
Committee Meeting

of

ASSEMBLY TRANSPORTATION, PUBLIC WORKS AND INDEPENDENT AUTHORITIES COMMITTEE

"Testimony from Patrick Foye, Executive Director of the Port Authority of New York and New Jersey, and other individuals concerning the decision by the Port Authority of New York and New Jersey to reduce, without prior public notice, the number of access lanes to the George Washington Bridge in Fort Lee, New Jersey, from September 9, 2013 through September 13, 2013"

LOCATION: Committee Room 11
State House Annex
Trenton, New Jersey

DATE: December 9, 2013
10:00 a.m.

MEMBERS OF COMMITTEE PRESENT:

Assemblyman John S. Wisniewski, Chair
Assemblywoman Linda D. Stender, Vice Chair
Assemblyman Daniel R. Benson
Assemblywoman Marlene Caride
Assemblyman Gordon M. Johnson
Assemblyman Ruben J. Ramos Jr.
Assemblyman Gary S. Schaer
Assemblyman Scott T. Rumana
Assemblyman David W. Wolfe



ALSO PRESENT:

Charles A. Buono Jr.
Patrick Brennan
Office of Legislative Services
Committee Aides

Jillian Dempsey
Assembly Majority
Committee Aide

Glen Beebe
Assembly Republican
Committee Aide

Meeting Recorded and Transcribed by
The Office of Legislative Services, Public Information Office,
Hearing Unit, State House Annex, PO 068, Trenton, New Jersey



JOHN S. WISNIEWSKI
Chair

LINDA D. STENDER
Vice-Chair

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UPENDRA J. CHIVUKULA
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COMMITTEE NOTICE

TO: MEMBERS OF THE ASSEMBLY TRANSPORTATION, PUBLIC WORKS AND INDEPENDENT AUTHORITIES COMMITTEE

FROM: ASSEMBLYMAN JOHN S. WISNIEWSKI, CHAIRMAN

SUBJECT: COMMITTEE MEETING - DECEMBER 9, 2013

The public may address comments and questions to Charles A. Buono, Patrick Brennan, Committee Aides, or make bill status and scheduling inquiries to Kimberly Johnson, Secretary, at (609)847-3840, fax (609)292-0561, or e-mail: OLSAideATR@njleg.org. Written and electronic comments, questions and testimony submitted to the committee by the public, as well as recordings and transcripts, if any, of oral testimony, are government records and will be available to the public upon request.

The Assembly Transportation, Public Works and Independent Authorities Committee will meet on Monday, December 9, 2013 at 10:00 AM in Committee Room 11, 4th Floor, State House Annex, Trenton, New Jersey.

The committee will take testimony from Patrick Foye, Executive Director of the Port Authority of New York and New Jersey and other individuals concerning the decision by the Port Authority of New York and New Jersey to reduce, without prior public notice, the number of access lanes to the George Washington Bridge in Fort Lee, New Jersey from September 9, 2013 through September 13, 2013.

Issued 12/4/13

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For changes in schedule due to snow or other emergencies, call 800-792-8630 (toll-free in NJ) or 609-292-4840.

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ASSEMBLYMAN JOHN S. WISNIEWSKI (Chair): Good morning. Welcome to the Assembly Transportation, Public Works and Independent Authorities Committee hearing on the Port Authority of New York and New Jersey.

Today the Committee will be taking testimony from four individuals. We are operating under the authority granted to this Committee under Assembly Resolutions 61 and 91. We will not be considering or acting on any legislation today.

For the purpose of our recording and broadcast on the Internet, I would ask those who have cell phones or other devices to switch them to at least silent so as to not interfere with anyone testifying or any of the members who may be asking questions.

Everything will be broadcast on the Internet, and so I would just admonish the members as well as those who are sitting very close to those front microphones that even if you're in the front row what you say could be picked up; so be guided accordingly.

We have some substitutions, as this is not a normal Committee day. The schedules of members have necessitated substitutions. We have a letter from Speaker Sheila Oliver designating Assemblyman Scott Rumana to substitute in for Assemblyman John Amodeo, and another letter from Speaker Oliver substituting in Assemblyman Schaer, Assemblyman Benson, and Assemblyman Johnson for members Chivukula, Giblin, and Riley.

With that, I would ask OLS to do a roll call.

MR. BUONO (Committee Aide): Assemblyman Wolfe.

ASSEMBLYMAN WOLFE: Present.

MR. BUONO: Assemblyman Rumpf. (no response)

Assemblyman Rumana. (no response)

Assemblyman Rudder. (no response)

Assemblyman Schaer.

ASSEMBLYMAN SCHAER: Yes.

MR. BUONO: Assemblyman Ramos.

ASSEMBLYMAN RAMOS: Here.

MR. BUONO: Assemblyman Mainor. (no response)

Assemblyman Johnson.

ASSEMBLYMAN JOHNSON: Here.

MR. BUONO: Assemblywoman Caride.

ASSEMBLYWOMAN CARIDE: Present.

MR. BUONO: Assemblyman Benson.

ASSEMBLYMAN BENSON: Present.

MR. BUONO: Vice Chair Stender.

ASSEMBLYWOMAN LINDA D. STENDER (Vice Chair):

Here.

MR. BUONO: Chairman Wisniewski.

ASSEMBLYMAN WISNIEWSKI: Present.

We have a quorum.

We are just going to pause for a moment or two to allow Assemblyman Rumpf, who I'm told is, I think, in the garage or close-- We'll just give him a minute or two to potentially get up the elevator.

Okay, I think we're going to get started.

The Committee calls Cedrick Fulton, Director of Tunnels, Bridges, and Terminals for the Port Authority of New York and New Jersey.

Mr. Fulton, you have a choice in seats. (laughter)

CEDRICK FULTON: Thank you, sir.

ASSEMBLYMAN WISNIEWSKI: Mr. Fulton, thank you for appearing here today.

First, the operation of the microphones: If you wish to speak, press the red button in front of you; a red light will illuminate on top of the microphone and that will indicate your microphone is live.

You're here today because you've received a subpoena. Are you accompanied by counsel?

MR. FULTON: No, sir, I am not.

ASSEMBLYMAN WISNIEWSKI: Okay. Mr. Fulton, these questions are required by the rules that we operate under. Do you understand that the statements that you make today, if they are willfully false, or if you fail to answer a pertinent question, or commit perjury, you may be subject to penalty?

MR. FULTON: Yes, sir, I understand.

ASSEMBLYMAN WISNIEWSKI: Okay. And did you receive a subpoena from this Committee compelling your testimony at this meeting and the production of certain items.

MR. FULTON: Yes, sir, I did.

ASSEMBLYMAN WISNIEWSKI: Thank you.

And did you receive a copy of the Code of Fair Procedure, together with that subpoena?

MR. FULTON: Yes, sir, I did.

ASSEMBLYMAN WISNIEWSKI: Do you understand that you have certain rights under the Code of Fair Procedure, including the right to be accompanied by counsel who shall be permitted to confer with

you during your questioning, advise you of your rights, and submit proposed questions on your behalf?

MR. FULTON: Yes, sir.

ASSEMBLYMAN WISNIEWSKI: Okay.

There is a hearing reporter who is conducting the electronic transcription of this hearing. She is seated right there at the front of the dais. But everything that happens here needs to be verbal. So it may be natural to respond to a question by a nod of the head, or saying something like "Uh-huh," or "Uh-uh," but that doesn't always read well after the hearing is over for someone to be able to understand the answer. So I would ask that your responses be verbal, and be as concise and precise as possible to the specific question that has been asked.

You are entitled to a copy of the transcript of your testimony, at your expense, when such copies are available. Do you understand these rights?

MR. FULTON: Yes, sir.

ASSEMBLYMAN WISNIEWSKI: And you also have the right to file a brief sworn statement relevant to your testimony, for the record, at the conclusion of this day of testimony. Do you understand that?

MR. FULTON: Yes, sir.

ASSEMBLYMAN WISNIEWSKI: Thank you.

Before I proceed with your oath, do you have any questions?

MR. FULTON: I do not.

ASSEMBLYMAN WISNIEWSKI: Thank you.

Mr. Fulton, then, would you please stand and raise your right hand.

(Mr. Fulton stands and raises right hand)

Mr. Fulton, do you swear or affirm that the testimony you are about to give is true, correct, and complete to the best of your information, knowledge, and belief?

MR. FULTON: I do.

ASSEMBLYMAN WISNIEWSKI: Thank you. You may be seated.

Mr. Fulton, could you state and spell your name for the record?

MR. FULTON: My name is Cedrick Fulton, C-E-D-R-I-C-K F-U-L-T-O-N.

ASSEMBLYMAN WISNIEWSKI: And where are you currently employed?

MR. FULTON: The Port Authority of New York and New Jersey.

ASSEMBLYMAN WISNIEWSKI: What position do you hold there?

MR. FULTON: I am the Director of the Tunnels, Bridges, and Terminals Department.

ASSEMBLYMAN WISNIEWSKI: And how long have you been Director?

MR. FULTON: Three years.

ASSEMBLYMAN WISNIEWSKI: And before that, what was your position at the Port Authority?

MR. FULTON: I was a Deputy Director of the Tunnels, Bridges, and Terminals Department.

ASSEMBLYMAN WISNIEWSKI: And for how long?

MR. FULTON: Approximately five years.

ASSEMBLYMAN WISNIEWSKI: Okay. And what are your responsibilities as Director?

MR. FULTON: I oversee all activities, operations, maintenance, and construction for tunnels, bridges, and terminals at the Port Authority.

ASSEMBLYMAN WISNIEWSKI: And those tunnels, bridges, and terminals include the George Washington Bridge?

MR. FULTON: Yes.

ASSEMBLYMAN WISNIEWSKI: I want to direct your attention to an e-mail that was -- I'll note for the record that Assemblyman Rumana has joined us -- I wanted to direct your attention to an e-mail that you received from Executive Director Patrick Foye dated September 13, 2013. Do you have it?

MR. FULTON: Yes, sir.

ASSEMBLYMAN WISNIEWSKI: Are you familiar with this e-mail?

MR. FULTON: I am.

ASSEMBLYMAN WISNIEWSKI: Okay. In this e-mail the Executive Director raises questions about lane closures at the George Washington Bridge. Is that correct?

MR. FULTON: That's correct.

ASSEMBLYMAN WISNIEWSKI: Okay. I want you to talk to me about your role as Director in terms of lane closures. What is the procedure that needs to go in front of you, as Director, in order to close lanes at the George Washington Bridge?

MR. FULTON: There are planned scenarios; and then there are tactical scenarios, for lack of a better phrase, as a result of an incident or an emergency. So I'll start with the planned scenarios.

ASSEMBLYMAN WISNIEWSKI: Okay. Explain what you mean by *planned scenarios*.

MR. FULTON: When my team comes to me and proposes activity -- the most typical example of that is construction -- and we would work-- I would work with my team, the facility operations people, planning people, the Capital Program, and project managers to formulate a strategy as to what we think we need to do to be able to balance both operations as well as advancing a project. And it's a balance. Construction is time and money, and we also want to make sure that I do not have -- or minimize the impact to the travelling public. So it's a balance.

So in context of that, we work together to understand what we need to do to advance the project, but also to minimize construction and traveler impact. Once we've captured that information in our strategy, then my responsibility is to communicate that strategy to the rest of the organization: the people who I work for, as well as our communications staff, Government and Community Relations. And so with that, we've established what we need to maintain in terms of throughput, what we need to close down -- as it relates to throughput -- and what the impacts would be with that closed throughput. And that is the typical way that I would be a part of the process about making decisions about what would be open and what wouldn't be open, in the normal course of events.

ASSEMBLYMAN WISNIEWSKI: Is there an established, written procedure at the Port Authority that would govern or dictate the

process by which lanes are closed or diverted at the George Washington Bridge?

MR. FULTON: The General Manager deals on a day-to-day basis with routine closures at the George Washington Bridge. There are routine closures that occur at the George Washington Bridge every day, depending on time of day.

ASSEMBLYMAN WISNIEWSKI: Not to interrupt you, but just explain when you say *routine*. Because you had used *planned* before, and then you had also mentioned *emergency*, essentially. And now you're calling, at least in my mind, a third category *routine*. Is that different than *planned*?

MR. FULTON: No. In my mind, it's not.

ASSEMBLYMAN WISNIEWSKI: Okay.

MR. FULTON: It's more typical, but generally doesn't reach up to my level. So when I was speaking earlier, you had asked me a question as it relates to how I get involved on a regular basis. But nightly closing, opening of lanes happens at the facility level. For example, at the Lincoln or Holland Tunnels on the overnight certain lanes are closed routinely so that we can do maintenance -- so the facility staff can do maintenance. Because the traffic levels reduce significantly during the overnight, that occurs on a routine basis. But again, I'm not a part of that decision on a daily basis.

ASSEMBLYMAN WISNIEWSKI: But even on those routine closures, they are not-- Those are planned.

MR. FULTON: Yes.

ASSEMBLYMAN WISNIEWSKI: And walk me through that planning process, where somebody says, "We ought to close a lane; we

ought to divert traffic from lanes.” Walk me through that planning process. And I would like you to start with the George Washington Bridge. If there are comparisons to make to the other crossings that would be useful. But if you’re dealing with the George Washington Bridge and somebody says, “We should either close lanes, or redirect traffic from Lane A to Lane B,” how does that process work? Where does it start?

MR. FULTON: I’ll start again with construction, because it’s the action that I’m most involved with.

ASSEMBLYMAN WISNIEWSKI: Okay. So when somebody-- Construction would probably be as a result of a contract with the Port Authority which was awarded to redo a road surface, paint the Bridge structure?

MR. FULTON: Correct.

ASSEMBLYMAN WISNIEWSKI: And so those are known occurrences that you see coming.

MR. FULTON: Yes, sir.

ASSEMBLYMAN WISNIEWSKI: What type of lead time do you have between the date the contract is awarded and the date you tell somebody, or somebody signs off on, a closure or a change of lanes?

MR. FULTON: It’s often years. It’s often years, as part of the capital planning process. And one of the things that we want to understand as part of that process, broadly, because you’re still in the planning phase and you really don’t know -- what do we think the impacts are going to be. Most recently, and currently, we’re doing major work on the upper level of the George Washington Bridge which translates into closures of lanes -- three lanes in each direction -- and it has been going on for months now.

And so when we began to undertake that project, that planning easily began three or four years ago.

ASSEMBLYMAN WISNIEWSKI: So as that process unfolds, you know that there is work to be done; that information gets transmitted to some professional within your -- you had called it *your team*--

MR. FULTON: Yes.

ASSEMBLYMAN WISNIEWSKI: --that has to analyze the request for lane closures.

MR. FULTON: Correct.

ASSEMBLYMAN WISNIEWSKI: And who is that person or people?

MR. FULTON: We have traffic engineers who work in the Engineering Department who we collaborate with. There are professional transportation planners in my Department who I work with. Either one of those two, depending on the need and circumstances, may have solicited professional services from a firm to contribute so that we have the best information possible as to what they think the impacts can be. And so there is a collaboration and a bit of forecasting to try to understand, then, what the volumes will be during a particular time of day; what season the construction will be undertaken. And then ultimately what happens is that a recommendation is made as to how we think the work can best be accomplished, balancing the efficiencies of the contract as well as minimizing the impact on the traveling public. And that recommendation would come to me.

ASSEMBLYMAN WISNIEWSKI: Mr. Fulton, you used the term *forecasting* in your description. Tell me how that forecasting is done.

What tools does the Port Authority at the George Washington Bridge have to do that forecasting to provide the input to your traffic engineers and professionals to make these determinations?

MR. FULTON: The information actually is captured by those professionals. That's what they do. We have systems that count vehicles. So vehicle counts are captured and maintained by the traffic professionals, both in Traffic Engineering as well as in my Department. And it's, in fact, they-- They use-- They create their forecasts based on their work. And then they provide that information to the facility -- to the operations people -- and solicit their input as to whether or not the forecast is accurate -- relatively accurate -- and useful for purposes of advancing the plan as proposed.

ASSEMBLYMAN WISNIEWSKI: And the forecast that's prepared through the technology you have that does vehicle counts -- that forecast describes what, or says what?

MR. FULTON: It's historic, and it's looking for similar time periods, similar seasons. In recent times we've had to adjust for the economy; and traffic in general is down significantly. So that's what the planners do: They try to capture-- And it's not a science -- well, it's partially science, partially art -- to try to come up with the best approximation of what we think the traffic patterns will look like during the day, during the overnight, over weekends, during holidays. And sort of paint the picture, particularly when you're doing a multi-year construction project. You need to try to take all that into account.

ASSEMBLYMAN WISNIEWSKI: So what the-- And I want to understand your answer. These traffic professionals in your organization, they receive traffic counts of vehicles going through toll barriers?

MR. FULTON: Correct. Our systems allow for us to get vehicle counts.

ASSEMBLYMAN WISNIEWSKI: And your system also allows you to get counts on E-ZPass transactions?

MR. FULTON: Yes.

ASSEMBLYMAN WISNIEWSKI: And so you use both forms of data?

MR. FULTON: Yes. We use everything that we can. We use other forms, too. We get SkyCop data, for example. We use helicopters, periodically -- fly over and look at traffic patterns. And it's a compilation of information to try to come up with the best profile of what traffic is going to be during a particular point in time.

ASSEMBLYMAN WISNIEWSKI: And the traffic report -- can I call it that; traffic report? -- that's prepared as a result of this--

MR. FULTON: Forecast.

ASSEMBLYMAN WISNIEWSKI: Does the traffic forecast deal with how many cars will be or how many motorists will be inconvenienced, or how much delay will be incurred by closing a particular part or all of the roadway?

MR. FULTON: Yes. The most important question I'm always asking is a delay question. What's the delay and how do you lay the delay up against the benefit of advancing the project?

ASSEMBLYMAN WISNIEWSKI: Now, do your engineers, in coming up -- your professionals; I don't know if they're all engineers, but your professionals that make this determination -- in order to get that information, do they physically go out and divert traffic?

MR. FULTON: Generally not. It's not required. We use our systems, we use our professionals to capture the information to make the forecasts.

ASSEMBLYMAN WISNIEWSKI: And can you supply me the names of who those individuals are who do that forecasting for the Port Authority? If you have them, now would be fine; if not, if you would submit it in a document.

MR. FULTON: I'd prefer to submit a document, if you don't mind.

ASSEMBLYMAN WISNIEWSKI: That's fine.

MR. FULTON: So I don't forget.

ASSEMBLYMAN WISNIEWSKI: That document, just for the record, will be submitted as under oath as part of your testimony and your right to submit documents subsequent to your testimony today.

Mr. Fulton, you've gone through the process for construction. Is there a similar process that you go through to do what has been described to this Committee as a *traffic study*?

MR. FULTON: Most of the traffic studies-- Let me step back. Most of the traffic studies that I have ever been associated with -- we were able to undertake them through the use of the technology -- the counters in the lane -- from counters that are installed in a roadway, and/or in times

past we've actually employed people to stand at locations and count -- literally count.

ASSEMBLYMAN WISNIEWSKI: Why would you need to have somebody stand at a location and count?

MR. FULTON: Where there are not equipped locations, like at street corners that may be either before or after a location. The best way to do it is just put people on a street corner and have them count how many people made a left, how many people made a right, how many people went through the stoplight.

ASSEMBLYMAN WISNIEWSKI: And those people, when we've done that in the past -- are those Port Authority employees?

MR. FULTON: We've done it in various ways -- either employees or contractors, often. It's cheaper. We just hire a firm and they can throw a bunch of people on street corners and count.

ASSEMBLYMAN WISNIEWSKI: Okay. So I wanted then to bring you back to the September 13, 2013, e-mail from Executive Director Patrick Foye that was directed to you and to Robert Durando. And you said you're familiar with that e-mail.

MR. FULTON: Yes, sir.

ASSEMBLYMAN WISNIEWSKI: Do you recall receiving the e-mail?

MR. FULTON: I do.

ASSEMBLYMAN WISNIEWSKI: It's time-stamped 7:44 in the morning. Did you receive it that morning?

MR. FULTON: I'm up early every morning, sir.

ASSEMBLYMAN WISNIEWSKI: Okay. (laughter) This was on Friday, September 13, and the e-mail, if I can characterize it for you -- and you certainly, if I'm wrong please tell me -- talks about lane closures on the George Washington Bridge that had started on Monday of that week. Correct?

MR. FULTON: Correct.

ASSEMBLYMAN WISNIEWSKI: On that Friday morning at 7:44 when you received this, were you aware of lane closures prior to that?

MR. FULTON: I was.

ASSEMBLYMAN WISNIEWSKI: And how did you become aware of those lane closures?

MR. FULTON: The lane closure and the decision to advance the lane closures began on September 6.

ASSEMBLYMAN WISNIEWSKI: That would be Friday?

MR. FULTON: That would be the Friday.

ASSEMBLYMAN WISNIEWSKI: That's the first time you were aware of it?

MR. FULTON: That was the first time that I was aware that a directive had been given that the lanes were to be closed.

ASSEMBLYMAN WISNIEWSKI: And you had just walked me through a process where lane closures are a deliberative process, correct?

MR. FULTON: Correct.

ASSEMBLYMAN WISNIEWSKI: You just testified that a directive had been given on Friday, September 6, which seems at variance from the description you just gave me of the lane closure process. Is that an accurate observation?

MR. FULTON: It's an accurate observation.

ASSEMBLYMAN WISNIEWSKI: Okay. And so when you found out on Friday, September 6, who informed you?

MR. FULTON: David Wildstein.

ASSEMBLYMAN WISNIEWSKI: Okay. And was it in an e-mail, was it in a phone call?

MR. FULTON: Telephone conversation.

ASSEMBLYMAN WISNIEWSKI: Okay. And he called you on Friday, September 6, to tell you what?

MR. FULTON: That he had given the facility General Manager the directive to commence the study on Monday, September 9.

ASSEMBLYMAN WISNIEWSKI: And based on the testimony you just gave me about the process, did you inquire to Mr. Wildstein about any process that had taken place prior to his making the phone call to you issuing the directive?

MR. FULTON: Yes.

ASSEMBLYMAN WISNIEWSKI: And what did you ask him?

MR. FULTON: First, I asked him whether or not he had communicated his intent to the Executive Director.

ASSEMBLYMAN WISNIEWSKI: And what was his response?

MR. FULTON: "Don't worry about that. We will take care of it."

ASSEMBLYMAN WISNIEWSKI: And when he said "we," did he explain who he meant?

MR. FULTON: He did not.

ASSEMBLYMAN WISNIEWSKI: Did you have an understanding of who he meant?

MR. FULTON: I assumed it would have been -- and I really don't like doing this -- he would have been working with Mr. Baroni.

ASSEMBLYMAN WISNIEWSKI: Okay. And so you asked about the process. And the response was, "Don't worry about it; we'll take care of that."

MR. FULTON: At least as it relates to communicating the information to Pat Foye.

ASSEMBLYMAN WISNIEWSKI: Okay. But the process, as you described it, involves your sign-off in the past, at least for construction-related lane closures and diversions, correct?

MR. FULTON: In the context of the way I described it, yes.

ASSEMBLYMAN WISNIEWSKI: Is there a different context?

MR. FULTON: In the context of a direct order given to the General Manager of the Bridge -- that was different.

ASSEMBLYMAN WISNIEWSKI: Is that unprecedented?

MR. FULTON: I've never participated in a process like that before.

ASSEMBLYMAN WISNIEWSKI: You've been there in either the Director or Deputy Director position for bridges and tunnels for about eight years.

MR. FULTON: Correct.

ASSEMBLYMAN WISNIEWSKI: And in those eight years you have not had a phone call about closing lanes -- absent the process that you had just testified to -- in the fashion that you just mentioned?

MR. FULTON: Correct.

ASSEMBLYMAN WISNIEWSKI: So you received a call from Mr. Wildstein issuing the directive to close-- Well, tell me what the directive was.

MR. FULTON: Actually, it was an information statement. He was calling to inform me that he had directed the General Manager to implement the closure beginning Monday morning.

ASSEMBLYMAN WISNIEWSKI: And did you inquire of Mr. Wildstein whether he had engaged any process to come to that determination?

MR. FULTON: I asked one, whether or not he had informed the Executive Director.

ASSEMBLYMAN WISNIEWSKI: And your testimony was that he said, "We will take care of that."

MR. FULTON: Correct.

ASSEMBLYMAN WISNIEWSKI: But beyond asking if the Executive Director was notified, did you inquire of Mr. Wildstein about the traffic analysis precedent to closing lanes?

MR. FULTON: No, we did not talk about precedent. What I talked about was the likely outcomes.

ASSEMBLYMAN WISNIEWSKI: And what did you say to Mr. Wildstein?

MR. FULTON: One, that it was important for the Executive Director to be advised; two, that because this would be such a visible event -- no one would miss it -- that our media relations should be advised; and that three, the town of Fort Lee would be greatly concerned with this test.

ASSEMBLYMAN WISNIEWSKI: What did he say about notifying the media?

MR. FULTON: That he would take care of that.

ASSEMBLYMAN WISNIEWSKI: What did he say about notifying either the Mayor or the Police Chief of Fort Lee?

MR. FULTON: Not to worry about that.

ASSEMBLYMAN WISNIEWSKI: Did he say he was going to notify them?

MR. FULTON: He did not say that to me.

ASSEMBLYMAN WISNIEWSKI: I am not schooled in the culture of the Port Authority, so you'll forgive this question. Did this seem wrong?

MR. FULTON: The question-- Yes, it did.

ASSEMBLYMAN WISNIEWSKI: What did you do in response to being told that something was going to happen that you thought was wrong?

MR. FULTON: I talked to him about my concerns. One, I said that typically we notify our hosts -- neighbors -- when we are doing something different. To which I was told that-- He asked me whether or not I could produce any information which would substantiate and support the continued need for the three lanes. To which I said, "No."

ASSEMBLYMAN WISNIEWSKI: Was this the first discussion that you had had with Mr. Wildstein about the three lanes?

MR. FULTON: No.

ASSEMBLYMAN WISNIEWSKI: Was there a prior discussion?

MR. FULTON: He had made references to it in the past -- just in passing, just to comment. "What about the three lanes? How long have the three lanes been in effect?" To which I would answer, "As long as I've been cognizant of Fort Lee and its relationship to the George Washington Bridge, those three lanes have been there."

ASSEMBLYMAN WISNIEWSKI: How long is that period of time that you were cognizant of the three lanes?

MR. FULTON: Practically as long as I've been in the Port Authority -- 20 years.

ASSEMBLYMAN WISNIEWSKI: Twenty years.

MR. FULTON: Yes.

ASSEMBLYMAN WISNIEWSKI: Okay. And so can you tell me, based on a calendar or a date, when the conversation closest to this Friday, September 6, notification occurred?

MR. FULTON: That morning.

ASSEMBLYMAN WISNIEWSKI: All right. So on Friday September 6, that morning, you had a conversation with Mr. Wildstein where he told you those lanes would be diverted.

MR. FULTON: Correct.

ASSEMBLYMAN WISNIEWSKI: You had said *in passing* he had mentioned it previously.

MR. FULTON: Correct.

ASSEMBLYMAN WISNIEWSKI: Can you tell me when that was? Can you specify a date or specify a month?

MR. FULTON: I really can't because I didn't focus on it, because it was just a comment, an observation that he had made to me. It may have been late 2010, 2011 -- just a comment and observation.

ASSEMBLYMAN WISNIEWSKI: Do other people make comments and observations to you about operations of the Port Authority?

MR. FULTON: All the time; everyone's a traffic-- (laughter) Daily.

ASSEMBLYMAN WISNIEWSKI: How many of those-- Well, let me ask you this question. What is your -- in terms of the hierarchy of the Port Authority, what is your relationship with Mr. Wildstein? Is he somebody you directly report to?

MR. FULTON: Yes. I report-- On our charts you'll see me reporting into a Chief Operating Officer, but I also work directly and take orders from both the Office of the Executive Director and the Deputy Executive Director -- which Mr. Wildstein is in.

ASSEMBLYMAN WISNIEWSKI: He's an employee of which office?

MR. FULTON: The Deputy Director -- Deputy Executive Director's Office.

ASSEMBLYMAN WISNIEWSKI: And so, in the chain of command at the Port Authority, you are answerable to both the Executive Director and the Deputy Executive Director.

MR. FULTON: Yes.

ASSEMBLYMAN WISNIEWSKI: And Mr. Wildstein is a part of the Deputy Executive Director's operation.

MR. FULTON: Correct.

ASSEMBLYMAN WISNIEWSKI: And if he calls you to notify you of something, is it your understanding that he's speaking for the Deputy Executive Director?

MR. FULTON: Yes.

ASSEMBLYMAN WISNIEWSKI: Does he have authority to do things outside the authorization of the Deputy Executive Director?

MR. FULTON: I can't really answer that question.

ASSEMBLYMAN WISNIEWSKI: So you got this phone call on Friday, September 6. You were told that notification of Executive Director Foye would be taken of; you were told to not worry about press notification, and to not worry about notification of Fort Lee.

MR. FULTON: Correct.

ASSEMBLYMAN WISNIEWSKI: Can I ask you why you did not pick up the phone, because you thought this was wrong, and call the Executive Director's Office and say, "You ought to know about this?"

MR. FULTON: I often work independently with both offices. And when I asked David the question, and he gave me his answer, there was no reason for me to believe that he had not or would not be sharing that information with the Executive Director.

ASSEMBLYMAN WISNIEWSKI: So let me pose you this hypothetical -- just from an operational standpoint -- since you work independently with both the Office of the Executive Director and Deputy Executive Director: You get a request from the Deputy Executive Director's Office to turn right, and you get a request from the Executive Director's Office to turn left. Then what do you do?

MR. FULTON: That's the life of an operator. (laughter) And in every situation I'm always balancing safety, always balancing customers' needs, and providing the best level of service that we can. And so when we are given a directive, the question becomes: Can it be carried out? Can it be carried out safely? Can it be carried out efficiently? Those become the parameters around which I use in the decision-making process.

In this case, what I knew based on my conversations with the General Manager -- who called me shortly after I had the conversation with David Wildstein -- was that all the key people who needed to be involved to carry out the operation were apprized and they were involved. And so in this case, certainly initially based on Mr. Wildstein's request, while it would not have been the way that I would have done it, it did not strike me at that time that we could not handle it -- that the operations staff, the maintenance staff, and the police staff could not handle that particular operating situation for that Monday morning.

ASSEMBLYMAN WISNIEWSKI: When you say "handle it," you're talking about physically moving the cones?

MR. FULTON: I'm talking about managing everything that goes along with the operation.

ASSEMBLYMAN WISNIEWSKI: You'll have to educate me on that. What does that mean?

MR. FULTON: So it's moving the cones; being prepared to make a change, if necessary, depending on the operating scenario.

ASSEMBLYMAN WISNIEWSKI: What kind of change "if necessary." Explain that.

MR. FULTON: Well, one of the things I had said to Bob, the General Manager of the facility, was to be prepared upon request to reverse the operation, if necessary.

ASSEMBLYMAN WISNIEWSKI: Why would you say that?

MR. FULTON: I'm an operator; I always plan for contingencies.

ASSEMBLYMAN WISNIEWSKI: Were you concerned that there would be a traffic backup?

MR. FULTON: Oh, I knew there would be congestion. There would be congestion, which is one of the issues that I conveyed to Mr. Wildstein.

ASSEMBLYMAN WISNIEWSKI: So you knew you could handle it operationally, which says to me -- and I want you to correct me if my understanding is not accurate -- that you knew that you had, within your control, a staff that could move the cones and move them back if necessary. What else, operationally, would be involved in carrying out the directive given to you by Mr. Wildstein?

MR. FULTON: If there was a breakdown, that we would have staff that would be able to respond to the breakdown.

ASSEMBLYMAN WISNIEWSKI: Were there breakdowns?

MR. FULTON: None that I'm aware of -- none that I'm aware of. And that we had police officers who would be able to work the streets and coordinate with staff in Fort Lee, if necessary.

ASSEMBLYMAN WISNIEWSKI: All right. So coordinate in Fort Lee with whom?

MR. FULTON: The other service providers in Fort Lee.

ASSEMBLYMAN WISNIEWSKI: Who would be service providers?

MR. FULTON: Police.

ASSEMBLYMAN WISNIEWSKI: Police, okay.

You're familiar with the letter that the Mayor of Fort Lee wrote to the Deputy Executive Director, are you not?

MR. FULTON: Only from the newspaper.

ASSEMBLYMAN WISNIEWSKI: Okay. Do you personally make the decision to have folks under your control work with the Fort Lee Police?

MR. FULTON: There's a long history of local working relationships between the police officers in our towns and the Port Authority Police. And so, me personally? No; it happens at the local level.

ASSEMBLYMAN WISNIEWSKI: When you say it happens at the local level, to me that says it happens at the Fort Lee level.

MR. FULTON: Fort Lee and the George Washington Bridge level.

ASSEMBLYMAN WISNIEWSKI: That there's communication between the George Washington Bridge operations and the municipality of Fort Lee?

MR. FULTON: Correct.

ASSEMBLYMAN WISNIEWSKI: So that's not something that you personally would do?

MR. FULTON: Correct.

ASSEMBLYMAN WISNIEWSKI: That's something that Mr. Durando, who reports to you, would do potentially?

MR. FULTON: Correct.

ASSEMBLYMAN WISNIEWSKI: So I'd be better off asking him about that direct communication?

MR. FULTON: Correct.

ASSEMBLYMAN WISNIEWSKI: But it was your assumption that if there was a problem that communication would occur.

MR. FULTON: That's what happens on a regular basis.

ASSEMBLYMAN WISNIEWSKI: Have you ever had occasion to interface with the Mayor of Fort Lee or the Police Chief of Fort Lee about Bridge operations?

MR. FULTON: Never with the Police Chief. There were a few meetings that I sit in with the Mayor. I believe we were talking about some development that was happening adjacent to the Bridge and how we could help protect the site, work around the site, not be such a blight around the site.

ASSEMBLYMAN WISNIEWSKI: And so even though you thought that this was an unusual occurrence -- given the direction that you were given to take for this particular lane diversion -- you didn't feel a need to call the Mayor and let him know?

MR. FULTON: The protocols are I would never call a town mayor directly.

ASSEMBLYMAN WISNIEWSKI: And the protocol is, is that if you were told that the Executive Director was being informed, that that's good enough?

MR. FULTON: There was no reason for me to believe that he wasn't.

ASSEMBLYMAN WISNIEWSKI: Even though this was an unusual occurrence, in your own description?

MR. FULTON: There is much that occurs -- I just have to surmise -- between those two offices that I -- I'm just not privy to.

ASSEMBLYMAN WISNIEWSKI: Were you concerned about the security of your employment if you went outside those chains?

MR. FULTON: I respect the chain of command.

ASSEMBLYMAN WISNIEWSKI: Did you have a concern about your continued employment if you went outside the chain of command?

MR. FULTON: I respect the chain of command.

ASSEMBLYMAN WISNIEWSKI: That's not an answer to my question. My direct question to you is, were you concerned about your continued employment if you diverted from the established chain of command and picked up the phone and called Mr. Foye, or called the Mayor, or called the Police Chief?

MR. FULTON: I was concerned that I would be accused -- or could be accused of not following the chain of command and allowing it to work the way it should work.

ASSEMBLYMAN WISNIEWSKI: Okay.

So you received a call from Mr. Wildstein on Friday, September 6, saying this was going to happen on Monday. Did you have any other conversations about this lane closure? You had mentioned the conversation with Mr. Durando, but other than that, on Friday, September 6, did you converse with anyone else on this issue?

MR. FULTON: Actually, I spoke with Mr. Wildstein twice that day.

ASSEMBLYMAN WISNIEWSKI: After that initial--

MR. FULTON: After the initial call, I called him back again. It was basically the same conversation again -- just to restate what I wanted him to understand about the importance of communicating to the Executive Director, recognizing that this would likely become a media event at some point so they needed to be involved.

ASSEMBLYMAN WISNIEWSKI: Why would it become a media event?

MR. FULTON: Well, it would be highly visible. My exact words were, "This will not end well."

ASSEMBLYMAN WISNIEWSKI: You said, "This will not end well?"

MR. FULTON: Correct, because of traffic.

ASSEMBLYMAN WISNIEWSKI: And this was a call you made to Mr. Wildstein?

MR. FULTON: Correct.

ASSEMBLYMAN WISNIEWSKI: Okay. And his response to this was?

MR. FULTON: That the three lanes had been in place for a long -- I forget the exact number of years -- but that no one, including myself, were able to produce any documentation as to why. And that it was appropriate for him to be able to have a test to understand what the benefits to the main line could be if the lanes were reduced from three to one.

ASSEMBLYMAN WISNIEWSKI: Did you at any point in that conversation suggest to him that you have a team of professionals who work for the Port Authority who could do that analysis?

MR. FULTON: I did not.

ASSEMBLYMAN WISNIEWSKI: Can I ask you why not?

MR. FULTON: It didn't occur to me at that time.

ASSEMBLYMAN WISNIEWSKI: Okay.

Did you at any time in that conversation say to him, to Mr. Wildstein, that "This is not how we do an analysis of whether or not there's an effect on traffic flow?"

MR. FULTON: A comment was that not communicating it to the folks that I mentioned prior could cause a problem.

ASSEMBLYMAN WISNIEWSKI: And then you had another conversation that same day?

MR. FULTON: Well, those were the two.

ASSEMBLYMAN WISNIEWSKI: And those were both initiated by you?

MR. FULTON: No. The first one, he called me; the second one, I followed up to his call later in the day.

ASSEMBLYMAN WISNIEWSKI: All right. Were there two or three calls?

MR. FULTON: Two.

ASSEMBLYMAN WISNIEWSKI: Just two, okay.

MR. FULTON: On Friday.

ASSEMBLYMAN WISNIEWSKI: So the first call, he called you to tell you; the second call, you called him to follow up and raise the concerns you just raised.

MR. FULTON: Right. To restate: The first call I received when I was driving; later in the day, after I had a chance to settle and think about it, I called back and we in essence had the same conversation again.

ASSEMBLYMAN WISNIEWSKI: Saturday and Sunday, September 7 and 8, did you have any-- On Friday, September 6, other than those two telephone conversations with Mr. Wildstein, did you have any other conversations about this?

MR. FULTON: With the facility General Manager.

ASSEMBLYMAN WISNIEWSKI: That's Mr. Durando?

MR. FULTON: Correct.

ASSEMBLYMAN WISNIEWSKI: And what was your conversation with Mr. Durando on Friday, September 6?

MR. FULTON: That we needed to do everything that we could to make this operation work -- given the directive that we had received. And to be prepared to revert the operation, if necessary.

ASSEMBLYMAN WISNIEWSKI: And in your conversation with him, did he at any time raise to you, "Mr. Fulton, what are we doing? Why are we doing this?"

MR. FULTON: We talked about the question that was presented to us -- which was, would the main line work better. And neither one of us had an answer to that question. We could only say that maybe if there were more lanes dedicated to the main line. But neither one of us could produce the information which would say it for a certainty either way

-- that not doing it wouldn't have a significant improvement on the main line. Mr. Wildstein's question was, and his directive was one to understand how much better throughput would get -- could get on the main line if we reduced the number of lanes out of Fort Lee.

ASSEMBLYMAN WISNIEWSKI: So there were three conversations you had on Friday, September 6: two with Mr. Wildstein, one with Mr. Durando. No other conversations.

MR. FULTON: As far as I can recollect, sir.

ASSEMBLYMAN WISNIEWSKI: Any e-mail communication on September 6 about this?

MR. FULTON: None that I can recollect, no.

ASSEMBLYMAN WISNIEWSKI: The next two days were weekend days.

MR. FULTON: Correct.

ASSEMBLYMAN WISNIEWSKI: September 7 and 8. Did you have any conversations on Saturday, September 7, about this?

MR. FULTON: None.

ASSEMBLYMAN WISNIEWSKI: Did you have any e-mail communication, text messages?

MR. FULTON: None.

ASSEMBLYMAN WISNIEWSKI: How about on Sunday, September 8?

MR. FULTON: None.

ASSEMBLYMAN WISNIEWSKI: This was put into effect Monday, September 9, correct?

MR. FULTON: Correct.

ASSEMBLYMAN WISNIEWSKI: At what time was it put into effect?

MR. FULTON: I'm not exactly sure; I'm going to say it was first thing in the morning -- 6:00 a.m. timeframe.

ASSEMBLYMAN WISNIEWSKI: At some point on Monday, did you become aware that there was a traffic issue as a result of the lane diversion?

MR. FULTON: I spoke with the General Manager that morning.

ASSEMBLYMAN WISNIEWSKI: Mr. Durando.

MR. FULTON: Mr. Durando.

ASSEMBLYMAN WISNIEWSKI: You called him or he called you?

MR. FULTON: Hard to recollect. We talked to each other at least a couple of times that day, just as a general-- I wanted him to just keep me generally apprized of what was happening.

ASSEMBLYMAN WISNIEWSKI: And so in that conversation with Mr. Durando, what did he tell you?

MR. FULTON: That there was congestion in Fort Lee.

ASSEMBLYMAN WISNIEWSKI: Did he give you a description of the congestion? Did he quantify it in any way?

MR. FULTON: "It's pretty backed up."

ASSEMBLYMAN WISNIEWSKI: Did he offer you any opinions as to what should be done?

MR. FULTON: Not that I recollect, other than our police officers were working in the town trying to help manage the congestion.

ASSEMBLYMAN WISNIEWSKI: And that's what he told you -- that the Port Authority Police Officers--

MR. FULTON: Correct.

ASSEMBLYMAN WISNIEWSKI: You said "working in the town." Does that mean working with the Fort Lee Police, or does that mean just on the street directing traffic?

MR. FULTON: I'm not sure. I mean, they do both. They've been known to do both.

ASSEMBLYMAN WISNIEWSKI: On Monday, September 9, did you have subsequent conversations with Mr. Durando about that level of traffic in Fort Lee?

MR. FULTON: Yes.

ASSEMBLYMAN WISNIEWSKI: Was that subsequent conversation-- Did he say, "Don't worry, Cedrick; it's gotten better?"

MR. FULTON: No, he did not say that.

ASSEMBLYMAN WISNIEWSKI: What did he say?

MR. FULTON: It was congested.

ASSEMBLYMAN WISNIEWSKI: Did he offer any recommendations to you at that time as to what needed to be done?

MR. FULTON: Not at that point.

ASSEMBLYMAN WISNIEWSKI: At any time on Monday, September 9, did you speak with anyone other than Mr. Durando about this lane diversion?

MR. FULTON: I spoke with Mr. Wildstein.

ASSEMBLYMAN WISNIEWSKI: A call initiated by you?

MR. FULTON: Yes.

ASSEMBLYMAN WISNIEWSKI: And why did you call Mr. Wildstein?

MR. FULTON: To discuss the congestion in Fort Lee.

ASSEMBLYMAN WISNIEWSKI: And what did you tell him?

MR. FULTON: That it wasn't being missed -- that Mr. Durando's office was receiving calls. And that we were concerned about the congestion in Fort Lee.

ASSEMBLYMAN WISNIEWSKI: Did Mr. Durando say who he was getting calls from?

MR. FULTON: No, just that there were a lot of calls coming in.

ASSEMBLYMAN WISNIEWSKI: His home number is not a public number. You can't look in the directory and find Mr. Durando, Manager of the George Washington Bridge. Is that correct?

MR. FULTON: I think you can.

ASSEMBLYMAN WISNIEWSKI: You can?

MR. FULTON: I think you can find the General Manager--

ASSEMBLYMAN WISNIEWSKI: Do you know if they were public calls or were they governmental calls?

MR. FULTON: I don't know.

ASSEMBLYMAN WISNIEWSKI: Okay, I'll have to ask him.

Did you talk to anybody else on Monday, September 9?

MR. FULTON: Well, my staff who were aware of what was happening in Fort Lee. You know, we were having, sort of, general comments about, "What's going on in Fort Lee? It's congested."

ASSEMBLYMAN WISNIEWSKI: Did your staff make any recommendations to you?

MR. FULTON: They did not.

ASSEMBLYMAN WISNIEWSKI: Did you receive a call from the Mayor of Fort Lee that day?

MR. FULTON: No.

ASSEMBLYMAN WISNIEWSKI: Did you receive any calls from the Chief of Police or anybody in law enforcement in Fort Lee that day?

MR. FULTON: No.

ASSEMBLYMAN WISNIEWSKI: So my understanding of your testimony is that you had a conversation with Mr. Wildstein on Monday, September 9; you spoke, as your custom is, several times a day with Mr. Durando; and then you spoke with your staff about this, and that they told you that traffic was pretty bad. Are there any other conversations or interactions about this lane diversion in Fort Lee on Monday, September 9?

MR. FULTON: None that I can recollect.

ASSEMBLYMAN WISNIEWSKI: In your conversation with Mr. Wildstein, did you say, "Hey, we ought to revert this back to normal?"

MR. FULTON: I told him that I was concerned. And he asked me why I was concerned, and I restated the reasons that I had given previously: that there was going to be, and that there is, traffic in Fort Lee. And the residents and the customers were going to be upset about the traffic in Fort Lee. And that it was imperative that all the necessary

communications through the media, as well as Pat Foye's office, needed to be nailed down and in place as it related to this.

ASSEMBLYMAN WISNIEWSKI: But you didn't suggest to him that maybe this isn't a good idea and you ought to put it back the way it was to begin with?

MR. FULTON: I don't know if I said those exact words, but that was my intent to convey. And the clear answer that I received from him is that it will be decided when the tests would be concluded.

ASSEMBLYMAN WISNIEWSKI: Did he tell you when the tests would be concluded?

MR. FULTON: He did not.

ASSEMBLYMAN WISNIEWSKI: At any time before that did he tell you what the duration of the tests would be?

MR. FULTON: He did not.

ASSEMBLYMAN WISNIEWSKI: At any time before that did you ever say to him, "I ought to at least know how long this is going to last"?

MR. FULTON: I did not.

ASSEMBLYMAN WISNIEWSKI: So let's go to Tuesday, September 10. Now, this is the second day the lane diversions have been in place. Were those lane diversions only during the morning hours, or were they 24/7?

MR. FULTON: I believe they were the better part of the day, but I'm not sure.

ASSEMBLYMAN WISNIEWSKI: Who would know?

MR. FULTON: The General Manager.

ASSEMBLYMAN WISNIEWSKI: Okay. So it may be that those lane diversions were only during a certain part of the day.

MR. FULTON: I can't answer that.

ASSEMBLYMAN WISNIEWSKI: That's okay.

Who did you talk to about the lane diversions on Tuesday, September 10?

MR. FULTON: Robert Durando, General Manager; and Dave Wildstein.

ASSEMBLYMAN WISNIEWSKI: Tell me about your conversation -- or conversations -- with Mr. Durando.

MR. FULTON: They were essentially status updates as to what was occurring, what was happening; how it was being managed and handled from an operating perspective, maintenance, policing. He advised me that police were very busy on the streets of Fort Lee -- the Port Authority Police were very busy on the streets of Fort Lee.

ASSEMBLYMAN WISNIEWSKI: Did you know what the Port Authority Police were doing on the streets of Fort Lee?

MR. FULTON: Not exactly; I just inferred that to mean they were managing intersections, traffic, being there and available in the event that emergency equipment needed to move through the town.

ASSEMBLYMAN WISNIEWSKI: And that was-- Did you have one, two, multiple conversations with Mr. Durando on Tuesday, September 10?

MR. FULTON: I believe it was one conversation. I forget, sir.

ASSEMBLYMAN WISNIEWSKI: Any e-mail communication on either of those days -- September 9 or 10?

MR. FULTON: Just that -- from September 9 to September 10, an e-mail I received from him that the tests would continue.

ASSEMBLYMAN WISNIEWSKI: And that was an e-mail from Mr. Durando?

MR. FULTON: Yes.

ASSEMBLYMAN WISNIEWSKI: Did you bring that with you?

MR. FULTON: I did not.

ASSEMBLYMAN WISNIEWSKI: One of the requests was to bring documents relating to this with you.

We would appreciate it if you could make that e-mail available to us.

And then later on, on September 10 or at some other point in the day on September 10, you had a conversation with Mr. Wildstein, correct?

MR. FULTON: Correct.

ASSEMBLYMAN WISNIEWSKI: Was it just one, or multiple?

MR. FULTON: One.

ASSEMBLYMAN WISNIEWSKI: And what was that conversation about?

MR. FULTON: A repeat of the prior discussions where I said that, "There's traffic in Fort Lee and it's causing a problem."

ASSEMBLYMAN WISNIEWSKI: And he said? This was a call you made to him?

MR. FULTON: Yes.

ASSEMBLYMAN WISNIEWSKI: And his response?

MR. FULTON: "We're doing a test and we need to be able to continue our test."

ASSEMBLYMAN WISNIEWSKI: And on that day did he tell you what the terminal date of the test would be?

MR. FULTON: He did not.

ASSEMBLYMAN WISNIEWSKI: Did he tell you that they had obtained any data from the prior day?

MR. FULTON: He did not.

ASSEMBLYMAN WISNIEWSKI: Okay. Did you communicate to Mr. Wildstein in any other way on Tuesday, September 10?

MR. FULTON: I did not.

ASSEMBLYMAN WISNIEWSKI: Okay. Did you have any other conversations about this lane diversion on the George Washington Bridge? You mentioned Mr. Durando and Mr. Wildstein; anyone else?

MR. FULTON: Again, with my staff -- general conversations about what was happening up and around the Bridge. We have construction work, so I thought it was appropriate for people to know who were involved in construction activity. Planners who are always looking at traffic and traffic movement were counting cars that go through the lanes and the like.

ASSEMBLYMAN WISNIEWSKI: You have traffic counters counting cars going through the lanes?

MR. FULTON: They always do that. I mean, as we're speaking now, there are people who track, in 15 minute increments, cars going through the toll plazas.

ASSEMBLYMAN WISNIEWSKI: That's just a normal operating procedure?

MR. FULTON: Yes, sir; it's all the time.

ASSEMBLYMAN WISNIEWSKI: That's separate and apart from whatever device registers a car passing through the toll plaza?

MR. FULTON: That's also captured by the system as well.

ASSEMBLYMAN WISNIEWSKI: So there are three ways you capture data: human intervention -- somebody physically counting in 15-minute intervals -- some form of data collection for vehicles passing through the barriers, and then E-ZPass transactions.

MR. FULTON: Well, just to be clear, the system allows for the automatic 15-minute increment counts, as well as distinguishing between an E-ZPass transactions and cash transaction. And what was not happening was that there were no human beings actually counting in this particular instance.

ASSEMBLYMAN WISNIEWSKI: So for this particular traffic study, as it has been termed, there were no human counters?

MR. FULTON: Not that I'm aware of.

ASSEMBLYMAN WISNIEWSKI: So let's go to Wednesday, September 11. This is now the third day that this traffic study, as it has been called, has been in place. Who did you talk with on Wednesday, September 11, about this situation?

MR. FULTON: I believe I received an e-mail from the General Manager telling me that the test would continue.

ASSEMBLYMAN WISNIEWSKI: And did he explain in that e-mail why the test would continue, or who told him the test would continue?

ASSEMBLYMAN WISNIEWSKI: Okay. We'd like you to make that e-mail available to the Committee.

Did you have a telephone conversation with Mr. Durando that day about this?

MR. FULTON: Probably, but I can't recollect, honestly.

ASSEMBLYMAN WISNIEWSKI: Did you have any conversations with Mr. Wildstein about this on Wednesday, September 11?

MR. FULTON: I did not.

ASSEMBLYMAN WISNIEWSKI: Did you talk with anyone else, by telephone or in person, about the lane diversion on the George Washington Bridge on September 11?

MR. FULTON: Not that I can recollect.

ASSEMBLYMAN WISNIEWSKI: All right. Did you talk with your staff?

MR. FULTON: I can't recall; I don't think so, at this point. It had become a normal operation at this point, this subsequent day.

ASSEMBLYMAN WISNIEWSKI: So now, moving to Thursday, September 12 -- I'm going to ask you the same questions again. Who did you speak with on Thursday, September 12, about this traffic study, as it's been called?

MR. FULTON: I don't know if I spoke to anyone on Thursday.

ASSEMBLYMAN WISNIEWSKI: So you did not speak with Mr. Durando on Thursday about this?

MR. FULTON: I probably did; I can't recollect, in all honesty. But I would say I probably did -- just to get a confirmation that the test was continuing. So either a phone conversation or an e-mail -- one way or another.

ASSEMBLYMAN WISNIEWSKI: How about Mr. Wildstein on Thursday, September 12?

MR. FULTON: Did not.

ASSEMBLYMAN WISNIEWSKI: How about your staff?

MR. FULTON: Again, only in general passing.

ASSEMBLYMAN WISNIEWSKI: This test on Thursday, September 12, had been in place for four days. At this point in time, did you get a call from the Executive Director saying, "What's going on?"

MR. FULTON: No.

ASSEMBLYMAN WISNIEWSKI: Did you get a call from the Mayor saying--

MR. FULTON: No.

ASSEMBLYMAN WISNIEWSKI: How about the Police Chief?

MR. FULTON: No.

ASSEMBLYMAN WISNIEWSKI: Did you get any calls complaining about it?

MR. FULTON: None to me.

ASSEMBLYMAN WISNIEWSKI: Okay. And then Friday, September 13, as I understand it, if I'm correct -- let me know if I'm incorrect -- Friday, September 13, was the final day of the test?

MR. FULTON: We received the e-mail early in the morning. So I'm not sure whether or not the tests had actually been implemented that morning.

ASSEMBLYMAN WISNIEWSKI: *Implemented* meaning the cones being moved to divert the lanes?

MR. FULTON: Right. But based on the reading of it, I'm going to suggest that maybe they had. Mr. Foye asked us to move the cones to provide for three lanes. So I believe -- I can't say for a certainty -- that the early morning operation was put in place prior to when this e-mail was written, which would mean that the cones would have had to been moved to revert back to three lanes.

ASSEMBLYMAN WISNIEWSKI: So on Friday morning this e-mail to both you and Mr. Durando-- Was this the first time that Fort Lee was not notified -- was this the first time you learned that Fort Lee was not notified about the lane closure?

MR. FULTON: Well, I know that Bob Durando had not notified Fort Lee about the lane closure. Whether or not anyone else had notified them or not, I don't know.

ASSEMBLYMAN WISNIEWSKI: But you read this e-mail.

MR. FULTON: I did.

ASSEMBLYMAN WISNIEWSKI: And in it the Executive Director, in an e-mail written to you and Mr. Durando, says that -- let me find the spot -- third line down, "reduced to one lane on Monday of this

week without notifying Fort Lee.” Was that the first time you learned that Fort Lee was not notified?

MR. FULTON: Correct.

ASSEMBLYMAN WISNIEWSKI: Further on in this e-mail it says that, “The ED did not sign off on it.” It says, “This should only be done after careful deliberation and upon sign-off by the ED.” Was this the first time you learned that the ED had not signed off on this?

MR. FULTON: This was the first time I knew that the ED had not been told.

ASSEMBLYMAN WISNIEWSKI: The ED, his e-mail says to you that, he’s “appalled by the lack of process and failure to inform our customers.” When he talks about the lack of process, what does that mean to you?

MR. FULTON: Well, it tells me, first and foremost, he didn’t know; and that he’s describing what I attempted to describe in the first instance -- the normal way we would go about the business of closing lanes.

ASSEMBLYMAN WISNIEWSKI: And he concludes that first paragraph saying, “I am reversing this decision now, effective as soon as TBT and PAPD-- I guess PAPD is Port Authority Police Department; the first one -- TBT?

MR. FULTON: Correct.

ASSEMBLYMAN WISNIEWSKI: Is what?

MR. FULTON: Tunnels, Bridges, and Terminals Department.

ASSEMBLYMAN WISNIEWSKI: “--tell me it is safe to do so.” Were you involved in that decision to tell somebody that it was safe to do so?

MR. FULTON: Yes. We immediately reversed it; and in prior testimony I'd said one of the things I talked to the General Manager about at the very beginning was how we would reverse it when directed to.

ASSEMBLYMAN WISNIEWSKI: And this was your direction to reverse it?

MR. FULTON: Correct.

ASSEMBLYMAN WISNIEWSKI: How did you make the determination that it was safe to do so? Did you ask somebody?

MR. FULTON: The General Manager works with their staff regularly -- operations, maintenance, and police -- to make the on-the-ground determination to be able to effect changes.

ASSEMBLYMAN WISNIEWSKI: There are four numbered paragraphs halfway through the e-mail. The last one says -- expresses the Executive Director's belief that, "This hasty and ill-advised decision violates Federal law and the laws of both states." Can you speak to what Federal laws or laws of either state were violated?

MR. FULTON: I can't.

ASSEMBLYMAN WISNIEWSKI: I'm sorry?

MR. FULTON: I can't.

ASSEMBLYMAN WISNIEWSKI: You can't.

MR. FULTON: I cannot.

ASSEMBLYMAN WISNIEWSKI: He concludes by talking about being open to changes in facilities if there's a case to be made, and it requires four items: written sign-off by Tunnels and Bridges, a traffic engineer, and Port Authority Police Department. He says that "sign-off was not sought or obtained here." Was that the first time you learned that?

MR. FULTON: Yes.

ASSEMBLYMAN WISNIEWSKI: Is that a normal process to receive that sign-off?

MR. FULTON: This did not happen in a typical fashion.

ASSEMBLYMAN WISNIEWSKI: But if it were to happen in a typical fashion?

MR. FULTON: We would have worked with my Department, Traffic Engineering, Public Safety, and others to come up with a plan that we would have then sought and communicated to the Executive Director and Deputy Executive Director's Office.

ASSEMBLYMAN WISNIEWSKI: Did this lane closure diversion have an impact on Port Authority operations?

MR. FULTON: It created tremendous congestion in Fort Lee, for which I am sorry. I did not want to have an impact on people's lives and the town itself. So I guess the answer is yes -- we consider Fort Lee to be a partner.

ASSEMBLYMAN WISNIEWSKI: Did it have a financial impact on the Port Authority?

MR. FULTON: None that I'm aware of. All traffic ends up through the lanes, eventually. (laughter)

ASSEMBLYMAN WISNIEWSKI: A key element being the word *eventually*.

At any time in the first two weeks of September 2013, did you have a conversation with Mr. Baroni about the George Washington Bridge lanes?

MR. FULTON: I did not.

ASSEMBLYMAN WISNIEWSKI: You did not call him?

MR. FULTON: I did not.

ASSEMBLYMAN WISNIEWSKI: And you did not call him because it was outside the chain of command?

MR. FULTON: The typical-- That's correct. Typically I would deal with David Wildstein.

ASSEMBLYMAN WISNIEWSKI: Have you ever dealt directly with Mr. Baroni?

MR. FULTON: Yes.

ASSEMBLYMAN WISNIEWSKI: On what issues?

MR. FULTON: We worked together when we were planning work on the Lincoln Tunnel Helix, which we call the Helix 6 -- Helix being that loop that goes around before it goes into the tunnels. We did quite a bit of work there; I worked with him. I've worked with him as we've advanced projects for the Goethals Bridge, the Bayonne Bridge, Outerbridge Crossing.

ASSEMBLYMAN WISNIEWSKI: Did any of those conversations involve lane closures?

MR. FULTON: Yes.

ASSEMBLYMAN WISNIEWSKI: Initiated by you or by him?

MR. FULTON: by me.

ASSEMBLYMAN WISNIEWSKI: And you called him about lane closures, why?

MR. FULTON: Well, what we do is the process that I described. My team and I work with Traffic Engineering and all of the

other departments in the Port Authority. We put together a proposed approach, and then once we have the approach, then we communicate up.

ASSEMBLYMAN WISNIEWSKI: So I'd like you to explain for me why in those cases you were dealing directly with Mr. Baroni, but in this case you were not.

MR. FULTON: The request-- Most of my planning work begins with my team, through me, communicating out and up. In this particular case -- unique case -- the request came down to the General Manager of the George Washington Bridge. So it was different.

ASSEMBLYMAN WISNIEWSKI: And Mr. Baroni did not call you either before, during, or after this lane closure?

MR. FULTON: No.

ASSEMBLYMAN WISNIEWSKI: He did not e-mail you?

MR. FULTON: No.

ASSEMBLYMAN WISNIEWSKI: Text you?

MR. FULTON: No.

ASSEMBLYMAN WISNIEWSKI: Okay.

Any questions?

Vice Chair Stender will have some questions now for you.
You're still under oath.

ASSEMBLYWOMAN STENDER: Thank you, Mr. Chairman.
And good morning--

MR. FULTON: Good morning.

ASSEMBLYWOMAN STENDER: --Mr. Fulton, and welcome.
Thank you for being here.

When the Chairman first began to question you, he asked if there were written procedures or protocols to guide the closing. And I don't think you ever really spoke to whether there were written procedures or protocols in place at the Port Authority that would guide these kinds of closings.

MR. FULTON: What I was attempting to say is that we -- at every facility that I'm responsible for there are opening and closings that happen every single day and they are very routine in nature. I use the Holland Tunnel as an example, Lincoln Tunnel as an example. And those kinds of procedures exist at the facility level.

ASSEMBLYWOMAN STENDER: So then I guess the answer to this question is, is that there are no written procedures in place that would govern this kind of a closing operation.

MR. FULTON: For what we're talking about today, there are no procedures.

ASSEMBLYWOMAN STENDER: Okay, no written -- All right.

MR. FULTON: Not that I'm aware of.

ASSEMBLYWOMAN STENDER: We had been told a couple of weeks ago by Mr. Baroni that this closing was done because this traffic study needed to be done because it was a matter of fairness, and that they wanted to really understand better where the traffic was coming from and why these lanes should be dedicated. And you have spoken to the fact that the technology is in place, that routinely you're gathering this kind of data. In your experience, would lane closings have been needed to do the kind of traffic study that we were referenced?

MR. FULTON: I'm hesitant because my engineers will always tell me that there's lots of ways to achieve an end.

ASSEMBLYWOMAN STENDER: Okay.

MR. FULTON: And so this is one -- this is one way.

ASSEMBLYWOMAN STENDER: Okay. But other traffic studies-- And you said that there have not been that many traffic -- just purely traffic studies done because you're always gathering the data. I mean, it was my understanding that you said that based on the technology in place that you are constantly keeping track of who's going through your lanes; that you know where traffic is coming from.

MR. FULTON: There is data gathering, then there is the analysis of the data that you gather. And so the analytical work follows the numbers. And so someone has to cull them, sort them, put them into buckets, and then make some assumptions and/or judgment based on the way they array the numbers. So the systems do collect information, but then someone actually has to take that information and try to turn it into something useful.

ASSEMBLYWOMAN STENDER: So it would have seemed logical that before disruption occurred that this would have been all part of the planning process -- that data would have been, at least, looked at in advance before lane closings were chosen as an option.

MR. FULTON: Yes.

ASSEMBLYWOMAN STENDER: You talked about the fact that in your chain of command that you report both to the Executive Director from New York and the Deputy Director from New Jersey. And I guess my question is about internally in the Port Authority: Is there an

approach that would govern the fact that if this was on the New York side, that New York would have been driving the decision making; but because this was a New Jersey impact, that that's why it would have gone on and been handled through the Deputy Director?

MR. FULTON: I would say that's true.

ASSEMBLYWOMAN STENDER: Okay. And then finally, when you spoke to David Wildstein about -- and you communicated with him your concerns about talking to the ED, the media, and Fort Lee, and he had said, "not to worry," did he at any time indicate whether -- make any reference to the Mayor of Fort Lee as part of his reference to "not to worry" about Fort Lee?

MR. FULTON: Not to me.

ASSEMBLYWOMAN STENDER: Okay. Thank you, thank you for-- That's my questions.

ASSEMBLYMAN WISNIEWSKI: Assemblyman Benson.

ASSEMBLYMAN BENSON: I just have a brief question.

In Executive Director's Foye's e-mail from Friday, September 13, he refers to "last night's media pendings." Are you copied on those media pendings each day as well?

MR. FULTON: I get them eventually, yes.

ASSEMBLYMAN BENSON: Okay. Did you receive any media pendings regarding the closures prior to this e-mail from Executive Director Foye?

MR. FULTON: No, which was-- No.

ASSEMBLYMAN BENSON: Is that unusual?

MR. FULTON: I thought there was going to be a helicopter.

ASSEMBLYMAN BENSON: What do you mean by that?

MR. FULTON: There was congestion in Fort Lee, so I was surprised that I didn't hear about it until a couple of days into it.

ASSEMBLYMAN BENSON: And did you subsequently receive those media pendings after this e-mail?

MR. FULTON: Yes.

ASSEMBLYMAN BENSON: Did you inquire why it took so long to receive those media pendings?

MR. FULTON: I didn't.

ASSEMBLYMAN BENSON: Okay. And what was the nature of those media pendings that you finally did receive? Were they backdated to that week?

MR. FULTON: They were the-- The media pendings are the-- It's the press coverage. And so it was a compilation of, on that particular day, the articles that had been written.

ASSEMBLYMAN BENSON: Who provides that to you normally?

MR. FULTON: They are produced by our Public Affairs Department, and they come out via an e-mail blast to executives and officials in the agency.

ASSEMBLYMAN BENSON: How often do you normally receive those?

MR. FULTON: When they come out, generally.

ASSEMBLYMAN BENSON: So on a daily basis?

MR. FULTON: Yes, when they come out.

ASSEMBLYMAN BENSON: And for a week, you were not receiving any daily briefing -- clippings -- regarding this?

MR. FULTON: The clippings-- I can't say for certainty which clippings that the Executive Director is referring to here. But through the week, on a daily basis, the articles in the local newspapers that relate to the Port Authority are sent down. And there were no articles until late in the week. So all I can think of is that the media pendings that the Executive Director is referring to are the ones that I would have already seen, or I hadn't gotten a chance to read my e-mail. There wasn't a significant amount of time from when he wrote this memo and when I began to see the newspaper articles in the normal daily clips.

ASSEMBLYMAN BENSON: Okay.

ASSEMBLYMAN WISNIEWSKI: Assemblyman Schaer.

ASSEMBLYMAN SCHAER: Thank you, Mr. Chairman.
And thank you, Mr. Fulton, for being here.

During questions that the Chairman asked you, you spoke about *planned* versus *emergent*. I assume that means planned in terms of things that could take some time in developing, versus things of an emergent nature. Is that basically on target?

MR. FULTON: Correct, generally.

ASSEMBLYMAN SCHAER: Okay. Within those plans that are done, is special consideration given to the flow of emergency vehicles -- specifically ambulances?

MR. FULTON: When we do our plans, we are always cognizant of congestion. And we attempt to forecast and predict what could happen so that emergency vehicles can move.

ASSEMBLYMAN SCHAER: So the flow of emergency vehicles is, in fact, of significant concern to you in the process?

MR. FULTON: Emergency response is very important.

ASSEMBLYMAN SCHAER: Do emergency vehicles -- specifically ambulances -- regularly traverse the Bridge -- the George Washington Bridge?

MR. FULTON: Yes.

ASSEMBLYMAN SCHAER: In fact, in the Executive Director's memorandum he states, if I may quote, "This hasty and ill-advised decision has resulted in delays to emergency vehicles." Would you have any understanding at all how many emergency vehicles traverse the Bridge on a daily basis?

MR. FULTON: I don't have that information.

ASSEMBLYMAN SCHAER: Would you say that it was more than 5 or 10?

MR. FULTON: I don't have that information.

ASSEMBLYMAN SCHAER: Would it be your assumption that with the lane closures that, in fact, the flow of ambulances and other emergency vehicles would be adversely affected?

MR. FULTON: All congestion impacts flow, yes.

ASSEMBLYMAN SCHAER: And that congestion would impact emergency vehicles?

MR. FULTON: Correct.

ASSEMBLYMAN SCHAER: Including emergency vehicles which were in the midst of transporting victims potentially in critical condition, requiring immediate medical assistance?

MR. FULTON: If they were caught in the congestion, they could.

ASSEMBLYMAN SCHAER: Was this issue, when you were instructed by Mr. Wildstein -- or informed, excuse me -- by Mr. Wildstein of the lane closures -- was this specific issue raised with him?

MR. FULTON: I suggested to him that this issue would be raised.

ASSEMBLYMAN SCHAER: And his response -- do you remember, Mr. Fulton?

MR. FULTON: There was no response.

ASSEMBLYMAN SCHAER: Specifically to the question of whether or not emergency vehicles -- specifically ambulances -- ambulances traversing with patients in critical care, potentially life or death -- he had no response?

MR. FULTON: I did not articulate the question that way, sir. I suggested that the issue of emergency response vehicles would be raised, for which he had no response.

ASSEMBLYMAN SCHAER: Okay. And one last question, if I may. I thank you, Chairman, again. Since the lane closures themselves, have you had a conversation with Mr. Wildstein of subsequent concern in the lane closures -- at his initiation, or yours?

MR. FULTON: Could you restate the question?

ASSEMBLYMAN SCHAER: Since the lane closures themselves, have you had a discussion with Mr. Wildstein -- at your initiation or his -- on the issue?

MR. FULTON: Not that I can recollect.

ASSEMBLYMAN SCHAER: Very good. Thank you, Mr.;
Chairman.

ASSEMBLYMAN WISNIEWSKI: Thank you.

Assemblyman Ramos.

ASSEMBLYMAN RAMOS: Thank you Chairman; thank you,
Mr. Fulton for being here, as well, with us.

Now, you've mentioned the Public Relations (*sic*) Department a couple of times in your conversations with various individuals, specifically, Mr. Wildstein. How does the Public Relations Department work? Specifically, how does it work as far as alerting the commuters that an event was going to place, as far as the lane closures goes?

MR. FULTON: The work that I do, we attempt to summarize it in a way that can be communicated simply, clearly out, working through our Media public affairs staff. And they then would decide how to best communicate it in the newspapers. And they would also decide how best to communicate it via radio, if deemed necessary. And we would work with them to use an e-alert system -- Internet, e-mail alert system -- to communicate information related to facility openings, closings, special events, etc. So in general it's for us as the originator to package it, convey it, and then as the communication experts they would decide how best to disseminate it.

ASSEMBLYMAN RAMOS: So from your initial conversation on Friday to that Monday morning, did any of those take place as far as informing the public of what was going to be happening Monday morning?

MR. FULTON: I did not, as I was told by David Wildstein that he would handle that.

ASSEMBLYMAN RAMOS: Because I know-- I live between both the Lincoln and the Holland Tunnel. And when there's an event occurring on-- If it's a Wednesday night, and there's an event occurring the following Monday, there's electronic bulletin boards saying that there will be lane closures, or plan for alternate routes. None of that took place prior to this?

MR. FULTON: Correct.

ASSEMBLYMAN RAMOS: So now my question is basically going to what Mr. Baroni had testified here-- Or not testified here, but he was a witness here earlier in the month -- a couple of weeks ago-- You mentioned -- I appreciate the terminology you are using for us; I may be simplifying a little bit as far as the uses of the Port Authority and the George Washington Bridge entrances. You mentioned the main line a couple of times this morning that -- Mr. Baroni didn't use that terminology at all. He just mentioned that "we're closing the Fort Lee lanes down," and that was it. Now, were those three toll lanes open to the main line when the Fort Lee entrances were closed off? Because I know he had a wonderful bulletin board here, and he was drawing pictures on it -- all types of things were going on. So were those three tolls dedicated for the Fort Lee residents -- was that open to the main line, those three toll booth lanes?

MR. FULTON: I believe they were -- the two.

ASSEMBLYMAN RAMOS: The two were?

MR. FULTON: Yes.

ASSEMBLYMAN RAMOS: Two were, okay. Because he didn't clarify that much at all that day. But he kept on insisting upon that those were for Fort Lee residents only. And when he was challenged on that

he made -- pretty much that was for Fort Lee only. But we both know that other residents in the area use those lanes. Is that correct, or am I incorrect on that? Because I use it, and I don't live in the area. (laughter)

So the other people use the lanes on a regular basis?

MR. FULTON: Based on-- I don't know for a certainty. But I understand historically that people who don't live in Fort Lee make their way through Fort Lee to use those lanes.

ASSEMBLYMAN RAMOS: Because I'm driving-- If I'm going to the George Washington Bridge from Hoboken I take the River Road; and there's a big sign as I'm going towards the Bridge that says, "make this left"- - entrance there, and that's the entrance I would normally take. So I would say it's not just for Fort Lee residents, which Mr. Baroni was trying to express to us that day. So I appreciate your testimony.

Thank you, Mr. Chairman. Thank you, Mr. Fulton.

ASSEMBLYMAN WISNIEWSKI: Thank you.

Assemblyman Johnson.

ASSEMBLYMAN JOHNSON: Thank you, Chairman; and Mr. Fulton, thank you for coming here today.

I have questions about the command and control. You were directed by Mr. Wildstein to close this entrance.

MR. FULTON: The Bridge Manager was directed; I was advised that the Bridge Manager had been directed.

ASSEMBLYMAN JOHNSON: And who's the Bridge Manager?

MR. FULTON: Robert Durando.

ASSEMBLYMAN JOHNSON: Okay. So the Bridge Manager was-- But does he work for you or you work for him -- you report to him? Which is that?

MR. FULTON: Robert Durando, on paper, works for me.

ASSEMBLYMAN JOHNSON: So he skipped you and went to him, and then he reported back -- and then it went back up the chain.

MR. FULTON: He advised me and he directed Robert.

ASSEMBLYMAN JOHNSON: Okay.

Back to my colleague's question about the main line: You referred to the main line. How many lanes are there to the George Washington Bridge going eastbound?

MR. FULTON: I don't know. Robert Durando would be probably better able to answer that question.

ASSEMBLYMAN JOHNSON: I believe that number is 29. So we close three lanes for an access point on the-- That happens to be in Fort Lee -- where all the entrances are, by the way -- in Fort Lee, because that's where the Bridge is. As Mr. Ramos asked before, we were led to believe, or this Committee was led to believe, that there is a specific or special entrance for Fort Lee residents. Were you aware of this?

MR. FULTON: I was aware that there was a cone line, which allows cars that are coming out of Fort Lee to have access to three lanes on the right-hand side of the upper level plaza.

ASSEMBLYMAN JOHNSON: But all the access points are in Fort Lee. What do you call a -- what do you consider the main line? I mean, maybe that's my problem here. What's the main line?

MR. FULTON: I-95, local 1 express, and any feeders from 46 and the like. That's what I'm calling the main line.

ASSEMBLYMAN JOHNSON: So the Palisades Interstate Parkway is not part of the main line?

MR. FULTON: Well, they have their own dedicated plaza.

ASSEMBLYMAN JOHNSON: Yes. That's not part of the main line, then, in your mind?

MR. FULTON: In this case, I'm not.

ASSEMBLYMAN JOHNSON: You're not referring to that then?

MR. FULTON: I'm not referring to that.

ASSEMBLYMAN JOHNSON: So you have the entrances from Interstate 95, State Highway 4, State Highway 46, and you consider those the main line. And then the other access points such as the entrance in Fort Lee there -- that little side street in Fort Lee, I don't know the name of that street -- and the PIP -- the Palisades Interstate Parkway -- those are separate from the main line, in your mind?

MR. FULTON: For purposes of this description, yes.

ASSEMBLYMAN JOHNSON: Okay.

Who moved the cones?

MR. FULTON: I don't know. Typically, police officers move cones. I don't know.

ASSEMBLYMAN JOHNSON: So you believe that the Police Department actually -- police personnel -- moved the cones.

MR. FULTON: I believe so.

ASSEMBLYMAN JOHNSON: Who was the ranking police officer at the Bridge when this order came down?

MR. FULTON: I believe it was Captain Licorish.

ASSEMBLYMAN WISNIEWSKI: Could you spell that?

MR. FULTON: Licorish.

ASSEMBLYMAN JOHNSON: I think the Chair wants a spelling of the name.

MR. FULTON: I can't spell it.

ASSEMBLYMAN JOHNSON: Oh, you can't spell it? Okay.

Is Captain Licorish still there? Is he still stationed there?

MR. FULTON: I don't think so.

ASSEMBLYMAN JOHNSON: Okay.

So you think he was transferred?

MR. FULTON: I believe so, yes.

ASSEMBLYMAN JOHNSON: Do you know when the transfer took place, when he was moved?

MR. FULTON: We-- No. We recently had a whole series of new commanding officers come on board at the Port Authority. And there were reassignments at that time.

ASSEMBLYMAN JOHNSON: And can you tell me how many police officers -- Port Authority Police Officers were working that morning shift on that Monday?

MR. FULTON: I can't.

ASSEMBLYMAN JOHNSON: Okay. Do you think Mr. Durando may have that information when he comes up?

MR. FULTON: I don't know.

ASSEMBLYMAN JOHNSON: Okay.

Does the Mayor have your phone number -- the Mayor of Fort Lee? Has he ever called you?

MR. FULTON: He's never called me.

ASSEMBLYMAN JOHNSON: He's never called you?

MR. FULTON: He's never called me.

ASSEMBLYMAN JOHNSON: Okay. Have you spoken to him at all in previous incidents or issues?

MR. FULTON: In general we-- Not really incidents. We were in the room together; again, I believe we were discussing the development activity that was going to commence near the Bridge.

ASSEMBLYMAN JOHNSON: Okay. So you and the Mayor of Fort Lee are not in direct communication, or do not in the normal course of business talk to each other?

MR. FULTON: That's correct.

ASSEMBLYMAN JOHNSON: Okay. So when the Mayor-- How does the Mayor find out about the different lane closures or construction that may be scheduled, which would so impact traffic? How does a mayor and local town find this out -- such as Englewood Cliffs, Fort Lee, and I guess even Leonia would be involved in that.

MR. FULTON: The routine, typical, normal communication occurs locally from the facility -- as I understand it--

ASSEMBLYMAN JOHNSON: Okay.

MR. FULTON: --often to the town business administrator.

ASSEMBLYMAN JOHNSON: Right.

MR. FULTON: That's how it would occur.

ASSEMBLYMAN JOHNSON: Okay.

MR. FULTON: As I understand it. I'm typically not a part of that.

ASSEMBLYMAN JOHNSON: Okay. And you were -- this is my last question, Chair -- when you were directed, or you were advised, I guess, that the Bridge was going to be closed, you were told that was for a study?

MR. FULTON: An understanding of what would happen if Fort Lee didn't have those three lanes.

ASSEMBLYMAN JOHNSON: And that was for a study?

MR. FULTON: I'm not sure he used the word *study* with me; but it was clearly a desire to understand what would happen if Fort Lee did not have those three lanes.

ASSEMBLYMAN JOHNSON: And we know what happened.

MR. FULTON: Congestion. (laughter)

ASSEMBLYMAN JOHNSON: Okay. Chair, I have no further questions.

Thank you, Mr. Fulton.

ASSEMBLYMAN WISNIEWSKI: Thank you.

Assemblywoman Caride.

ASSEMBLYWOMAN CARIDE: Yes.

Good morning, Mr. Fulton; thank you for being here.

MR. FULTON: Good morning.

ASSEMBLYWOMAN CARIDE: Just to clear up some answers that you had given, or my confusion. You had stated that you have

counters every day, every 15 minutes, or on a continuous basis there are counters of the cars that go through the Bridge, correct?

MR. FULTON: A system -- correct.

ASSEMBLYWOMAN CARIDE: A system.

MR. FULTON: Yes.

ASSEMBLYWOMAN CARIDE: And those counters are also located in those three lanes that are dedicated to Fort Lee?

MR. FULTON: Yes.

ASSEMBLYWOMAN CARIDE: And so those counters, you said, also take information with regards to E-ZPass, correct?

MR. FULTON: Correct.

ASSEMBLYWOMAN CARIDE: And when the counters take the information of E-ZPass, does the information of that owner of E-ZPass come up in the data? Would you know?

MR. FULTON: No. No, it's not an owner, it's scrambled information for purposes of traffic data analysis -- in the first instance. But there is a relationship back to the tag to the Customer Service Center.

ASSEMBLYWOMAN CARIDE: So through that data collection you would -- not you, per se -- but the Authority would be able to determine that the vehicles that are going through those three lanes are from other towns outside of Fort Lee?

MR. FULTON: Once the tag information is collected, there's a relationship to an account, and the account would have a zip code associated with it.

ASSEMBLYWOMAN CARIDE: And the zip codes would show that they might be different from the zip codes for Fort Lee, correct?

MR. FULTON: Yes.

ASSEMBLYWOMAN CARIDE: So prior to this traffic study on September-- Prior to the traffic study taking place, would it be fair to say that the Executive Director's Office knew that other individuals outside of Fort Lee residents used those three lanes, based on the data information?

MR. FULTON: I'm not sure whether the Executive Director's Office knew. I don't think that it's uncommon knowledge for people to know that others besides Fort Lee residents came through Fort Lee to access or go over the George Washington Bridge.

ASSEMBLYWOMAN CARIDE: When I said the Executive Director's Office, I didn't mean Mr. Baroni per se, but the individuals who work under or in that office -- for example, Mr. Wildstein.

MR. FULTON: Oh, yes, Mr. Wildstein.

ASSEMBLYWOMAN CARIDE: He would have known that those zip codes were not specific to Fort Lee?

MR. FULTON: Well, he had noted it in prior discussions that others beyond residents in Fort Lee were coming through Fort Lee to access the Bridge.

ASSEMBLYWOMAN CARIDE: Did you ask him, then, why he wanted to see why the Fort Lee residents had sole use or exclusivity of these three lanes if he was aware -- and I'm sorry to make it compound -- that other individuals from other towns were using it?

MR. FULTON: When he directed that the lanes be reduced, his supposition-- And again, we didn't have this conversation directly, so I'm giving you the best answer that I can.

ASSEMBLYWOMAN CARIDE: And I appreciate that.

MR. FULTON: The question was, if there was only one lane as opposed to three, could the overall throughput through the George Washington Bridge be improved? That was the fundamental question that he was asking, for which I didn't have an answer. And that, sort of irrespective of who was actually coming out of Fort Lee -- whether it was the Fort Lee residents or someone else making their way through Fort Lee -- we really didn't talk about.

ASSEMBLYWOMAN CARIDE: The reason for that question is because when Mr. Baroni was here he discussed fairness, and he kept going back to that it wasn't fair that Fort Lee residents had exclusive use of three lanes -- which is why I tried to point out that east Bergen County residents, not just Fort Lee residents, use it. And the fact that the data collection showed it makes me wonder why they would want to do a traffic study with regards to just Fort Lee using those three lanes.

With regards to the chain of command, I know you respect the chain of command. When something like this happens -- a study of this kind -- would the protocol be for Mr. Wildstein to contact you and work through your office, as opposed to just advising you?

MR. FULTON: This was an unusual request.

ASSEMBLYWOMAN CARIDE: So this wasn't the protocol.

MR. FULTON: It wasn't typical at all.

ASSEMBLYWOMAN CARIDE: No further questions.

ASSEMBLYMAN WISNIEWSKI: Assemblyman Wolfe.

ASSEMBLYMAN WOLFE: Thank you, Mr. Chairman.

Mr. Fulton, thank you very much for your compelling testimony. I have-- At first I had very few questions; now I have many

questions. Specifically, Assemblyman Johnson made reference to 29 lanes; and last time we had a hearing here, a week or so ago, we were talking about, I believe, 12 lanes -- 3 dedicated to Fort Lee; so how many lanes are we talking about for this study? Was it 12 lanes, and 3 were closed?

MR. FULTON: Again, I would prefer to have you ask Robert Durando for the technical configurations. Even the definition of lanes: there's an upper level, there's a lower level, and then there are a whole lot of approach lanes to the George Washington Bridge. It's a pretty complicated facility, so to be precise I think you should probably talk to--

ASSEMBLYMAN WOLFE: But I think that's important. I mean, I was not aware of the 29 lanes that the Assemblyman refers to, because obviously that could be another factor.

Allow me to try to summarize in my mind what you told us. I know you've been here for quite a while; I know it's been very technical.

You advised us that on September 6 you became aware that the lanes would be closed, correct?

MR. FULTON: Correct.

ASSEMBLYMAN WOLFE: So it said that on the same day Mr. Wildstein contacted you to tell you that the study was going to begin on September 9.

MR. FULTON: Correct.

ASSEMBLYMAN WOLFE: Okay. And that you-- Was it that day -- on September 6 -- or September 9 that you actually questioned him, and he said, "Don't worry, we can take care of that." Was that on September 6 or September 9?

MR. FULTON: Both.

ASSEMBLYMAN WOLFE: Okay.

MR. FULTON: On both days the questions were presented to him about communications to the Executive Director as well as our Media Relations.

ASSEMBLYMAN WOLFE: Okay.

MR. FULTON: And my concerns about communicating with Fort Lee.

ASSEMBLYMAN WOLFE: Okay. I have two other questions, and maybe you can answer them and maybe you can't. I believe the media reported on December 6 that Mr. Wildstein had resigned. Is that correct -- late in the day on December 6?

MR. FULTON: I believe so; I believe that's correct.

ASSEMBLYMAN WOLFE: Okay, now, I see that his title in the newspaper is he's Director of Interstate Capital Projects. Is that his title?

MR. FULTON: Yes, I believe so.

ASSEMBLYMAN WOLFE: Okay, then how would the study correlate with his role with Interstate Capital Projects?

MR. FULTON: Mr. Wildstein operated as the second-highest-level official from New Jersey.

ASSEMBLYMAN WOLFE: Right.

MR. FULTON: So beyond what we may read in the title, he operated more broadly.

ASSEMBLYMAN WOLFE: But what I'm really getting at is, was the nature of the study something that you might find generic to his overall responsibilities?

MR. FULTON: He brought a Jersey-centric perspective to his work.

ASSEMBLYMAN WOLFE: Okay.

MR. FULTON: And, you know, spends a lot of time thinking about operations in New Jersey. And so again, his question was about operations around the Bridge, in particular around Fort Lee.

ASSEMBLYMAN WOLFE: Operations in New Jersey that are going to New York?

MR. FULTON: In this case, yes.

ASSEMBLYMAN WOLFE: Okay. And I think you responded to Assemblywoman Stender that perhaps if this had been the reverse -- if this was a study coming from New York into New Jersey, the protocol might have been a little been different.

MR. FULTON: I work with both sides because we're the Port Authority of New York and New Jersey.

ASSEMBLYMAN WOLFE: Right.

MR. FULTON: When I work, I integrate both perspectives. And that's what I do. In this case, I didn't generate this; it came to me.

ASSEMBLYMAN WOLFE: Okay. I want to thank you again for your testimony. And Chairman, thank you.

ASSEMBLYMAN WISNIEWSKI: Thank you, Assemblyman.
Assemblyman.

ASSEMBLYMAN RUMANA: Mr. Fulton, thank you for being here. Certainly the testimony has been enlightening.

Let me begin by asking you an overall question. How many vehicle movements occur on the upper level from an easterly direction -- from New Jersey into New York?

MR. FULTON: On the upper level?

ASSEMBLYMAN RUMANA: Per day, correct.

MR. FULTON: I don't have that information with me. I could get that information to you.

ASSEMBLYMAN RUMANA: Okay, I'd appreciate it. I thought I read something in some of the material for today that there are 150,000 vehicle moves per day, but I'm not sure if that was the upper level or both levels.

The question that Assemblyman Wolfe was getting towards earlier; Assemblyman Johnson was on it, but let me try to clarify. Are there 12 toll stalls on the upper level?

MR. FULTON: I believe so. Again, I would ask Bob Durando that question -- the manager of the Bridge -- when he gives his testimony.

ASSEMBLYMAN RUMANA: Okay. Because I do think that that's-- It's not the amount of lanes coming in, it's the stalls in total. And the lanes that are dedicated are actually going towards three toll stalls, correct?

MR. FULTON: Correct.

ASSEMBLYMAN RUMANA: Okay. I just want to clarify something overall. Everybody keeps mentioning *lane closures*. There was not a lane closure; it's a lane adjustment. I mean, because some of these closures are also somebody's opening. So they opened up lanes, and it

would be facetious to say it's a lane opening. But it's a lane adjustment. So let's get that straight.

The next thing is improvement to the traffic flow for the main line. So I'm a North Jersey person. I'm from Wayne; I represent people from the 40th District who travel -- at least some of them -- each day across the George Washington Bridge. And, by and large, I am sure that they travel the main line. And that's why I'm interested about the traffic count, because I'd love to know what the total number of vehicle moves are coming from the egress, through Fort Lee, recognizing that's not just Fort Lee residents. But how many of these vehicle moves are coming down that ramp, and then everybody else. And having sat in traffic coming here today -- it took us about 2 hours and 20 minutes to get down here. And I would love a dedicated lane from Wayne to Trenton; that would be great. It's not logical, but it would be great. We certainly would have gotten here a lot faster had we had that ability.

So the point is: I'd love to know-- And you don't have that information today.

MR. FULTON: I don't.

ASSEMBLYMAN RUMANA: Okay. Any idea at all as to how the decision was made to provide these three dedicated toll stalls, historically, for Fort Lee, or for the egress from Fort Lee? I want to be really clear about that, because it's not about Fort Lee; it's not about just the people from Fort Lee. It's about everybody who used that egress who happens to be coming out of the actual Borough or township of Fort Lee.

Any idea about how that decision was made?

MR. FULTON: None. And I wish I did, but I don't. So when that question is presented -- which it was -- I offer the same answer: No, I don't know how that decision was made.

ASSEMBLYMAN RUMANA: And as far as we know, there's been no-- There's nothing in the records of the Port Authority for a study that was done to determine whether to create one, two, or three lanes dedicated to that particular egress coming to the three stalls that are now dedicated for that egress?

MR. FULTON: Nothing that I'm aware of.

ASSEMBLYMAN RUMANA: And we don't know when this happened, if anybody looked at the negative impacts on the main line customers. Can you--

MR. FULTON: I have no information in that regard.

ASSEMBLYMAN RUMANA: How can we find that out? Because I have to say that before listening to the testimony of Mr. Baroni, I must have missed some of the early articles because it seems like this was presented a while back -- after the September closings -- that they mentioned a traffic study and the need for looking at the impacts on the main line. They didn't use that terminology in the articles, but I'm now intrigued by this -- but I guess different from some folks sitting here on the panel, because I know what it's like to sit in this traffic. I've been in-- I was in Fort Lee, ironically, on Friday for my law practice; I was at another event in Englewood Cliffs. And you get stuck sitting in that traffic. Even if you're not going across the Bridge, you're stuck in that traffic. So I'm certainly interested in how we can move that traffic more quickly through those toll stalls for those thousands and thousands of vehicles that sit there

waiting for those folks who are going to travel across the Bridge to get through.

And that's why I want to know how we find out about how this decision was made for these particular -- the particular dedication for these three stalls for that Fort Lee egress.

I would ask, if you could, to go back and research and find out if there is that information. I'd love to know how many years ago that decision was made, and who was in charge of the Port Authority then, and who was the Mayor of Fort Lee at that point. If we can get that information, Mr. Chairman, I think that would benefit us greatly for these hearings.

That's it for my questions right now.

ASSEMBLYMAN WISNIEWSKI: I'm sure, Mr. Fulton, you're making a note. I'm assuming you'll mark this down, and when you have an opportunity you'll produce those documents for us.

MR. FULTON: Yes, sir.

ASSEMBLYMAN WISNIEWSKI: Thank you.

I'm sorry -- Assemblyman Johnson.

ASSEMBLYMAN JOHNSON: Yes, Chair, thank you.

As a resident of the City of Englewood, I'd like to clarify some of the questions and comments that my colleague Scott Rumana has made.

First of all, when the lanes were closed, no other lanes opened -- that's number one. There were no other lanes that could open, because it's a bridge. When the traffic-- When that access point was closed off to the individuals coming from the south to enter the Bridge, those cars went to the main line -- as referred to by Mr. Fulton. They went to the main line.

So the main line was clogged up even more -- had more traffic -- it was backed up even more. So I just want to clarify that. There is no dedicated Fort Lee entrance; it's just another access point for the folks who live -- who come from the south, whether it be Cliffside Park or Edgewater or what have you. It just happens to be there in the center of Fort Lee.

As for the upper level, there are, I think it's like 12 toll lanes plus another 7 from the PIP -- so 19 on top.

ASSEMBLYMAN RUMANA: Say that again?

ASSEMBLYMAN JOHNSON: I believe--

ASSEMBLYMAN RUMANA: Excuse me, could you repeat that?

ASSEMBLYMAN JOHNSON: From my information, there are 12 toll lanes -- if I had my notes; I have to find it in my notes here -- plus an additional 7, I believe, from the Palisades Interstate Parkway that lead into the upper level of the Bridge. But I think we'll probably get that testimony later from our next person coming up before us.

ASSEMBLYMAN RUMANA: Mr. Chairman, may I just clarify something?

ASSEMBLYMAN WISNIEWSKI: Let me make this observation. You've made your point; there were no lanes-- It was a one-for-one, if there was a lane moved. He's made his point that there are 19 lanes on the upper level. Mr. Fulton has said, 'I don't know; you guys should ask Mr. Durando,' and Mr. Durando is our next witness. So why don't we all agree that we'll ask Mr. Durando on how many lanes there are. And I think that will probably be a pretty definitive answer.

ASSEMBLYMAN RUMANA: But Mr. Fulton did say that the two other -- those two stalls, then, were shifted for the main line. He did testify to that.

ASSEMBLYMAN WISNIEWSKI: He did say that.

ASSEMBLYMAN RUMANA: So I just want to clarify that -- that I wasn't missing something in that testimony.

ASSEMBLYMAN WOLFE: Okay.

ASSEMBLYMAN WISNIEWSKI: I think you're both talking about two different issues, but I appreciate your clarification.

I just have one final question for you. We're going to be concluding your testimony, but I'd ask you to stick around because there may be follow-up.

You said Mr. Baroni was the number two New Jersey official at the Port Authority. Is that correct?

MR. FULTON: Mr. Wildstein.

ASSEMBLYMAN WISNIEWSKI: I mean Mr. Wildstein -- thank you. That was your testimony. His title is Director of Interstate Capital Projects. How would one conclude by looking at that title that he is one notch below Mr. Baroni?

MR. FULTON: I can't answer that question.

ASSEMBLYMAN WISNIEWSKI: Well, how did you know?

MR. FULTON: Based on day-to-day dealings.

ASSEMBLYMAN WISNIEWSKI: Did somebody at some point in time come and tell you, "He's number two under Mr. Baroni?"

MR. FULTON: Well, it shows up in an org chart.

ASSEMBLYMAN WISNIEWSKI: It does?

MR. FULTON: In the Office of the Deputy Executive Director.

ASSEMBLYMAN WISNIEWSKI: In an organizational chart?

MR. FULTON: I believe so. I believe it's in the org chart -- that David Wildstein is in the Office of the Deputy Executive Director.

ASSEMBLYMAN WISNIEWSKI: If you don't mind, we'd like to see that as well.

MR. FULTON: I believe that's the case.

ASSEMBLYMAN WISNIEWSKI: Well, I mean either it exists or it doesn't, and if it does you'll send it to us; if not, you'll tell us what you found.

At the moment I don't have any further questions for you. We're going to excuse you, to remain with us. The Committee is going to take a five minute recess, so those members who would like to get a cup of coffee or use the facilities can. And we'll be back in five minutes.

(RECESS)

AFTER RECESS:

ASSEMBLYMAN WISNIEWSKI: I'll call the meeting of the Assembly Transportation, Public Works, and Independent Authorities Committee back to order. We are assembling the remainder of our members.

The Committee now calls Robert Durando, General Manager of the George Washington Bridge.

Good afternoon, Mr. Durando.

We have just a couple of housekeeping items. The microphone in front of you that is connected to the black box is for amplification. If you wish to speak, press the red button and this red light should turn on. And the microphone immediately to the side of that is for the recording purposes. So both of them are relevant.

Thank you for appearing here today.

I'm Chairman of the Assembly Transportation Committee.

Are you accompanied by counsel today?

ROBERT DURANDO: I am not.

ASSEMBLYMAN WISNIEWSKI: You understand that the statements you make today are under oath, and if they are willfully false or you fail to answer a pertinent question, you may be subject to penalties under law?

MR. DURANDO: I understand.

ASSEMBLYMAN WISNIEWSKI: Did you receive a subpoena from this Committee compelling your testimony at this meeting today?

MR. DURANDO: I did.

ASSEMBLYMAN WISNIEWSKI: And did you receive a copy of the Code of Fair Procedure together with that subpoena?

MR. DURANDO: Yes, sir, I did.

ASSEMBLYMAN WISNIEWSKI: Do you understand that you have certain rights under the Code of Fair Procedure, including the right to be accompanied by counsel who would be permitted to confer with you during the questioning, and advise you of your rights, and submit proposed questions on your behalf?

MR. DURANDO: I understand.

ASSEMBLYMAN WISNIEWSKI: Thank you.

We also have here a hearing reporter who is listening to the tape that is being prepared for this. It is a verbal proceeding that is being recorded, so it is important that your testimony be clear into both of those microphones and that you answer verbally as opposed to nodding your head or saying things like, "Uh-huh," or "Uh-uh." Do you understand that?

MR. DURANDO: Understood.

ASSEMBLYMAN WISNIEWSKI: Before we begin, I'd like to let you know you do have the right to file a brief sworn statement relevant to the testimony you make today at the conclusion of your examination. Do you understand that?

MR. DURANDO: I understand.

ASSEMBLYMAN WISNIEWSKI: And you are entitled to a copy of the transcript of your testimony, at your expense, when that copy is available. Do you understand that?

MR. DURANDO: I do.

ASSEMBLYMAN WISNIEWSKI: Before I proceed, do you have any questions for me or the Committee?

MR. DURANDO: I do not.

ASSEMBLYMAN WISNIEWSKI: Mr. Durando, would you please stand and raise your right hand? (Mr. Durando stands and raises right hand)

Mr. Durando, do you swear or affirm that the testimony you are about to give is a true, correct, and complete to the best of your information, knowledge, and belief?

MR. DURANDO: I do.

ASSEMBLYMAN WISNIEWSKI: Thank you. You may be seated.

Mr. Durando, would you state and then spell your name for the record?

MR. DURANDO: Sure. First name: Robert, R-O-B-E-R-T; last name is Durando, D-U-R-A-N-D-O.

ASSEMBLYMAN WISNIEWSKI: And you are currently employed?

MR. DURANDO: Yes, sir.

ASSEMBLYMAN WISNIEWSKI: And where are you employed?

MR. DURANDO: Port Authority of New York and New Jersey.

ASSEMBLYMAN WISNIEWSKI: And what is your official title at the Port Authority of New York and New Jersey?

MR. DURANDO: I am the General Manager of the George Washington Bridge and Bus Station.

ASSEMBLYMAN WISNIEWSKI: And how long have you been so employed in that particular position?

MR. DURANDO: In that position, 11 years.

ASSEMBLYMAN WISNIEWSKI: And before that, what was your position with the Port Authority?

MR. DURANDO: I was the General Manager of the Holland Tunnel.

ASSEMBLYMAN WISNIEWSKI: And for how long were you General Manager of the Holland Tunnel?

MR. DURANDO: About two years.

ASSEMBLYMAN WISNIEWSKI: Two years.

And what has been your total tenure with the Port Authority?

MR. DURANDO: This past June was 35 years.

ASSEMBLYMAN WISNIEWSKI: Congratulations. (laughter)

MR. DURANDO: Thank you.

ASSEMBLYMAN WISNIEWSKI: You listened to the testimony that Mr. Fulton gave?

MR. DURANDO: I did.

ASSEMBLYMAN WISNIEWSKI: And we devoted a considerable amount of time to that testimony about the process that's involved in closing or diverting lanes of traffic on the George Washington Bridge. Do you remember that testimony?

MR. DURANDO: I do.

ASSEMBLYMAN WISNIEWSKI: Is there anything Mr. Fulton got wrong in describing that process to us?

MR. DURANDO: No, he was pretty accurate.

ASSEMBLYMAN WISNIEWSKI: Is there anything you can add to that description of the process that would help enlighten some of the (indiscernible)? For instance, he talked about the internal engineering and/or traffic contingent you have as employees of the Port Authority who may, at times, get involved in decisions about lane closures or adjustments. How does that work?

MR. DURANDO: Addressing the certain circumstances that Cedrick spoke to -- namely construction -- that's a process that takes place over a number of years. We want to have an understanding of what sort of

delays -- because we're reducing capacity. We would be closing upper-level lanes, as we do on a nightly basis for the last several months, for upper-level deck rehab. What impact does that have on our customers? How can we let them know what that impact will be -- and to either choose a different time to travel, different routes. So there are staff in the Tunnels, Bridges, and Terminals Department that will take tolls data that comes through each toll lane and provide 15-minute counts -- what those typical counts are, given the capacity that you have on the bridge. You reduce that capacity and there is a calculation that professional planners and engineers go through -- of which I am neither -- that will say, "Okay. If on a typical day, at this hour, this amount of traffic results in this amount of backup, to reduce the capacity by X would create congestion to what degree?" And that's woven into the decision of what sort of hours to include in a contract before it gets sent out for bid. So those are things we pay attention to for a number of years, building up to the point in time when we're ready to actually construct whatever work it is.

ASSEMBLYMAN WISNIEWSKI: So in that context, would I be correct in understanding there are, I guess, three components to that? There's the data collection in 15-minute intervals, correct?

MR. DURANDO: Right.

ASSEMBLYMAN WISNIEWSKI: That's one part.

There's the math. You take the data. There are formulas that traffic professionals use and you apply the data to the formula.

MR. DURANDO: I suspect so, yes.

ASSEMBLYMAN WISNIEWSKI: And then there's a recommendation made.

MR. DURANDO: Correct.

ASSEMBLYMAN WISNIEWSKI: Focusing on the specific incident that has brought us all here together, we have heard testimony that your superior, Mr. Fulton, received a call on Friday, September 6, advising him that you were instructed to make these lane adjustments. Did you know on Friday, the 6th, or did you know-- Were you instructed on Friday, the 6th, or did you receive a call or were instructed before Friday, the 6th?

MR. DURANDO: I received a call instructing me to implement this change on Friday, the 6th.

ASSEMBLYMAN WISNIEWSKI: And that call came from who?

MR. DURANDO: David Wildstein.

ASSEMBLYMAN WISNIEWSKI: And what time was that call made, approximately?

MR. DURANDO: It was the morning of the 6th of September.

ASSEMBLYMAN WISNIEWSKI: Was that a typical call to get from Mr. Wildstein?

MR. DURANDO: No.

ASSEMBLYMAN WISNIEWSKI: Why not?

MR. DURANDO: I have very limited interaction with Mr. Wildstein.

ASSEMBLYMAN WISNIEWSKI: How many times other than this occasion have you interacted with Mr. Wildstein?

MR. DURANDO: Less than a handful.

ASSEMBLYMAN WISNIEWSKI: A handful being?

MR. DURANDO: Five. (laughter)

ASSEMBLYMAN WISNIEWSKI: Okay. I just wanted to make sure. Again, somebody reading the transcript can't see your hands.

MR. DURANDO: Sorry.

ASSEMBLYMAN WISNIEWSKI: And on the handful of occasions that you did -- other than this -- have interaction with Mr. Wildstein, what were those interactions about?

MR. DURANDO: Mr. Fulton had made reference to a remark that Wildstein had made to him back in 2010 or 2011 with regard to traffic lanes being dedicated to Fort Lee. I, too, am unclear on the exact timeframe, but it was probably a couple of years ago when Mr. Wildstein was at the Bridge. And he asked about why those three lanes were dedicated to Fort Lee. And we actually walked out to the upper-level plaza and he remarked to me that, "There are a lot of New York plates coming through those lanes, Bob."

ASSEMBLYMAN WISNIEWSKI: A lot of New York plates coming through the so-called *Fort Lee lanes*?

MR. DURANDO: The dedicated Fort Lee lanes, right.

ASSEMBLYMAN WISNIEWSKI: So that was the first conversation you ever had with Mr. Wildstein about this issue.

MR. DURANDO: Yes.

ASSEMBLYMAN WISNIEWSKI: And that was when you said he was at the Bridge. He physically came out to the Bridge for a tour?

MR. DURANDO: That's correct.

ASSEMBLYMAN WISNIEWSKI: Were there other occasions you interacted with him other than on this Bridge issue?

MR. DURANDO: He's been out to the Bridge for a toll increase -- not this most recent one. I believe he was there last year or the year before. And as facilities staff, we are there to oversee that operation when it occurs. And he had been there.

There was another instance where we had a full-scale exercise with our partners in Fort Lee and New York City. And that was on a Saturday night or Sunday back in October. He participated -- or attended that as well.

ASSEMBLYMAN WISNIEWSKI: When you say he was there for the toll increase, what does that mean?

MR. DURANDO: To see the change in the toll structure at 3:00 a.m. on a Sunday morning.

ASSEMBLYMAN WISNIEWSKI: He was there at 3:00 a.m. on a Sunday morning?

MR. DURANDO: He was.

ASSEMBLYMAN WISNIEWSKI: What do you see? What is there to see at 3:00 a.m. on a Sunday morning when you change tolls?

MR. DURANDO: For someone who has been there for 35 years, not very much. But for someone who is relatively new to the agency, I'm sure there was a lot for him to take in.

ASSEMBLYMAN WISNIEWSKI: Like what? What would he see?

MR. DURANDO: Sign changes, holding of traffic. Did the system correctly register vehicles once the change went into place? There were those kinds of systematic changes that occurred that he was probably interested in seeing.

ASSEMBLYMAN WISNIEWSKI: Did he explain why he was there? Did somebody direct him to come and observe?

MR. DURANDO: I don't know.

ASSEMBLYMAN WISNIEWSKI: So other than the exercise and the toll increase, the only other interactions have been with him -- with Mr. Wildstein on the issue of the so-called *Fort Lee lanes*, and then ultimately the day you were instructed to implement that.

MR. DURANDO: Correct.

ASSEMBLYMAN WISNIEWSKI: Your direct supervisor, or your direct report, is Mr. Fulton, correct? He's your boss.

MR. DURANDO: He's my boss. That's right.

ASSEMBLYMAN WISNIEWSKI: When you received a call from somebody who is not your boss -- not your direct boss -- to close or to modify lanes on the George Washington Bridge, did you then pick up the phone and call your boss?

MR. DURANDO: I did.

ASSEMBLYMAN WISNIEWSKI: You did?

MR. DURANDO: Yes, I did.

ASSEMBLYMAN WISNIEWSKI: What did Mr. Wildstein tell you as to what you needed to do specifically?

MR. DURANDO: Let me back up a little bit, because we had a conversation prior to the 6th of September.

I had a conversation with Mr. Wildstein on the 21st of August where he wanted to know if there was any documentation in place -- a memorandum of understanding -- an MOU -- with the Borough creating this segregated set of lanes for Fort Lee, with the intent of reducing those

lanes from three to one. But he wanted to know if there was any agreement that was counter to that. That was on August 21.

ASSEMBLYMAN WISNIEWSKI: And so there was a conversation way back when he started in 2010, 2011, your saying, where he was at the Bridge for a tour and asked you about the lanes. Then in August of this year -- 21st -- he asked you for specific documentation.

MR. DURANDO: Correct.

ASSEMBLYMAN WISNIEWSKI: And your response to him about that was?

MR. DURANDO: I was unaware of any documentation existing. I would check the facility archives, talk to former facility general managers if they had any recollection as to an agreement of this 30-, 35-year-old arrangement, and I would get back to him.

ASSEMBLYMAN WISNIEWSKI: You used the term *30- to 35-year-old arrangement*. How do you know it's that old?

MR. DURANDO: That's my understanding from the folks in Fort Lee who have been around. These three lanes have been a part of our upper-level operation for about 30 years.

ASSEMBLYMAN WISNIEWSKI: So we go to Friday the 6th and you get a call from Mr. Wildstein. What does he tell you?

MR. DURANDO: That, "We're going to implement reducing the number of lanes dedicated to Fort Lee -- toll lanes dedicated to Fort Lee on the upper level from three to one effective Monday morning."

ASSEMBLYMAN WISNIEWSKI: Did you ask him why he was doing this?

MR. DURANDO: In general conversation. I don't know if I specifically said, "Why do you want to do this?" The reason I was given was, "To conduct a traffic study."

ASSEMBLYMAN WISNIEWSKI: So that was volunteered to you or that was given to you in response to your inquiry?

MR. DURANDO: I honestly don't recall.

ASSEMBLYMAN WISNIEWSKI: Okay. That's fair.

After he instructed you to implement this lane change at the Fort Lee entrance, what was your response to him?

MR. DURANDO: Okay.

ASSEMBLYMAN WISNIEWSKI: Did you ask him if your boss knew?

MR. DURANDO: No, because I was going to tell my boss.

ASSEMBLYMAN WISNIEWSKI: Your interactions with Mr. Wildstein, as you testify, have been rare, correct?

MR. DURANDO: Correct.

ASSEMBLYMAN WISNIEWSKI: Mr. Wildstein comes to you and directs you to physically alter the operation of the Bridge, correct?

MR. DURANDO: Correct.

ASSEMBLYMAN WISNIEWSKI: Didn't you think that was odd?

MR. DURANDO: I did.

ASSEMBLYMAN WISNIEWSKI: And in response to thinking it was odd, what did you do?

MR. DURANDO: I attempted to explain to him what I thought would -- the impact of such a change would be.

ASSEMBLYMAN WISNIEWSKI: What did you explain to him the impact of the change would be?

MR. DURANDO: And this was over a couple of conversations probably over several days -- but that there would be a traffic impact, certainly to the Borough. He had made a reference to-- He wanted to discuss with traffic engineering the reconfiguration of the lane. And I told him that what he'll hear from traffic engineering is that the Borough will be congested, and that emergency response vehicles could be impacted, police personnel from Fort Lee would certainly have to be spending more time on the corners managing traffic on a daily basis, and that there was an operational impact to the Bridge.

ASSEMBLYMAN WISNIEWSKI: Did you ask him if he had notified the Mayor of Fort Lee?

MR. DURANDO: I did not.

ASSEMBLYMAN WISNIEWSKI: Did you ask him if he notified the Police Chief of Fort Lee?

MR. DURANDO: I did not.

ASSEMBLYMAN WISNIEWSKI: Did you ask him if he had notified press?

MR. DURANDO: No, I did not.

ASSEMBLYMAN WISNIEWSKI: Did you ask him if he notified Mr. Fulton?

MR. DURANDO: I did not.

ASSEMBLYMAN WISNIEWSKI: I want to understand this. So a man with whom you have very little interaction comes to you and says,

“This Bridge that you’re in charge of -- change these lanes,” and you said, “Yes, sir.”

MR. DURANDO: Mr. Chairman, it is a well-known fact that Mr. Wildstein is one of the ranking New Jersey officials in the Port Authority. I followed my chain of command after being given a directive by the second person in New Jersey in charge of my agency.

ASSEMBLYMAN WISNIEWSKI: Did you for a moment think that his direction was wrong?

MR. DURANDO: It was odd.

ASSEMBLYMAN WISNIEWSKI: Did you think it was wrong, yes or no?

MR. DURANDO: Yes.

ASSEMBLYMAN WISNIEWSKI: And notwithstanding that, you went ahead and implemented it.

MR. DURANDO: Yes, sir.

ASSEMBLYMAN WISNIEWSKI: And you’re responsible for the safety of the passage of vehicles across that Bridge.

MR. DURANDO: I am.

ASSEMBLYMAN WISNIEWSKI: And you’re responsible for the traffic flow across that Bridge.

MR. DURANDO: I am.

ASSEMBLYMAN WISNIEWSKI: And you undertook an action that impeded the safety of traffic moving across that Bridge.

MR. DURANDO: Well, no, no I did not. We operate, on a daily basis, 300,000 vehicles a day in both directions. I am at the mercy of the Cross Bronx Expressway -- for those of you who have traveled across my

facility -- and it could be a parking lot. We manage those situations extraordinarily well with operations, maintenance, and police staff. Police staff cover corners in Fort Lee on a Monday through Friday basis to expedite the flow of traffic in and about the Borough, not only for Borough residents but for anyone in the area to get through the George Washington Bridge -- keeping streets clear so that traffic flows.

I had every confidence that the Port Authority Police, my operations staff, and maintenance staff were fully capable of operating under these extreme circumstances, even though it was out of the ordinary.

ASSEMBLYMAN WISNIEWSKI: Is your testimony that things you can't control on the Cross Bronx are equal to a direction from Mr. Wildstein to close lanes?

MR. DURANDO: No, no, no. What I'm saying, Mr. Chairman, is that I'm at the mercy of traffic. And in a situation -- I was trying to illustrate an example of our ability to control traffic in extraordinary situations, and I used the Cross Bronx as an example of that.

ASSEMBLYMAN WISNIEWSKI: The Cross Bronx is out of your control.

MR. DURANDO: Correct.

ASSEMBLYMAN WISNIEWSKI: Whatever happens there, there is somebody else who is responsible.

MR. DURANDO: Yes.

ASSEMBLYMAN WISNIEWSKI: It's not part of the Port Authority.

MR. DURANDO: It is not.

ASSEMBLYMAN WISNIEWSKI: You can't do anything about accidents on the Cross Bronx.

MR. DURANDO: I cannot.

ASSEMBLYMAN WISNIEWSKI: You can't do anything about lane closures on the Cross Bronx.

MR. DURANDO: No, sir.

ASSEMBLYMAN WISNIEWSKI: You can control lane diversions on the George Washington Bridge.

MR. DURANDO: To a degree, yes.

ASSEMBLYMAN WISNIEWSKI: Well, to a degree or not-- I mean, if somebody comes to you and says, "Divert these lanes," who has to make that happen?

MR. DURANDO: I instructed my staff to make that happen.

ASSEMBLYMAN WISNIEWSKI: Nobody else?

MR. DURANDO: Nobody else directed my staff. No, I informed police, maintenance, and operation staff of what needed to be done in order to affect that operation.

ASSEMBLYMAN WISNIEWSKI: So you got this call from Mr. Wildstein on Friday the 6th, and he told you to close the lanes as of Monday morning?

MR. DURANDO: He told me to reduce the number of toll lanes for Fort Lee from three to one.

ASSEMBLYMAN WISNIEWSKI: And effective what time on Monday?

MR. DURANDO: First thing Monday morning it was in effect.

ASSEMBLYMAN WISNIEWSKI: What does that mean?

MR. DURANDO: Six a.m.

ASSEMBLYMAN WISNIEWSKI: Six a.m.

MR. DURANDO: It had been set up the night before. I'm not exactly sure what time maintenance staff set up the cone line. There were signs that needed to be covered and things of that nature.

ASSEMBLYMAN WISNIEWSKI: So you get this directive from Mr. Wildstein. You understood him to be Mr. Baroni's deputy?

MR. DURANDO: Yes, sir.

ASSEMBLYMAN WISNIEWSKI: Did you inquire if Mr. Baroni approved this?

MR. DURANDO: I did not.

ASSEMBLYMAN WISNIEWSKI: Did you inquire if Mr. Foye approved this?

MR. DURANDO: I did not.

ASSEMBLYMAN WISNIEWSKI: So as far as you know, this was just something Mr. Wildstein wanted to do.

MR. DURANDO: As far as I know.

ASSEMBLYMAN WISNIEWSKI: And you implemented it.

MR. DURANDO: Subsequent to informing my chain of command of what the request was, vetting that request, a determination was made to set up that operation on Monday morning.

ASSEMBLYMAN WISNIEWSKI: So let's talk about informing your chain of command. Who is that chain of command?

MR. DURANDO: Mr. Fulton.

ASSEMBLYMAN WISNIEWSKI: So you told Mr. Fulton, who is above you, that you had received a request from Mr. Wildstein.

MR. DURANDO: That is correct.

ASSEMBLYMAN WISNIEWSKI: Who else did you inform?

MR. DURANDO: The Police Captain -- PAPD Captain at the Bridge, my operations staff, and maintenance staff because they would be involved in setting up this operation.

ASSEMBLYMAN WISNIEWSKI: And who would be responsible when you give a direction to modify lanes? Who would be responsible for notifying either the Mayor of Fort Lee or the Police Department of Fort Lee?

MR. DURANDO: Police usually talk with police, whether it's captain to captain, tour commander to tour commander basis. Again, during those planned events, government, community-relations, media are involved in those discussions, and they usually act as the initiator to advise of a change or a lane closure that was going to be in place as a result of construction.

ASSEMBLYMAN WISNIEWSKI: Did you ask the question: Does the Mayor know?

MR. DURANDO: I was instructed not to speak to Fort Lee.

ASSEMBLYMAN WISNIEWSKI: Why?

MR. DURANDO: Mr. Wildstein told me, "Do not speak to anyone in Fort Lee."

ASSEMBLYMAN WISNIEWSKI: Did you ask if the Police Chief was notified?

MR. DURANDO: I informed my Police Captain of the operation. I was told not to speak to anyone in Fort Lee by Mr. Wildstein.

ASSEMBLYMAN WISNIEWSKI: And he gave you no reason?

MR. DURANDO: It would impact the study.

ASSEMBLYMAN WISNIEWSKI: Did he explain why?

MR. DURANDO: He thought that if-- He wanted to see what naturally happened, as best as I could determine. He did not want me to speak to anyone in Fort Lee.

ASSEMBLYMAN WISNIEWSKI: So if Mr. Wildstein had called you up and said, "Look, I want you to park three cars in the three eastbound lanes of the George Washington Bridge, and don't tell anybody because I want to see what happens," what would you do?

MR. DURANDO: I would, in all likelihood, not comply with that request.

ASSEMBLYMAN WISNIEWSKI: So why would you not comply with that request, and why would you comply with this request?

MR. DURANDO: Because the example that you gave would obviously and immediately impact the safety and the smooth flowing of traffic; whereas, I've testified earlier, I believe that even though it was an extreme situation, we had the ability to deal with the issues as they would arise as a result of the reallocation of the lanes to Fort Lee.

ASSEMBLYMAN WISNIEWSKI: And how would you address the issues as they arose?

MR. DURANDO: Police officers stayed out on the corners and in those intersections longer than they normally did until traffic broke.

ASSEMBLYMAN WISNIEWSKI: And what did the police officers do?

MR. DURANDO: They work intersections in and about the Bridge in Fort Lee keeping intersections clear, keeping cross-traffic people

who are moving in the north and southbound direction flowing along the local Borough streets.

ASSEMBLYMAN WISNIEWSKI: Did those police officers do anything to alleviate the congestion that folks trying to get on through the Fort Lee entrance experience?

MR. DURANDO: There was really nothing to do other than keep the intersections clear to the best of their ability so that traffic flowed.

ASSEMBLYMAN WISNIEWSKI: So when you say your staff was able to address whatever came up from this, it was really about keeping intersections leading up to the Bridge clear.

MR. DURANDO: For the most part, yes.

ASSEMBLYMAN WISNIEWSKI: Well, for the most part or was there something else?

MR. DURANDO: That's what they do.

ASSEMBLYMAN WISNIEWSKI: Okay. So you made a decision that traffic backed up in Fort Lee was okay, but traffic backed up on 95 was not.

MR. DURANDO: I followed the directive that was given to me by Mr. Wildstein.

ASSEMBLYMAN WISNIEWSKI: I asked you a question about blocking three lanes across the Bridge. You said you wouldn't do that because it would impede flow across the Bridge, right?

MR. DURANDO: Yes.

ASSEMBLYMAN WISNIEWSKI: You found it okay to do this if it impeded flow in Fort Lee. I would like to understand how you feel you have the ability to make a judgement call on that basis, but not a

judgement call when somebody says, “Don’t tell anybody you’re doing this.”

MR. DURANDO: Mr. Chairman, I really have no answer for you.

ASSEMBLYMAN WISNIEWSKI: Were you concerned for your continued employment at the Port Authority if you said something outside of the chain of command?

MR. DURANDO: I respect the chain of command.

ASSEMBLYMAN WISNIEWSKI: That’s not an answer to the question. I asked the same question of Mr. Fulton. I understand you respect the chain of command. My question is-- You just expressed to me that you do have a certain amount of discretion when it comes to requests made to you about the Bridge. But in this particular case, you chose not to exercise that discretion. My question to you is: Was the reason you chose not to exercise that discretion is because you feared for your employment?

MR. DURANDO: I was concerned about what Mr. Wildstein’s reaction would be if I did not follow his directive.

ASSEMBLYMAN WISNIEWSKI: Does Mr. Wildstein -- or did Mr. Wildstein -- well, he currently still works for the Port Authority -- does Mr. Wildstein have the ability to terminate your employment?

MR. DURANDO: I suspect he does.

ASSEMBLYMAN WISNIEWSKI: So would it be fair to say that you did have a concern about your continued employment if you went outside of his direction?

MR. DURANDO: I honestly don’t know how to answer you.

ASSEMBLYMAN WISNIEWSKI: Well, either you did or you didn't.

MR. DURANDO: Well, I was not fearful that I was going to get fired.

ASSEMBLYMAN WISNIEWSKI: So then why didn't you--

MR. DURANDO: Because I didn't want to tempt fate.
(laughter)

ASSEMBLYMAN WISNIEWSKI: So you thought it was a possibility.

MR. DURANDO: Anything is possible, Mr. Chairman.

ASSEMBLYMAN WISNIEWSKI: So for a decision you felt was odd, you didn't want to speak up because you thought anything was possible. Is that fair?

MR. DURANDO: That's fair.

ASSEMBLYMAN WISNIEWSKI: So you got this call on Friday, the 6th, to close the lanes. Did you call Pat Foye?

MR. DURANDO: I did not.

ASSEMBLYMAN WISNIEWSKI: You did not call Mr. Fulton?

MR. DURANDO: I did call Mr. Fulton, yes.

ASSEMBLYMAN WISNIEWSKI: Okay. Did you call the Port Authority Police?

MR. DURANDO: I informed my Police Captain at the facility of what operation was going to be in place on Monday morning.

ASSEMBLYMAN WISNIEWSKI: And that was Captain Licorish?

MR. DURANDO: That's correct.

ASSEMBLYMAN WISNIEWSKI: And he is no longer there at the Bridge?

MR. DURANDO: That's correct.

ASSEMBLYMAN WISNIEWSKI: Can you tell me why he's no longer at the Bridge?

MR. DURANDO: He was recently promoted, and he works in the Special Operations Division down in the Port Authority Tech Center.

ASSEMBLYMAN WISNIEWSKI: Was that a pending promotion, or was that something that came up suddenly?

MR. DURANDO: As Mr. Fulton testified, we just went through -- the agency just went through a process to hire a number of police captains/inspectors from outside of the agency. Captain Licorish was part of that. He was not part of the interview process; he was part of the movement. As a result of that, he got promoted from Captain to Deputy Inspector.

ASSEMBLYMAN WISNIEWSKI: When you talked to the Police Captain, Captain Licorish, about the impending lane diversions, did you ask him if he was going to communicate with the Fort Lee Police Department?

MR. DURANDO: Specifically, no.

ASSEMBLYMAN WISNIEWSKI: Wouldn't you normally do that?

MR. DURANDO: In certain instances, but I didn't tell Darcy to do that because I was told not to talk to Fort Lee.

ASSEMBLYMAN WISNIEWSKI: Did you tell him not to talk to Fort Lee?

MR. DURANDO: I did not.

ASSEMBLYMAN WISNIEWSKI: Was there any discussion with your engineering staff or your traffic experts within the Port Authority on that Friday, the 6th, about the impact of this lane diversion? Did you have any conversations with that staff?

MR. DURANDO: Not that I recall; no, sir.

ASSEMBLYMAN WISNIEWSKI: Can I ask you why not?

MR. DURANDO: Because to measure the impact of the study, the study would have had to have been implemented. We make decisions as to the impact of something based on traffic figures which hadn't occurred yet.

ASSEMBLYMAN WISNIEWSKI: How many times in the past have you or someone instructed you to divert lanes in order to do a traffic study on the George Washington Bridge?

MR. DURANDO: This was the first time.

ASSEMBLYMAN WISNIEWSKI: And you've been with the Port Authority for 35 years?

MR. DURANDO: Yes, sir.

ASSEMBLYMAN WISNIEWSKI: So after Friday, the 6th, as I understand it, your only conversations about this were a call from Mr. Wildstein, you spoke with Mr. Fulton, you spoke with your operations staff to tell them to get ready for Monday.

MR. DURANDO: Correct.

ASSEMBLYMAN WISNIEWSKI: And who on your operations staff did you speak with?

MR. DURANDO: I have a Deputy General Manager, there's an Operations Manager.

ASSEMBLYMAN WISNIEWSKI: Who is your Deputy General Manager?

MR. DURANDO: Ricky Ramirez.

ASSEMBLYMAN WISNIEWSKI: I'm sorry?

MR. DURANDO: Ricky Ramirez.

ASSEMBLYMAN WISNIEWSKI: Ricky Ramirez. And who else?

MR. DURANDO: I talked to maintenance because they were going to have to set it up, and I talked to the Police Captain because his folks were going to be working within the confines of this change.

ASSEMBLYMAN WISNIEWSKI: When you said you talked to maintenance because they were going to have to set it up--

MR. DURANDO: Correct.

ASSEMBLYMAN WISNIEWSKI: --are they the ones who physically go out and change the cones?

MR. DURANDO: They set this cone line up, yes.

ASSEMBLYMAN WISNIEWSKI: Okay. Because there had been questions in the past about who was working the cone line. And I just want to make sure--

MR. DURANDO: Yes. I'm waiting for the number of toll lanes question too. I think I can clarify. (laughter)

ASSEMBLYMAN WISNIEWSKI: So you talked to the Captain, you talked to Mr. Ramirez, you talked to maintenance staff about moving the cones. Is there anyone else you had a conversation with about this?

MR. DURANDO: Other than Cedrick, not that I recall, no.

ASSEMBLYMAN WISNIEWSKI: Is there an Office of Inspector General at the Port Authority?

MR. DURANDO: There is.

ASSEMBLYMAN WISNIEWSKI: Is the purpose of the Office of Inspector General to examine questionable practices at the Port Authority?

MR. DURANDO: I believe that's part of their function, yes.

ASSEMBLYMAN WISNIEWSKI: Does not the Office of Inspector General say to employees of the Port Authority, "If you have a concern, call us"?

MR. DURANDO: They do.

ASSEMBLYMAN WISNIEWSKI: So when did you pick up the phone and call the Office of Inspector General?

MR. DURANDO: I did not.

ASSEMBLYMAN WISNIEWSKI: Can you tell me why not?

MR. DURANDO: I didn't think to do that. I did not think that the situation warranted a call to the Inspector General. I believed my staff would be capable of handling whatever traffic situation arose out of the decision.

ASSEMBLYMAN WISNIEWSKI: For an instruction that you called *odd* and described as *unprecedented*, do you think it was worth making

a phone call to somebody saying, "I've been asked to do something odd and unprecedented. I just thought you should know."

MR. DURANDO: I did not think to do that, Mr. Chairman.

ASSEMBLYMAN WISNIEWSKI: And as you said before, you did not call Mr. Foye.

MR. DURANDO: I did not.

ASSEMBLYMAN WISNIEWSKI: Saturday and Sunday, the 7th and 8th, did you have any further conversations?

MR. DURANDO: Sunday I received -- I don't recall how I got it, it could have been a BlackBerry PIN -- from Mr. Wildstein, advising me that he would be there on Monday morning at 6:00 a.m. at the Bridge.

ASSEMBLYMAN WISNIEWSKI: And why was he going to be there Monday morning at 6:00 a.m. at the Bridge?

MR. DURANDO: To see the tests being implemented.

ASSEMBLYMAN WISNIEWSKI: What would a person see at 6:00 a.m.? What data would someone hope to collect by observing the test at 6:00 a.m. on Monday morning?

MR. DURANDO: Typically that's when traffic starts to build -- in many instances, a little bit before 6:00 a.m. He came to the facility on Monday morning; he stood at the communications desk for a little while -- it's an area with cameras to look out at the various roadways -- limited view, albeit. He stayed there for a little while. He then left the facility, left the communications desk with a police lieutenant assigned to the George Washington Bridge, to ride around the facility for some period of time to see the impact on traffic.

ASSEMBLYMAN WISNIEWSKI: You mentioned you had gotten perhaps a text message or an e-mail from Mr. Wildstein.

MR. DURANDO: Right.

ASSEMBLYMAN WISNIEWSKI: We'd like you to provide a copy of that to us.

From Friday, the 6th; through Saturday and Sunday, the 7th and 8th; and Monday, the 9th, did you receive any other electronic communication or written communication about this lane diversion?

MR. DURANDO: No, sir.

ASSEMBLYMAN WISNIEWSKI: No e-mails?

MR. DURANDO: No.

ASSEMBLYMAN WISNIEWSKI: You don't typically get e-mails about issues like this?

MR. DURANDO: Issues?

ASSEMBLYMAN WISNIEWSKI: Well, you said you spoke with the Port Authority Police Department Captain Licorish, you spoke to your Deputy Mr. Ramirez.

MR. DURANDO: Right.

ASSEMBLYMAN WISNIEWSKI: No e-mail exchanges about this implementation?

MR. DURANDO: No. We talked about it on Friday, we put into place what needed to happen. I was there very, very early Monday morning to make sure it had taken place and waited for Mr. Wildstein's arrival.

ASSEMBLYMAN WISNIEWSKI: At any time did you have a conversation with Mr. Baroni about this?

MR. DURANDO: Prior to, no.

ASSEMBLYMAN WISNIEWSKI: So in August, when you had the first conversation with Mr. Wildstein asking for documentation about whatever arrangement there may have been for these lanes, you had no conversation with Mr. Baroni.

MR. DURANDO: I did not.

ASSEMBLYMAN WISNIEWSKI: And on Friday, the 6th, you had no conversation with Mr. Baroni.

MR. DURANDO: No, sir.

ASSEMBLYMAN WISNIEWSKI: And did Mr. Wildstein invoke his name in ordering you to close the lanes?

MR. DURANDO: Invoke Mr. Baroni's name?

ASSEMBLYMAN WISNIEWSKI: Yes.

MR. DURANDO: No.

ASSEMBLYMAN WISNIEWSKI: You understood that he worked for Mr. Baroni.

MR. DURANDO: I do.

ASSEMBLYMAN WISNIEWSKI: On Monday, the 9th, when this started, what did you observe?

MR. DURANDO: That traffic was building very quickly and that delays were longer than normal within the Borough.

ASSEMBLYMAN WISNIEWSKI: So at that point in time, wouldn't you say the information gathered had shut it down?

MR. DURANDO: As I mentioned earlier, Mr. Wildstein was there and we talked about the impact that the test was having, and he wanted to continue it. "One day does not make a test. People make

adjustments. We should run it for some as yet undetermined period of time to see if people's travel patterns change."

ASSEMBLYMAN WISNIEWSKI: Mr. Wildstein is an engineer?

MR. DURANDO: Not to my knowledge, no.

ASSEMBLYMAN WISNIEWSKI: A traffic planner?

MR. DURANDO: Not to my knowledge.

ASSEMBLYMAN WISNIEWSKI: I'm just curious. As the person in charge of the George Washington Bridge, a person comes to you and asks you to change lanes and opines to you on Monday that there is not enough data, on what basis does he form that opinion that you relied upon other than him being your boss?

MR. DURANDO: I'm not a traffic planner or engineer either, so I relied on the fact that he was my boss and that's what he wanted to do.

ASSEMBLYMAN WISNIEWSKI: At any time on Monday did you talk to your traffic experts or engineers within the Port Authority and say, "Hey, guys, what do you think?"

MR. DURANDO: We had talked about gathering data, which certainly takes some time to do. Over the ensuing days -- the Tuesday, Wednesday, Thursday -- data was provided that indicated, from their perspective, that there was a slight improvement in the main line, as we've discussed earlier -- in main line travel through the upper level of the George.

ASSEMBLYMAN WISNIEWSKI: You said, "We." Who is the *we*?

MR. DURANDO: The traffic folks that Cedrick mentioned earlier who work within Tunnels, Bridges, and Terminals who download and analyze that data.

ASSEMBLYMAN WISNIEWSKI: And so on Monday they were downloading data?

MR. DURANDO: As it became available. It's tolls data, so it's people driving through toll lanes. As toll collectors hit different buttons, it counts those vehicles. So it takes them time to compile it. It's real-time, so-- I mean, it started at 6:00 in the morning. It would take 24 hours, obviously, to get 24-hour data.

ASSEMBLYMAN WISNIEWSKI: So on Tuesday you had Monday's data.

MR. DURANDO: We did.

ASSEMBLYMAN WISNIEWSKI: And that was submitted to your internal traffic department?

MR. DURANDO: Those were the folks who were gathering the data and looking at it to provide some sort of an analysis.

ASSEMBLYMAN WISNIEWSKI: How do they gather the data? Because you're saying-- I'm trying to understand the process. You said *we*, and then you said *they* gather the data. How does this work?

MR. DURANDO: As traffic flows through the toll lanes at all of our facilities, toll collectors register those vehicles. So those are cash-paying customers who are registered by toll collectors. E-ZPass customers are picked up and registered by the E-ZPass system. All of that data, on a daily basis, is uploaded from the database, shipped off to the customer service center, and counted, manipulated, looked at.

ASSEMBLYMAN WISNIEWSKI: Manipulated? Why would they manipulate the data?

MR. DURANDO: By manipulate I mean putting it into 15-minute counts.

ASSEMBLYMAN WISNIEWSKI: So that was provided on a daily basis or obtained on a daily basis by your traffic department?

MR. DURANDO: It was obtained. So for Monday, data was not available until Tuesday. The traffic folks who Mr. Fulton talked about -- the planners who would collect the data collected Tuesday's data, looked at it, analyzed it, did the same thing with Tuesday's data. By the end of the week, they had made a determination that there was a slight improvement on the main line flow.

ASSEMBLYMAN WISNIEWSKI: I thought you said they made that determination on Tuesday when they looked at the data.

MR. DURANDO: No, over the course of the several days, they looked at data and made a determination that over that period of time there was a slight improvement on the travel time on the main line, as opposed to the Fort Lee lanes.

ASSEMBLYMAN WISNIEWSKI: When Mr. Fulton testified, he mentioned that you had received a lot of calls about the traffic as a result of this lane change. Is that correct?

MR. DURANDO: That's correct.

ASSEMBLYMAN WISNIEWSKI: Who did you receive calls from?

MR. DURANDO: The public. People who would typically travel through those lanes that service the Borough of Fort Lee roadways came upon the toll plaza and there was one lane available instead of three.

ASSEMBLYMAN WISNIEWSKI: And they'd call you personally, or is there a general number for the Bridge?

MR. DURANDO: There is a general number for the Bridge. And from what I understand, my office number is on the Website. So there were a number of calls that came up into my office.

ASSEMBLYMAN WISNIEWSKI: Can you quantify the number of calls?

MR. DURANDO: Not very many the first day. But by the end of the week, there were dozens.

ASSEMBLYMAN WISNIEWSKI: So when you saw calls on Monday, did you pick up the phone, call your folks, and say, "Why don't we put up an electronic message board so that folks on Tuesday aren't caught by surprise?"

MR. DURANDO: I did not do that, no.

ASSEMBLYMAN WISNIEWSKI: Why wouldn't you?

MR. DURANDO: In my discussions with Mr. Wildstein during the course of this operation, I was told to not discuss this with anyone.

ASSEMBLYMAN WISNIEWSKI: Even the public?

MR. DURANDO: I was told to not discuss this with anyone.

ASSEMBLYMAN WISNIEWSKI: So my question is: You took that to mean that you should not inform the public.

MR. DURANDO: Correct.

ASSEMBLYMAN WISNIEWSKI: So how do you reconcile your obligation to run the George Washington Bridge for the benefit of the motorists who cross it, to agreeing to not tell the motorists who cross it that there is going to be a change in lane patterns?

MR. DURANDO: Mr. Chairman, this was Mr. Wildstein's operation.

ASSEMBLYMAN WISNIEWSKI: No, no, this is your Bridge. You're the General Manager of the George Washington Bridge. And I would hope that whoever is put in charge of the George Washington Bridge is going to put the operation -- the safe and fair operation of the Bridge first, not a political appointees directive first.

MR. DURANDO: I, at no time, jeopardized anyone's safety.

ASSEMBLYMAN WISNIEWSKI: How do you know that?

MR. DURANDO: My staff was there to deal with traffic congestion as it occurred.

ASSEMBLYMAN WISNIEWSKI: To keep the intersections clear.

MR. DURANDO: Correct. But I also have staff to keep the Bridge clear. I have maintenance staff to effect repairs to systems that break or repair a pothole. I have a number of people to do a number of different things to keep the Bridge open and flowing.

ASSEMBLYMAN WISNIEWSKI: Going back to my point from before, you felt it was okay to delay the folks coming on through the Fort Lee entrance to your Bridge as opposed to the folks who were using the different--

MR. DURANDO: I think saying that I thought it was okay is a mischaracterization. I was following the directive given to me by Mr. Wildstein.

ASSEMBLYMAN WISNIEWSKI: Even though it was odd?

MR. DURANDO: Yes.

ASSEMBLYMAN WISNIEWSKI: Even though it was unprecedented?

MR. DURANDO: Yes, sir.

ASSEMBLYMAN WISNIEWSKI: Even though you knew it was going to delay cars in Fort Lee?

MR. DURANDO: Yes, sir.

ASSEMBLYMAN WISNIEWSKI: So on Tuesday, the 10th, you received more calls from people who are aggravated by this delay than you did on Monday, the 9th?

MR. DURANDO: I don't know exactly how many calls came in.

ASSEMBLYMAN WISNIEWSKI: Were there more than Monday?

MR. DURANDO: They came into the office. It was probably more than Monday, and it gradually increase until Thursday.

ASSEMBLYMAN WISNIEWSKI: And so what did you do on Wednesday as a result of all of these calls from people who are unaware of the lane change and aggravated by the lane closures -- the lane changes?

MR. DURANDO: They were given the general Port Authority number to call and lodge their complaint.

ASSEMBLYMAN WISNIEWSKI: Did you pick up the phone and call -- by this time -- Pat Foye and say, "Mr. Executive Director, I just have to let you know this is a problem, and something ought to be done about it?"

MR. DURANDO: No, sir.

ASSEMBLYMAN WISNIEWSKI: Why is that?

MR. DURANDO: Because I reported it up through my chain of command, and was told by my boss that New York and Mr. Foye were going to be taken care of.

ASSEMBLYMAN WISNIEWSKI: So you basically have the same chain-of-command defense that Mr. Fulton had. As long as it's within the chain of command, you're okay.

MR. DURANDO: I reported to my boss what we were doing.

ASSEMBLYMAN WISNIEWSKI: Even though what your boss told you to do you thought was odd.

MR. DURANDO: Yes, sir.

ASSEMBLYMAN WISNIEWSKI: Okay.

There is a letter from the Mayor of Fort Lee who has said he tried to reach out to folks about this lane change and that he got no answer -- couldn't get a hold of anybody. Did he call your office?

MR. DURANDO: He did not.

ASSEMBLYMAN WISNIEWSKI: Are you aware that he tried to reach out to anyone?

MR. DURANDO: Just from what I read in the paper.

ASSEMBLYMAN WISNIEWSKI: Did you receive any calls from the Fort Lee Police?

MR. DURANDO: I did.

ASSEMBLYMAN WISNIEWSKI: And what did you tell them?

MR. DURANDO: I told them that I was instructed to run this test. They asked me how long it was going to go on. I said I did not know.

ASSEMBLYMAN WISNIEWSKI: Thursday, the 12th, came. Did you have any further discussions with Mr. Wildstein about this lane closure -- lane change?

MR. DURANDO: No, not that I recall on Thursday, no.

ASSEMBLYMAN WISNIEWSKI: Did you have any conversations with Mr. Fulton on Thursday?

MR. DURANDO: Just as a general discussion about -- that we were still in that operation, that I had not heard from anyone to stop it, and that we were continuing as we had for the previous three days.

ASSEMBLYMAN WISNIEWSKI: So you have lanes diverted Monday, Tuesday, and Wednesday; and on Thursday you're getting lots of phone calls from folks unhappy, including a call from the Fort Lee Police who you said you told, "I was told to say nothing." By this day, didn't you pick up the phone and call Mr. Fulton, and say, "There is something wrong here. We ought to do something."

MR. DURANDO: We had been having that discussion all week, Mr. Chairman. I mean, we both knew this was odd and that there was something wrong about what it was that we were doing.

ASSEMBLYMAN WISNIEWSKI: Yet neither you nor Mr. Fulton decided to depart from the chain of command.

MR. DURANDO: We were under the impression that Mr. Foye was made aware by Mr. Wildstein.

ASSEMBLYMAN WISNIEWSKI: And you didn't check it out?

MR. DURANDO: No, sir.

ASSEMBLYMAN WISNIEWSKI: You didn't feel you needed to?

MR. DURANDO: I trusted that the information that was being provided to me by my boss was accurate, as did he.

ASSEMBLYMAN WISNIEWSKI: Did he tell you he told Mr. Foye? Did Mr. Wildstein tell you that he told Mr. Foye?

MR. DURANDO: No, he didn't tell me that directly.

ASSEMBLYMAN WISNIEWSKI: Did Mr. Wildstein tell you he told the Fort Lee Police?

MR. DURANDO: He did not.

ASSEMBLYMAN WISNIEWSKI: He just said, "Don't say anything."

MR. DURANDO: That's right.

ASSEMBLYMAN WISNIEWSKI: And so even though he never made any representation that anyone in authority knew, you accepted his don't-say-a-word injunction.

MR. DURANDO: I informed my boss, and we were told not to talk about this to anyone.

ASSEMBLYMAN WISNIEWSKI: And so you followed those instructions.

MR. DURANDO: I did.

ASSEMBLYMAN WISNIEWSKI: If that happens again, are you going to do the same thing?

MR. DURANDO: Absolutely not.

ASSEMBLYMAN WISNIEWSKI: Why?

MR. DURANDO: So that I don't have to sit here again, sir, with all due respect.

ASSEMBLYMAN WISNIEWSKI: We are enjoying your company. I appreciate you being here.

So Thursday, the 12th, was the last full day that this experiment was being conducted.

MR. DURANDO: It wound up being the last full day that the experiment was conducted.

ASSEMBLYMAN WISNIEWSKI: You say that as if at the beginning of that day you didn't expect it to be wound up.

MR. DURANDO: I did not.

ASSEMBLYMAN WISNIEWSKI: So what happened during that day that caused it to be changed on the 12th?

MR. DURANDO: On Thursday evening I received a call from a member of our Government and Community Relations media staff who was responding to a media inquiry that -- "What's going on at the Bridge? These three lanes have been reduced. The toll lanes have been reduced from three to one. What is going on?" So that was Thursday evening. I explained to that individual what was going on. We concluded our conversation, and that was the end of that. On Friday morning I got an e-mail, text message from Mr. Foye asking me to call him, which I did.

ASSEMBLYMAN WISNIEWSKI: The e-mail at 7:44. The one that's--

MR. DURANDO: No, no, it was a text message on the phone, I believe, "Call me." It was prior to 6:00 a.m. "Call me after 6:00 a.m."

ASSEMBLYMAN WISNIEWSKI: And did you call him after 6:00 a.m.?

MR. DURANDO: I did.

ASSEMBLYMAN WISNIEWSKI: And what did you find out?

MR. DURANDO: He asked me what was going on up at the Bridge. I explained to him what had been going on since Monday. He asked me if I was told not to tell him. I told him I was. And that was pretty much the end of the conversation.

ASSEMBLYMAN WISNIEWSKI: What did he tell you to do?

MR. DURANDO: At that point in time he didn't tell me to do anything. He said that he would be getting back to me.

ASSEMBLYMAN WISNIEWSKI: Was he surprised that you were told not to tell him?

MR. DURANDO: Somewhat. I don't know whether he was surprised or not.

ASSEMBLYMAN WISNIEWSKI: After that conversation, was that the first time that you became aware that Mr. Foye had not been informed by Mr. Wildstein?

MR. DURANDO: Yes.

ASSEMBLYMAN WISNIEWSKI: And so now that the issue is on the table that what you had thought was going to happen had not, did you pick up the phone and call anybody else?

MR. DURANDO: No, I was having a conversation with the Executive Director. I didn't think that there-- Well, I forwarded Mr. Foye's e-mail to Mr. Wildstein, Mr. Fulton, and our Deputy Director to let them know that Mr. Foye was going to be asking me questions with regard to the operation that was in place.

ASSEMBLYMAN WISNIEWSKI: Was it an e-mail or a text message?

MR. DURANDO: It was probably an e-mail.

ASSEMBLYMAN WISNIEWSKI: I'd like you to make that e-mail available. The first communication I see on Friday, the 13th, is the e-mail from Mr. Foye to yourself and Mr. Fulton. So you forwarded that e-mail to Mr. Wildstein.

MR. DURANDO: I did.

ASSEMBLYMAN WISNIEWSKI: Did Mr. Wildstein respond?

MR. DURANDO: He asked me, at some point after -- in the morning -- if I had spoken with Mr. Foye. I told him I did. This was not on the phone. I think it was e-mail. He asked me if I spoke to Mr. Foye. I said I did. He asked me, "What did he say?" I said, "He was very surprised that he was not aware, or made aware, of the operation being in place, and that he had some concerns about what had taken place over the last four days."

ASSEMBLYMAN WISNIEWSKI: Did you express any disappointment or chagrin to Mr. Wildstein that Mr. Foye had not been notified prior to that day?

MR. DURANDO: I did not.

ASSEMBLYMAN WISNIEWSKI: Why not?

MR. DURANDO: It was an e-mail exchange. As I recall, I was driving. I was not getting into a whole lengthy conversation.

ASSEMBLYMAN WISNIEWSKI: So after that conversation with Mr. Wildstein, was it then you got the e-mail from Mr. Foye at 7:44 in the morning?

MR. DURANDO: That's correct.

ASSEMBLYMAN WISNIEWSKI: And did you read that e-mail?

MR. DURANDO: Yes, I did.

ASSEMBLYMAN WISNIEWSKI: In his e-mail he says, "Reversing over 25 years of Port Authority George Washington Bridge operations." What does that mean?

MR. DURANDO: That the Fort Lee arrangement had been in place for at least that amount of time.

ASSEMBLYMAN WISNIEWSKI: He says, "A decision of this magnitude should only be made after careful deliberation." Do you agree with that?

MR. DURANDO: Yes.

ASSEMBLYMAN WISNIEWSKI: Was there careful deliberation made on this?

MR. DURANDO: No, sir.

ASSEMBLYMAN WISNIEWSKI: Did you know that going into it?

MR. DURANDO: Did I know it going into it? No.

ASSEMBLYMAN WISNIEWSKI: So you thought there was careful deliberation when you were asked by Mr. Wildstein to close the lanes?

MR. DURANDO: I was told that the people who needed to know were going to be made aware of the change.

ASSEMBLYMAN WISNIEWSKI: That's not the question I asked you. My question is: Was there careful deliberation prior to this decision being implemented?

MR. DURANDO: With regard to this study?

ASSEMBLYMAN WISNIEWSKI: Yes.

MR. DURANDO: No, sir, there was not.

ASSEMBLYMAN WISNIEWSKI: Did you know that at the time you made the decision to go ahead and accede to Mr. Wildstein's demands?

MR. DURANDO: I knew that we had not been involved in any discussion to plan a traffic study involving the Fort Lee lanes.

ASSEMBLYMAN WISNIEWSKI: Mr. Foye, in his e-mail to you, said that he was appalled by the lack of process -- "Failure to inform our customers in Fort Lee and, most of all, the dangers created by -- the dangers created to the public interest." Would you agree that there was a lack of process?

MR. DURANDO: Yes, I would.

ASSEMBLYMAN WISNIEWSKI: And you were part of that process.

MR. DURANDO: Yes, sir.

ASSEMBLYMAN WISNIEWSKI: Would you agree that there was a lack of -- there was a failure to inform customers?

MR. DURANDO: There was.

ASSEMBLYMAN WISNIEWSKI: And you were part of that decision to not inform customers.

MR. DURANDO: I think that's an overstatement, Mr. Chairman. I was directed to do something; assured by the person who directed me, through my boss, that he was going to take care of the New York contingent within my agency and the media, and Government and Community Relations people. I am not in a position to question Mr. Foye or Mr. Wildstein as to what it is that they did or did not do.

ASSEMBLYMAN WISNIEWSKI: The day after the decision was made, and there were no traffic -- variable message signs up letting people know, did that alert you to the process -- that there was a lack of process here?

MR. DURANDO: I was aware there was a lack of process. I was following the directive given to me by Mr. Wildstein.

ASSEMBLYMAN WISNIEWSKI: In his e-mail to you, there are two numbered sections. Number four, in the first one: "I believe this hasty and ill-advised decision violates Federal law and the laws of both states." Do you know what Federal law Mr. Foye is talking about?

MR. DURANDO: I do not.

ASSEMBLYMAN WISNIEWSKI: Do you know what laws of both states he is talking about?

MR. DURANDO: No, sir.

ASSEMBLYMAN WISNIEWSKI: If you chose to, tomorrow, could you close a lane?

MR. DURANDO: For what reason?

ASSEMBLYMAN WISNIEWSKI: Because you felt like it.

MR. DURANDO: Because I felt like it?

ASSEMBLYMAN WISNIEWSKI: Yes.

MR. DURANDO: I have the ability to do that, sir, but I would not do that.

ASSEMBLYMAN WISNIEWSKI: If some other deputy to the Deputy Executive Director came to you and said, "Close a lane," would you do it?

MR. DURANDO: Not without alerting Mr. Foye.

ASSEMBLYMAN WISNIEWSKI: I have no further questions.
Vice Chair Stender.

ASSEMBLYWOMAN STENDER: Thank you, Mr. Chairman.
Good afternoon.

MR. DURANDO: Good afternoon.

ASSEMBLYWOMAN STENDER: So this traffic -- so-called *traffic study* -- you said that they were gathering data. Has there been a traffic study presented anywhere as a result of that closure that week?

MR. DURANDO: I have not seen anything, no.

ASSEMBLYWOMAN STENDER: So has anything been done with the data that would substantiate the premise that there was a traffic study going on?

MR. DURANDO: Other than a verbal -- with regard to the slight improvement to main line traffic flow, I have seen no report.

ASSEMBLYWOMAN STENDER: So it really calls into question whether there was, in fact, any traffic study done, when they were just gathering data.

MR. DURANDO: One could reach that conclusion.

ASSEMBLYWOMAN STENDER: Because a traffic study would mean that all of that data would have been sent out for additional, further study to speak to this issue of whether these lanes should exist or not.

MR. DURANDO: Studies should result in a conclusion, yes.

ASSEMBLYWOMAN STENDER: And there were none.

You spoke about the fact that there was additional police overtime as a result of these changes. Do we know what those costs arose to?

MR. DURANDO: Back of the napkin annualized costs-- If I can explain. (affirmative response)

The Port Authority Police cover those intersections -- there are seven intersections -- within the Borough of Fort Lee on a Monday through Friday basis until such time as traffic breaks. Once traffic breaks, those individuals go up into the administrative office, within public safety, working for the captain. And they perform administrative police functions.

The fact that they stayed out on those corners much, much longer than they normally would have would eventually have resulted in overtime having to be paid to make up for the work they weren't doing.

Concurrent to that, toll collector overtime would have been incurred because the way the lane was configured-- There was only one toll lane made available to the grid within Fort Lee, and it needed to be staffed,

obviously, to collect cash tolls. We would have had to have a toll collector standing by, more times than not on overtime, to fill that lane should that person need to go on a personal break, take a lunch, whatever reason could occur for a collector to leave.

If you look at it in a very basic fashion, factored-- It probably would have cost over \$1 million in overtime for this operation annually.

ASSEMBLYWOMAN STENDER: When traffic studies are done in the normal course of business, are the costs associated with doing that traffic study calculated?

MR. DURANDO: They should be, sure.

ASSEMBLYWOMAN STENDER: And so at this point there has been no calculation other than the back of -- other than based on your experience.

MR. DURANDO: Right.

ASSEMBLYWOMAN STENDER: So we don't have a traffic study, but we know there was a lot of money spent and that there were no results yielded, to this point.

MR. DURANDO: Well, there would have been a lot of money spent if we did it for a year. We did it for four days, and there was money spent. I don't know exactly how much, but there was additional money spent on overtime.

ASSEMBLYWOMAN STENDER: When you spoke to Mr. Wildstein, he said not to tell anyone. Did he explain why?

MR. DURANDO: He did not want the data to be skewed.

ASSEMBLYWOMAN STENDER: You said that you recognized Mr. Wildstein being number two from New Jersey.

MR. DURANDO: Right.

ASSEMBLYWOMAN STENDER: And Mr. Baroni is operating as number one. Who do you recognize who Mr. Baroni reports to in New Jersey?

MR. DURANDO: I believe the Governor.

ASSEMBLYWOMAN STENDER: When Mr. Wildstein -- when you spoke to him and he said why this was being done, did he invoke any name as to why this was being done or why he was directing you? Did he say, "This was on the directive of Mr. Baroni," or, "Mr. Baroni knew," or that it was coming from Mr. Baroni?

MR. DURANDO: He did not.

ASSEMBLYWOMAN STENDER: So he couldn't give you any rationale. He did not say to you why he was asking you to do this other than the fact that he had this idea that these lanes should be evaluated.

MR. DURANDO: I mean, he talked to: Why does one borough of one host community have dedicated toll lanes made available to their residents? He didn't understand that, and why we would do something like that only at the George Washington Bridge. It wasn't done anywhere else. "Why are we doing that?"

ASSEMBLYWOMAN STENDER: After all this was completed, and this "study" had been stopped, and all the brouhaha has begun, have you had any additional direct conversations with either Mr. Wildstein or Mr. Baroni?

MR. DURANDO: About this issue?

ASSEMBLYWOMAN STENDER: Yes.

MR. DURANDO: No, ma'am.

ASSEMBLYWOMAN STENDER: You haven't heard from either one of them directly?

MR. DURANDO: No.

ASSEMBLYWOMAN STENDER: Thank you. That's all my questions for now.

ASSEMBLYMAN WISNIEWSKI: Assemblyman Benson, do you have any questions?

ASSEMBLYMAN BENSON: No.

ASSEMBLYMAN WISNIEWSKI: Assemblyman Schaer.

ASSEMBLYMAN SCHAER: Thank you, Mr. Chairman.
Thank you for your patience.

When Mr. Fulton spoke, he spoke about planned events versus -- I believe the term he used was -- *tactical*. When planning these events, when doing these kinds of studies, are the needs of emergency vehicles taken into consideration?

MR. DURANDO: Sure. As Mr. Fulton testified, the movement of all vehicles is of importance. That's why we go through the process of determining what the impact of a construction project, for example, will be -- so that we can let our customers know, "During these hours, during these days, you can expect either a longer trip or you should make other arrangements."

ASSEMBLYMAN SCHAER: In terms of notification of emergency vehicles, ambulances both private and public, fire departments, police departments, are those contacts made through PANYNJ or do you utilize the services of Fort Lee Police?

MR. DURANDO: I'm not sure I understand the question. I'm sorry.

ASSEMBLYMAN SCHAER: In terms of notification of all emergency services, is that done through the Fort Lee Police, or is that done through your offices?

MR. DURANDO: Our police talk to Fort Lee Police, but we have the Fort Lee Ambulance Response that gets affected at the facility if there is an accident, as does the New York City EMS response.

ASSEMBLYMAN SCHAER: If I may-- I don't mean to interrupt you, but it's not just Fort Lee, of course. It's any number of neighboring communities, including my own Cliffside Park, where their ambulance service might need to cross the Bridge. They would be affected.

MR. DURANDO: If there is an incident that's going on, whether it's planned or tactical, we have construction reports that go out. We communicate with TRANSCOM on a regular basis. There is a lot of outreach and reporting to all of our neighbors, whether or not something is going to be going on at the Bridge that would impact traffic.

ASSEMBLYMAN SCHAER: How many-- Would you know off hand how many times per day we have ambulances crossing the Bridge?

MR. DURANDO: I don't know.

ASSEMBLYMAN SCHAER: Would such data be available?

MR. DURANDO: I don't believe so, unless someone went out and physically counted.

ASSEMBLYMAN SCHAER: You had just stated a moment ago that in all these kinds of planned-for events, you reach out to the

various ambulance services, etc., to appraise them of things going on. Am I correct? Is that correct?

MR. DURANDO: I don't know if we reach out directly to ambulances. There are a number of-- We reach out to different boroughs, we reach out to different entities -- Turnpike, DOT, New York-side folks.

ASSEMBLYMAN SCHAER: And assumedly, they would notify their own emergency vehicles, etc.

But in this instance, you were clearly and specifically informed by Mr. Wildstein not to inform anyone. Is that correct?

MR. DURANDO: That's correct.

ASSEMBLYMAN SCHAER: Thus, one could assume that none of these emergency services had any idea what to expect at any given time.

MR. DURANDO: We were instructed to not discuss the traffic test with anyone. However, that did not preclude us from notifying the public with regard to congestion at the Bridge at any given moment once it manifested itself. We didn't not tell people that we had delays. We certainly did that. We just did not discuss with the Borough the fact that we were testing.

ASSEMBLYMAN SCHAER: But none of those emergency service vehicles, both public and private -- which transport in emergent and in non-emergent situations from New Jersey to New York -- would have been appraised formally or even informally by your offices in terms of the closure, thus potentially impeding their ability to expeditiously cross the Bridge.

MR. DURANDO: I guess my point is that I don't think we do that under normal circumstances -- to reach out to ambulances to tell them that there is congestion on the Bridge. We reach out to news media, TRANSCOM, news outlets, things of that nature to say, "We have delays at the Bridge."

ASSEMBLYMAN SCHAER: Did you reach out to the media, TRANSCOM, etc., to inform them that there would be closure of two lanes impeding traffic?

MR. DURANDO: No.

ASSEMBLYMAN SCHAER: My concern, obviously, is not necessarily the inconvenience for people for four, what must have been, monstrously long days; but rather potential irresponsibility, if not more than that. And I believe that was alluded to, quite frankly, in Mr. Foye's letter. If I may quote, "This hasty and ill-advised decision has resulted in delays to emergency vehicles. I pray that no life has been lost, or trip of a hospital- or hospice-bound patient delayed." Do we have any information suggesting that, indeed, there are any deleterious effects medically to people on this base?

MR. DURANDO: No. I am unaware of any information being made available -- any official information being made available.

ASSEMBLYMAN SCHAER: Very good. Thank you, sir.

MR. DURANDO: Thank you.

ASSEMBLYMAN SCHAER: Thank you, Mr. Chair.

ASSEMBLYMAN WISNIEWSKI: Thank you.

Assemblyman Ramos.

ASSEMBLYMAN RAMOS: Just one question: When public relations called you up on Thursday evening to say -- asked you why they weren't informed -- you answered that question earlier-- They were never informed the entire time as to what was going on with the study?

MR. DURANDO: The call on Thursday night was as a result of a media inquiry made to Media, and Government and Community Relations. And our representative there called me and asked me what was going on.

ASSEMBLYMAN RAMOS: During that process, did they ask at all what led to the initial lane closures, as far as a study goes?

MR. DURANDO: If who asked?

ASSEMBLYMAN RAMOS: The public relations person. Obviously they're dealing with the media. They want to know exactly what's going on.

MR. DURANDO: That first inquiry was Thursday evening.

ASSEMBLYMAN RAMOS: To you.

MR. DURANDO: To me. And when I was asked, I informed that Government and Community Relations person what had been going on for the last four days. The conversation ended, and then Friday happened.

ASSEMBLYMAN RAMOS: And then Friday happened -- Mr. Foye called you up before 6:00 a.m.

MR. DURANDO: I was up.

ASSEMBLYMAN RAMOS: And then you said Mr. Foye got off the phone with you hastily -- it seemed. Mr. Foye said -- "No, you were told not to communicate with me at all." He seemed to get off the phone

pretty abruptly. Did he have any communication with you after that point, aside from the e-mail?

MR. DURANDO: That day? On Friday?

ASSEMBLYMAN RAMOS: Yes.

MR. DURANDO: No. I think the next communication was the e-mail.

ASSEMBLYMAN RAMOS: And then after that -- the e-mail -- nothing to that point -- since then, aside from the e-mail.

MR. DURANDO: Since then?

ASSEMBLYMAN RAMOS: Yes. In regard to this issue -- aside from the e-mail.

MR. DURANDO: We've had a number of conversations about the issue.

ASSEMBLYMAN RAMOS: And some of those conversations were just based on -- generally speaking -- not happening again?

MR. DURANDO: Well, that's pretty clear.

ASSEMBLYMAN RAMOS: Was his tone friendly to the people in the room or over the phone?

MR. DURANDO: I find Mr. Foye to be a very friendly individual. It was about-- Clearly, through the e-mail, it was about -- that this cannot happen again. And remember, he was uninformed.

ASSEMBLYMAN RAMOS: Correct.

MR. DURANDO: "Tell me about what happened. Tell me how this happened."

ASSEMBLYMAN RAMOS: That's good to know.

Thank you, Mr. Chairman.

ASSEMBLYMAN WISNIEWSKI: Thank you.

Assemblyman Johnson.

ASSEMBLYMAN JOHNSON: Thank you, Chairman.

Thank you, Mr. Durando.

You are now going to have an opportunity to describe the 29 lanes we have crossing the Bridge. (laughter)

MR. DURANDO: So we have three toll plazas on the George Washington Bridge: the upper level, which is main tolls; the lower level services the lower level; and the Palisades Interstate Parkway, which services the Palisades Interstate Parkway. There are 29 operating toll lanes on the George Washington Bridge. Fifteen or 16 -- because it depends on day of week and time of day -- 15 or 16 of them are dedicated E-ZPass only, and the balance of those lanes are staffed throughout periods of the day. There are 12 toll lanes on the upper level of the George Washington Bridge servicing the main line -- 4, 46, 80/95, Local Express of 80/95. Other than the Fort Lee entrance, access to the upper level is, for the most part, via highway. There are some local entrances in Fort Lee -- Fletcher Avenue; and those things are utilized more or less, depending on construction that is occurring at any point in time.

ASSEMBLYMAN JOHNSON: That was my next question. You're familiar with Fort Lee, so if I ask you about the Palisades-- Does Palisades have an entrance to the Bridge?

MR. DURANDO: Does Palisades--

ASSEMBLYMAN JOHNSON: Is there an entrance from Lemoine Avenue to the Bridge?

MR. DURANDO: An entrance from Lemoine, no. There is an entrance from Center.

ASSEMBLYMAN JOHNSON: Oh, from Center.

MR. DURANDO: Right.

ASSEMBLYMAN JOHNSON: Fletcher?

MR. DURANDO: Fletcher -- there is an entrance to the lower level. It's called Kelby Ramp. Lemoine does not have an entrance to any level eastbound. And then there is Martha Washington Way, Hudson Terrace, local Fort Lee streets, and then I guess it's Edgewater.

ASSEMBLYMAN JOHNSON: Right. So we have Center and Fletcher as entrance points to the Bridge besides the one that is in the study -- the supposed study.

MR. DURANDO: Correct.

ASSEMBLYMAN JOHNSON: And you do not know why they selected this particular entrance point for this study as opposed to Center, or Fletcher, or Hudson Terrace?

MR. DURANDO: No, other than they provide direct access into the three lanes that are segregated for the southern portion of the upper level toll plaza.

ASSEMBLYMAN JOHNSON: How many police officers are out doing traffic in the mornings during rush hour -- normally during rush hour?

MR. DURANDO: Covering those intersections?

ASSEMBLYMAN JOHNSON: No, just in total in Fort Lee -- Port Authority Police Officers conducting traffic in Fort Lee during rush hour. How many intersections are covered?

MR. DURANDO: Working the intersections -- there is a half-dozen intersections within the Borough that are covered by Port Authority Police Officers, and then there is roving motor patrol, on the part of sector cars, in New York and New Jersey. And then there are two officers assigned to the bus station over in New York. So I would say there is at least a dozen to 14 police officers on a typical day tour and afternoon tour at the George Washington Bridge.

ASSEMBLYMAN JOHNSON: So we have six or seven police officers conducting traffic at intersections in Fort Lee during rush hour.

MR. DURANDO: Correct.

ASSEMBLYMAN JOHNSON: When you shut down those lanes, were there additional police officers assigned to conduct traffic in Fort Lee because of the overflow of traffic into Fort Lee?

MR. DURANDO: There were not.

ASSEMBLYMAN JOHNSON: There were not. So the same six or seven that are normally there, were there for the additional traffic that was diverted to other entrance points as they traveled around Fort Lee.

MR. DURANDO: Correct.

ASSEMBLYMAN JOHNSON: Okay. You stated earlier that your actions, you feel, did not jeopardize public safety for anyone in the area of the George Washington Bridge. I have to ask you that -- and you have to explain to me, if you can-- September 9 was the first day of school in the Fort Lee Public School system. And many students were late getting to school because of this increased traffic in their Borough. police, fire, and EMS had increased response times because of the additional traffic in the Borough. So how does one justify, or how can one say, that these actions

did not impede or did not jeopardize the lives of the people of the Borough of Fort Lee when, actually, all this additional traffic being diverted into Fort Lee affected the response times of first responders?

MR. DURANDO: I was not provided any evidence that any of those things occurred. I mean, as far as we were aware, those were anecdotal statements that were made -- "What if thus and such were to happen." Port Authority Police Officers were staffed at those intersections to move traffic and to keep them clear as they are every single day. The major difference being that instead of coming off of the corner at 8:30 or 8:45, they were out there until 11:30, 11:45 because delays were such that traffic was still there that necessitated them to be there at those intersections to keep them clear.

ASSEMBLYMAN JOHNSON: The heavy traffic continued until, like, noon?

MR. DURANDO: Sure.

ASSEMBLYMAN JOHNSON: And no one saw that as a problem?

MR. DURANDO: I didn't say that.

ASSEMBLYMAN JOHNSON: Okay. Who moved the cones, police or maintenance?

MR. DURANDO: Maintenance, I believe, set them up. I don't think they moved for four days. That lane was in place 24 hours a day for four days.

ASSEMBLYMAN JOHNSON: We were told the police officers moved the cones. It was maintenance then?

MR. DURANDO: Well, to set up that particular operation on the 9th, maintenance did that because it was--

ASSEMBLYMAN JOHNSON: And they were directed by who, to set this cone pattern up, in the chain of command?

MR. DURANDO: Me.

ASSEMBLYMAN JOHNSON: By you.

MR. DURANDO: I told the person in charge of maintenance that I needed a cone line set up. He made arrangements with his midnight tour staff Sunday night, for Monday, to set the cone line up and to cover signs.

ASSEMBLYMAN JOHNSON: Because of the directive you received from your boss -- actually a boss above you.

MR. DURANDO: Several levels above me, yes.

ASSEMBLYMAN JOHNSON: Okay. Does the Mayor of Fort Lee have your phone number?

MR. DURANDO: He does.

ASSEMBLYMAN JOHNSON: Did he call you?

MR. DURANDO: He did not. I have more interactions with Peggy, and she did not call either.

ASSEMBLYMAN JOHNSON: Peggy?

MR. DURANDO: Thomas, I'm sorry; the Borough Administrator.

ASSEMBLYMAN JOHNSON: Oh, okay.

Chair, I have no further questions.

ASSEMBLYMAN WISNIEWSKI: Thank you.

Assemblywoman.

ASSEMBLYWOMAN CARIDE: Good afternoon.

I'll try to be brief.

You had testified that Mr. Wildstein was concerned as to why there were three dedicated lanes to Fort Lee, correct?

MR. DURANDO: Right.

ASSEMBLYWOMAN CARIDE: The PIP has dedicated lanes?

MR. DURANDO: It has its own toll plaza.

ASSEMBLYWOMAN CARIDE: That leads into the Bridge, right?

MR. DURANDO: That leads into the upper level of the Bridge, right.

ASSEMBLYWOMAN CARIDE: Anybody every question why the PIP had its own dedicated lane and that there should be a study?

MR. DURANDO: No.

ASSEMBLYWOMAN CARIDE: Okay. You stated that Wildstein was there that Monday -- in the morning -- and he was there for a while.

MR. DURANDO: Yes, he was.

ASSEMBLYWOMAN CARIDE: And you testified that the backup started immediately.

MR. DURANDO: Well, there's normally a backup.

ASSEMBLYWOMAN CARIDE: Sure.

MR. DURANDO: It became noticeable. There was no way for us to see the extent. The camera coverage just doesn't go back that far. But certainly it lasted longer than it typically does.

ASSEMBLYWOMAN CARIDE: Were you concerned?

MR. DURANDO: Was I concerned about traffic? Sure.

ASSEMBLYWOMAN CARIDE: Were you concerned about the longer backup on that day?

MR. DURANDO: Of course.

ASSEMBLYWOMAN CARIDE: Did you comment on that to Mr. Wildstein?

MR. DURANDO: I did.

ASSEMBLYWOMAN CARIDE: Was he concerned?

MR. DURANDO: He expressed that one day does not make a study and that people may change their travel patterns as the test continued.

ASSEMBLYWOMAN CARIDE: I appreciate you being here this afternoon. And I can't help but get the feeling that while it may be a little bit uncomfortable before us, there is more behind you being uncomfortable. You testified that you did not want to tempt Mr. Wildstein, when you were asked if you were afraid of losing your job. Do you feel that way still, today, being here before us knowing that he has resigned or that he has tendered his resignation?

MR. DURANDO: I stand by my earlier statement. I did not want to tempt fate.

ASSEMBLYWOMAN CARIDE: Nor do you want to now, right?

MR. DURANDO: I do not.

ASSEMBLYWOMAN CARIDE: Thank you.

ASSEMBLYMAN WISNIEWSKI: Vice Chair Stender has a follow-up question.

ASSEMBLYWOMAN STENDER: Thank you, Mr. Chairman.

You've spoken a lot about the chain of command and how you respected that. That's clearly part of the culture at the Port Authority -- that there is an existing chain of command. And when I questioned you before, you said that Mr. Wildstein reports to Mr. Baroni, and Bill Baroni reports to the Governor.

Clearly, David Wildstein, in my opinion -- based on what we've heard today -- acted with impunity with this whole study and they-- Not wanting to tempt the fate-- Did you believe that when it was coming from Wildstein that, in fact, this was coming down through the chain of command from the Governor?

MR. DURANDO: I have given that no thought whatsoever.

ASSEMBLYWOMAN STENDER: Thank you.

ASSEMBLYMAN WISNIEWSKI: Mr. Durando, just two follow-up questions. We had talked about who you had spoken with after this test started. And I just wanted to go back to--

On Monday afternoon, after this test started, did you not communicate with the -- you have somebody called your *principal traffic engineer* -- about this?

MR. DURANDO: Traffic engineering provided a photo with -- I guess it was Photoshopped -- a cone line. I may have had a conversation with Jose Rivera -- is that who you're referring to? He's the Chief Traffic Engineer.

ASSEMBLYMAN WISNIEWSKI: I don't know him by name; I know him by title.

MR. DURANDO: Okay.

ASSEMBLYMAN WISNIEWSKI: But there is a report that you wrote to the agency's principal traffic engineer on Monday afternoon, after just one day. And quoting from that report, it says, "We feel that 10 or so angry customers -- and I had an unpleasant interaction with the Fort Lee Police Chief and Assistant Chief about congesting the Borough, and preventing the smooth flow of emergency response vehicles throughout the Borough. Their characterization was that the test was a monumental failure." Does that sound familiar?

MR. DURANDO: Yes, it does.

ASSEMBLYMAN WISNIEWSKI: On Monday you communicated to your principal traffic engineer that the Borough officials termed this so-called *test* a *monumental failure*.

MR. DURANDO: Yes, sir.

ASSEMBLYMAN WISNIEWSKI: What did your traffic engineer say in response?

MR. DURANDO: I honestly don't recall. Until you started reading this, I don't even remember writing that. But it sounds like something I would write.

ASSEMBLYMAN WISNIEWSKI: Well, I would like to get all of your e-mails that are related to this Bridge fiasco, because it sounds to me like there was a lot of discussion back and forth among the folks who were supposed to make this work smoothly. And your testimony today tells me that there is a culture of fear at the Port Authority. Is there a culture of fear? (no response)

I think your answer speaks for itself.

I'm going to ask you one last time, reminding you that you are under oath: At no time during this entire process -- August through the Friday that this ended, did you have a conversation with Mr. Baroni either about this traffic study, about Mr. Wildstein's direction, about making sure that you didn't mention any conversations that Mr. Baroni was involved with?

MR. DURANDO: No, sir, that did not happen.

ASSEMBLYMAN WISNIEWSKI: No conversations whatsoever?

MR. DURANDO: From August through the 6th of September, no.

ASSEMBLYMAN WISNIEWSKI: Okay. How about after the 6th of September? Any conversations with Mr. Baroni?

MR. DURANDO: The only conversation that I had with him was on the 13th after I forwarded Mr. Foye's e-mail. Mr. Baroni asked me what -- if I talked to Pat and what he wanted. And I explained to him, as I did to Mr. Wildstein, that Pat was not happy about not being informed about this test. That has been the extent of my conversations post-incident with either Mr. Wildstein or Mr. Baroni.

ASSEMBLYMAN WISNIEWSKI: Mr. Baroni called you to ask you what the Executive Director's reaction was to this?

MR. DURANDO: Yes, he did.

ASSEMBLYMAN WISNIEWSKI: Shouldn't he know that?

MR. DURANDO: I forwarded Pat's e-mail to Wildstein. I got a call from Baroni.

ASSEMBLYMAN WISNIEWSKI: So can you infer from that, that Mr. Wildstein forwarded that e-mail on to Mr. Baroni?

MR. DURANDO: I don't infer, Mr. Chairman. I'm sorry.

ASSEMBLYMAN WISNIEWSKI: How did that e-mail get to Mr. Baroni?

MR. DURANDO: I have no idea.

ASSEMBLYMAN WISNIEWSKI: Did you ask him?

MR. DURANDO: No, I did not.

ASSEMBLYMAN WISNIEWSKI: You are temporarily excused. We're going to call our next witness, but we'd like you to remain in case there are any follow-ups.

The Committee calls Patrick Foye, Executive Director of the Port Authority of New York and New Jersey to testify.

Good afternoon, Mr. Foye.

PATRICK J. FOYE: Good afternoon, Mr. Chairman.

ASSEMBLYMAN WISNIEWSKI: Thank you for appearing here today. As you know, I'm Chair of the Committee.

Are you accompanied by an attorney today?

MR. FOYE: No, sir.

ASSEMBLYMAN WISNIEWSKI: Do you understand that the statements you make -- if they are false or you fail to answer, you may be subject to penalties?

MR. FOYE: I do, sir.

ASSEMBLYMAN WISNIEWSKI: Did you receive a subpoena from this Committee compelling your testimony at this meeting?

MR. FOYE: Yes, sir.

ASSEMBLYMAN WISNIEWSKI: And did that subpoena also compel the production of certain records?

MR. FOYE: It did.

ASSEMBLYMAN WISNIEWSKI: Did you bring those records with you?

MR. FOYE: I have some. They're being vetted by counsel. I'll furnish what we can today, Chairman, and in the days to follow.

ASSEMBLYMAN WISNIEWSKI: Thank you.

Did you receive a copy of the Code of Fair Procedure together with that subpoena?

MR. FOYE: Yes, sir.

ASSEMBLYMAN WISNIEWSKI: Do you understand that you have certain rights under the Code of Fair Procedure, including the right to be accompanied by counsel who would be permitted to confer with you during the questioning, and advise you of your rights, and submit proposed questions on your behalf?

MR. FOYE: Yes, sir.

ASSEMBLYMAN WISNIEWSKI: And as you can see -- and you've heard the instructions in the past -- we have a hearing reporter who is recording this and will prepare a transcript. So it's important your responses to questions be verbal. Do you understand that?

MR. FOYE: Yes, sir.

ASSEMBLYMAN WISNIEWSKI: You are entitled to a copy of the transcript of your testimony, at your expense, when such copy is available. Do you understand that?

MR. FOYE: Yes, sir.

ASSEMBLYMAN WISNIEWSKI: You have the right to file a brief sworn statement relevant to your testimony for the record at the conclusion of your examination. Do you understand that as well?

MR. FOYE: Yes, sir.

ASSEMBLYMAN WISNIEWSKI: Before I proceed, do you have any questions?

MR. FOYE: No, Chairman. With your indulgence, I have a brief opening statement which I will furnish to Committee staff, as well, if that's acceptable.

ASSEMBLYMAN WISNIEWSKI: Before we do that, I'd like you to stand and raise your right hand. (Mr. Foye stands and raises his right hand)

Mr. Foye, do you swear or affirm that the testimony you are about to give is a true, correct, and complete to the best of your information, knowledge, and belief?

MR. FOYE: Yes, sir.

ASSEMBLYMAN WISNIEWSKI: Thank you very much. Please be seated. Please state your full name for the record, spelling your last name.

MR. FOYE: Sure, Patrick Foye, F-O-Y-E.

ASSEMBLYMAN WISNIEWSKI: And where are you currently employed?

MR. FOYE: Port Authority of New York and New Jersey.

ASSEMBLYMAN WISNIEWSKI: And your title?

MR. FOYE: Executive Director.

ASSEMBLYMAN WISNIEWSKI: And how long have you held that title?

MR. FOYE: A little over two years, sir.

ASSEMBLYMAN WISNIEWSKI: And before that title, what did you do?

MR. FOYE: I have practiced law, worked at a big (indiscernible), worked for Governor Cuomo, ran a not-for-profit -- a checkered past. (laughter)

ASSEMBLYMAN WISNIEWSKI: And I understand you have an opening statement you'd like to make.

MR. FOYE: I do, Chairman.

ASSEMBLYMAN WISNIEWSKI: Please, go ahead.

MR. FOYE: Good afternoon, Chairman Wisniewski, Vice Chair Stender, and esteemed members of this Committee.

I am here to address the Committee regarding the lane closures in Fort Lee at the George Washington Bridge during the week of September 9, and to answer your questions at the conclusion of these brief opening remarks.

All of us here today recognize the importance of the Port Authority of New York and New Jersey to our bi-state's region economy and transportation infrastructure. Millions of residents from this region, as well as visitors from around the world, rely on our facilities on a daily basis, and it is imperative that we conduct our business openly and, above all, in a manner that places the safety of our customers foremost.

This is something that both Governors Cuomo and Christie have made clear is their number one priority. Under their collaborative

leadership, we support more than 850,000 regional jobs; generate more than \$23 billion in annual wages, and \$80 billion in annual economic activity. The states work closely together, and I work closely with Deputy Executive Director Bill Baroni, and with the Board of Commissioners, whose members are appointed by the Governors.

Regarding the decision to restrict access from local roads in Fort Lee from three lanes to one, let me start by laying out the standards we employ when a traffic alteration is contemplated at any of our facilities. First: Written sign-off by the Tunnels, Bridges, and Terminals Department, as well as by Traffic Engineering and the Port Authority Police Department. Second: Prior discussion with the local governments and host communities, a communications plan, and plenty of advance notice to the commuting public. Third: Consideration of the effects on emergency vehicles. And fourth: Consideration of the financial impact on the Port Authority in terms of additional costs, including overtime, given the public we serve.

While my review of the lane closures at the George Washington Bridge for four days during the week of September 9 is continuing, it is clear that the closure met none of these conditions. After inquiring with Bridge personnel on what I deemed an ill-advised operation, I ordered the immediate reopening of the lanes as quickly and safely as possible. I also made clear that changes to Fort Lee access lanes would require the same due diligence we apply throughout our facilities.

In the time that has lapsed since the unannounced closures, I have learned, as has this Committee, that the agency's Director of Interstate Capital Projects, David Wildstein, made the decision on or about September 5 to restrict local access lanes to the upper level toll plaza in Fort

Lee from three lanes to one. Wildstein failed to provide notice to the leadership of our Public Safety Department, including our Chief Security Officer and the Chief of the Department, or to the Borough of Fort Lee, Fort Lee Police and first responders, other Bergen County communities, the commuting public, or senior leadership within the Port Authority, including me.

As a result of his decision, commuters entering the George Washington Bridge that week were subjected to hours of gridlock, and the Borough of Fort Lee was, for all intents and purposes, shut down during the morning rush. Drivers complained of up to 4-hour commutes, and Port Authority Police expended significant resources to create traffic diversions to safely control the massive back up of vehicles on Fort Lee roads. September 9 was also the first day of school for many children in the surrounding communities, and we now know that there were reports from parents and local schools that many school buses were delayed due to the unnecessary gridlock that engulfed the Borough of Fort Lee.

Most alarmingly however, it has been reported that ambulances, police cars, fire trucks, and other public safety vehicles were also needlessly delayed, putting the public's safety at risk. Thankfully, it appears there was no resulting loss of life due to the closures. However, that is of little comfort to me or my colleagues at the Port Authority who believe that the safety of the traveling public is the Port Authority's number one priority.

Let me be clear, the decision to restrict local access to the George Washington Bridge during the morning rush bypassed normal operating procedures, without proper transparency and openness. And it

directly violated our agency's primary responsibility to protect our customers and personnel.

To ensure incidents such as this do not happen again under my watch, I have put in place a host of procedures, checks, and balances to make sure non-emergency traffic pattern changes are thoroughly vetted and communicated in advance. One need only to look at how we have handled planned closures for other important improvement and maintenance projects. This includes the George Washington Bridge Upper Level Deck Replacement, the Lincoln Tunnel Helix fix, the Bayonne Bridge Raise the Roadway project, and the Outerbridge Crossing deck repaving -- all examples of where we have notified and carefully coordinated with local communities, media, state DOTs, 511, TRANSCOM, and public safety officials.

With that, Mr. Chairman, I will take your questions.

ASSEMBLYMAN WISNIEWSKI: Mr. Executive Director, thank you for being here today and thank you for those opening remarks. You will supply us with a copy of those remarks?

MR. FOYE: Yes, sir.

ASSEMBLYMAN WISNIEWSKI: I appreciate it. Along with the documents you did provide today.

I'm in receipt of, and I've reviewed, your e-mail of Friday, September 13. And you've heard the questions I've asked thus far about it. Where I'd like to start is to address the testimony of both Mr. Durando and Mr. Fulton, who both described the order they received -- Mr. Durando received the order, Mr. Fulton was advised of the order -- as being *odd*, to

paraphrase. But they also both expressed deep reservations about going outside what they have described as a *chain of command*.

What can you tell this Committee about the plans that the Port Authority has, under your direction, to change what I would characterize as a culture of fear in which, clearly, odd decisions are ordered, but people who are given the direction to carry out those orders feel like they do -- they raise a red flag at their risk?

MR. FOYE: Chairman, let me start by saying that on behalf of the nearly 7,000 men and women who work at the Port Authority, including the nearly 2,000 members of the Port Authority Police Department, what occurred with respect to the Fort Lee lane closures the week of the 9th of September, and continued until the early morning of the 13th, does not represent the values of the Port Authority or the way those nearly 6,000 men and women operate on a daily basis; nor does it, frankly, represent the way that the Port Authority is operated with respect to other bridge and tunnel projects in the last six months, in the last year, in the last three or four years.

I'll just give you one example. The Outerbridge Crossing, Mr. Chairman -- which is obviously a facility known to you. There is a pavement replacement project underway at the Outerbridge. The planning for that began in February of this year -- introductory internal meetings with TBT; SIB, which is Staten Island Bridges; Media -- the General Manager, Roger Prince, in that case; marketing; (indiscernible). And it's something that Bill Baroni and I have worked closely on, as we did on the George Washington Bridge deck replacement with respect to the Raise the Roadway, the Bayonne Bridge, the Goethals Bridge, etc.

That work started in February. The Board approved the project in April of 2013. Government Relations on both sides of the Hudson met with local officials in Staten Island and with respect to New Jersey in June. There were also interagency meetings with the New Jersey Department of Transportation, the New Jersey Turnpike Authority, NJT, New York City DOT, the MTA, NYSDOT, TRANSCOM -- in other words the full comprehensive briefing, and inclusion of all of those. There was a final executive briefing that was made, I believe, to Bill Baroni and I in the middle of June; and a press release was issued several months later in August, for instance, noting that Outerbridge work would be suspended for Labor Day weekend; the earlier press release with respect -- in July of this year -- with respect to alerting the public to full closures during the subsequent months.

Indeed, during 2013, so far, the Port Authority media shop has issued about 42 press releases with respect to lane closures, closing of facilities. Fortunately, we have a significant number of construction projects underway -- which is good for this region, it's good for employment in the region. And I think that more correctly indicates the values of the Port Authority and the 7,000 people who work there.

What happened with respect to the Fort Lee lane closures was aberrational, it was odd, and I think in the words of one of my prior colleagues, it was unprecedented.

ASSEMBLYMAN WISNIEWSKI: Okay. But just to go back to the question -- and not to put too fine a point on it -- there are two professionals who, if my math is right, have about 50 years of experience at the Port Authority who thought this was odd, who called it unprecedented,

and would not say a word to a soul because they were told not to. What gets done about that culture where they're afraid to call you up or call your secretary up, or call the Fort Lee Mayor up and say, "Hey, this is wrong. You ought to know about it."

MR. FOYE: Chairman, my two colleagues who preceded me are good men who are dedicated public servants. I think what happened on the-- I've spoken to both of them in very clear and firm terms, as you can imagine. And I think what happened that week on the George Washington Bridge with respect to the Fort Lee lane closures was abhorrent to both of them. I have every confidence that with respect to the both of them, and to others throughout the organization, this will not recur. We've put in place procedural requirements to make sure it doesn't occur. And I think it was, as they indicated, aberrational.

ASSEMBLYMAN WISNIEWSKI: What I'd like to understand is if the Port Authority is considering any type of -- and maybe it already exists, because I asked the question about the Inspector General, and the one gentleman said he didn't think it rose to that level. Clearly, one man calling up saying, "Close these lanes," or "Divert these lanes," is unprecedented, odd, and they didn't feel comfortable telling anybody. And so what assurances do other employees of the Port Authority who are called up and told to do anything that, in particular, they believe is odd, unfair, or unwarranted-- What assurances do those employees of the Port Authority have from you, as Executive Director, going forward -- "Do your job correctly and there will not be a consequence."

MR. FOYE: Chairman, I've taken my e-mail -- and I did this shortly after I sent it on Friday, September 13. I sent it to the leaders and

their chief deputies of each of our other lines of businesses. I've had discussions with each of them about how this is unacceptable. I believe that the message has been made clear that this aberrational action that occurred the week of September 9 can't recur. And I believe it will not recur as a result of the message that has been sent, and frankly, this Committee's interest in the subject; as well as procedural safeguards that have been put in place. What occurred that week was unacceptable.

ASSEMBLYMAN WISNIEWSKI: And we all agree that it was unacceptable. I guess what I'm hoping to hear -- and perhaps you haven't had sufficient time to consider it. There ought to be institutionalized, at the Port Authority, a process in which an employee who feels that something wrong is going on has a safe haven that they can pick up the phone, or send an e-mail, or have a conversation with somebody to say, "You ought to look into this because there is something just not right."

MR. FOYE: Chairman, I agree. I think the Office of the Inspector General is something that could have been resorted to in this case. We have an active, independent Office of the Inspector General. And I think there are safeguards in place. It's unfortunate that I wasn't told. Had I been told earlier I would have stopped it earlier. I think if the Inspector General had been made aware of this, the Inspector General too would have told me and I would have stopped it. I agree, Chairman.

ASSEMBLYMAN WISNIEWSKI: I understand there was a letter written by Senator Codey to the Inspector General to undertake -- or a request to undertake an investigation of this matter. Do you know if the Inspector General's Office is going to undertake an investigation?

MR. FOYE: As I understand it, Chairman, the Inspector General is considering that letter. I, too, have seen Senator Codey's letter.

ASSEMBLYMAN WISNIEWSKI: Did they inform you that they're going to do an investigation?

MR. FOYE: I would expect they would; yes, sir.

ASSEMBLYMAN WISNIEWSKI: Would you report back to this Committee when you hear either "yes" or "no" that they're going to undertake that?

MR. FOYE: Chairman, assuming I'm legally able to do that, you have my commitment I will do so. Yes, sir.

ASSEMBLYMAN WISNIEWSKI: Understood.

Let's talk about what happened, because I don't pretend to have an intricate knowledge of the Port Authority hierarchy or culture. But it would seem to me that yourself, vested with the title of Executive Director -- that the buck stops with you.

MR. FOYE: It does.

ASSEMBLYMAN WISNIEWSKI: And so lanes were closed on a Monday after a plan on Thursday or Friday to do so. You first became aware, I guess, late Thursday or Friday?

MR. FOYE: I became aware, Chairman-- Cedrick Fulton referred to the media pendings. So the *media pendings*, just to clarify, are not clips. We get newspaper clips -- and I'm probably giving secrets away in front of the media, but I'm going to do this anyway. We get newspaper clips twice a day, in the morning and late afternoon. There is also a report called *media pendings*, which is circulated at the end of the day -- 6:00 or 7:00. I got the media pendings that day. I read it religiously. The first or

second item was an inquiry, I believe, from the *Bergen Record* -- "Road Warrior," if I recall correctly -- and it was just odd. We had not heard-- I had not heard about the Fort Lee lane closures. And I described a minute ago the process on the Outerbridge Crossing. We take very seriously-- We have 49 traffic engineers at the Port Authority. In June, Bill Baroni and I issued a press release on behalf of the Port Authority talking about the 2012 traffic report, which I'm happy to say described that, again, the number of motor vehicle accidents at Port Authority facilities was down, and it's decreased since the year 2000 about 40 percent, 45 percent -- an incredible achievement.

The point being, we take these things seriously. And the process I described on the Outerbridge Crossing is one that we apply to any significant change. Obviously, an emergency on a bridge -- a truck breaks down, a bus gets into an accident -- Bob Durando or his other colleagues at our facilities are going to make an on-the-spot, in-the-moment judgement. That's the way it should be.

With respect to construction projects, or emergent, or significant operational change, there is a whole process that we go through and have gone through this year, last year, and the year before. That's the way the process works.

ASSEMBLYMAN WISNIEWSKI: It became pretty clear from the testimony that I heard today that soon after your e-mail was issued -- that it became clear that Mr. Wildstein had directed this happen. Is that accurate?

MR. FOYE: Yes, sir.

ASSEMBLYMAN WISNIEWSKI: What I'm not certain about is that, even though it became clear pretty soon that this was some type of operation that Mr. Wildstein was directing, that was not ever publicly mentioned until Mr. Baroni came here several weeks ago. My question is: Why the enormous gap in being forthcoming about what happened? For those of us who are not in the agency, it is easy to come to the conclusion that there was a group of people around a table saying, "Okay. Now how do we explain this? Oh, let's blame David Wildstein." How do you respond to that?

MR. FOYE: Chairman, before I sent my e-mail on Friday, September 13, at 7:30, 7:40 in the morning, I sent separate e-mails to Cedrick Fulton and Bob Durando. I said, "Call me." I get up early, I leave my house early, I get to the office early. I spoke to Bob first, and then Cedrick next. I don't remember exactly, but it was 6:15 in the morning. I think they were in their cars. They operate facilities. People who operate facilities get to work early. It's the nature of the business. I spoke to each of them -- Bob first, then Cedrick first (*sic*).

My focus, then, was public safety and understanding what had happened. And I made the decision immediately to reverse it. I was in my office early, drafted the e-mail with some care, and sent it out. And Bob Durando e-mailed back five minutes later -- if memory serves -- that the lane closures had been reversed.

My immediate focus was public safety. I remember when I spoke with Bob that morning that one of the things he had told me was that there had been reports -- which I think were later referenced in the newspaper story that appeared on that Friday -- about delays in first

responder and ambulances, and the like. And that -- the public safety concern was foremost in my mind and motivated me to speak to them at that hour of the morning and to send an e-mail -- I did -- to reverse it immediately.

ASSEMBLYMAN WISNIEWSKI: But my question was: Why wasn't the Port Authority more-- If it became clear within a day or two-- Based on the testimony I've heard here, that as soon as this became a problem, and you sent your e-mail and wanted answers-- It seems to me that pretty soon thereafter everybody was saying, "David Wildstein said, 'Do this.'" But for a very long period of time, myself, Senator Weinberg, Assemblyman Johnson, freeholders -- all asking the same questions that we're asking today -- we couldn't get an answer. And you can't help but forgive our suspicions when it takes that long to provide the answer that, now the testimony at least is saying, everybody knew within days. Why the gap?

MR. FOYE: Chairman, as I've announced and as I mentioned this afternoon, I'm doing a review. The Port Authority is doing a review. I'm leading that. That review is ongoing. There is no question -- and I knew before I sent my e-mail on Friday, September 13, at 7:44 in the morning -- if I have that right -- that David Wildstein was the culprit, if that's the right word. And nothing I've learned, to date, changes that conclusion.

ASSEMBLYMAN WISNIEWSKI: Mr. Wildstein is still an employee of the Port Authority.

MR. FOYE: Yes, sir.

ASSEMBLYMAN WISNIEWSKI: Why wasn't he terminated upon knowing he was the culprit, as you say?

MR. FOYE: Chairman, the review is underway. He has now resigned, as you referenced, and he will no longer be a Port Authority employee as of the end of the year.

ASSEMBLYMAN WISNIEWSKI: But I guess that doesn't answer the question. Notwithstanding the fact that he's a high-ranking appointee at the Port Authority, it became obvious very quickly that he had abused his authority. Why wasn't he disciplined or terminated upon that being known?

MR. FOYE: Well, that termination, Chairman, may have come had he not resigned. But, again, my immediate focus on Friday, September 13, was public safety and reversing the lane closures. The review, which is underway, began sometime thereafter.

ASSEMBLYMAN WISNIEWSKI: It just seems to me that if you have an employee who acts beyond his authority, intimidates other employees to not say a word about it, that person should be fired -- even though they submitted a letter of resignation, giving themselves until January 1, 2014, to exit on their own terms. Why would the motoring public have any more faith in the Port Authority in allowing this gentleman to continue his employment under these circumstances?

MR. FOYE: Chairman, I can assure you that since September 13, he has had no role in decisions like that; and that procedures have been put in place to prevent future solitary employees making arbitrary decisions like that, that endanger the commuting public or anybody who uses our facilities. I am confident that what occurred that week cannot recur.

ASSEMBLYMAN WISNIEWSKI: Why is he still drawing a paycheck, though, if he's-- If his responsibility has been taken away, he's been fingered by everybody who has testified that he was the guy who did it, why continue to pay somebody who clearly can't be entrusted with authority and clearly exercised the authority he had incorrectly? If that happened to a toll collector, if that happened to a person on the maintenance staff, I'm not sure they would be given until December 31 to exit at the salary he's earning and have a graceful exit. I mean, why the different treatment?

MR. FOYE: Chairman, there are procedures in place with respect to both represented and unrepresented employees. His employment is coming to an end, and it is clear to me that future recurrences of this aberrational and unacceptable behavior cannot occur.

ASSEMBLYMAN WISNIEWSKI: Could you fire him if you wanted to?

MR. FOYE: Yes.

ASSEMBLYMAN WISNIEWSKI: Even though he is the number two employee under New Jersey's Governor?

MR. FOYE: Yes, sir.

ASSEMBLYMAN WISNIEWSKI: So you have that unilateral authority as Executive Director?

MR. FOYE: Yes.

ASSEMBLYMAN WISNIEWSKI: And the reason you haven't is?

MR. FOYE: Review is still underway, and due process requires that a review be completed.

ASSEMBLYMAN WISNIEWSKI: Is that the opinion of counsel?

MR. FOYE: I have not consulted with counsel, sir, on that specific question.

ASSEMBLYMAN WISNIEWSKI: You have not consulted with labor counsel for the Port Authority?

MR. FOYE: Not with respect to that specific question. No, sir.

ASSEMBLYMAN WISNIEWSKI: Why would you make that statement then? Other than your being a lawyer, why would you make that statement without having had the advice of counsel as to how you should proceed with it?

MR. FOYE: Chairman, if you're referencing: Do I have the authority to fire him, my belief is yes, the Executive Director has that authority.

ASSEMBLYMAN WISNIEWSKI: So why don't you fire him?

MR. FOYE: When the review is complete, if he's still an employee, that may occur, sir.

ASSEMBLYMAN WISNIEWSKI: What else needs to be reviewed? I mean, we've heard testimony from the Bridge Manager and the Bridge and Tunnel Manager that David Wildstein -- this was his operation. I mean, I don't understand. What else is there to review?

MR. FOYE: There are other matters still under review, Chairman, which I'm not going to comment on. But the review, as I mentioned in my opening remarks, is continuing.

ASSEMBLYMAN WISNIEWSKI: Other matters meaning other people who might be involved?

MR. FOYE: Other matters.

ASSEMBLYMAN WISNIEWSKI: So, yes or no, that means you're not going to answer anything further on that?

MR. FOYE: I'm going to try not to, sir. (laughter)

ASSEMBLYMAN WISNIEWSKI: Well, I mean, the frustration is here. You're under subpoena.

MR. FOYE: Yes, sir.

ASSEMBLYMAN WISNIEWSKI: You're obligated to answer our questions unless there is a claim of privilege. You haven't made a claim of privilege, and so I'd like to know what other matters are under investigation.

MR. FOYE: Well, the Wildstein matter raises personnel questions which, under Federal and State law, are treated differently. And actually Federal and State law, and Port Authority procedure. The review is ongoing. I'm not going to speak about personnel matters. I just can't do that.

ASSEMBLYMAN WISNIEWSKI: I'm not asking you to speak about personnel matters.

MR. FOYE: I understand that.

ASSEMBLYMAN WISNIEWSKI: I want to know what else you are reviewing other than personnel matters.

MR. FOYE: The -- completing the review of what happened and why it happened, and also steps taken to date, and additional steps that may need to be taken to ensure everybody -- including this Committee -- that there is not a recurrence.

ASSEMBLYMAN WISNIEWSKI: What I would humbly suggest is that you can do that after you terminate him. I'm not sure why you would keep somebody on the Port Authority payroll who has had his authority stripped from him, has clearly exceeded his authority, has made these two gentlemen fear for their employment. And we need to continue to review what happened here. It seems to me it's pretty clear that you know what happened, they know what happened, we know what happened. I'm not sure that that's an acceptable answer.

When do you think you're going to wrap up your review?

MR. FOYE: I would think, Chairman, the review would be wrapped up sometime in 2014.

ASSEMBLYMAN WISNIEWSKI: I have to say that gives me cause for cynicism that this is nothing more than the protection of Mr. Wildstein while he is still an employee. And I would like to let you know that this Committee will consider subpoenaing Mr. Wildstein and subpoenaing Mr. Baroni if the investigation warrants.

What I don't understand is how, as Executive Director, it would be Thursday of a week of lane closures that you would not know about the traffic backups in Fort Lee.

MR. FOYE: Chairman, I became aware of the media pendings. I believe there were calls to the Port Authority. None of them came to me. I think it's natural enough that calls -- for instance, if there are issues that are important to elected officials, members of the city council -- for instance in the case of the City of New York -- the state legislature -- they naturally enough would call New York Government Relations employees at the Port Authority. I first became aware the evening of Thursday, the 12th, when I

read the media pendings. I spoke to Bob Durando and Cedrick Fulton at 6:00, 6:15 on Friday. I sent the e-mail, made the decision, and had the lane closures reversed.

ASSEMBLYMAN WISNIEWSKI: Just reading from a letter that was not directed to you -- it was directed to Mr. Baroni by Mayor Sokolich -- he says, "Having received absolutely no notice of this decision, not having obtained any response to our multiple inquiries concerning the same--" You mean to tell me that Mayor Sokolich did not call your office once during this?

MR. FOYE: No, sir. I became aware of that letter when I read it on the *Wall Street Journal* Website.

ASSEMBLYMAN WISNIEWSKI: And Mr. Baroni clearly didn't share this with you.

MR. FOYE: No, sir.

ASSEMBLYMAN WISNIEWSKI: Mr. Wildstein reported directly to Bill Baroni, correct?

MR. FOYE: Yes, sir.

ASSEMBLYMAN WISNIEWSKI: He was the number two New Jersey official at the Port Authority?

MR. FOYE: Yes, sir.

ASSEMBLYMAN WISNIEWSKI: And that was known to everybody who worked there.

MR. FOYE: Yes, sir.

ASSEMBLYMAN WISNIEWSKI: After you became aware that Mr. Wildstein was running this operation where he was directing lane

diversions on the George Washington Bridge, did you call up Mr. Baroni and say, “Bill, what are your people doing?”

MR. FOYE: Bill and I spoke a couple of times that day. Yes, sir.

ASSEMBLYMAN WISNIEWSKI: What did you speak with Mr. Baroni about?

MR. FOYE: About the lane closures and how it came to be.

ASSEMBLYMAN WISNIEWSKI: And what did you ask him specifically?

MR. FOYE: What did I ask him specifically? I asked him how this occurred. I told him it was unacceptable. I raised the public safety issues.

ASSEMBLYMAN WISNIEWSKI: Did you ask him why he chose not to inform you?

MR. FOYE: He said, as he did before this Committee, that there had been a communication failure.

ASSEMBLYMAN WISNIEWSKI: What does that mean?

MR. FOYE: Certainly I was not informed, neither was the motoring public or elected officials in Fort Lee and beyond.

ASSEMBLYMAN WISNIEWSKI: I just want to know about-- He's your Deputy Executive Director. My assumption is that you have some kind of working relationship, correct?

MR. FOYE: We do, and a good one.

ASSEMBLYMAN WISNIEWSKI: Okay. So your Deputy Executive Director doesn't tell you about a lane diversion allegedly ordered

by one of his subordinates, and he says it's a communication failure. Does that mean his cell phone battery died? I mean, what does that mean?

MR. FOYE: Chairman, I don't have an explanation for that. Bill and I had a very frank discussion about how this was unacceptable and about how, frankly, people's lives were put at risk by this operation.

ASSEMBLYMAN WISNIEWSKI: And I want to know about that conversation. Mr. Baroni said, in response to your statement, that people's lives were put at risk, what?

MR. FOYE: He didn't disagree with that. He cited a communication failure.

ASSEMBLYMAN WISNIEWSKI: Those are the words he used?

MR. FOYE: Yes, sir.

ASSEMBLYMAN WISNIEWSKI: And you were okay with that?

MR. FOYE: No.

ASSEMBLYMAN WISNIEWSKI: What did you say to let him know that you weren't okay with that?

MR. FOYE: I told him it was absolutely outrageous; unacceptable; and that, as I said in my e-mail, the lives of people in Fort Lee and beyond-- That morning we had both read it -- certainly I had. The *Record* had a story quoting the Police Chief -- if I believe my chronology is right -- in Fort Lee talking about a missing 4-year-old, a cardiac arrest, and a car that crashed into a building -- the normal crisis that the police deal with on a daily basis -- and about how the lane closures had delayed first responders. Bob Durando had mentioned disruption of public -- of first

responders when he and I spoke at 6:15 that morning. And I know Bill shares this concern. I have three daughters and don't want anybody's missing 4-year-old -- to have that search delayed on my watch as a result of something the Port Authority has done. It's unacceptable.

ASSEMBLYMAN WISNIEWSKI: Does Bill Baroni report to you?

MR. FOYE: As you know, the agency is a bi-state agency, Chairman. We both report to the Board of Commissioners.

ASSEMBLYMAN WISNIEWSKI: And so he's not a direct report to you.

MR. FOYE: He is not.

ASSEMBLYMAN WISNIEWSKI: And so from a structural standpoint, you could have a deputy executive director running his own operations there, and there is really nothing you can do about it.

MR. FOYE: But that has not been the case with Bill. This is an aberration.

ASSEMBLYMAN WISNIEWSKI: Who brought Mr. Wildstein in?

MR. FOYE: Before my time.

ASSEMBLYMAN WISNIEWSKI: He works for-- He's a direct report to Bill Baroni.

MR. FOYE: Yes, he does; yes, he is.

ASSEMBLYMAN WISNIEWSKI: Bill Baroni had nothing-- He didn't say, "Hey, this is a good guy. Bring him in." He was just placed there?

MR. FOYE: Chairman, before my time. I arrived in November of 2011, and Wildstein was on the staff at the time. I don't know the exact circumstances of his hiring. Certainly, I think he and Bill came in together.

ASSEMBLYMAN WISNIEWSKI: So you have a Deputy Executive Director who really is outside of your control, reports to the Governor of New Jersey--

MR. FOYE: Well, I believe he reports to the Board of Commissioners.

ASSEMBLYMAN WISNIEWSKI: And the Board of Commissioners is established by the two Governors.

MR. FOYE: Yes, sir.

ASSEMBLYMAN WISNIEWSKI: And that Deputy has an employee who, from what you're telling me, is really beyond your control.

MR. FOYE: No, I didn't say that. As I said before, the first I became aware of the Wildstein operation, as you put it Chairman, I stopped it. I put in place procedures that will prevent it from recurring. I believe everybody in this room can be confident that it will not recur. I've expressed my concern in the strongest possible terms to Bill. And I have every confidence this will not recur.

ASSEMBLYMAN WISNIEWSKI: What would stop another deputy executive director, if it's not Mr. Baroni, from ordering a lane diversion and telling Mr. Fulton and Mr. Durando, "Don't tell Pat."

MR. FOYE: Well, the answer to that is two-fold, I believe. One is, I believe each of the line department chiefs are aware of the hazards of doing this. That's not an institutional answer, but it is a real answer. I

don't think that any of their colleagues are eager to appear before this Committee or any other as Cedrick and Bob did today.

The institutional answer is that procedures have been put in place requiring a written sign-off by Bridges and Tunnels, and the Port Authority Police, and Traffic Engineering with respect to this. I have every confidence that what happened on September -- the week of September 9 will not recur, cannot recur.

ASSEMBLYMAN WISNIEWSKI: None of those procedural safeguards were in place before this?

MR. FOYE: Well, as Cedrick and Bob both said, this was odd, it was strange, it was unprecedented. As I said before, they're both good men and dedicated public servants. I think they made significant errors here. I think they've said as much.

ASSEMBLYMAN WISNIEWSKI: Is their performance being reviewed?

MR. FOYE: I have spoken to both of them. I'm not going to speak about personnel matters, and I'd ask you to respect that, Chairman. I've had clear and firm conversations with both of them. As a result of that, I have every confidence that this will not recur on the watch of either of them.

ASSEMBLYMAN WISNIEWSKI: Is there a difference in the way they're being treated from the way Mr. Wildstein is being treated?

MR. FOYE: Well, neither of them are resigning, and -- while I think it's fair to say -- and they would agree with this -- this was not a high point in their public service at the Port Authority. Wildstein will soon be leaving the Port Authority.

ASSEMBLYMAN WISNIEWSKI: Vice Chair Stender, do you have questions?

ASSEMBLYWOMAN STENDER: Yes. Thank you very much, Mr. Chairman.

Good afternoon, Mr. Foye. Thank you for being here.

MR. FOYE: Good afternoon, Vice Chair.

ASSEMBLYWOMAN STENDER: You said that Wildstein has been stripped of his responsibilities, but he is still collecting his salary which, I believe, is \$150,000. Is that correct?

MR. FOYE: Vice Chair, I don't know off the top. I'll accept your number.

ASSEMBLYWOMAN STENDER: Okay. My question is then: What is he doing if he's been stripped of his responsibilities?

MR. FOYE: He resigned on Friday. He's in the office today and I'm here in Trenton, so I don't know what he's doing today. I expect he's going to have a very limited role over the next three weeks.

ASSEMBLYWOMAN STENDER: Okay.

MR. FOYE: If I had to speculate, I assume he's going to be doing transition, but I don't know.

ASSEMBLYWOMAN STENDER: Okay. You said you've had a number of conversations with Mr. Baroni regarding this incident.

MR. FOYE: Yes.

ASSEMBLYWOMAN STENDER: Did he, at any time during those conversations, explain why this decision was made on the part of Wildstein to do these lane closures?

MR. FOYE: Traffic study.

ASSEMBLYWOMAN STENDER: And that was the best he could give you, or gave you, in terms of rationale for causing all of this?

MR. FOYE: That was the rationale.

ASSEMBLYWOMAN STENDER: Okay. You know there's been a lot of speculation that these lane closures were done for political purpose because of the issues with the Mayor in Fort Lee. And when you've had these conversations with Wildstein, did he make any reference to his decision having to have political purpose?

MR. FOYE: So, Vice Chair, just to be clear, I've had no conversations with Wildstein. I've spoken with Deputy Executive Director Bill Baroni. And the answer to your question is no.

ASSEMBLYWOMAN STENDER: So you accepted their statement, their rationale that they put people at risk, and spent money, and created tremendous upheaval solely for the purpose of a traffic study?

MR. FOYE: I don't.

ASSEMBLYWOMAN STENDER: You don't. Why do you think they did it?

MR. FOYE: I'm not aware of any traffic study. I don't know why it was done.

ASSEMBLYWOMAN STENDER: Thank you.

ASSEMBLYMAN WISNIEWSKI: Assemblyman Benson.

ASSEMBLYMAN BENSON: I really just have one question. Just recently the Governor's spokesman singled out Wildstein after his resignation to praise him profusely. Given this incident that has occurred, do you believe that Mr. Wildstein is deserving of such praise?

MR. FOYE: I'm not going to comment on a personal matter. That would not be my personal view.

ASSEMBLYMAN BENSON: Thank you.

ASSEMBLYMAN WISNIEWSKI: Assemblyman Schaer.

ASSEMBLYMAN SCHAER: Just to extend that, if I may, Mr. Foye. Do I understand correctly that Mr. Wildstein's behavior was an aberration, as far as you'd be concerned?

MR. FOYE: It's not representative, Assemblyman, of the values of the people of the Port Authority or the conduct and every day operation of the Port Authority over the last period of decades; yes, sir.

ASSEMBLYMAN SCHAER: So following Assemblyman Benson's comments, there are no accolades, no awards, no fair-well dinners planned for Mr. Wildstein?

MR. FOYE: Assemblyman, I'm not aware of any. Certainly no rewards.

ASSEMBLYMAN SCHAER: But certainly, if it were up to you in your position as Executive Director, there'd be no formal acknowledgement of his good work and praise for his tremendous efforts on behalf of the citizens of New York and New Jersey.

MR. FOYE: Assemblyman, I would not join in that accolade.

ASSEMBLYMAN SCHAER: Very good. Thank you.

Thank you, Mr. Chairman.

ASSEMBLYMAN WISNIEWSKI: Thank you.

Assemblyman Johnson.

ASSEMBLYMAN JOHNSON: Thank you, Chair.

Mr. Foye, thank you for coming.

MR. FOYE: Certainly.

ASSEMBLYMAN JOHNSON: Going back to the chain of command here, Mr. Durando works for Mr. Fulton.

MR. FOYE: Yes, sir.

ASSEMBLYMAN JOHNSON: Mr. Fulton works for Mr. Wildstein.

MR. FOYE: No, no, no. No, Assemblyman. Mr. Durando is the General Manager of the world's busiest bridge. He reports to Cedrick.

ASSEMBLYMAN JOHNSON: And the bus station.

MR. FOYE: Yes, sir, exactly. Thank you.

Cedrick reports to the Chief Operating Officer -- Acting Chief Operating Officer Stephanie Dawson and to me.

ASSEMBLYMAN JOHNSON: Okay. Directly to you.

MR. FOYE: Yes, sir.

ASSEMBLYMAN JOHNSON: But Mr. Baroni does not report to you.

MR. FOYE: No, sir.

ASSEMBLYMAN JOHNSON: As you stated before.

So you two are somewhat equal on this employee chart, so to speak. If they were to put out an employee structure, you'd be equal?

MR. FOYE: Assemblyman, the Port Authority, as you know, is a bi-state agency and, therefore, a complicated institution.

ASSEMBLYMAN JOHNSON: The question I'm getting at is: How come you had to fix this problem? Why didn't Mr. Baroni fix it?

MR. FOYE: As Chairman Wisniewski began by saying, the buck stops with me. It does stop with me. I became aware of this. I was

disturbed and stopped it immediately. Five minutes after my e-mail went out it had been reversed. Beyond that, I'm confident it can't recur.

ASSEMBLYMAN JOHNSON: Going back to the Chairman's question regarding the letter written by the Mayor of Fort Lee dated September 12 to Mr. Baroni: You had no knowledge of this letter being written to your organization regarding the problems and the traffic chaos in Fort Lee because of this alleged study?

MR. FOYE: No, sir. As I said, I became aware of it when it was posted on a newspaper Website -- I believe the *Journal*. And as you see, it's not addressed to me or cc'd to me.

ASSEMBLYMAN JOHNSON: Correct. So why wouldn't Mr. Baroni share this with you, realizing you had this major problem in Fort Lee caused by the Port Authority of New York and New Jersey?

MR. FOYE: I don't know, sir.

ASSEMBLYMAN JOHNSON: Okay. Can you share with us anything from your internal review that has come out -- in this internal review that you're conducting now regarding this?

MR. FOYE: Well, I think, Assemblyman, obviously this was an operation directed by David Wildstein. It was, frankly, a low point in the Port Authority history. As soon as I became aware of it, for all the reasons set forth in my e-mail -- but most specifically because of the public safety concerns -- I reversed it. If I had to do it over again, I'd make the same decision -- exactly the same decision. Procedures have been put in place to make sure this can't recur. I think both from a personnel point of view -- which is not an institutional reform -- but both from a personnel point of view and an institutional point of view, this can't recur. And the review is

ongoing, including with respect to other steps that may need to be taken to ensure this doesn't recur, sir.

ASSEMBLYMAN JOHNSON: Was there a traffic study?

MR. FOYE: I'm not aware of any.

ASSEMBLYMAN JOHNSON: We were told -- well, I was not on the Committee. I sat in the audience when this Committee had their meetings -- this Transportation Committee. And we were told there was a traffic study by Mr. Baroni. You're not aware of any traffic study?

MR. FOYE: I'm not aware of a traffic study. No, sir.

ASSEMBLYMAN JOHNSON: Based on fairness -- we're trying to determine fairness for the people of -- the commuters who use the George Washington Bridge. So you're not aware of any traffic study.

MR. FOYE: No, sir.

ASSEMBLYMAN JOHNSON: Okay. Chairman.

ASSEMBLYMAN WISNIEWSKI: Assemblywoman Caride.

ASSEMBLYWOMAN CARIDE: Good afternoon. Thank you for being here this afternoon.

When do you think you'll have an answer as to why this traffic study or the lane changes were done?

MR. FOYE: Assemblywoman, I'm not in a position now to speculate as to motivations. What I was presented with on the morning of the 13th when I spoke to Cedrick Fulton and Bob Durando was inexplicable to me and posed significant dangers to public safety; and I made the decision I made, which I stand by, and I stand by my e-mail and the statements in it. Motivation I can't speak to.

ASSEMBLYWOMAN CARIDE: The reason I'm asking is because when Mr. Baroni was here, he was rather flip with the whole issue. And based on what you just testified, he told you that it was a traffic study. So I'm wondering-- And you also stated that you didn't really believe that it was a traffic study. So I'm wondering when can this Committee and the residents of New Jersey have an answer as to what really happened in September?

MR. FOYE: Well, with respect to what happened, the decisions taken by Wildstein, the decisions taken at the George Washington Bridge, and my decision, I think at this point there is little doubt as to those facts. I'm not however in a position to speculate as to motivation.

ASSEMBLYWOMAN CARIDE: Well, that's what I'm wondering. You're doing research into this, right? You're investigating it?

MR. FOYE: Yes, from an institutional point of view: what happened, how did it happen, how can it be prevented.

ASSEMBLYWOMAN CARIDE: And are you looking into the motivation for this reason?

MR. FOYE: I'm not, at this point, looking into motivation. This is a -- what happened; why did it happen; what were the perils of the decision that Wildstein made; and how can the Port Authority, the Board, the public be assured that this can't reoccur.

ASSEMBLYWOMAN CARIDE: With regard to accountability, we know that Wildstein has sent his resignation in, so that's done. But what about Bill Baroni? He testified that he knew about it, didn't call you, didn't call his good friend the Mayor of Fort Lee, didn't

think it was important enough. So where is the accountability from Bill Baroni?

MR. FOYE: Well, Assemblywoman, as I said before, I believe this was an aberrational episode for the Port Authority. I believe it's also aberrational with respect to Bill Baroni. Over the last two years-plus that he and I have worked together -- I went through a list of some of the bridge and tunnel projects that we've worked together on -- for instance, the 2012 Traffic Report which, institutionally, the Port Authority is really proud of. Bill and I were both quoted in that press release. We've worked together on plans for the George Washington Bridge deck replacement, the Bayonne Bridge Raise the Roadway, Goethals Bridge, Outerbridge Crossing, repaving the Lincoln Tunnel Helix. And the states, Bill and I, and staff have worked together closely, collaboratively, and well on those projects, as well as others -- airports, ports, etc. A couple of weeks ago Bill and I met with the Shipping Association with respect to ports -- different line of business -- met with respect to the Shipping Association, the Waterfront Commission, the International Longshoremen's Association with trying to bridge a gap between labor and management. He and I work well together and often.

ASSEMBLYWOMAN CARIDE: I think the jury is out on *well and often*, being that you were excluded from this in September. But it is clear that he knows the procedure as to what has to be done when you're going to close lanes or shift lanes on a bridge that is probably the busiest bridge in all of New Jersey.

MR. FOYE: Assemblywoman, just for the record, it's the busiest bridge in the world.

ASSEMBLYWOMAN CARIDE: It's in my back yard, yes.

MR. FOYE: I understand.

ASSEMBLYWOMAN CARIDE: So, again, is there going to be any accountability with regard to Bill Baroni? He knew exactly what was going to happen the weekend before and didn't think to call you, despite the fact that you're here testifying that you work well together and that he's aware of the procedures.

MR. FOYE: Again, I believe this was aberrational with respect to the Port Authority as an organization and aberrational with respect to Bill's actions, and it's not representative of the way he and I have worked together on other bridge and tunnel projects, and projects across the Authority.

ASSEMBLYWOMAN CARIDE: With all due respect, I do believe there is more to it. And I don't think that Mr. Baroni acted in good faith.

But here is my last question to you.

MR. FOYE: Yes, ma'am.

ASSEMBLYWOMAN CARIDE: The two gentlemen who testified here this morning and this afternoon -- aside from being uncomfortable because they were in front of us -- there seemed to be some kind of fear of retribution from someone at the Authority. Based on your testimony, it appears as though they will continue to work under your watch. Can Mr. Baroni fire them despite the fact that, perhaps, you would not fire them?

MR. FOYE: No. The answer to that is no. I think what you saw here today from Cedrick and Bob was honest, heart-felt testimony from, as I said before, two good men and dedicated public servants. And I

don't think either of them is proud of what happened the week of the 9th. I know they're not. And I have absolutely no doubt, to a moral certainty, that put in that situation again, neither of them would act as they did that week. I'm absolutely confident of that.

ASSEMBLYWOMAN CARIDE: It's for that reason that I'm asking. Because I do believe that they meant well and that they were following orders. And I would hate to see them punished for doing what they were supposed to do based on hierarchy commands. That's why I'm asking.

MR. FOYE: Assemblywoman, they have no reason to be afraid of Wildstein. I don't believe they did at the time, and don't today. They both made a mistake, and I think they recognized that to this Committee. They've said it to me a number of times.

Look, the primary responsibility people at the Port Authority have-- We have lots of responsibilities. The primary responsibility is to make sure that our customers, employees, and people who work on our facilities go home every night to their families. And that responsibility, I believe, was put at risk the week of the 9th. Fortunately no life was lost. But we're in the business of getting people safely across the George Washington Bridge, and safely through our airports, and safely through the ports. The decisions made that week did not honor and weren't consistent with the values of the Port Authority and, frankly, were shameful.

ASSEMBLYMAN WISNIEWSKI: Thank you, Assemblywoman.

Assemblyman Schaer.

ASSEMBLYMAN SCHAER: Thank you, Mr. Chairman.

Mr. Foye, you'll forgive me for a very direct question. I don't mean to be, in any way, offensive, God forbid. May I ask: Have you had, prior to your service with the Port Authority, any involvement with Mr. Wildstein officially, unofficially, business or otherwise?

MR. FOYE: Absolutely not, no.

ASSEMBLYMAN SCHAER: Or with Mr. Baroni?

MR. FOYE: No, sir. I met both of them when I came to the Port Authority in November, 2011.

ASSEMBLYMAN SCHAER: Thank you, Chair.

ASSEMBLYMAN WISNIEWSKI: Assemblyman Johnson.

ASSEMBLYMAN JOHNSON: Thank you, Chair.

One last question: Is it possible that Mr. Baroni directed Mr. Wildstein to do these closures? And will you look into that as you conduct your internal review?

MR. FOYE: Assemblyman, I can't speculate on that. As I sit here today, I can't speculate on that.

ASSEMBLYMAN JOHNSON: Mr. Wildstein works for Mr. Baroni.

MR. FOYE: Yes, sir.

ASSEMBLYMAN JOHNSON: So if one follows the chain of command, one has to assume -- well, we're all assuming here -- that he told his immediate boss about this. Well, as you conduct your internal review, would that be one of the points you're looking into, I hope?

MR. FOYE: Yes, sir; among others.

ASSEMBLYMAN JOHNSON: All right. I'd like to thank Mr. Fulton, Mr. Durando, and you for being so honest and forthright here today. And I'd also like to thank you for your service to the Port Authority.

MR. FOYE: Thank you, sir.

ASSEMBLYMAN JOHNSON: The busiest bridge in the world.

MR. FOYE: Yes, sir.

ASSEMBLYMAN JOHNSON: With 29 lanes. (laughter)

MR. FOYE: Thank you, Assemblyman.

ASSEMBLYMAN WISNIEWSKI: Thank you, Assemblyman.

Executive Director Foye, just a couple of follow-up questions. When you had-- You learned of -- you called them *press briefings* (*sic*) the night before -- that there was some issue concerning the bridge.

MR. FOYE: Chairman, *media pendings* is what they're called.

ASSEMBLYMAN WISNIEWSKI: Media pendings.

MR. FOYE: And I'd be happy to furnish the media pendings for Thursday, the 12th, to the Committee.

ASSEMBLYMAN WISNIEWSKI: We'd like to have those. I'd like to have the media pendings for that entire week that you received.

MR. FOYE: Yes, sir.

ASSEMBLYMAN WISNIEWSKI: But my question is: So it was Thursday night, the 12th, that you first became aware that there was a problem at the Bridge?

MR. FOYE: Yes, sir.

ASSEMBLYMAN WISNIEWSKI: And that was based on your review of the media pendings?

MR. FOYE: Yes, sir.

ASSEMBLYMAN WISNIEWSKI: At that point in time, did you pick up the phone and call Bill Baroni and say, "Hey, Bill, what's going on?"

MR. FOYE: No, Chairman. I saw the media pendants. I may have spoken to someone in the media shop before or after. I don't recall. Based on the media pendants, the e-mail I got -- whenever it was, 7:00 or 8:00 -- before or after, I don't remember -- on the 12th -- it did not look like, just based on the media pendants, what we now know it to be.

ASSEMBLYMAN WISNIEWSKI: What did it look like? Because the testimony so far has been that this is odd, this is unprecedented. But on Thursday night, the 12th, it didn't rise to the level of serious-- It seems to me, from your answer, it didn't rise to a level of serious concern.

MR. FOYE: Well, no, it was-- As I recall in the media pendants that evening, it was the second or third item. I don't remember exactly, but we can all look at it when we look at the e-mail. It was the second or third item. And it looked curious. It didn't look like what we now know it to be. And I, obviously, took a number of steps, including speaking to Cedrick and Bob Durando at 6:15 Friday morning, and sent the e-mail I did, and made the decision I did, and the lane closures were reversed. But that was when I first learned about it, sir.

ASSEMBLYMAN WISNIEWSKI: So you learned about it on Thursday. Why did you wait until Friday morning to call Cedrick and Bob?

MR. FOYE: Again, I got the e-mail 7:00 or 8:00 -- the media pendants e-mail.

ASSEMBLYMAN WISNIEWSKI: P.m.

MR. FOYE: P.m., yes, sir. Thursday evening at 7:00 or 8:00 I got the media pendings. I don't know when it came out. We can look at the time. I don't remember when I read it. I read it. I may have spoken to the press shop before or after; I don't remember. And I called the Manager of the Bridge and then the Chief of Bridges and Tunnels at 6:00 the next morning and reversed it.

ASSEMBLYMAN WISNIEWSKI: Was there something that happened between when you read those media pendings and when you called that heightened your level of suspicion?

MR. FOYE: I think I spoke to someone in the media shop who may have -- Port Authority media department -- who may have taken a call from a reporter. I don't remember exactly. And it seemed odd, and that's why I talked to Cedrick and Bob Durando on Friday morning.

ASSEMBLYMAN WISNIEWSKI: Again, not trying to be argumentative, but it was not so odd as to call them that night when you learned of it.

MR. FOYE: Not so odd as to call them that night. Again, I think I did speak to someone in the media department after I got the media pendings, and made a note to send Cedrick and Bob Durando an e-mail, which I did. I don't remember when it was. It could have been that evening; it could have been the next morning. I don't remember.

ASSEMBLYMAN WISNIEWSKI: The e-mail I'm in possession of is 7:44 a.m. on Friday, the 13th, saying that you want the lane--

MR. FOYE: No, I'm sorry, Chairman. I'm referring to a different e-mail than that. The e-mail you have is the e-mail that I sent expressing my concerns saying, "Reverse this immediately." I sent e-mails to Cedrick -- I believe they were e-mails -- I'm pretty sure I did. I sent a communication, which I believe was an e-mail, to each of them separately 6:00 Friday morning -- it could have been before 6:00, it could have been a little bit later. And I spoke to Bob Durando first, and then Cedrick Fulton, around 6:15 on Friday, the 13th.

ASSEMBLYMAN WISNIEWSKI: When did you and Bill Baroni first have a conversation about these lane diversions?

MR. FOYE: I think we spoke twice on Friday, the 13th.

ASSEMBLYMAN WISNIEWSKI: And was it before or after you issued your 7:44 a.m. e-mail?

MR. FOYE: I'm almost certain it was after.

ASSEMBLYMAN WISNIEWSKI: And up until that point in time, Bill Baroni had not spoken to you about this.

MR. FOYE: No, sir.

ASSEMBLYMAN WISNIEWSKI: And up until that point in time, David Wildstein--

MR. FOYE: I'm sorry, Chairman. It may be that -- we'll have to check the e-mails. It may be that that evening Bill sent an e-mail saying there is to be no public comment on this matter. I don't remember now whether that was Thursday or Friday. So there may have been a communication.

ASSEMBLYMAN WISNIEWSKI: I'd like to see that e-mail.

MR. FOYE: Yes, sir.

ASSEMBLYMAN WISNIEWSKI: And that's an e-mail from Mr. Baroni to, among other people, you?

MR. FOYE: I don't know who it went to other than me, but it went to me. I don't remember the timing, sir.

ASSEMBLYMAN WISNIEWSKI: Was there a rationale for there being no media comment?

MR. FOYE: I don't recall one.

ASSEMBLYMAN WISNIEWSKI: Okay. But you'll share that e-mail with us.

MR. FOYE: Yes, sir.

ASSEMBLYMAN WISNIEWSKI: And so at that point in time, when you learned about this, did that call into question your working relationship with Mr. Baroni?

MR. FOYE: The thing I was focused on, on Friday, the 13th, was having the lane closures removed. Because as I said in the e-mail, and as I discussed with Bob Durando, there were public safety concerns. I didn't want someone dying in the back of an ambulance on my watch because of actions we had taken.

ASSEMBLYMAN WISNIEWSKI: But in terms of your work, you've talked about-- You testified about a good working relationship with Mr. Baroni.

MR. FOYE: Yes, sir.

ASSEMBLYMAN WISNIEWSKI: At some point after Friday, the 13th, when you ordered the lane diversions corrected and the lane situation went back to what it had been prior to the diversion, was there a

point in time at which you questioned the efficacy of your working relationship with Mr. Baroni?

MR. FOYE: Well, look, this was-- As I mentioned, Chairman, this was aberrational and odd, and not representative of the things that Bill and I have worked together on; and it was troubling.

ASSEMBLYMAN WISNIEWSKI: Mr. Baroni's testimony in front of this Committee was that he knew about this at least on the Friday prior, maybe even on the Thursday prior. Are you aware of that?

MR. FOYE: I understand that. Yes, sir.

ASSEMBLYMAN WISNIEWSKI: And so an entire week went by where he concealed this from you.

MR. FOYE: An entire week went by. Yes, sir.

ASSEMBLYMAN WISNIEWSKI: And that entire week where he concealed the lane diversion on the George Washington Bridge-- Did that, at some point in time, cause you to have concern about your ability to work with him on a going-forward basis?

MR. FOYE: It's a matter of concern. It's an operation that Wildstein led, and it was, as I mentioned, Chairman, troubling.

ASSEMBLYMAN WISNIEWSKI: Have you talked to Mr. Wildstein?

MR. FOYE: I have not.

ASSEMBLYMAN WISNIEWSKI: So would it be fair to say that you don't know for a fact that it was Mr. Wildstein by himself?

MR. FOYE: I know for a fact that, again based on the testimony today -- but my prior conversations with Cedrick Fulton and Bob Durando -- that those discussions and actions were directed by Wildstein.

ASSEMBLYMAN WISNIEWSKI: But what nobody in this room knows is who discussed those actions with Wildstein.

MR. FOYE: Certainly, Chairman, I don't.

ASSEMBLYMAN WISNIEWSKI: And nobody who has testified was either willing to or knew if Mr. Wildstein discussed these actions with anyone else. Is that correct?

MR. FOYE: I don't know, sir.

ASSEMBLYMAN WISNIEWSKI: But from what you've heard today, no one has said that-- The point I'd like to make with you -- and I'd like you to either acknowledge or either deny it -- is that all of the testimony that we've heard are from third parties saying it was David Wildstein who did this. But none of us have heard from David Wildstein.

MR. FOYE: Chairman, that is true.

ASSEMBLYMAN WISNIEWSKI: And you have not spoken to David Wildstein.

MR. FOYE: I have not.

ASSEMBLYMAN WISNIEWSKI: So the surmise that's being made today that the culprit is David Wildstein, and he's resigned, and case closed, begs one big question: No one has talked to David Wildstein about this and whether or not there was anybody else involved.

MR. FOYE: I have not, sir.

ASSEMBLYMAN WISNIEWSKI: And to your knowledge, no one else in your circle of authority has talked to Mr. Wildstein about this.

MR. FOYE: I believe that's been the case. Yes, sir.

ASSEMBLYMAN WISNIEWSKI: Why have you not asked Mr. Wildstein about this?

MR. FOYE: I don't believe there is any-- I knew Friday, the 13th, that Wildstein had directed this. I saw no reason to talk to him.

ASSEMBLYMAN WISNIEWSKI: Let me interrupt you then.

MR. FOYE: Yes, sir.

ASSEMBLYMAN WISNIEWSKI: How did you know that he directed it if the only people you spoke to were people who were saying, "It was him," but you haven't heard his story yet? I mean, how do you do an investigation of how this happened if the entire basis of this supposition that David Wildstein did this as a rogue, solo operation is by saying, "Cedrick Fulton said it, Bob Durando said it, and this one said it, and that one," and no one has talked to David Wildstein about this?

MR. FOYE: Chairman, the General Manager of the Bridge, who put into affect these lane closures on Monday, the 9th; as well as his boss, Cedrick Fulton, who is responsible for all the bridges and tunnels, both spoke directly with Wildstein and were told by Wildstein to put this in place. There is little doubt in my mind that Wildstein directed this and took these actions.

ASSEMBLYMAN WISNIEWSKI: Well, based on the testimony we've heard, we know that Mr. Wildstein was the person who talked to Cedrick Fulton and Bob Durando and said, "Do this." What we don't know is if there was anyone else who was involved in the discussion or decision-making process with Mr. Wildstein. Would that be fair?

MR. FOYE: I believe that's correct. Yes, sir.

ASSEMBLYMAN WISNIEWSKI: Okay. If he were a New York appointee, would you have called him into your office and said, "Why did you do this?"

MR. FOYE: Yes, and shortly thereafter fired him.

ASSEMBLYMAN WISNIEWSKI: Okay. But he's a New Jersey appointee.

MR. FOYE: Yes, he is.

ASSEMBLYMAN WISNIEWSKI: And so you did not follow that course.

MR. FOYE: I have a review underway which, had he not resigned, would have resulted in the same action.

ASSEMBLYMAN WISNIEWSKI: But I guess my question is: If he was a New York appointee, you would have called him into your office and you would have fired him. But because he's a New Jersey appointee, you're having an investigation done that will take until 2014, and he's been allowed to resign. Why the difference in treatment between what would be a New York appointee and a New Jersey appointee?

MR. FOYE: Well, Chairman, with respect to someone I had brought into the agency and put in a position of responsibility -- the actions taken by Wildstein -- I would have confirmed them and fired that employee.

ASSEMBLYMAN WISNIEWSKI: Are steps being taken to determine whether or not Mr. Wildstein worked with anyone else in either organizing or executing this plan?

MR. FOYE: Chairman, as I indicated, the review is continuing.

ASSEMBLYMAN WISNIEWSKI: Will that be part of the review -- to determine if anyone else was involved?

MR. FOYE: All factors related to this--

ASSEMBLYMAN WISNIEWSKI: It's a yes or no question, Mr. Foye. Will you look at whether anyone else was involved with Mr. Wildstein?

MR. FOYE: Chairman, all factors, including that, will be a reviewed.

ASSEMBLYMAN WISNIEWSKI: I'm going to take that as a nonresponsive answer unless you answer the question. Yes or no: Will you look to see if anyone else was involved with Mr. Wildstein in either coming up with this plan or executing this plan?

MR. FOYE: The short answer is yes.

ASSEMBLYMAN WISNIEWSKI: Thank you.

Can Mr. Baroni fire him?

MR. FOYE: I believe so. Yes, sir.

ASSEMBLYMAN WISNIEWSKI: Why hasn't he?

MR. FOYE: It's not a question for me, sir.

ASSEMBLYMAN WISNIEWSKI: What are Mr. Wildstein's responsibilities as we speak today?

MR. FOYE: Again, Chairman, he resigned Friday afternoon. I haven't been in the office. That's not true. I was in the office at 6:45 for half-an-hour this morning or for 45 minutes. I don't know what he's doing today.

ASSEMBLYMAN WISNIEWSKI: No, I'm not asking what he's doing today. And I know he tendered his resignation effective December 31.

MR. FOYE: Yes, sir.

ASSEMBLYMAN WISNIEWSKI: And we have been told, and others have been told at this Committee hearing, that his responsibilities as Director of Interstate Capital Operations -- I think roughly stating his title -- have been removed from him. So my question is: He's earning \$150,000 a year. What is he doing for that salary?

MR. FOYE: Chairman, sitting here today, I don't know.

ASSEMBLYMAN WISNIEWSKI: Who would know?

MR. FOYE: I think that's probably a question for Bill Baroni.

ASSEMBLYMAN WISNIEWSKI: Okay. In your e-mail of September 13, you opined that, "This hastily ill-advised decision violates Federal law and the laws of both states." Can you elaborate on your belief that this decision violated Federal law?

MR. FOYE: Yes, sir.

First, I ought to begin by saying I'm a recovering lawyer and don't practice, and haven't practiced in a long time. And I wasn't very good at it when I did. But I believe there are three parts of law that apply to this. One is the Federal Bridge Act, the second is New York state law, and the third is New Jersey law. I believe that the use of a significant piece of infrastructure in interstate commerce, in this way, violates the civil and noncivil provisions of the Bridge Act, especially a facility like the George Washington Bridge, which has received Federal funding for limited parts of its infrastructure.

I believe that the same is true with respect to New York law. I guess, first, I'd answer the question with my father-of-three hat on. It's inconceivable to me that -- thankfully this didn't occur -- thank God this didn't occur -- but if someone's life had been lost in an ambulance delayed,

it's inconceivable to me that the requisite or appropriate law enforcement officials in New York, or the Federal, or state would not have a remedy. And I believe it also violated New York state law. I'll defer to the New Jersey-- And I also think that most of the actions taken here occurred in New York. And I will defer to the New Jersey lawyers in the room who are smarter than me on many of these issues with respect to New Jersey law.

ASSEMBLYMAN WISNIEWSKI: When you say, "The actions took place in New York," you're referring to the actions by Mr. Wildstein and whomever else worked with him in implementing this plan.

MR. FOYE: With respect to Mr. Wildstein.

ASSEMBLYMAN WISNIEWSKI: Or anybody else who may have worked with him.

MR. FOYE: Yes, sir.

ASSEMBLYMAN WISNIEWSKI: Okay. You had mentioned civil penalties under the Federal law.

MR. FOYE: I believe -- and, again, I'm not an expert on the Federal Bridge Act, although I have become familiar with it over the last two-and-a-half years. But it is my belief then, and now, that an improper use of a facility like this in interstate commerce violates the Bridge Act. That's my opinion, to be confirmed with lawyers more knowledgeable on this issue than I am.

ASSEMBLYMAN WISNIEWSKI: Thank you.

Wouldn't it be normal course of business for anyone involved in this lane diversion to ask counsel at the Port Authority about whether this is legal?

MR. FOYE: I'm sorry, are you talking about the days prior to September 9?

ASSEMBLYMAN WISNIEWSKI: Well, the testimony we've heard from everybody is that Mr. Wildstein made a decision to divert lanes, and everybody basically said, "Yes, sir," and went ahead and did it.

My question is: What is the requisite level of legal review that has to be attached to closing lanes? And why did that not happen here?

MR. FOYE: Well, I think, Chairman, in the ordinary course that Cedrick Fulton described -- planned, emergent, and tactical lane closings -- I'm not aware that any of those, in the ordinary course of business, taken in good faith, raise legal issues. I think that tactical, as an accident on the Bronx River Parkway -- there's an accident in front of Toll Lane X -- that the general manager of the bridge, or whoever is in charge of the bridge at the time, has the ability to take whatever action is necessary to protect the public and to keep the bridge operating.

With respect to construction, planned lane closures, or facility closures, or reductions, I think in the ordinary course, those don't raise legal issues as well. I described to you the timeline -- which was quite lengthy -- on the Outerbridge Crossing lane closures, which I think began in February and resulted eventually in some lane closures on the Outerbridge in July -- sorry, in August-September of that time period -- including appropriate public notice. So I don't think, with all due respect to the law department at the Port Authority, which I hold in very, very high regard -- some incredibly gifted lawyers there -- that we don't need consultation in terms of when Bob Durando needs to move a bus out of the way. I don't think any ordinary--

ASSEMBLYMAN WISNIEWSKI: With all due respect, that's not what we're talking about. Nobody is talking about whether Bob Durando had to move a bus, or whether there was an accident on the Triborough, or any of that. We're talking about a lane diversion that the two gentlemen who have 50 years of experience both termed as *unprecedented* and *odd*. I'm surprised that an organization as large as yours -- and you heard me give the numbers, your budget is bigger than 26 U.S. states -- that somebody didn't say, "What do the lawyers think about this?" It just seems to me that if there is a body of law that governs how you operate an interstate transportation facility such as the George Washington Bridge, there ought to be somebody who is looking out for making sure you comply with the law.

MR. FOYE: Chairman, I expressed my view in an e-mail on September 13. That was my view then and, as I said today, that continues to be my view now. Whatever legal issues -- apart from public safety and other issues that were raised -- whatever legal issues, as a continuing matter-- Whatever legal issues arose from the lane closure that week, as a continuing matter, were no longer the case when I ordered the Bridge to be reopened. And I don't think they're currently an issue.

I've expressed my view in the e-mail, and stand by it today, that I believe Federal and state law was implicated.

ASSEMBLYMAN WISNIEWSKI: Have you asked your legal department to--

MR. FOYE: I have not sir.

ASSEMBLYMAN WISNIEWSKI: I haven't finished the question.

MR. FOYE: Forgive me.

ASSEMBLYMAN WISNIEWSKI: Maybe your clairvoyant. Have you asked your legal department to undertake a review of whether laws were violated?

MR. FOYE: I have not.

ASSEMBLYMAN WISNIEWSKI: Why not?

MR. FOYE: I didn't think it's important, frankly. I expressed my view, I took the action I took. I stand by the e-mail, I stand by the action. That's my position, sir.

ASSEMBLYMAN WISNIEWSKI: You thought it was important enough to mention in your September 13 e-mail. It seems to me you've changed your opinion.

MR. FOYE: No, not at all. As I said, when I sent the e-mail, one of the reasons for the action I took is -- I believe then -- that it violated Federal and state law. That's my belief today. I ended that violation of the law by ordering the lanes to be opened on Friday, the 13th, and they were opened. But that continues to be my view.

ASSEMBLYMAN WISNIEWSKI: Is the Port Authority liable for any penalties from the Federal government for what's happened?

MR. FOYE: I don't believe so. I think the more pertinent concern, Chairman -- and I know this is one that you share -- is that thankfully no one lost their life or had their health impaired by this. And that was what was on my mind that morning.

ASSEMBLYMAN WISNIEWSKI: So as we speak today, you're not aware if there was a violation, and you're not aware if there is a

consequence for that violation. And you've not ordered any investigation from the legal counsel side of the Port Authority to look into that issue.

MR. FOYE: I stated my belief; I stand by that belief. And that was one of the things that motivated me to order that the Bridge be reopened immediately that morning.

ASSEMBLYMAN WISNIEWSKI: So you thought it was a violation of law to close the Bridge, but you didn't think it was worth looking into, as to whether the violation has any consequence for the Port Authority.

MR. FOYE: Well again, Chairman, the violation I would have been concerned about is the one that, thankfully, didn't occur.

ASSEMBLYMAN WISNIEWSKI: We understand that, and we appreciate that that didn't happen. And I think that all of the characters who were involved in this operation are very lucky that there was no loss of life or no serious injuries.

It's not answering my question. My question is, simply put: You expressed a concern that there was a violation of Federal or state law. My question to you is: Why have you not looked at whether there was and whether the Port Authority is responsible for any liability or damages as a result of that? I'm not talking about a tort suit for somebody's death. I'm talking about penalties from the Federal government or from either state government for the way this operation was carried out. Have you looked into that issue?

MR. FOYE: I have not asked the law department to do that. No, sir.

ASSEMBLYMAN WISNIEWSKI: Why not?

MR. FOYE: Chairman, I frankly thought that once the lanes -- and I believe this to be the case today -- that once the lanes were reopened, there was no continuing violation of Federal and state law. And thankfully no one lost their life and no one's health was damaged. And I didn't think it was important. I think the continuing review, and its focus on what happened and making sure it doesn't recur, is more important.

ASSEMBLYMAN WISNIEWSKI: And so if there are penalties from the Federal government, you have not prepared the Port Authority, in any way, to respond to those or inquire as to whether there is any legal basis for that.

MR. FOYE: Chairman, I do not expect, as a result of the fortunate fact that there was no personal injury here-- I don't expect there to be any significant damage to the Port Authority.

ASSEMBLYMAN WISNIEWSKI: But is that a legal opinion, or is that just your hunch?

MR. FOYE: No, it's my hunch. It's my belief as a recovering lawyer. And, again, I've looked at the laws. And I've not asked the legal department to undertake a review on it.

ASSEMBLYMAN WISNIEWSKI: Who is in charge of your legal department?

MR. FOYE: Darrell Buchbinder is our General Counsel.

ASSEMBLYMAN WISNIEWSKI: He's your General Counsel?

MR. FOYE: Yes, sir.

ASSEMBLYMAN WISNIEWSKI: Why wouldn't you have asked him?

MR. FOYE: I don't think it's terribly important, frankly, given the fact that when I became aware of the lane closures, I reversed them. We put procedures in place to make sure it not recur. And the fortunate fact that there was no personal injury here, thank God--

ASSEMBLYMAN WISNIEWSKI: Does the Federal law just speak to personal injury?

MR. FOYE: No, I believe -- and, again, I'll be very frank, I'm not an expert on the Bridge Act but have become familiar with it in the last two-and-a-half years. I believe that what happened here that week impugns the Bridge Act.

ASSEMBLYMAN WISNIEWSKI: Vice Chair Stender.

ASSEMBLYWOMAN STENDER: Thank you, Mr. Chairman.

Mr. Foye, on this issue -- the violation of the law is because of -- your opinion -- that it was an improper use to shut those lanes down.

MR. FOYE: Yes, Vice Chair.

ASSEMBLYWOMAN STENDER: And so that improper use is what -- is my question to you. I mean, do you believe that they were shut down for political purpose, and that's what the improper use is?

MR. FOYE: No. The improper action was taking this -- was affecting these lane closures without notifying the public, without notifying the Fort Lee Mayor, without notifying the police and first responders. That's inconsistent with Port Authority protocol prior to September 9; it's inconsistent with it today. That was the wrongful action.

ASSEMBLYWOMAN STENDER: And if, in fact, through further review or through the process of review, it was found that those closures were done for political purpose, is that a violation of the law?

MR. FOYE: Well, Vice Chair, I believe that regardless of motivation, the actions that were taken the week of September 9 implicate and violate Federal and state law. That's my belief, regardless of the motivation. And it was my belief then; it's my belief now.

ASSEMBLYWOMAN STENDER: Do you agree that using lane closures for political purpose is the wrong thing to do?

MR. FOYE: Vice Chair, I believe that the use of any of our facilities, other than in the public interest and other than in the promotion of the rapid, safe, and expedited transit of people and goods is improper, for any reason.

ASSEMBLYWOMAN STENDER: Thank you.

ASSEMBLYMAN WISNIEWSKI: Mr. Executive Director, thank you for your patience with us.

Just a couple of follow-up questions.

MR. FOYE: Sure.

ASSEMBLYMAN WISNIEWSKI: There was discussion that Captain Licorish was the captain in charge of, for lack of a better term, the George Washington Bridge at the time of the lane closure. Are you familiar with him?

MR. FOYE: I am.

ASSEMBLYMAN WISNIEWSKI: And subsequent to this event, he was transferred, reassigned, moved. Are you familiar with that?

MR. FOYE: No, Chairman, I think he was promoted and transferred.

ASSEMBLYMAN WISNIEWSKI: Okay. Was that a promotion that was a long time in coming?

MR. FOYE: Well, if your question-- Was it a long time in coming? Yes, he's a long-serving member of the Port Authority Police Department. A couple of months ago we promoted -- don't hold me to the number -- 30 senior police officers, captains, etc. Captain Licorish was one of them. He was promoted -- I have every reason to believe -- based on the merits. And I think he's in special operations today, if I recall correctly.

ASSEMBLYMAN WISNIEWSKI: You say you have every reason to believe on the merits.

MR. FOYE: Absolutely.

ASSEMBLYMAN WISNIEWSKI: Do you have any specific knowledge or just a general assumption?

MR. FOYE: That statement is based on the fact that our Public Safety Department is run by Joe Dunne, who has had a long, distinguished career in law enforcement, who signed off on these promotions. I was lucky to attend the ceremony, again, 60 days ago, I believe, at which Captain Licorish and a number of his colleagues were promoted. And I believe that those promotions were done on the merits and in the best interest of the Port Authority Police Department. There were -- again, don't hold me to the number -- but 30 or 40 other officers of various ranks promoted that day.

ASSEMBLYMAN WISNIEWSKI: Would you know if somebody called up to Mr. Dunne and said, "I need you to promote Licorish, and don't say a word. Don't tell Pat Foye."

MR. FOYE: I know that if that were to happen, I would hear about it from Joe Dunne. I don't believe that happened, sir.

ASSEMBLYMAN WISNIEWSKI: But you don't have any basis to know whether it did or did not.

MR. FOYE: I, again, have absolute confidence in Joe Dunne as a leader of the Public Safety Department.

ASSEMBLYMAN WISNIEWSKI: Up until this event with the Bridge, you probably would have said the same thing about Mr. Wildstein.

MR. FOYE: Not necessarily. No, sir.

ASSEMBLYMAN WISNIEWSKI: Up until this event, would you have said the same thing about Bill Baroni?

MR. FOYE: I stated in my testimony that Bill is a valued colleague. I think that what happened here is aberration and not reflective of the work that he's done over the past couple of years.

ASSEMBLYMAN WISNIEWSKI: Vice Chair Stender.

ASSEMBLYWOMAN STENDER: Thank you.

The promotion -- was it authorized prior to this--

MR. FOYE: I'm sorry, I didn't hear you.

ASSEMBLYWOMAN STENDER: The promotion of Captain Licorish--

MR. FOYE: Yes.

ASSEMBLYWOMAN STENDER: Was that authorized? That's really what I want to know. Because I think you understand that this -- given all of the circumstances and what we have heard about this closure -- that it's just very curious that the officer who was actually in charge of making -- of running this operation was then promoted in the aftermath of this political brouhaha.

So my question is: Was that promotion authorized prior to this incident, or did the promotion occur afterwards?

MR. FOYE: Vice Chair, I'd be speculating. I just don't know. We have to check the timeline.

Here is the concern I have: I've had some experience with Captain Licorish at the George Washington Bridge. My belief -- and, again, I'm not a policing expert and don't run the Police Department directly. I hold Captain Licorish in very high regard. And my experiences with him -- again limited -- have been first-rate. And I just don't want to do anything to impugn what I believe is a fully justified promotion. But I will come back to you, Vice Chair, with the timing of the promotion, and the ceremony, and decision. I understand the question.

ASSEMBLYWOMAN STENDER: Thank you.

ASSEMBLYMAN WISNIEWSKI: We'd like the timeline just so we can satisfy our curiosity. Because you have to forgive our suspicion. There are a lot of things that have happened here that aren't normal, that people have said are unprecedented and odd. And so we have to look at all of these issues, because we really need to understand how an agency as large as yours, with the responsibility it has, can have something like this happen without you knowing. I mean, four days went by. Lanes were diverted on the George Washington Bridge, and you did not know, correct?

MR. FOYE: Yes, sir.

ASSEMBLYMAN WISNIEWSKI: That's troubling for me, as Chair of this Committee, and I'm sure it's troubling for many legislators, because it really speaks to what else is going on in your agency that you don't know about.

MR. FOYE: Chairman, it's troubling to me as well.

ASSEMBLYMAN WISNIEWSKI: And is there going to be some type of top-to-bottom review on how decisions are made at the Port Authority, or is it really going to be narrowly constrained to decisions for lane maneuvers?

MR. FOYE: Well, Chairman, no, it's not going to be narrowly construed. We have in place -- and I've put in place additional procedures to make sure that this type of thing, whether it's at the George Washington Bridge or other facilities, cannot recur.

ASSEMBLYMAN WISNIEWSKI: But there were procedures in place before this happened that, theoretically, should have prevented this from happening.

MR. FOYE: Yes, sir.

ASSEMBLYMAN WISNIEWSKI: And so what we don't have an answer to is: How do we have any greater certainty, despite your best intentions, to make sure that things like this can't happen again if a deputy executive director's direct report says to the people in the agency -- who have said or have implied that they are worried about being forthcoming -- tells them to do something -- and, "Don't tell Pat Foye," or whomever the executive director is? What assurance can we give our constituents that that won't ever happen again?

MR. FOYE: Chairman, I would go back to the two points I made earlier, which is that the leadership of each of the line departments understand clearly that what happened here with respect to the George Washington Bridge and the Fort Lee lane closures is unacceptable and can't

recur. And as I said, none of them want to be before this Committee or any other committee in circumstances like this.

Beyond that, secondly, we had procedures coming in to this event -- the Fort Lee lane closures. Those procedures have been beefed up. And one of the things the review is looking at is additional protections to make sure that what happened here, which is unacceptable, cannot recur.

ASSEMBLYMAN WISNIEWSKI: I guess my question, frankly, is to the point that-- So assuming, best case scenario, what you've testified to today -- that there are new procedures in place -- what has happened at the George Washington Bridge can never happen again. What the elephant in the room for us is, all of the other decisions the Port Authority makes -- through either the Executive Director's Office or through the Deputy Executive Director's Office, or through their direct subordinates -- in terms of hiring, in terms of expenditures of funds, in terms of the whole range of activities that the Port Authority is involved in -- if, in this particular case, a person can say, "Do this and don't tell Pat Foye," how many other situations can that happen in?

MR. FOYE: Chairman, I share that concern. Again, I don't believe that what happened in -- on the George Washington Bridge of the Fort Lee lane closures can recur. It was unacceptable.

ASSEMBLYMAN WISNIEWSKI: I understand about the lane closures. I'm talking about everything else, from promoting somebody because they're going to keep their mouth shut to giving somebody a raise because they've complied with somebody's plans. I mean, there are a lot of things-- The Port Authority spends-- I mean, your budget is huge. Your work force is pretty substantial. You're a big agency with a lot of operations

that impact a lot of communities that all of us represent. And the fundamental question is: How do we tell our constituents, "It's all better. The Port Authority is under control." Because from what they see, it's not. How do we tell them that?

MR. FOYE: Chairman, I would say a couple of things. One is: This was aberrational, it was odd, it was unprecedented. And it really impugns the work that nearly 7,000 people do on a daily basis.

Look, I would rather be before this Committee testifying with Tom O'Neill from PATH who did literally heroic work during Project Sandy; or Louie Koumoutsos, who is the Chief of the Police Department, who had the PATH command during Superstorm Sandy who, together with special operations, saved -- I think the number is 32 lives in Jersey City and Hoboken. And so I think this odd, unacceptable, unprecedented action by Wildstein impugns that.

Two: I believe that the men and women, including the men and women in leadership at the Port Authority, have gotten that message.

And three: We have put in place and are reviewing in this review what further steps need to be taken, not only, Chairman, with respect to the George Washington Bridge and the Fort Lee lanes, but across the agency. I understand your concern.

ASSEMBLYMAN WISNIEWSKI: The old adage is: It takes a thousand actions to build a reputation and it takes just one to destroy it. And unfortunately the reputation of the Port Authority has been greatly harmed by the actions of Mr. Wildstein and potentially others. What you've told me so far about the level of investigation as to who has been behind this lane closure, I have to tell you, is unacceptable. The fact that --

it may very well be Mr. Wildstein who orchestrated this. But to accept everybody else's opinion that it was him and not go to Mr. Wildstein himself and say, "Who told you to do this? At whose behest did you do this? Did you work with anybody on this?" seems to be a lapse in judgement or, perhaps, even worse. And I think that the Port Authority has to honestly dig into this. And wherever the answers come out, the answers need to come out. But there are a lot of people who, after Mr. Baroni's testimony, looked at this and said it's a cover-up. There are a lot of people-- And you can see what's going on online right now, listening to all this testimony -- is that everybody is throwing Wildstein under the bus to protect others. It seems like an incomplete investigation for Mr. Wildstein to continue in his employment through December 31 without so much as an admonition, or reprimand, or anything. And essentially to have what now amounts to be a no-show job -- he has no responsibilities, but he has a salary -- is unacceptable to us.

So I'm telling you, Mr. Foye, you have to do better. This is not acceptable.

MR. FOYE: I understand, Chairman. And as I said, the review is continuing. And I will keep this Committee briefed.

ASSEMBLYMAN WISNIEWSKI: Assemblyman Johnson.

ASSEMBLYMAN JOHNSON: Chairman Wisniewski, have we forgotten that Mr. Baroni came here with a poster-sized graphic depicting this plan for fairness for the people who cross the George Washington Bridge into Fort Lee; and the Fort Lee residents had this access that was not allowing others free traffic flow? And that it was a traffic study conducted for that purpose? Now we hear there is no traffic study at all. Have we

forgotten that -- that Mr. Baroni is the boss of Mr. Wildstein? His boss came here with a graphic saying there was a traffic study. There isn't one.

ASSEMBLYMAN WISNIEWSKI: I think that's Mr. Foye's testimony -- that he's not aware of a traffic study.

ASSEMBLYMAN JOHNSON: I find it hard to believe that just Mr. Wildstein was involved in this.

ASSEMBLYMAN WISNIEWSKI: I share your concern.

Just two final points. In terms of the cost to the Port Authority for this episode-- There was overtime?

MR. FOYE: Yes, sir.

ASSEMBLYMAN WISNIEWSKI: There were commuters delayed, no doubt, correct?

MR. FOYE: Yes, sir.

ASSEMBLYMAN WISNIEWSKI: Can you tell us what the cost to the public is for the overtime at the Port Authority as a result of this episode?

MR. FOYE: Well, I think Mr. Durando estimated it at a million dollars annualized. If you were to take it for a week and just do the math, under \$20,000, which is a lot of money. But a number like that -- I'm doing back-of-the-envelope math.

ASSEMBLYMAN WISNIEWSKI: Assemblyman Schaer, please.

ASSEMBLYMAN SCHAER: Thank you, Chairman.

Your agency has a number of economists, I believe, associated with it and helpful in the planning process -- economic development. Do

you have any calculations from them in terms of the economic costs to the region as a result of the hours spent in traffic delay, lost production time?

MR. FOYE: Assemblyman, I don't. I referenced that in my e-mail as one of my significant concerns. I, like each of you, hate sitting in traffic -- whether it's a Port Authority facility or not. And congestion delays, for whatever reason, exact a toll on the region's economy.

ASSEMBLYMAN SCHAER: Is there any way we can have an understanding from your agency -- from your economists -- what the economic cost to the region was as a result of these four days?

MR. FOYE: Assemblyman, here is what I will do: I will ask the Office of the Chief Economist to come up with a range of the economic cost, making reasonable assumptions. And I would be happy to furnish it to the Committee.

ASSEMBLYMAN SCHAER: Very good. Thank you.

And one last question if I may, Mr. Chairman.

ASSEMBLYMAN WISNIEWSKI: Yes.

ASSEMBLYMAN SCHAER: Forgive me.

Mr. Foye, do we have any idea exactly how many automobiles, buses, trucks, etc., were actually affected by these four days of bedlam? A raw number? The figure was given -- 300,000 cars a day traverse the Bridge. Do we have any breakdown further in terms of what this--

MR. FOYE: Well, Assemblyman, a rule of thumb is that the Fort Lee lanes -- which obviously don't serve just Fort Lee, but beyond -- account for about 25 percent to 26 percent of the traffic on any given morning, any given afternoon. So using the 300,000 number, that gets you

to 70,000 to 75,000 cars total. How long each was delayed, I don't know. But it would be a number like that, sir.

ASSEMBLYMAN SCHAER: I'm asking another question.

Forgive me, Mr. Chairman. I apologize.

There was testimony earlier given by the director of the GW Bridge.

MR. FOYE: Right.

ASSEMBLYMAN SCHAER: Would you remember, sir, how many lanes there are that -- how many toll lanes there are actually that the director responded to?

MR. FOYE: I believe what the director said -- and the director is still in the room -- was he said 12 toll lanes on the upper level, of which three are the so-called *Fort Lee* lanes, sir.

ASSEMBLYMAN SCHAER: So a question, if I may. You just stated, sir, that 26 percent, 27 percent of toll lanes are accounted for from the Fort Lee access. There are 12 lanes, 3 of them are Fort Lee. That's 25 percent. Come back to me again -- please let me understand -- we did a survey that no one can understand or has any material of. We saw charts the other day presented by Mr. Baroni that, at best, seemed fantasy-like, for lack of any other term. And now we're learning that, indeed, 3 lanes is totally proportionate to the amount of traffic from the Fort Lee area that feeds into the Bridge. Is that correct?

MR. FOYE: I believe that to be -- that rough math is correct. Yes, sir.

ASSEMBLYMAN SCHAER: It would be fascinating to know what the economic implications were to the region for a test that, in fact,

did not exist, for a purpose of which no one can attribute, for reasons no one can state.

This is the first time I've served on the Transportation Committee. Mr. Foye, this has been a real treat for me personally.

MR. FOYE: Assemblyman, I understand your request, and we'll ask the Office of the Chief Economist to make an estimate based on reasonable assumptions for the traffic delay that day.

ASSEMBLYMAN SCHAER: We'd look most forward.

Thank you, sir.

Thank you, Chairman.

ASSEMBLYMAN WISNIEWSKI: Thank you, Assemblyman.

Assemblywoman Caride.

ASSEMBLYWOMAN CARIDE: Quick question: Everyone is talking about overtime and what it's cost the Port Authority. Will the Port Authority be reimbursing Fort Lee for their overtime, considering that you created -- that the Port Authority created this havoc?

MR. FOYE: Assemblywoman, Fort Lee has not made any request to my knowledge.

ASSEMBLYWOMAN CARIDE: If they do, will you be reimbursing them?

MR. FOYE: I can't answer that question in the abstract. We'll evaluate it were that request to come in. To my knowledge, Assemblywoman, that request has not been made.

ASSEMBLYMAN WISNIEWSKI: Thank you, Assemblywoman.

Just two final questions: Did you ask Mr. Wildstein for his resignation?

MR. FOYE: No.

ASSEMBLYMAN WISNIEWSKI: Did Mr. Baroni ask Mr. Wildstein for his resignation?

MR. FOYE: I don't know.

ASSEMBLYMAN WISNIEWSKI: You had already stated that if he were your direct report on the New York side of the equation, you would have terminated him.

MR. FOYE: After confirming the facts. Yes, sir.

ASSEMBLYMAN WISNIEWSKI: Do you know why Mr. Baroni did not terminate him?

MR. FOYE: I don't.

ASSEMBLYMAN WISNIEWSKI: Did you have that conversation with Mr. Baroni?

MR. FOYE: No, sir.

ASSEMBLYMAN WISNIEWSKI: Will you be asking Mr. Baroni to submit his resignation?

MR. FOYE: No, sir.

ASSEMBLYMAN WISNIEWSKI: Why not?

MR. FOYE: Again, because of the bi-state nature of the Port Authority that I've explained before.

ASSEMBLYMAN WISNIEWSKI: I'm not sure I understand the question (*sic*). You said you could fire him.

MR. FOYE: No. What I said was that I could fire Wildstein.

ASSEMBLYMAN WISNIEWSKI: So you have no control over Bill Baroni.

MR. FOYE: Bill Baroni, just as I am, is appointed by the Governor of his state.

ASSEMBLYMAN WISNIEWSKI: Do you think the Governor ought to call for his resignation?

MR. FOYE: I have no view on that, sir.

ASSEMBLYMAN WISNIEWSKI: I know that many Committee members here share my sentiment that if Mr. Baroni doesn't submit his resignation, he ought to be terminated. Do you have any opinion on that?

MR. FOYE: I do not, sir.

ASSEMBLYMAN WISNIEWSKI: One final question.

MR. FOYE: Yes, sir.

ASSEMBLYMAN WISNIEWSKI: This Committee has submitted to the Port Authority document requests that started our inquiry into the operations of the Port Authority going back many months. And we have received answers to part of those questions, but not all. And legal counsel, on behalf of the Port Authority, has gotten involved, and there have been endless discussions, but documents have not yet been submitted in response to our earliest document requests going back almost a year. I would like your commitment that you will look into this situation and make sure that the documents that this Committee has subpoenaed are submitted to this Committee.

MR. FOYE: Chairman Wisniewski, I understand the facts differently. As I understand it -- and, again, I am not close to the document

production or the (indiscernible) process. As I understand it, a substantial volume of documents have been furnished by counsel to counsel to this Committee. That's my understanding. And as I understand it, the documents that have not been submitted relate to issues as to which the furnishing of the document might raise privilege or other issues. And beyond that, Chairman, I'm not fully versed in the intricacies of that document request.

ASSEMBLYMAN WISNIEWSKI: No specific assertion of privilege has been made by your counsel. We have asked if the reason for the documents not being provided are because of a specific privilege, and to identify the privilege and the documents that the privilege is being asserted against. We have not even received that.

MR. FOYE: Well, Chairman, again, I'm not the right person to direct that to. I think that's a question that Committee counsel should speak to Port Authority counsel about. And, again, I'm not--

ASSEMBLYMAN WISNIEWSKI: Well, as you said earlier, the buck stops with you.

MR. FOYE: Yes, sir.

ASSEMBLYMAN WISNIEWSKI: Committee counsel has been dealing with Port Authority counsel for a long time, and we still don't have answers. We've gotten a wonderfully orchestrated document dump in which the needles that we were looking for were inserted into a haystack. And it took this Committee and staff a considerable amount of time to determine what documents were not provided. We've subsequently asked for those documents. Counsel has not specified any particular privilege. They said these things are under review. We've said, "Fine. If you have

privileges, please let us know what those privileges are and what documents you are asserting them on.” We have not received an answer.

I do not want to have to have this Committee and the Port Authority in litigation over simple document requests. And it goes to the troubling reputation that the Port Authority has lately in which, perhaps not yourself, but people who work under you are deliberately obfuscating and delaying legitimate requests from a Committee that has oversight. And I’d like your commitment that we will either get documents or an explanation specifically as to the privileges that are being asserted and what documents they’re being asserted on.

MR. FOYE: Chairman, you have far greater knowledge of the document requests and the applicability of privileges or other exclusions than I do. I, frankly, have to defer to counsel on this. I’m not in a position to opine as a lawyer to the Port Authority on furnishing documents. I do believe, and have been informed, that a significant volume of documents has been furnished in the past. I believe that to be the case.

ASSEMBLYMAN WISNIEWSKI: But I’m not sure that even in your recovering attorney phase that you would accept, under any set of circumstances, that, “We got them a lot,” is complying with the subpoena. I mean, that’s the answer that we’re getting. “We got you a lot of documents.” You haven’t gotten us the documents that we asked for. And you’re the agency head. You said the buck stops with you. We’ve dealt with counsel, we’ve dealt with staff. This Committee’s patience is at an end. There seems to be a deliberate effort by the Port Authority to just drag its feet in responding to these document requests. There are two simple things you could do. You could say -- which I doubt you’ll say --

“Fine, you can have the documents.” Number two: You can say, “If there are privileges, we will tell you what those privileges are and what documents we’re asserting them on.” But you can’t have it both ways. You can’t say, “Well, I don’t know what they are, and there might be privileges, but I don’t know what they are.” I mean, if there are privileges, tell us what they are. But keeping us in the dark is not acceptable.

MR. FOYE: Chairman, I understand the frustration. Let me say three limitations on my part. One is, I’m a recovering lawyer. Two is, as I said before, I wasn’t very good at it when I did it. And third, I wasn’t a litigator or a trial lawyer. I was a corporate lawyer. I don’t have, personally, a lot of experience with respect to these issues and can’t commit to you. It would be foolhardy and irresponsible for me to do that because I’m not versed in the issues. I will talk to our general counsel when I get back and ask him to reach out to Committee counsel. Beyond that, Chairman, as I hope you can appreciate, I can’t make a commitment.

ASSEMBLYMAN WISNIEWSKI: Can you make a commitment that you will get us an answer.

MR. FOYE: Chairman, here is what I will commit: I will speak to the law department when I get back to the office today and ask them to reach out to Committee counsel and address these issues. I’m not versed in -- and, again, this is not my field of expertise. I wasn’t smart enough to be a litigator.

ASSEMBLYMAN WISNIEWSKI: I appreciate that. And certainly it was a very polite way to phrase it. But the fact remains that you are the head of the agency.

MR. FOYE: Yes, sir.

ASSEMBLYMAN WISNIEWSKI: And if I were in your shoes, I would call up general counsel and say, "Get them an answer. That's all you have to do. Get them an answer." We don't have an answer -- it's over a year -- if the Port Authority would rather see this matter litigated, it may come to that. But for God's sake, this is a standing reference committee of the General Assembly of the State of New Jersey. We do have a legitimate oversight responsibility to the people who use these facilities. And for the Port Authority to not provide documents and not even provide a reason why they're not providing documents is unacceptable.

Am I clear?

MR. FOYE: Chairman, you're absolutely clear.

ASSEMBLYMAN WISNIEWSKI: Thank you.

Any other questions from the Committee? (no response)

Thank you, Mr. Foye.

If you'd just stick around, we may have follow-up.

Do you have documents that you'd like to present to the Committee right now?

MR. FOYE: No, sir. I'll come back.

ASSEMBLYMAN WISNIEWSKI: I thought you said you brought some with you.

MR. FOYE: I do have some. They're being vetted by counsel. We'll come back with documents.

ASSEMBLYMAN WISNIEWSKI: Well, the subpoena was to bring documents today. I mean, counsel did not prepare a packet of documents responsive to the subpoena?

MR. FOYE: They're being prepared, Chairman. I don't believe the subpoena said *today*.

ASSEMBLYMAN WISNIEWSKI: I'm sorry?

MR. FOYE: I don't believe the subpoena said today.

ASSEMBLYMAN WISNIEWSKI: It did. Take a look at the subpoena.

For the record, I'm going to read the subpoena. And I will make it available to anyone who wishes to review it. Because if I read it (indiscernible) time.

"You are commanded to appear before the Committee on December 9, at 10:00 a.m., and to produce to the Committee at that time" -- and to produce to the Committee at that time -- "all documents, correspondence, books, papers, and other writings that you have access to relevant to the Committee's inquiry and investigation as more particularly set forth on the attached Schedule A." Schedule A consists of two pages that specify documents and correspondence between January 1, 2013 and September 13, 2013 between any Executive Branch employee. Document request No. 2: documents and correspondence between the Port Authority and David Wildstein. And so on and so forth.

It very clearly specified what we expected and when we expected it. And the Committee will consider, at the close of our business today, whether to find the Port Authority in willful defiance of our subpoena and take appropriate legal action should those documents not be provided in compliance with the subpoena.

Next, I would like to call for Hal Simoff, of Simoff Engineering Associates, to testify,

Mr. Simoff's CV has been supplied to members of the Committee.

Mr. Simoff, thank you for appearing today.

I chair this Committee.

As you can see, we have a hearing reporter here who is recording all of the testimony.

You've testified before?

HAL SIMOFF: Yes.

ASSEMBLYMAN WISNIEWSKI: And you're familiar with the rules?

MR. SIMOFF: Yes.

ASSEMBLYMAN WISNIEWSKI: You're entitled under the Rules of Fair Procedure to a copy of the transcript of your testimony, at your expense, when such copy is available. Do you understand that?

MR. SIMOFF: Yes, I do.

ASSEMBLYMAN WISNIEWSKI: Are you accompanied by counsel today?

MR. SIMOFF: No.

ASSEMBLYMAN WISNIEWSKI: You understand you have a right to be accompanied by counsel?

MR. SIMOFF: Yes, I understand.

ASSEMBLYMAN WISNIEWSKI: Okay. If you do not understand a question, you understand to ask for clarification?

MR. SIMOFF: Yes.

ASSEMBLYMAN WISNIEWSKI: Would you please stand and raise your right hand? (Mr. Simoff stands and raises his right hand)

Mr. Simoff, do you swear or affirm that the testimony you're about to give is true, correct, and complete to the best of your information, knowledge, and belief?

MR. SIMOFF: Yes, I do.

ASSEMBLYMAN WISNIEWSKI: Thank you.

Please be seated, and please state your name and spell your last name for the record.

MR. SIMOFF: My name is Hal Simoff, S-I-M-O-F-F.

ASSEMBLYMAN WISNIEWSKI: Mr. Simoff, how are you presently employed?

MR. SIMOFF: I'm employed by the firm of Simoff Engineering Associates.

ASSEMBLYMAN WISNIEWSKI: And what is Simoff Engineering Associates?

MR. SIMOFF: We are a medium-sized engineering firm. I specialize in traffic engineering.

ASSEMBLYMAN WISNIEWSKI: And tell me about your professional background in terms of any licenses or degrees that you hold that would qualify you to offer those opinions.

MR. SIMOFF: Yes, I have a license by the State of New Jersey as a professional engineer and as a professional planner. I am a graduate civil engineer from NJIT. I've also been an adjunct professor of civil engineering at NJIT. I'm a fellow with the Institute of Transportation Engineers.

ASSEMBLYMAN WISNIEWSKI: Thank you.

Do you have any questions for me before we begin the questioning?

MR. SIMOFF: No, sir.

ASSEMBLYMAN WISNIEWSKI: Thank you.

There has been a lot of discussion today, that you've listened to politely for several hours, about a traffic study being done on the approach to the George Washington Bridge. Did you listen to that testimony?

MR. SIMOFF: Yes.

ASSEMBLYMAN WISNIEWSKI: The argument that has been put forth by some is that this lane diversion that occurred in Fort Lee was done in order to conduct a traffic study. Do you understand that?

MR. SIMOFF: Yes, I do.

ASSEMBLYMAN WISNIEWSKI: I'd like you to educate this Committee, because we are all not professional engineers, or professional planners, or even good at math -- to explain to us what a traffic study is and how it's conducted.

MR. SIMOFF: Well, I've conducted hundreds of traffic studies for all sizes of development, from small developments up to regional malls. And basically what the order of business is, is to evaluate the existing conditions, look at what you propose to do, and then analyze the proposal on top of the existing conditions and determine what the impacts are.

ASSEMBLYMAN WISNIEWSKI: And so tell us how that physically gets implemented.

MR. SIMOFF: Well, you start off by conducting traffic counts.

ASSEMBLYMAN WISNIEWSKI: How do you do traffic counts?

MR. SIMOFF: Well, in the case of the Port Authority, they have the material from the toll booth counts. What I would also have done in Fort Lee is to count intersections adjacent to the entrances to the Bridge, because turning movements are an important factor in evaluating intersection capacity. So the percentage of left turns, right turns, straight through is part of what we traffic engineers rely on in evaluating intersection capacity. The Federal government has issued a treatise entitled *The Highway Capacity Manual*. It's been updated, and the last update was 2010. And so based on the *Highway Capacity Manual*, one evaluates what the capacity of the roadway is. And in order to evaluate the capacity of the roadway, you have to have traffic counts. So, for example, at the entrance to the Bridge, at Martha Washington Boulevard, there is a traffic signal. And so the turning movements at that traffic signal would be evaluated to see where -- what percentage of traffic is turning left and right. And then you work backwards from that to evaluate what the intersection capacities are and how they can handle the input and the throughput of the intersection.

ASSEMBLYMAN WISNIEWSKI: You've heard testimony that some of the data that was collected was done through counts of vehicles through the toll booths and using E-ZPass transponders, correct?

MR. SIMOFF: Yes.

ASSEMBLYMAN WISNIEWSKI: How would you conduct those counts if you did not have access to E-ZPass data or toll booth data?

MR. SIMOFF: Well, this was a Port Authority project, so that data is readily available. And you would have the throughput of the toll booth. But then, obviously, when you create -- when you cut from three

lanes to one lane, the throughput is significantly reduced. Then you have to evaluate what the other intersections upstream of that--

ASSEMBLYMAN WISNIEWSKI: No, my question is-- So we understand that they have access to this data, but I'm not sure there are E-ZPass transponder counters on Martha Washington Boulevard or the approaches leading up to that. How would you evaluate all of the traffic inputs?

MR. SIMOFF: Oh, in the neighborhood.

ASSEMBLYMAN WISNIEWSKI: If you were doing a traffic study, how would you-- If you don't have those counts from E-ZPass or toll booths, how would you get that data?

MR. SIMOFF: They're usually done by hand -- actual counts.

ASSEMBLYMAN WISNIEWSKI: And how is that done?

MR. SIMOFF: Where you station somebody at the corner, and you have a counting board. And the counter-- If it's a busy intersection, you need two people to do it. And you evaluate -- you push the buttons to determine left turns, right turns, straight through for peak hours. So in this case it would start at 6:00 in the morning and go to 9:00 or 10:00 in the morning.

ASSEMBLYMAN WISNIEWSKI: You've heard testimony that said that this lane diversion was done to do a traffic study in order to determine the impact on flow on the main line as opposed to traffic coming through from Fort Lee, correct?

MR. SIMOFF: Yes.

ASSEMBLYMAN WISNIEWSKI: If you were to be asked, as a professional engineer and traffic professional, is that how you would do a traffic study for this approach -- by diverting the lanes?

MR. SIMOFF: No.

ASSEMBLYMAN WISNIEWSKI: How would you do a traffic study for this?

MR. SIMOFF: Well, the first thing you'd look at is the volumes. You look at the intersection capacity, which is a computer run. And you make projections-- You start off by making projections of what the impacts of what you want to do are -- these projections. And then you evaluate whether-- Then you might go to the next phase of closing the lanes. But I wouldn't suggest doing it until you do the capacity calculations and the computer runs.

ASSEMBLYMAN WISNIEWSKI: From what you've heard today, were there capacity calculations done?

MR. SIMOFF: No.

ASSEMBLYMAN WISNIEWSKI: Were there computer runs done, from what you've heard today?

MR. SIMOFF: From what I've heard today, no.

ASSEMBLYMAN WISNIEWSKI: Okay.

MR. SIMOFF: They are standard procedure for a traffic study.

ASSEMBLYMAN WISNIEWSKI: Would you be able to, based on the counts, come up with a projection as to the impact diverting traffic would cause without actually diverting traffic?

MR. SIMOFF: Yes.

ASSEMBLYMAN WISNIEWSKI: And how would you do that?

MR. SIMOFF: By computer runs.

ASSEMBLYMAN WISNIEWSKI: And are there accepted models or formulas that would enable you to determine that?

MR. SIMOFF: Yes, the Federal government has issued computer models.

ASSEMBLYMAN WISNIEWSKI: And since this is an interstate crossing, those models would be applicable for this crossing?

MR. SIMOFF: Everybody uses them. All traffic engineers use them.

ASSEMBLYMAN WISNIEWSKI: So the traffic engineers at the -- for the Port Authority, who work on the George Washington Bridge, would use the same models you're talking about.

MR. SIMOFF: Correct.

ASSEMBLYMAN WISNIEWSKI: And so they would be able to develop their own calculations as to the impact that these so-called dedicated Fort Lee lanes would have without actually having to move the cones.

MR. SIMOFF: Yes, and without-- Right, without the secondary impacts.

ASSEMBLYMAN WISNIEWSKI: Okay.

Any questions from the Committee? (no response)

Is there anything else you would like to add to your testimony?

MR. SIMOFF: I think, in sitting here and listening to the testimony, standard procedure for a lane closing or a -- call it a *lane closing* or

a *detour* -- is to post signage in advance of the actual date saying, "On such and such a date--" which is standard of other government agencies.

ASSEMBLYMAN WISNIEWSKI: Why is that standard?

MR. SIMOFF: So it informs motorists that there are going to be significant delays.

ASSEMBLYMAN WISNIEWSKI: There was testimony that offered a rationale as to the reason why no one was notified about this -- that somehow it would taint or impact the collection of data. How do you respond to that?

MR. SIMOFF: I don't think so. I think if your goal is to evaluate the through lanes, you just evaluate whether the backups are increased by adding the additional lanes to the through lanes. So clearly the through lane capacity would be evaluated without any negative impacts to the Fort Lee routes.

ASSEMBLYMAN WISNIEWSKI: So is it your testimony that notifying folks that there would be this so-called *study* would not impact the accuracy of the data?

MR. SIMOFF: That's my opinion.

ASSEMBLYMAN WISNIEWSKI: I have no further questions.

If you have anything else you would like to add--

MR. SIMOFF: No, thanks.

ASSEMBLYMAN WISNIEWSKI: Okay.

Mr. Simoff, thank you very much.

Mr. Foye, thank you.

Mr. Fulton, Mr. Durando, thank you. We have no follow-up questions.

However, there is still the outstanding issue of the documents that were requested under the subpoena. Frankly, they were noticed in the subpoena. They should be provided today pursuant to the subpoena. If those documents are not provided today, the Committee will find the Port Authority to have violated the subpoena, and we'll go from there.

Mr. Foye, do you have anything further you would like to add with regard to the documents we requested?

MR. FOYE: Chairman, counsel will talk to Committee counsel this afternoon on the issue.

ASSEMBLYMAN WISNIEWSKI: Did you get that on the record? (affirmative response from hearing reporter)

I'm sorry.

MR. FOYE: Counsel of the Port Authority will talk to Committee counsel this afternoon.

ASSEMBLYMAN WISNIEWSKI: Okay. Thank you very much.

MR. FOYE: You're welcome.

ASSEMBLYMAN WISNIEWSKI: Seeing no further witnesses subpoenaed today or available to testify, this hearing is adjourned.

(MEETING CONCLUDED)