNEY GENERAL FIELDS: Racial profiling, I was only involved with one case.

MR. WEBER: What case was that?

DEPUTY ATTORNEY GENERAL FIELDS: Morka.

MR. WEBER: Morka.

DEPUTY ATTORNEY GENERAL FIELDS: Morka and Maher, M-A-H-E-R -- very limited involvement.

MR. WEBER: Ms. Morka testified before the Committee, correct?

DEPUTY ATTORNEY GENERAL FIELDS: I was not present.

MR. WEBER: Well, in the public hearings. Did you become aware that-- We're talking about Laila Morka, correct?

DEPUTY ATTORNEY GENERAL FIELDS: Laila Maher.

MR. WEBER: Maher-- I'm sorry, Laila Maher.

DEPUTY ATTORNEY GENERAL FIELDS: I vaguely remember reading newspaper accounts that they testified.

MR. WEBER: Okay. I just want to make sure that we're talking about the same case, though.

DEPUTY ATTORNEY GENERAL FIELDS: I'm going to assume with those names -- that they're fairly distinctive names.

MS. GLADING: Felix Morka and Laila Maher.

MR. WEBER: And Laila Maher.

DEPUTY ATTORNEY GENERAL FIELDS: That sounds like the case.

MR. WEBER: Okay. When did you become involved in the Morka and Maher case?

DEPUTY ATTORNEY GENERAL FIELDS: That was a case that began with outside counsel representing the State Police, because the Turnpike was involved, I think -- the Turnpike Authority. At some point, the plaintiffs moved to amend their complaint to try to assert class action claims alleging racial profiling. And I believe I became involved with the case shortly after the motion was filed.

MR. WEBER: Do you remember what year the motion was filed?

DEPUTY ATTORNEY GENERAL FIELDS: Either 1998 or 1999. I would estimate early 1999, but that's a very rough estimate. It could be late 1998.

MR. WEBER: When you-- I just want to understand a little-- I'm sorry for jumping around here, but I just want to understand a little bit about your responsibilities in representing the State Police from February '96 to sometime in 1999. Did you have a supervisory status at all?

DEPUTY ATTORNEY GENERAL FIELDS: No.

MR. WEBER: Were you the only person that was representing the State Police in civil rights litigation?

DEPUTY ATTORNEY GENERAL FIELDS: No.

MR. WEBER: Who else was representing the State Police in civil rights litigation? Not by name. Were there one, two, three, four?

DEPUTY ATTORNEY GENERAL FIELDS: There was at least one other attorney who handled litigation.

MR. WEBER: Who was that other attorney?

DEPUTY ATTORNEY GENERAL FIELDS: Janine Long for a period of time.

MR. WEBER: And at any point in time from 1996 through 1999, did anyone reach out to you or this other lawyer that you had just mentioned to make you aware of the fact that there was a Department of Justice investigation, and that information was being produced to the Department of Justice?

DEPUTY ATTORNEY GENERAL FIELDS: George Rover called me at one point.

MR. WEBER: When?

DEPUTY ATTORNEY GENERAL FIELDS: Can I refer to the documents with my notes?

MR. WEBER: Please. Absolutely. Absolutely.

DEPUTY ATTORNEY GENERAL FIELDS: January 11th, 1999.

MR. WEBER: Did Mr. Rover explain to you why he was reaching out to you?

DEPUTY ATTORNEY GENERAL FIELDS: My recollection is that it was somehow related to the Jim Smith Special and, perhaps, related documents.

MR. WEBER: What did he say to you, and what did you say to him?

DEPUTY ATTORNEY GENERAL FIELDS: I'm referring to my notes of the 1/11/99 conversation. And I will estimate some of what was said. He told me that he was involved with the Department of Justice on profiling. He said that Jack was only involved a bit.

MR. WEBER: Jack being Mr. Fahy?

DEPUTY ATTORNEY GENERAL FIELDS: Jack Fahy, because of his grand jury position. He said he was dealing with Mark Posner in the civil rights section -- Special Investigation Section of the Department of Justice. He said

that some State Troopers wanted to talk to the Department of Justice. And I'm not sure about this part of my notes, but I think he said that the Department of Justice was looking at five to seven State Police organizations around the country -- that AG Verniero went to D.C. to talk to the Department of Justice.

MR. WEBER: You've got also a notation up on -- Paragraph 64, *Davis* complaint.

DEPUTY ATTORNEY GENERAL FIELDS: Yes.

MR. WEBER: What's that a reference to?

DEPUTY ATTORNEY GENERAL FIELDS: The Jim Smith Special was alluded to not necessarily in that paragraph, but it was listed in my initial disclosures, along with other documents with reference to that paragraph. And I may have made that note after my conversation with George, looking back at it to try to piece together what I knew of the Jim Smith Special.

Do you want me to read--

MR. WEBER: Please.

DEPUTY ATTORNEY GENERAL FIELDS: --the rest of my notes?

MR. WEBER: Well, to the extent it may refresh your recollection as to other things, absolutely.

DEPUTY ATTORNEY GENERAL FIELDS: He said that the Department of Justice will do its own analysis. Jack's case -- what we refer to as the Gloucester case -- no argument happened yet.

MR. WEBER: That's the *Soto* case?

DEPUTY ATTORNEY GENERAL FIELDS: That's my understanding. And they wanted to have an argument.

George said he had a meeting with Dave Hespe and Jack Fahy, and I'm assuming my notes mean that they agreed that no one could stop the

Department of Justice from meeting with the troopers who they believed were *Davis* plaintiffs.

And George mentioned a report, which in that conversation he said was dated January 5th, '96, from Touw to Fedorko. And I believe I looked back. That was the wrong date. It was really, I think, July.

MR. WEBER: July '96?

DEPUTY ATTORNEY GENERAL FIELDS: I think so. And that's-- I have a very hazy recollection on that.

He said that that report crunched numbers involving stops at Moorestown, and he said in a meeting with Williams, Fedorko, and Dunlop, he said that Dunlop thought that I had given that report, within tons of other documents, in the *Davis* discovery.

MR. WEBER: Thought that I, meaning thought that you, Sally Fields, had given--

DEPUTY ATTORNEY GENERAL FIELDS: That I, Sally Fields, had given that document over.

And I'm not sure what this reference is to aggregation, statistical crunching numbers. Must have meant something when I wrote it.

And George said they may have to turn over those documents to the Department of Justice, and I see there's a date cut off in the margin, where I said I'll let DeCotiis know that documents may be released to the Department of Justice. And that's that for the 1/11/99 phone call.

MR. WEBER: There's a 2/2/99 -- George meeting with Hespe and Fahy-- What's that say, second call -- listed Paragraph 64 -- something and initial disclosures.

DEPUTY ATTORNEY GENERAL FIELDS: Items and initial disclosures.

MR. WEBER: So this is a subsequent call you had with George Rover on February 2nd, 1999.

DEPUTY ATTORNEY GENERAL FIELDS: I'm not positive about that, but most likely.

And he might have told me that he met with Dave Hesse and Jack Fahy. And I think there might have been a second call that day, February 2nd, 1999. And I may have looked back at a copy of my initial disclosures, and I think I listed for him the items that I had listed in Paragraph 64.

MR. WEBER: Ms. Accurso, can we also get a copy of the initial disclosures to the extent that the DeCotiis firm has copies of?

ASSISTANT ATTORNEY GENERAL ACCURSO: Yes.

MR. WEBER: Thank you.

ASSISTANT ATTORNEY GENERAL ACCURSO: Mr. Weber, if I may, just for the record--

MR. WEBER: Sure.

ASSISTANT ATTORNEY GENERAL ACCURSO: *Davis* is an open case. And I think you've been very careful with your questions, but we're not waiving the attorney-client privilege--

MR. WEBER: Absolutely.

ASSISTANT ATTORNEY GENERAL ACCURSO: --as to currently litigated matters.

MR. WEBER: Off the record.

(Off the record)

Back on the record.

Did Mr. Rover, during his phone call -- either -- any of the phone calls with you indicate to you whether he had seen the Smith Special before?

DEPUTY ATTORNEY GENERAL FIELDS: Before the phone call?

MR. WEBER: Yeah. Well, no. That was unartfully phrased. Let me start all over again.

Obviously, he had seen the Smith Special, because he called you up to ask you about the Smith Special, among other things. Did he indicate to you when he first saw the Smith Special?

DEPUTY ATTORNEY GENERAL FIELDS: Not that I recall.

MR. WEBER: Did he indicate to you why, at this particular point in time, he was calling you to discuss the Smith Special, as well as the other items listed in your notes?

DEPUTY ATTORNEY GENERAL FIELDS: I'm not sure about this, but I think it was related to the fact that the Department of Justice wanted to talk to some of the *Davis* plaintiffs. And evidently, the recollection by, I believe, Bob Dunlop that I had given over the Smith Special and some other documents in the context of *Davis* discovery may have prompted him to call me.

MR. WEBER: Was there any discussion about a concern that documents were produced in *Davis* but had not yet been produced in the Department of Justice?

DEPUTY ATTORNEY GENERAL FIELDS: I don't remember the conversation going along that vein.

MR. WEBER: Was there any discussion about coordinating efforts to make sure -- coordinating efforts to make sure that whatever documents had been produced in *Davis*, those documents would then get produced to the Department of Justice?

DEPUTY ATTORNEY GENERAL FIELDS: I don't believe so. Those were two separate and distinct matters. And at that point, I was not handling

the *Davis* case.

MR. WEBER: Mr. Rover asked you whether you were aware of any other documents that concerned racial profiling that might be responsive to the Department of Justice's inquiries?

DEPUTY ATTORNEY GENERAL FIELDS: No. And you have to understand, I did not know the parameters of the Department of Justice inquiries.

MR. WEBER: Did he explain to you what the parameters were?

DEPUTY ATTORNEY GENERAL FIELDS: No.

MR. WEBER: Did he ask you if you had any documents?

DEPUTY ATTORNEY GENERAL FIELDS: Not that I recall. We only discussed the Smith and Smith-related documents in terms of document discussion.

MR. WEBER: Let's go back to the meeting with Mr. Shatzkin on May 7, 1999. Do you know who -- and the drafts of the letters to Senator DiFrancesco, which are SF-2. Do you know who drafted the first letter in SF-2, which is for Governor Whitman's signature?

DEPUTY ATTORNEY GENERAL FIELDS: Brian Litten, I think, was sitting at his computer typing it with input from others.

MR. WEBER: Did you provide any input on the letter?

DEPUTY ATTORNEY GENERAL FIELDS: I provided input in terms of the Jim Smith Special.

MR. WEBER: What, in particular, in the first draft on SF-2-- What information did you provide?

DEPUTY ATTORNEY GENERAL FIELDS: Second paragraph -- single document that was part of extensive discovery of thousands of pages in volume

in a court case challenging State Police personnel practices. This case, known as *Davis v. New Jersey Division of State Police*, is currently pending -- probably that whole paragraph.

MR. WEBER: The whole paragraph. Let's just read it into the record.

DEPUTY ATTORNEY GENERAL FIELDS: "This report sets forth allegations of improper patrol procedures. The Division of Law received this report in December '97 during the initial discovery process six months after the filing of the complaint."

MR. WEBER: Now, it's very careful to say, and you'll just forgive my editorializing here, but the Division of Law received this report in December of 1997. Was there any discussion of another division within the Department of Law and Public Safety having received the Smith Special prior to December 1997?

DEPUTY ATTORNEY GENERAL FIELDS: At one point, Office of the Attorney General or Attorney General was in the letter, I think.

MR. WEBER: Okay. So, in the very first draft, which is the first page of SF-2, at one point in time, the Division of Law was not there until the Office of Attorney General received this report. And then that was changed.

DEPUTY ATTORNEY GENERAL FIELDS: It may have said Office of Attorney General attorneys. And I think the change was made since the case was, at that point, really being handled in the Division of Law.

MR. WEBER: Okay. Who suggested to change it from the Office of Attorney General to the Division of Law?

DEPUTY ATTORNEY GENERAL FIELDS: My recollection is that at one point, Allison Accurso mentioned--

MR. WEBER: Well, let--

DEPUTY ATTORNEY GENERAL FIELDS: --the change.

MR. WEBER: Okay. Let's go off the record for a second.

(Off the record)

We just want to be clear. The SF-2 draft, which is for Governor Whitman's signature, is the first draft of this letter, correct?

DEPUTY ATTORNEY GENERAL FIELDS: My recollection is it may have been a second draft.

MR. WEBER: This may be the second draft. Okay.

Do you know where-- Have you seen a copy of the first draft at any point in time?

DEPUTY ATTORNEY GENERAL FIELDS: I don't know if I ever had a copy of the first draft. I know that there was discussion about Office of Attorney General attorneys in the context of the Smith report. I don't know whether that made it into a first draft, but there was discussion in that vein.

MR. WEBER: So this entire second paragraph was based upon information that you provided to the group, correct?

DEPUTY ATTORNEY GENERAL FIELDS: Correct.

MR. WEBER: Okay. How about the third paragraph? There's also mention of *Davis* in here. Did you provide any information in that paragraph?

DEPUTY ATTORNEY GENERAL FIELDS: No, because I was not really-- I was not involved in the racial profiling issues.

MR. WEBER: And how about the fourth paragraph, provide any information there?

DEPUTY ATTORNEY GENERAL FIELDS: I may have helped to word Smith. I'm not sure. I see my notes, but that really did not come from me.

MR. WEBER: Okay. These-- The handwritten notes on the first draft

here on SF-2-- Those are your notes.

DEPUTY ATTORNEY GENERAL FIELDS: Correct.

MR. WEBER: What did you base your changes in the fourth paragraph on? It says: "The existence of this report should have no direct impact upon General Verniero's handling and knowledge of racial profiling issues and provides no reasonable basis upon which to delay Monday's Senate vote."

You then change it to say "The existence of this report is in no way inconsistent with General Verniero's handling," and you add "and knowledge of racial profiling issues and provides no reasonable basis upon which to delay Monday's Senate vote."

DEPUTY ATTORNEY GENERAL FIELDS: I don't remember whether those were any changes done by me or by the assembled group at that point.

MR. WEBER: Was that -- may have been something that someone else suggested and you wrote that?

DEPUTY ATTORNEY GENERAL FIELDS: I may have taken notes on it. I don't remember.

MR. WEBER: Down at the bottom of the first page, "does not--" in handwritten notes, "does not contradict General Verniero's assertion that the issue--" Racial profiling -- where you crossed that. So it does not contradict General Verniero's assertion that racial profiling issues-- What is meant by that?

DEPUTY ATTORNEY GENERAL FIELDS: That was evidently some language that thought was being given to, including somewhere in the letter, and I guess it was rejected by the fact that I'd crossed it out.

MR. WEBER: Crossed it out. Okay. Let's go to the second draft of the letter, and it's now for Attorney General Verniero's signature. Incidentally, why was the letter originally for Governor Whitman's signature and then changed to

be for Attorney General Verniero's signature?

DEPUTY ATTORNEY GENERAL FIELDS: Brian Litten, in the first draft, had it for the Governor's signature, and I believe that the Attorney General determined that he would send the letter himself.

MR. WEBER: And at this point in time, you were involved in your representation with the Governor's Office and Employee Relations, correct?

DEPUTY ATTORNEY GENERAL FIELDS: That was my current assignment back in May of '99, yes.

MR. WEBER: All right. We now have the second draft of the letter, which is for Attorney General Verniero's signature. Whose handwriting is it down in the third paragraph, which is crystallize -- cross out the word converge and change it to crystallize?

DEPUTY ATTORNEY GENERAL FIELDS: That's my handwriting.

MR. WEBER: Was that your suggestion or was that someone else's suggestion?

DEPUTY ATTORNEY GENERAL FIELDS: That was not my suggestion.

MR. WEBER: And then there's more handwriting on this paragraph, and then the fourth paragraph. Is that your handwriting also?

DEPUTY ATTORNEY GENERAL FIELDS: That's my handwriting.

MR. WEBER: Were these your suggested changes, or were these notes of changes that people were discussing at the meeting?

DEPUTY ATTORNEY GENERAL FIELDS: I'm not sure one way or the other. I don't know.

MR. WEBER: What is the handwriting on the fourth paragraph, second sentence, "is the existence of this" -- and then, "report has no direct impact upon my handling of racial profiling issues," and that's all crossed out. What's written

in to substitute there?

DEPUTY ATTORNEY GENERAL FIELDS: Document and newspaper article.

MR. WEBER: Okay. "The existence of this document and newspaper article provide no reasonable basis upon which would delay Monday's Senate vote," correct?

DEPUTY ATTORNEY GENERAL FIELDS: That's how it reads. MR. WEBER: Now, take a look at the first draft of the May 7th letter, second paragraph, and take a look at the second draft of the May 7th letter, also second paragraph, and there is a sentence added in to the second version of the letter -- "I never saw this individual document or heard it summarized," -- which is not contained in the first draft, correct?

DEPUTY ATTORNEY GENERAL FIELDS: That's right.

MR. WEBER: Whose suggestion was it to add that sentence in?

DEPUTY ATTORNEY GENERAL FIELDS: I'm not positive. It may have been the Attorney General's. I don't know.

MR. WEBER: At some point in time, did he become involved in this meeting?

DEPUTY ATTORNEY GENERAL FIELDS: Yes. The assembled group ended up moving over and meeting with the Attorney General.

MR. WEBER: In his office?

DEPUTY ATTORNEY GENERAL FIELDS: Yes.

MR. WEBER: What was discussed at that meeting?

DEPUTY ATTORNEY GENERAL FIELDS: The letter -- getting an accurate letter. The article-- I don't remember the article being discussed in any terms, but mainly the letter.

MR. WEBER: Was then Attorney General Verniero asked if he ever saw this document before, or did he volunteer that information?

DEPUTY ATTORNEY GENERAL FIELDS: He asked me.

MR. WEBER: He asked you?

DEPUTY ATTORNEY GENERAL FIELDS: Yes.

MR. WEBER: If he ever saw the document before?

DEPUTY ATTORNEY GENERAL FIELDS: He asked me whether he ever saw the document or heard it summarized.

MR. WEBER: He asked you?

DEPUTY ATTORNEY GENERAL FIELDS: Yes.

MR. WEBER: Had you previously dealt with the Attorney General at all in the *Davis* case?

DEPUTY ATTORNEY GENERAL FIELDS: Yes.

MR. WEBER: Face-to-face meeting?

DEPUTY ATTORNEY GENERAL FIELDS: Yes.

MR. WEBER: How many meetings?

DEPUTY ATTORNEY GENERAL FIELDS: On *Davis*?

MR. WEBER: Yes.

DEPUTY ATTORNEY GENERAL FIELDS: At least one.

MR. WEBER: When was that meeting?

DEPUTY ATTORNEY GENERAL FIELDS: The fall of '98. I'm estimating.

MR. WEBER: Why don't we show you, and I'm not going to mark it, but this is a copy of David Hespe's calendar. There's an entry in September of 1998. We'll see if that refreshes your recollection.

DEPUTY ATTORNEY GENERAL FIELDS: I see my name.

MR. WEBER: Does that refresh your recollection as to the one meeting you had with then Attorney General Peter Verniero about the *Davis* case?

DEPUTY ATTORNEY GENERAL FIELDS: Did that include Dave Hespe?

MR. WEBER: It would have. It was on his calendar, yes.

DEPUTY ATTORNEY GENERAL FIELDS: I remember meeting with Dave Hespe without the Attorney General. I remember meeting with the Attorney General without Dave Hespe.

MR. WEBER: But no meeting with Dave Hespe and the Attorney General?

DEPUTY ATTORNEY GENERAL FIELDS: Not that I recall.

MR. WEBER: All right. Were these the Attorney General's words? I mean, did he ask you, as best as you can recall, "Did I ever see this document of yours summarized?"

DEPUTY ATTORNEY GENERAL FIELDS: He asked words like that, "Sally, have I ever seen this document or heard it summarized?"

MR. WEBER: What was your response?

DEPUTY ATTORNEY GENERAL FIELDS: Not by me or not that I know of.

MR. WEBER: Was there anyone else that you were aware of that could have shared that document with-- At that time, in May of 1999, was there anyone else that you were aware of that would have had the Smith Special that could have either shown it to Attorney General Verniero or summarized it for him?

DEPUTY ATTORNEY GENERAL FIELDS: Well, the Special was mentioned in a paragraph of the *Davis* complaint filed in mid-'97. The Special was also attached to a May '98 letter from plaintiffs' counsel. Obviously, I can't

speaking for what other people did, and I won't speculate, but that report had some significance to the *Davis* case.

MR. WEBER: Do you know whether Attorney General Verniero was provided with a copy of the *Davis* complaint or the May, 1998 letter from plaintiffs' counsel attaching the Smith complaint?

DEPUTY ATTORNEY GENERAL FIELDS: It didn't attach the Smith complaint. It attached the Smith -- the letter--

MR. WEBER: The Smith Special.

DEPUTY ATTORNEY GENERAL FIELDS: --the Smith Special. I don't know one way or the other.

MR. WEBER: Did you ever go through the complaint or show the complaint to Attorney General Verniero?

DEPUTY ATTORNEY GENERAL FIELDS: I don't think I discussed the physical complaint with him, the document.

MR. WEBER: Did you discuss the Smith Special with him?

DEPUTY ATTORNEY GENERAL FIELDS: I-- Other than May 7th, 1999, I don't remember discussing, and I don't believe that I ever would have discussed the Smith Special with the Attorney General.

MR. WEBER: So Attorney General Verniero, at this May 7th, 1999 meeting, asked you-- Did he specifically ask the question to you, or did he ask it to the group?

DEPUTY ATTORNEY GENERAL FIELDS: He asked it of me.

MR. WEBER: Did he ask anyone else in the group?

DEPUTY ATTORNEY GENERAL FIELDS: Not that I recall.

MR. WEBER: And your response was, you had never shown it to him, nor had you ever summarized it to him?

DEPUTY ATTORNEY GENERAL FIELDS: Something to the effect of not by me or, no, not that I know of. Obviously, I can only speak for what I did.

MR. WEBER: Right. Do you know if the Attorney General did make the same inquiry of anyone else in his office, not necessarily the people at the meeting, but did he make the same inquiry of anyone else, or, as far as you know, were you the only person he made this inquiry of?

DEPUTY ATTORNEY GENERAL FIELDS: I have no knowledge one way or the other.

MR. WEBER: Well, did he ask that that -- the response that you never shared it with him or you never summarized it to him that that information somehow be included in the May 7, 1999 letter?

DEPUTY ATTORNEY GENERAL FIELDS: I'm not-- I don't remember exactly where we got from his asking me the question to that sentence being in there. I assume that those two thoughts were linked, asking the question and the answer.

MR. WEBER: How long was your meeting with the Attorney General on May 7th?

DEPUTY ATTORNEY GENERAL FIELDS: It wasn't very long.

MR. WEBER: So the group of you go up to the Attorney General's Office, you discuss the *Inquirer* article, you discuss the Smith Special, Attorney General Verniero and you have the exchange that you just testified about--

DEPUTY ATTORNEY GENERAL FIELDS: I don't know that we discussed the *Inquirer* article or, I would say, discussed the Smith Special. I think the discussion was more focused on getting an accurate letter in response to Senator Codey's letter.

MR. WEBER: Anyone show Attorney General Verniero the Smith Special

at this May 7, 1999 meeting?

DEPUTY ATTORNEY GENERAL FIELDS: I don't remember that happening.

MR. WEBER: You didn't show it to him?

DEPUTY ATTORNEY GENERAL FIELDS: I did not.

MR. WEBER: Do you remember anyone else at the meeting having a copy of the Smith Special and saying, you know, in sum and substance, "Here, Attorney General, this is the document that's at issue?"

DEPUTY ATTORNEY GENERAL FIELDS: I may have had a copy with me in a file, but I don't recall the report ever being shown to--

MR. WEBER: Did he ask to see it?

DEPUTY ATTORNEY GENERAL FIELDS: I don't recall that. I think the answer is no.

MR. WEBER: So he, as best as you can recall, he didn't ask to see the Smith Special and no one showed him a copy of the Smith Special?

DEPUTY ATTORNEY GENERAL FIELDS: I'm hazy on that. I really am. I'm just not sure.

MR. WEBER: What else transpired during that meeting?

DEPUTY ATTORNEY GENERAL FIELDS: The meeting?

MR. WEBER: With the Attorney General?

DEPUTY ATTORNEY GENERAL FIELDS: Mainly dealt with getting the letter accurate.

MR. WEBER: Well, was there concern about inaccuracies being in any of the drafts?

DEPUTY ATTORNEY GENERAL FIELDS: Of the letter?

MR. WEBER: Yeah.

DEPUTY ATTORNEY GENERAL FIELDS: Well, I mean, from my point of view, I wanted to make sure that anything -- anything that was said in terms of the *Davis* case be accurate, since I had in the past been responsible for the case.

MR. WEBER: There is, on the second version -- we had already talked about the notation -- crossing out converge and changing it to crystallize -- and that change did not make it into the final version. Do you know why?

DEPUTY ATTORNEY GENERAL FIELDS: My review of the final version shows crystallize or converge.

MR. WEBER: Oh, wait. I apologize. Okay. So it's added in as opposed to replacing converge. Who made the suggestion to add the word crystallize then?

DEPUTY ATTORNEY GENERAL FIELDS: My recollection is that the Attorney General, in the draft, where I had converge crossed out, said, "Let's use the word crystallize. That's the word we've been using. Let's be consistent."

MR. WEBER: He said that's the word we've been using or did he say that's the word I've been using?

DEPUTY ATTORNEY GENERAL FIELDS: I don't remember whether it was we or I.

MR. WEBER: Let's take a look-- Well, let me step back for a second. We know we have the first draft that does not have in the second paragraph this sentence: "I never saw this individual document or heard it summarized." We then go to the second draft that has that sentence in there, correct?

DEPUTY ATTORNEY GENERAL FIELDS: Correct.

MR. WEBER: So I take it you go and meet with you -- when I say you, I mean the group of people go and meet with the Attorney General in his office

after this first draft, but before the second draft is done, because that sentence is then added in, correct, "I never saw this document or heard it summarized?"

DEPUTY ATTORNEY GENERAL FIELDS: I can't remember when we went from Brian's office to the Attorney General's Office in and among the drafts. I can't-- I don't remember.

MR. WEBER: But clearly, you would-- The sentence, "I never saw this individual document or heard it summarized," would not have been added until after the meeting with the Attorney General?

DEPUTY ATTORNEY GENERAL FIELDS: I would agree with that.

MR. WEBER: Okay. So you have the meeting with the Attorney General. Do you then go back to Brian's office, the group of people, to further work on the letter?

DEPUTY ATTORNEY GENERAL FIELDS: I remember Brian went back to retype the letter, and I think the assembled group-- At least, Allison and I stayed in the Attorney General's Office. I don't remember whether Roger stayed the whole time or had other -- left the office, came back. I'm not sure.

MR. WEBER: Okay. So Brian types the new draft of the letter and then -- what? -- brings that draft back to the Attorney General's Office?

DEPUTY ATTORNEY GENERAL FIELDS: Correct.

MR. WEBER: Okay. And you and Ms. Accurso are still there. Roger Shatzkin comes back, correct?

DEPUTY ATTORNEY GENERAL FIELDS: Either comes back or had been in there. I'm not sure.

MR. WEBER: And the Attorney General, I take it, is still there. It's his office.

DEPUTY ATTORNEY GENERAL FIELDS: Yes. It's his office. We didn't

kick him out of his office. (laughter)

MR. WEBER: There is then, I take it, another review of the letter, and this draft now has the sentence, "I never saw this individual document or heard it summarized," correct?

DEPUTY ATTORNEY GENERAL FIELDS: Yes.

MR. WEBER: Is that when there is now the discussion about being consistent and adding in the word crystallize?

DEPUTY ATTORNEY GENERAL FIELDS: In terms of the time sequence, I don't remember what came first. That would be logical looking at the draft, but I just-- I don't remember.

MR. WEBER: And then who made the-- Well, let's break it down, because you said it would be logical -- that you now have the draft that has this new sentence in it, "I never saw this individual document or heard it summarized." Litten brings that back and everyone in the room now takes a look at it. Is it at that point in time then that the Attorney General brings up the crystallized change? Because if he had brought it up before, that would have appeared in this version of the draft, correct?

DEPUTY ATTORNEY GENERAL FIELDS: Right. Right. That's my best recollection.

MR. WEBER: Okay. So there's now a discussion about crystallizing, and again, what did the Attorney General say on this issue?

DEPUTY ATTORNEY GENERAL FIELDS: I don't want to say something and have it be different from what I said before.

MR. WEBER: No. As best as you can recall.

DEPUTY ATTORNEY GENERAL FIELDS: It was something to the effect of let's use the word crystallize or let's say crystallize. That's what we've used

before. Let's be consistent.

MR. WEBER: Anyone react to that suggestion?

DEPUTY ATTORNEY GENERAL FIELDS: How so?

MR. WEBER: Respond, say, hey, it's a good idea. No, it's not a good idea.

DEPUTY ATTORNEY GENERAL FIELDS: I don't remember any real reaction. I think at that point Brian was typing a letter and might have said, "Fine. We'll put that in." I'm guessing on that. There was no reaction that I remember.

MR. WEBER: Then there's the last change now on this second draft, down in the fourth paragraph: "The existence of this document and a newspaper article provide no reasonable basis upon which to delay this Monday's Senate vote." Who suggested that change?

DEPUTY ATTORNEY GENERAL FIELDS: I may have. It may have been the other people. I'm not sure.

MR. WEBER: So now these two changes, the addition of crystallize, along with the change of--

(Off the record)

There's also the change from his to its, correct, in the third paragraph, that makes it into the final version? "Is that my review team weighed in his deliberations," is changed to, "that my review team weighed in its deliberations."

DEPUTY ATTORNEY GENERAL FIELDS: I think to make it grammatically correct--

MR. WEBER: Correct.

DEPUTY ATTORNEY GENERAL FIELDS: --which I think is always a good thing to do.

MR. WEBER: And then you've got the change in the fourth paragraph that we've just talked about. So the crystallize and the change in the fourth paragraph are now made, and you've got the final version, correct?

DEPUTY ATTORNEY GENERAL FIELDS: I see the final version, which I hadn't seen until today.

MR. WEBER: All right. The crystallize change and the change in the fourth paragraph, those were now discussed by the people in the Attorney General's Office, and Mr. Litten is the one who is responsible for making the changes, correct?

DEPUTY ATTORNEY GENERAL FIELDS: I think he physically typed the letter, at least while I was there.

MR. WEBER: Did he then bring up the final version of the letter for the Attorney General to review and sign?

DEPUTY ATTORNEY GENERAL FIELDS: Not while I was there.

MR. WEBER: All right. So, after the crystallized change was suggested and the change in the fourth paragraph was suggested, did the meeting -- did the group of people disband?

DEPUTY ATTORNEY GENERAL FIELDS: That's what I recollect, yes.

MR. WEBER: Was there any discussion before the meeting disbanded about the coordination of this? You know, Brian said, "I'll make the changes and bring it back," or was there a discussion about, "Okay, it looks like we've got our letter. Just make the changes and we'll get it out," something to that effect?

DEPUTY ATTORNEY GENERAL FIELDS: May have been. I'm not sure.

MR. WEBER: What period of time did you spend on May 7th involved in the process of this letter from the time that Mr. Shatzkin calls you to his office until the time that you leave the Attorney General's Office with the final

changes having been suggested?

DEPUTY ATTORNEY GENERAL FIELDS: Well, after I received the call from Roger Shatzkin, I think I dug out what I knew of the Smith Special so that I could give some meaningful input with dates and whatnot, and that took a little while. It was not long. It was in the late afternoon of May 7th. It's hard to put an exact time on it.

MR. WEBER: How about the amount of time that you spent in the Attorney General's Office working on the multiple drafts of the letter?

DEPUTY ATTORNEY GENERAL FIELDS: Not very long at all. I'm going to estimate 10 minutes, 15 minutes, 20 minutes, and that's an estimate and somewhat of a guess.

MR. WEBER: You have the Attorney General ask you the question about having ever seen the Smith Special before, having it summarized, and your response is, you know, I never showed it to you and I never summarized it to you.

DEPUTY ATTORNEY GENERAL FIELDS: My response was, no, not that I know of, or not by me. Something like that.

MR. WEBER: Okay. While you were then waiting for the next draft of the letter to come, did the Attorney General pick up the phone and call anyone or in your presence make any inquiries of anyone else as to whether he had been shown or had ever had summarized for him the Smith Special?

DEPUTY ATTORNEY GENERAL FIELDS: Not in my presence.

MR. WEBER: Was there any discussion about having to get this letter out the door as soon as possible, because it's now late on Friday afternoon?

DEPUTY ATTORNEY GENERAL FIELDS: I don't know if it was discussed exactly in those terms, but that was certainly my understanding, that

the goal was to get the letter out as soon as possible.

MR. WEBER: Do you have any idea of what-- Did you talk with Mr. Litten or anyone else after you left about what transpired after you left?

DEPUTY ATTORNEY GENERAL FIELDS: No.

MR. WEBER: Did you have any discussions with the Attorney General Verniero about the Smith Special other than in the context of this May 7th meeting and this May 7, 1999 letter?

DEPUTY ATTORNEY GENERAL FIELDS: That's the only time I remember it coming up in any discussion.

MR. WEBER: You testified that you had one meeting about the *Davis* case with Mr. Verniero present and Mr. Hespe not present, and then you had another meeting with Mr. Hespe present and Mr. Verniero not present. Which meeting occurred first, chronologically?

DEPUTY ATTORNEY GENERAL FIELDS: I'd be guessing, and I would guess the Hespe meeting occurred first. That's a guess.

MR. WEBER: What was discussed at the Hespe meeting about the *Davis* case?

DEPUTY ATTORNEY GENERAL FIELDS: The *Davis* case?

MR. WEBER: What in particular?

DEPUTY ATTORNEY GENERAL FIELDS: The litigation, the mediation.

MR. WEBER: Was Mr. Hespe previously aware of this case or was, as far as you know, this the first time that he was involved with discussing the *Davis* case?

DEPUTY ATTORNEY GENERAL FIELDS: Well, obviously, I can't testify as to what he was aware of. I can tell you that I remember one meeting with him

about *Davis*.

MR. WEBER: Well, did he seem to know about the *Davis* case or was this the purpose of this meeting, to bring him up to speed to explain to him what the *Davis* case was all about?

DEPUTY ATTORNEY GENERAL FIELDS: I think he had some general knowledge that the *Davis* case was a rather large civil rights lawsuit that was then pending and may have been in mediation.

MR. WEBER: Was there any discussion at the meeting with Mr. Hesper about the Smith Special?

DEPUTY ATTORNEY GENERAL FIELDS: Not that I recall.

MR. WEBER: How about generally on the issue of racial profiling?

DEPUTY ATTORNEY GENERAL FIELDS: I don't recall that issue coming up.

MR. WEBER: Were there allegations in the Smith case about racial profiling?

DEPUTY ATTORNEY GENERAL FIELDS: There were two paragraphs -- Paragraph 64 and 222 -- that mentioned racial profiling, and that's two paragraphs out of 249, I think, approximate paragraphs, at least in the amended complaint, that mentioned racial profiling. All the other ones were dealing with other issues.

MR. WEBER: Do you remember what was-- And obviously, I'm not asking for a direct quote, but what was sort of the gist of what was mentioned in Paragraph 64 and Paragraph 222?

DEPUTY ATTORNEY GENERAL FIELDS: Essentially that Sergeant Jim Smith, one of the *Davis* plaintiffs, had complained about improper patrol activities at the Moorestown Barracks, which resulted in his putting together his

special report. And the allegation in the *Davis* litigation was that the Division had never responded to the report and the minority troopers were transferred and never found out what happened in terms of any response to his report.

MR. WEBER: All right. Let's talk about your meeting with Attorney General Verniero. What was discussed about the *Davis* case? Again, I realize it's active litigation, but what were the general topics that were discussed about the *Davis* case with Attorney General Verniero? And as best as you can recall, when was that meeting?

DEPUTY ATTORNEY GENERAL FIELDS: Fall of '98. I'm estimating September of '98. It was at the end of the mediation process, and it was a general meeting discussing which way the case would go.

MR. WEBER: Any discussion of the Smith Special at that meeting?

DEPUTY ATTORNEY GENERAL FIELDS: Not that I remember.

MR. WEBER: Any discussion about the allegations of improper patrol practices contained in Paragraph 64 and 222?

DEPUTY ATTORNEY GENERAL FIELDS: I don't remember any specific discussion along those lines.

MR. WEBER: Any discussion of the Department of Justice investigation?

DEPUTY ATTORNEY GENERAL FIELDS: I don't remember that coming up in the meeting.

MR. WEBER: Do you remember having any discussions, with Attorney General Verniero was present, wherein the Department of Justice investigation was discussed?

DEPUTY ATTORNEY GENERAL FIELDS: I have no recollection of that.

MR. WEBER: How about with Mr. Hesse?

DEPUTY ATTORNEY GENERAL FIELDS: Same answer. No

recollection.

MR. WEBER: Any discussions at any point in time with Mr. Waugh about the Department of Justice investigation?

DEPUTY ATTORNEY GENERAL FIELDS: I don't recall-- I certainly recall no substantive discussions. We were colleagues. We had worked together when we were in Legal Affairs together. I was still handling State Police matters. It's possible that in passing the subject may have come up, but certainly in no substantive way.

MR. WEBER: What, if anything, do you remember about the subject coming up with Mr. Waugh?

DEPUTY ATTORNEY GENERAL FIELDS: That the Department of Justice was doing an investigation. And I don't even know whether that took place. I just don't know. If it came up, it came up in passing.

MR. WEBER: Did Mr. Waugh explain to you what they were looking into?

DEPUTY ATTORNEY GENERAL FIELDS: I don't believe so.

MR. WEBER: Just that generally the Department of Justice was investigating the New Jersey State Police?

DEPUTY ATTORNEY GENERAL FIELDS: Correct.

MR. WEBER: As someone who was representing the State Police in various civil rights litigation, did Mr. Waugh's discussion of the Department of Justice investigation at all concern you that it may impact you on any of the cases that you were involved in?

DEPUTY ATTORNEY GENERAL FIELDS: No, because I -- having worked with him, I knew that if there were any substantive issues that could affect ongoing litigation that I had, I would hear about that. So I didn't have

that concern.

MR. WEBER: Do you remember when Mr. Waugh left the Department of Law and Public Safety?

DEPUTY ATTORNEY GENERAL FIELDS: I really-- I'd be guessing. I don't remember.

MR. WEBER: Do you remember what year?

DEPUTY ATTORNEY GENERAL FIELDS: I would guess '98, but that's really a guess.

MR. WEBER: After Mr. Waugh left-- Let me rephrase that. You said that you thought that Mr. Waugh would have notified you of anything that might impact the work that you were doing, correct?

DEPUTY ATTORNEY GENERAL FIELDS: Yes.

MR. WEBER: After Mr. Waugh leaves, did you have any concern that whoever was taking his place would equally come to you and advise you if there was anything that was going on with the Department of Justice investigation that would affect your case?

DEPUTY ATTORNEY GENERAL FIELDS: Well, we were in two separate offices. I was in Division of Law. He was in Office of the Attorney General. I don't remember thinking about that one way or the other.

MR. WEBER: Who took over for Mr. Waugh after he left?

DEPUTY ATTORNEY GENERAL FIELDS: I'm not sure.

MR. WEBER: Did you at any point in time after Mr. Waugh left the Department of Law and Public Safety say to anyone, you know, hey, I'm still here. Don't forget about me. If something happens with this Department of Justice investigation, I need to know, because it might impact my cases, in sum and substance?

DEPUTY ATTORNEY GENERAL FIELDS: Well, October of '98, roughly, the DeCotiis law firm had already come into the *Davis* case. I switched assignments in, roughly, March of '99. So Division of Law has a very good structure in terms of if there are important issues, you make those important issues known and there's coordination in terms of handling lawsuits. So I didn't concern myself with what was happening in the Office of the Attorney General at that point.

MR. WEBER: February of 1999, then Attorney General Verniero announced that he was going to commission the State Police Review Team to review State Police practices and procedures. Did anyone in connection with that review contact you to ask if you had any information relative to their analysis?

DEPUTY ATTORNEY GENERAL FIELDS: No.

MR. WEBER: Were you surprised by that?

DEPUTY ATTORNEY GENERAL FIELDS: Which investigation? The investigation into what?

MR. WEBER: Well, why don't we break it down. Why don't we start just with the overall State Police Review Team's work? That would be the team led by Paul Zoubek that commenced on February 10 of 1999 and ultimately led to the promulgation of the interim report.

DEPUTY ATTORNEY GENERAL FIELDS: Well, I hadn't really done any work in the racial profiling area, so that certainly didn't surprise me.

MR. WEBER: How about with connection with the Troop D audit?

DEPUTY ATTORNEY GENERAL FIELDS: Troop D audit? I'm not sure what that is or what that means.

MR. WEBER: That was an investigation into allegations of troopers

falsifying documentation that related to the stops of minorities on the Turnpike.

DEPUTY ATTORNEY GENERAL FIELDS: I had vague knowledge that there was some investigation ongoing in State Police into issues like that, but I was not involved in that.

MR. WEBER: How about the Hogan and Kenna shooting?

DEPUTY ATTORNEY GENERAL FIELDS: That was the criminal side. I was the civil side.

MR. WEBER: Well, was there an investigation that you were aware of that you were surprised that nobody contacted you in connection with?

DEPUTY ATTORNEY GENERAL FIELDS: Having provided advice to the State Police on their disciplinary charges and having prosecuted disciplinary matters heard by the Colonel, that area I had a fair amount of knowledge about, but I can't say I was surprised one way or the other, because I wasn't sure of the scope of the review team's review. I know what my experience and involvement was, and it's hard to be surprised when you don't know what is being investigated.

MR. WEBER: Well, having now-- Have you ever taken a look at the interim report?

DEPUTY ATTORNEY GENERAL FIELDS: I've skimmed through it.

MR. WEBER: How about the final report?

DEPUTY ATTORNEY GENERAL FIELDS: I'm not sure which is which.

MR. WEBER: Well, having taken a look and just skimming through the interim report and seeing what the various topics were that were discussed in the interim report, are you now surprised that no one had contacted you to seek out your insight into the issue of trooper discipline?

DEPUTY ATTORNEY GENERAL FIELDS: A bit. But again, I'm not

being involved with that, that I'm not sure what the intent or the purpose was. So it's-- Surprise is a word that can mean many things. In a way, I was busy with my own work, so maybe it was a nice surprise.

MR. WHEELER: I just have a couple quick questions, and I'll be very brief. I'm going to hand you back the Hespe calendar. It's open to a meeting on May 21st, and there's a little tab up here. There's another meeting on June 11th. At these two meetings, it's both May 21st, 1998, and June 11th, 1998, this is from Dave Hespe's calendar. He had indicated that there were meetings with-- I don't know-- Can you help me? The initials TJO, who would that be?

DEPUTY ATTORNEY GENERAL FIELDS: Thomas J. O'Reilly.

MR. WHEELER: Okay. Major Fedorko, or Lieutenant Colonel Fedorko, David Hespe, and Al Ramey and yourself, regarding the 118th State Police Class, and it indicates that it's regarding test results. Do you remember what was discussed at those meetings?

DEPUTY ATTORNEY GENERAL FIELDS: I assume the discussion revolved around the State Police 118th Class test results.

MR. WHEELER: Do you remember any concerns about irregularities with the test results?

DEPUTY ATTORNEY GENERAL FIELDS: I have no present recollection one way or the other about the meeting.

MR. WHEELER: Why would you have been included at those meetings?

DEPUTY ATTORNEY GENERAL FIELDS: I was handling a lawsuit, I believe at that point in time, involving the recruitment and selection practices of the State Police.

MR. WHEELER: And you don't recall why those meetings were held except for what's indicated in David Hespe's calendar?

DEPUTY ATTORNEY GENERAL FIELDS: Sitting here today, I'm just -- I'm not sure.

MR. WHEELER: Do you know why they would have had that meeting, though?

DEPUTY ATTORNEY GENERAL FIELDS: To discuss the test results.

MR. WHEELER: I mean, obviously, there are many classes of the State Police, and why would they have assembled that group of people to discuss that issue?

DEPUTY ATTORNEY GENERAL FIELDS: Well, Tom O'Reilly is the administrator in the Department. Lieutenant Colonel Fedorko, I'm not sure if he was Deputy Superintendent then or Acting Superintendent. I don't recall. And the others, I'm assuming had some involvement in those issues.

MR. WHEELER: Okay.

Scott?

MR. WEBER: I'm sorry.

Let me just-- I want to go back and just clear up one area.

Did you have any discussions at any time with Mr. Waugh about allegations of profiling made against the New Jersey State Police?

DEPUTY ATTORNEY GENERAL FIELDS: Other than, as I said before, if in passing he may have mentioned that there's a Department of Justice investigation, that's the only thing I can say.

MR. WEBER: Well, you've mentioned Paragraph 64 and 222 in the *Davis* complaint, but that's the civil component -- the civil action component to the *Davis* matter. There was the EEOC part of the *Davis* case, which you said, I guess, started back in 1993?

DEPUTY ATTORNEY GENERAL FIELDS: Correct.

MR. WEBER: Did you ever have any discussions with Mr. Waugh in connection with the EEOC component in the *Davis* case about allegations of improper patrol practices or racial profiling?

DEPUTY ATTORNEY GENERAL FIELDS: I don't remember any discussion along that line. There was a boilerplate complaint that the then-- Well, they weren't plaintiffs, but the charging parties, the however many troopers there were at the EEOC stage, that alleged discrimination, and it was primarily employment practices. I don't remember racial profiling coming up during the EEOC stage.

MR. WEBER: Okay. And again, I think you've testified to this. The Smith Special came up in January of 1996, which I guess was toward the end of the EEOC aspect of the case?

DEPUTY ATTORNEY GENERAL FIELDS: I know the Smith Special was sometime in January of 1996. I'm not sure when the EEOC concluded--

MR. WEBER: Concluded.

DEPUTY ATTORNEY GENERAL FIELDS: --its investigation. I remember it was a long investigation with -- and I don't remember the end result. I mean, I remember the end result. It was a right-to-sue letter, and subsequently a lawsuit, but I don't remember the timing.

MR. WEBER: Do you remember the Smith Special coming up at any time in connection with the EEOC phase of the *Davis* case?

DEPUTY ATTORNEY GENERAL FIELDS: No.

MR. WEBER: Ms. Fields, thank you very much again. I apologize for the short notice, and we appreciate your coming down here.

DEPUTY ATTORNEY GENERAL FIELDS: Okay.

(INTERVIEW CONCLUDED)