

No. 18-1059

IN THE
Supreme Court of the United States

BRIDGET ANNE KELLY,
Petitioner,

v.

UNITED STATES,
Respondent.

**On Writ of Certiorari
To The United States Court of Appeals
For The Third Circuit**

**JOINT APPENDIX (VOLUME II OF II)
(Pages 511–1017)**

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
CRIMINAL ACTION 2:15-cr-193-SDW

UNITED STATES OF AMERICA, : TRANSCRIPT OF
: PROCEEDINGS
: TRIAL
-vs- :
: WILLIAM E. BARONI JR., : Pages 1 – 224
and BRIDGET ANNE :
KELLY, :
Defendants. :
----- :

Newark, New Jersey
October 11, 2016

B E F O R E: HONORABLE SUSAN D. WIGENTON,
UNITED STATES DISTRICT JUDGE
AND A JURY

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Pursuant to Section 753 Title 28 United States Code, the following transcript is certified to be an accurate record as taken stenographically in the above entitled proceedings.

S/Carmen Liloia
CARMEN LILOIA
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* * *

documents and so I would walk from my office around to the printer, which is right outside of Bridget's office. And so I got something off of the printer that I needed for the press conference and as I was walking back I saw Bridget sitting at her desk facing her computer and Kevin O'Dowd looking over her shoulder at her computer.

Q Did you observe anyone else in Miss Kelly's office?

A I believe I also saw Bill Stepien in the corner of her office.

Q Now, did the press conference happen?

A The press conference then happened at 11 or maybe a couple minutes after 11 o'clock.

Q That day on December 13th, after the press conference, did you have any interactions with Miss Kelly?

A I did.

Q Could you please describe how that interaction came about.

A So after the press conference I was actually gathering my things to leave and I walked by her office once more and I saw her in her office and she had visibly been crying. I had noticed it from when I was walking.

Q What did you do at that point?

A I went into her office.

Q And what happened after you went into her office?

A I went into her office and I asked her what was wrong.

Q And how did she respond?

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A She said that she had been looking at her computer through her emails all morning and she didn't know if she had any emails regarding the lane closure.

Q And did you say anything in response to that?

A Yeah. I said: I don't understand how you don't know if you have any emails regarding the lane closure. I didn't understand that.

Q Did she have any response?

A She indicated that she would delete emails because she had had a contentious relationship with her ex-husband and she didn't want her children to see her emails so that she deleted emails.

Q During that interaction, did Miss Kelly say anything about whether she had any role in the lane reductions?

A Well I asked her, that didn't make sense to me at the time, I asked her: Did have you anything to do with this? And she adamantly denied having anything to do with the lane closures.

Q And after that, how did your interaction continue?

A I asked her if she knew — if she had ever heard about the prisoner's dilemma, which is a theory, it's a mathematical theory. I asked her: Bridget, did you ever hear of the prisoner's dilemma?

Q Why did you raise the prison dilemma.

MR. CRITCHLEY: Not why. The question is, what's in her mind? The fact that this one may know what a prisoner's

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dilemma is, is not the formula and has nothing to do with this witness.

THE COURT: She's recounting the conversation. Objection is overruled. She can testify.

Q Thank you, your Honor.

Miss Gramiccione, why did you raise the prisoner's dilemma?

A I raised it because Bridget was a friend and I wanted her — I said to her: It's always better to be the first person to come forward. That's what I believed the prisoner's dilemma to be.

MR. CRITCHLEY: Objection, Judge.

A It's always better to be the first person that said that.

MR. CRITCHLEY: Objection, Judge.

THE COURT: You have an objection?

MR. CRITCHLEY: Yes, Judge. It's irrelevant what this witness thinks. It's relevant for my client.

THE COURT: Your objection is overruled.

Q Now, what happened after that, Miss Gramiccione?

A I also told her she needed to go back and talk to Kevin O'Dowd again. She needed to talk to Kevin O'Dowd again.

Q Now, at any point during this interaction did Miss Kelly tell you about or show you any emails or text messages relating to the lane reductions?

A No.

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Q After this interaction with Miss Kelly, what did you do after that?

A I left the office for the day and then soon thereafter went to the Port Authority.

Q Did you speak to Mr. O'Dowd about your interaction with Miss Kelly?

A That's right. So after I left Bridget's office that day I went directly to Kevin O'Dowd's office and recounted the entire conversation I had with Bridget to Kevin O'Dowd.

Q And did he have any reaction?

A Yeah. He appeared frustrated.

Q Just one minute, your Honor.

Thank you, your Honor, nothing further.

THE COURT: Alright, cross.

MR. BALDASARRE: Yes, Judge, thank you.

CROSS EXAMINATION BY MR. BADLASARRE:

Q Good morning, Miss Gramiccione. How are you?

A Hello.

Q I want to talk to you a little bit more about — get some more details about your employment history. When you were at the U.S. Attorney's Office, it was in this district; correct?

A It was.

Q And during that time, what kinds of cases did you handle?

A At first, I was assigned to the general criminal division so all kinds of cases. Any cases that would come in,

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traditional federal criminal cases. I then was asked to join the special prosecution division and then my mission and role was to prosecute public corruption cases.

Q So when you were in the district — did you ever prosecute anything in this building?

A Yes.

Q And you would sit there; right?

A Yes.

Q Okay. And when you were in the U.S. Attorney's Office here, ultimately you reported to the U.S. Attorney himself; correct?

A I did.

Q And he would report to the Attorney General; correct?

A Yes.

Q Of the United States?

A Yes, generally speaking.

Q Okay. And then you went to Main Justice; correct?

A Yes.

Q And is Main Justice sort of a shorthand way of saying the United States Department of Justice in Washington, D.C.?

A Correct.

Q And is it also safe to say that in your experience, in the world of federal prosecutors going to Main Justice, it's a big deal; right?

A I enjoyed working at Main Justice.

* * *

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Q Ad is it unusual for the Authorities Unit to have interaction with the people at the Port Authority?

A Not at all. To the contrary, it was expected that we would have routine interaction with people at all of the authorities, including the Port Authority.

Q Okay. You remember the map of the offices that the prosecutors just showed you?

A I do.

Q If I put that back up, would you be able to find Bill Baroni's office on it?

A His office would not be in the map that was just shown to me a while back.

Q Where was it, his office?

A At the Port Authority.

Q And where was that?

A In New York City.

Q Okay. When you were, I'll say DED, instead of Deputy Executive Director, okay, when you were DED, did you view Pat Foye as your boss?

A He was not my boss.

Q Can you explain — well, let me ask you this. On a — just a pure schematic of the reporting structure,

would it appear, in your opinion, that he was your boss?

A Yes. In a normal company, the Executive Director would appear hierarchically the first — the highest person on that

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organizational chart. But it wasn't that way at the Port Authority and that was something that was in creation long before I believe Governor Corzine and Governor Christie. I think that was originally a creation that started under then Governor Whitman where the Deputy Executive Director would be the highest New Jersey appointee at the Port Authority, and then Executive Director would be the highest New York appointee. And one did not report to the other. For better or worse, that's the way that the Port Authority worked. One did not report to the other. They were both considered to be at the same level, the highest New Jersey and New York appointees.

Q And in your experience, was it that New York would handle certain New York projects without talking to New Jersey and visa versa?

A When I got there, that is — that was the norm. And, again, I think that had been the norm. When I got there I tried to not do that any more, but I think it is fair to say that that was the norm.

Q And was it your impression when you got there and concluded it was the norm, was it your impression that that's something that started under Mr. Baroni or had it been around for years?

A It had been around for years, this construction — this hier — the bizarre hierarchy of the Port

Authority was not a creation of Bill's and probably not even his predecessor.

Q Was there ever tension between the Executive Director —

* * *

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very supportive of my members, I wanted to let him know we were supportive of him.

Q I want to direct your attention now to November 22nd, 2013. Did there come a time when you went to the Port Authority's offices in Manhattan?

A Yes.

Q Why did you go there?

A I got a call to come over to Port Authority.

Q Who from?

A Mr. Wildstein.

Q Did you go?

A Yes, I did.

Q Who did you go there with?

A My first vice president Mike DeFilippis.

Q Also a member of the PBA?

A Yes.

Q Prior to that meeting on November 22nd, 2013, do you recall whether Mr. Baroni or Mr. Wildstein had asked you to allow them to let — to attribute the lane reductions to the Port Authority Police Department?

A No.

Q On November 22nd, did you meet with Mr. Wildstein?

A Yes, I did.

Q Where did you meet him?

A I met with him at his office on 225 Park Avenue.

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Q Who was present?

A Myself, Mike DeFilippis and Mr. Wildstein.

Q Where — were you seated or standing?

A We went into Mr. Wildstein's office and we were all seated.

Q Was the office door open or closed?

A It was closed.

Q And, in substance, what was discussed with Mr. Wildstein?

A We were talking about the World Trade Center. We had an ongoing issue down there with the city that was going on at the time, and I believe some of Crash Fire Rescue issues.

Q Did there come a time when Mr. Baroni entered Mr. Wildstein's office?

A Yes.

Q And what happened?

A Mr. Baroni popped his head into Mr. Wildstein's office and asked us to come into his office.

Q Did you?

A Yes.

Q Who was present in Mr. Baroni's office?

A Myself, Mr. DeFilippis, Mr. Baroni and Mr. Wildstein.

Q Could you describe where people were situated in Mr. Baroni's office?

A We came in the door. I was seated in front of Mr. Baroni's desk. Mr. Baroni was over by the table. Mr. Wildstein was sitting sort of behind me and Mr. DeFilippis was to his right,

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closest to the door.

Q Was the door to his office open or closed?

A It was closed.

Q What happened when you were in Mr. Baroni's office?

A I'm not following you.

Q Let me step back. What was Mr. Baroni's demeanor when you were in his office?

A Mr. Baroni seemed jittery, amped up, a little nervous.

Q Did he speak to you?

A Yes, he did.

Q What did he say?

A He told us: I'm going down to appear before the committee. I'm bringing the — they don't know I'm coming and I'm bringing the study.

Q What committee did he — was he referring to?

A I believe he was referring to the legislative committee.

Q Is that the Assembly Transportation Committee?

A Yes.

Q Are you familiar with that committee?

A Yes.

Q What happened next in the conversation?

A Mr. Baroni said that two officers had approached David about officer safety directing traffic in the lane.

Q Who did you understand David to be a reference to?

A Mr. Wildstein.

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Q What did you understand Mr. Baroni to be referring to in terms of officer safety directing traffic in the lanes?

A He was talking about the local access lanes to the George Washington Bridge.

Q What happened then?

A I asked him who the two officers were.

Q How did he respond?

A I believe he pointed and he said “you guys” or “you two guys”.

Q What happened then?

A I said: Absolutely not.

Q Did Mr. DeFilippis say anything?

A Yes, he did.

Q What did he say?

A He said: If we had a problem — let me back up. To finish what I said. I said absolutely not. We never had a problem. But officer safety directing traffic in those lanes was exactly what I said to him I had a problem with. And Mr. DeFilippis said to him: We

could have filed a grievance, or we would have brought to it someone's attention.

Q Why did you disagree with what Mr. Baroni said?

A Never, since I've been a Port Authority police officer, have I heard a complaint about officer safety directing traffic in those lanes.

Q Were you aware of any officer safety complaints related to

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those local access lanes?

A No, I was not.

Q Are officer safety concerns important to you as a PBA president?

A It's one of the most vital things I do.

Q When there are issues of officer safety, do you take steps to address those issues?

A Yes, I do.

Q What steps do you take?

A I try to engage the upper chain of command in the police department. If that doesn't work, I try to engage the executives that run the Port Authority, such as Mr. Baroni, Mr. Wildstein, Mr. Foye. If that doesn't work, I registered — you're allowed to speak in front of the Board of Commissioners. You got to go register. You have three minutes to speak to them in a public commissioners' meeting. I would appear before the Board of Commissioners and air my concerns on safety. If that didn't work, I would go to the media.

Q Have you ever asked for a study as a remedy to an officer safety issue?

A No.

Q From what Mr. Baroni had said to you, did you understand what he wanted to tell the Assembly Transportation Committee?

MR. BALLINGER: Objection, your Honor, leading.

Q Did you have an understanding?

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THE COURT: What was your understanding?

Q Did you have an understanding what Mr. Baroni wanted to tell the Assembly Transportation Committee?

A Yes.

Q What did you understand?

A I believed Mr. Baroni wanted to state that me and Mr. DeFilippis complained about officer safety in those lanes and asked for a study, which never happened.

Q After Mr. DeFilippis said these things to Mr. Baroni, did you say anything else?

A Yes.

Q What did you tell him?

A I told Mr. Baroni the only conversations I ever had with David about those lanes was opening the third lane of traffic to the bus slip. I went on to explain to Mr. Baroni the conversations came up in 2011/2012 after the issues started happening with the bus slip with car poolers blocking the bus slip, picking up

strangers, blocking the buses from being able to get in and out of the bus slip.

Q Now, when did that — in terms of — in terms of the 2011/2012 timeframe, was that following some sort of decision at the Port Authority?

A The Port Authority increased the tolls, so the toll went up quite a bit. If you had more than one person in your car, if you picked up two people, you would get a reduced rating to

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over the bridge. So the bus slip is for buses, it's not for picking up passengers in cars. People started to come into the bus slip with their cars to pick up strangers to get a reduced fair to go over the George Washington Bridge.

Q What did you tell Mr. Wildstein in 2011 and 2012 about the bus slip?

A When I worked at the George Washington Bridge, the third lane of traffic was open to the bus slips. So we removed the cones at the top of bus slip on the local lanes so the buses could alternately merge with the third lane of traffic to the local lanes, instead of getting forced all the way to the left into the highway traffic.

Q Miss Hardy, if you could call up Government's 1066 again. And if you could give me page 4. If you could just zoom in on this area. A little farther down. A little farther. There you go.

Alright, Mr. Nunziata, just using what's displayed here, which is Government's 1066, can you just explain what specifically you told Mr. Wildstein again.

A I told Mr. Wildstein what I just drew there. If they removed those cones the way we used to do it, you can access — the buses could access right into that third lane instead of getting forced to the left.

Q Why did you bring that issue up to Mr. Wildstein in 2011 and 2012?

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A I brought that issue up after there was a problem in the bus slip. It became a safety issue with people picking up strangers but it also caused a total gridlock in the bus slip. That's also an exit to go into Fort Lee. Make a right turn there and access Fort Lee local streets. You don't have to go to the bridge from that side.

Q What you're referring to, the exit into Fort Lee, is that depicted right by — there you go?

A Yes, sir.

Q Right by the bus slip there's a little directional right turn there?

A Yes, sir.

Q Alright. Now, was your suggestion to Mr. Wildstein to reduce the three lanes — what's depicted here as the three lanes from Fort Lee that span from the intersection of Bridge Plaza South or Bruce Reynolds Boulevard?

A Absolutely not.

Q Was your suggestion to Mr. Wildstein to review the number of toll booths accessible to that — to those three local access lanes?

A Absolutely not.

Q Do you know if Mr. Wildstein ever acted on this issue when you brought it to his attention in 2011 and 2012?

A No, I do not.

Q Now, coming back to the conversation with Mr. Baroni on

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November 22nd, 2013, did you explain to him the issue about the bus slip in your conversations with Mr. Wildstein in 2011 and 2012?

A Yes, I did.

Q Did you explain anything else to him?

A Yes, I did.

Q What did you explain?

A After I told him about the bus slip issue, I told him — that came up as a snippet in conversation later, the same way Assemblyman Giblin's issue came up.

Q What was Assemblyman Giblin's issue?

A Assemblyman Giblin, I went to see him. He told me his constituents were complaining to him about the time it took to get in and out of the terminal, Port Authority bus terminal on their buses.

Q Do you recall when this was?

A I don't recall when it was.

Q And when that issue — when Assemblyman Giblin — and that's New Jersey Assemblyman Giblin; is that right?

A That's correct. I believe he covers Essex County, Thomas Giblin.

Q When he brought that issue to you, what do you do with that issue?

A I brought it up to Mr. Wildstein over breakfast conversation and told him that Assemblyman Giblin was

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complaining about the amount of time it took his constituents to get in and out of the bus terminal. I explained to Mr. Wildstein that we used to — Port Authority police officers used to be stationed up on the decks of the bus station where the buses came and we pulled the traffic around the corners to expedite the flow of traffic at rush hour because there was a lot of buses up on the bus slips.

Q And why did you bring that issue to Mr. Wildstein?

A Mr. Giblin brought the issue to me, I brought to it Mr. Wildstein to let him know. And I believed that if they went back to pulling buses the way we used to, it would expedite the traffic in and out of the bus terminal.

Q Did you tell Mr. Baroni this?

A Yes.

Q Now, were either of these issues, Mr. Nunziata, the bus slip issue or the issue regarding the bus terminal, were either of those officer safety issues?

A Neither one of them was an officer safety issue.

Q Why did you tell Mr. Baroni about these two issues, the bus slip and the bus terminal issue?

A I wanted to be clear that Mr. Baroni that I never had a conversation with Mr. Wildstein about reducing

the lanes to one lane. The only conversations I had was about opening up the bus slip to the third lane of traffic the way we used to direct traffic and it came up in the same way over breakfast

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conversation, Assemblyman Giblin's issue.

Q After you told Mr. Baroni this, how did he respond?

A Mr. Baroni looked at me and said: You met with David in July.

Q How did you respond to what Mr. Baroni told you?

A I said: I don't remember meeting with David in July.

Q Why did you say you did not remember meeting with him in July?

MR. BALLINGER: Objection, your Honor. I mean, why did you ask him? He said he didn't remember.

MR. CORTES: No, he said he didn't remember meeting with him.

MR. BALLINGER: In July.

THE COURT: Just go back and clarify.

MR. CORTES: Sure.

Q Mr. Nunziata, you testified that you told Mr. Baroni that you didn't remember meeting with Mr. Wildstein in July. You recall that?

A Yes.

Q Why did you tell him that you didn't recall meeting with Mr. Wildstein in July?

A Because I didn't remember meeting with Mr. Wildstein in July.

Q How did Mr. Baroni respond to you saying that you did not remember talking to Mr. Wildstein in July?

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A He made more of a statement than a question and said, "you spoke with David in July," something right along there.

Q How did you understand that?

A He was telling me that I met with David in July.

Q Who was Mr. Baroni's saying this to?

A To me.

Q Who was he looking at?

A Me.

Q What was Mr. Baroni's demeanor when he said this to you?

A Authoritative.

Q What did you understand from Mr. Baroni's statement?

A That he wanted me to say that I met with Mr. Wildstein in July.

Q How did you respond to him?

A I knew I had probably met with Mr. Wildstein in July. I met with David frequently, I responded — I'm trying to remember the exact — I think I said something like, "I'm comfortable with that," as I stood up to get out of his office.

Q Why did you say that?

A Because I wanted to get out of his office.

Q And were you telling Mr. Baroni you were comfortable saying that you met with Mr. Wildstein in July?

A I know I probably met with David Wildstein in July. I met with him all the time. I never discussed the three to one traffic study. I didn't like the way the conversation was

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going and I wanted to get out of the office.

Q Did Mr. DeFilippis say anything?

A No, Mr. DeFilippis was sitting off to my right. Mike didn't say anything.

Q What happened then?

A As I got up to leave, I could see Mike sitting there. He was white, but as I got up first, Mike actually beat me to the door.

Q Did you leave Mr. Baroni's office?

A No.

Q What happened next?

A Mr. DeFilippis and Mr. Wildstein exited Mr. Baroni's office. As I went to exit the office, Mr. Baroni told me to wait a minute.

Q Did you speak with him?

A Yes, I did.

Q What was discussed?

A Mr. Baroni told me he had to go down and protect Wally.

Q And who is Mr. Baroni referring to?

A Mr. Wildstein.

Q Had Mr. Baroni referred to Mr. Wildstein by that name before?

A Yes, he had, often.

Q What did you understand that name to mean?

A I understood the name to mean Wally Edge.

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Q And who is — and how is that name associated with Mr. Wildstein?

A Wally Edge was a former New Jersey Governor and Mr. Wildstein used to run a political blog called N.J. Politicker and that was the pen name he used on N.J. Politicker.

Q How if at all did you respond to Mr. Baroni?

A I told Mr. Baroni: You're killing Flip. Leave us out of it.

Q Who is Flip?

A Mike DeFilippis.

Q Is that a nickname?

A Yes, we call him Flipper.

Q Why did you say that to Mr. Baroni?

A Didn't want to be involved. Mike was sitting there white as a ghost. We didn't ask for a study. I wanted to be clear he knew my conversations with Mr. Wildstein.

Q What happened then?

A I turned and walked towards the door.

Q Did you interact with Mr. Baroni any further?

A Yes. I slowed down as I was going to the door. I think Mr. Baroni opened the door as we were walking

through the door, I slid my hand up on his back and I said: Leave Flip and me the fuck out of it.

Q Why did you say it in that manner?

A I don't know why they did the traffic study. I wasn't

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involved in the traffic study. I never had the conversations with Wildstein. And I wanted Mr. Baroni to be clear of that.

Q How did Mr. Baroni respond to you?

A He didn't respond, I walked out the door.

Q After this interaction, did you discuss it any further with Mr. Baroni?

A No.

Q How about Mr. Wildstein?

A I don't believe so.

Q I want to direct your attention now to November 25th, 2013. Do you recall that day?

A What was the date again, I'm sorry?

Q November 25th, 2013.

A Yes.

Q And do you recall that Mr. Baroni testified that day before the New Jersey Assembly Transportation Committee?

A Yes.

Q And did you listen to that testimony?

A Yes.

Q Where did you listen do that testimony?

A I was sitting in the treasurer's office of the PBA, Robert White.

Q And who is Mr. White?

A He was the treasurer of the PBA at the time.

Q Was anyone else there with you?

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A Yes.

Q Who was there with you?

A Mr. DeFilippis.

Q And, Mr. Nunziata, prior to listening to the testimony that day, had you had any kind of conversation with Mr. Wildstein about the testimony that day?

A I believe there was just a text on the legislative website how to get on — or what the site was going to be.

Q The site in order to listen to the testimony?

A Yes.

Q Alright, Mr. Nunziata, I'm going to play certain clips of Mr. Baroni's testimony for you. Okay?

So, Miss Hardy, if we could have what's already in evidence as Government Exhibit 7009. And I'd like clip 3.

(Video plays)

Q Do you recall this statement from Mr. Baroni?

A Yes.

Q In or about August of 2013, did you speak with David Wildstein about any traffic conditions at the George Washington Bridge?

A No.

Q Did you speak with anyone else at the Port Authority about that topic in August of 2013?

A No.

Q Mr. Baroni in his statement referred to multiple

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conversations with members of the Port Authority Police. Do you recall having multiple conversations with Mr. Wildstein about traffic conditions at the George Washington Bridge in August of 2013?

A No.

Q Are you aware of any other Port Authority police officer who discussed traffic conditions at the George Washington Bridge with Mr. Wildstein in August of 2013?

A Not that I know of, no.

Q Alright, Miss Hardy, can I have, from Government Exhibit 7009, clip 25, please.

(Video plays)

Q Mr. Nunziata, do you recall this testimony from Mr. Baroni?

A Yes.

Q In July of 2013, did you approach David Wildstein about reducing local access lanes to the George Washington Bridge?

A I never approached David Wildstein about reducing traffic lanes at the George Washington Bridge and I never did it in July.

Q Are you aware of anyone, any member of the Port Authority Police Department, who approached Mr.

Wildstein in July of 2013 about those local access lanes?

A No, I'm not aware.

Q Miss Hardy, if we could have from Government Exhibit 7009, clip 14, please.

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(Video plays)

Q Mr. Nunziata, do you recall that testimony?

A Yes, I do.

Q Did you personally raise the issue of looking at reducing the local access lanes to Mr. Wildstein?

A I never raised the issue of reducing the local access lanes with David Wildstein.

Q Did Mr. Baroni know that?

A I made it crystal clear to him in that meeting on November 25th.

Q What was your reaction to Mr. Baroni's naming you?

A I was quite upset.

Q Now, you mentioned that you were watching — you were listening to this testimony with Mr. DeFilippis. Were you listening to this aspect of the testimony in his presence?

A Yes, I was.

Q And did you have occasion to observe his reaction?

A Yes, I did.

Q What was Mr. DeFilippis's reaction to this testimony?

A Mike jumped up out of his chair and called Mr. Baroni a fucking liar.

Q Did you ever suggest to Mr. Baroni or Mr. Wildstein these local access lanes should be looked at in terms of reducing them?

A Never.

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* * *

to work.

Q And at any time during the week of September 9th, did David Wildstein tell you anything was going on at the George Washington Bridge or in Fort Lee?

A No.

Q I want to direct your attention to November of 2013. Do you recall during that time when you had a meeting with Bill Baroni in relation to the lane reductions?

A Yes, we did.

Q How did that meeting come about?

A I was in my office and I believe over the intercom system Paul Nunziata asked me to “take a ride with me to Park Avenue,” which is the Executive Offices for the Port Authority.

Q And did you do so?

A I stepped out into the car and I met him and he said David Wildstein wanted to see us, but he had no idea what it was about.

Q Did you ultimately reach the Port Authority’s offices in New York City?

A Yes, we did.

Q And what happened once you got there?

A We went into Mr. Wildstein's room, Paul Nunziata and myself.

Q And who was present when you first went into Mr. Wildstein's office?

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A David Wildstein.

Q What happened once you went into Mr. Wildstein's office?

A To the best of my recollection, I believe we were talking about the World Trade Center, how the precinct was coming along, and there was a knock on the door.

Q What happened after that?

A Mr. Bill Baroni came to the door.

Q And what happened after Mr. Baroni came to the door?

A He asked us if he could talk to us and we accompanied him into his office along with David Wildstein.

Q Who all went into Mr. Baroni's office?

A Myself, Paul Nunziata and David Wildstein.

Q What happened once you got to Mr. Baroni's office?

A Once we got into the office, Mr. Baroni pointed to a large stack of papers. It was either at the end of the his desk or another desk added to it, and there was also a large photo of the upper level George Washington Bridge toll lanes.

Q What happened after he pointed to that?

A Pointed to that and told us this was a traffic study that was done and he was going to go down before the committee.

Q And what was your understanding as to why Mr. Baroni was going down before the committee?

A I believed it was the committee, the legislative committee that was chaired by, I think it was Senator Weinberg and Assemblyman Wisniewski.

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Q Did you have any understanding as to what issue that committee was looking into?

A The lane change — the lane change, whatever it was, the lane blockage, what they called it.

Q In Fort Lee?

A Yes.

Q Now, after that, going back to the meeting with Mr. Baroni, what happened after he mentioned the committee?

A After that, Mr. Baroni, to the best of my recollection, started saying that two police officers from the George Washington Bridge requested a safety study involving the traffic pattern coming into the tolls at the George Washington Bridge.

Q What happened after he said that?

A Paul Nunziata asked him who those two police officers were.

Q And what happened after that?

A He pointed at both of us and he said “you two.”

Q What happened after he pointed at you and Mr. Nunziata?

A We both at the same time said we didn't ask for a traffic study.

Q Did you say anything further after that?

A To the best of my recollection, I did say the only time that I remember any traffic problems in Fort Lee was approximately 15 years ago and that was with the former Mayor Jack Alter.

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Q Did Mr. Baroni have any reaction to what you said?

A No.

Q Now, after that interaction with Mr. Baroni, did you stay in his office?

A Yes.

Q And what happened once you stayed in his office?

A It was only for approximately a few more minutes then I left the office with David Wildstein and Mr. Baroni had Paul Nunziata stay in the office with him.

Q And after Mr. Baroni made those comments while you were still in his office, what was your state of mind?

A It was quite clear to me that they wanted to make it look like this traffic study was asked by us, the police.

Q At any point during this meeting did Mr. Baroni ask you what your position was at the PBA?

A No.

Q Now, you said you ultimately left Mr. Baroni's office?

A I did.

Q Did Mr. Nunziata come with you?

A No.

Q What happened?

A He remained in the office with Mr. Baroni.

Q Did you wait for him?

A Yes.

Q Did Mr. Nunziata then come out?

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A Yes, he did.

Q And at some point did he tell you what he had discussed with Mr. Baroni?

A He never told me what he discussed. He just told me that "I told" —

MR. BALDASARRE: Objection.

THE COURT: Don't tell him what he told you just what your understanding was.

MR. KHANNA: Judge, may I approach? I think it's a prior consistent statement.

THE COURT: Ask the question again, Mr. Khanna.

Q Officer DeFilippis, did Mr. — did Officer Nunziata tell you what he told Mr. Baroni while the two of them were just alone?

MR. BALDASARRE: Judge, same objection.

THE COURT: Just yes or no question.

A No.

Q I want to direct your attention to November 25th, 2013. Did you watch Mr. Baroni's appearance before a New Jersey legislative committee that day?

A I was watching in and out. My office is on the second floor and the treasurer had it on in his office, which is on the first floor.

Q And when you were watching, who were you with?

A At any given time people were running in and out of the

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room because they had other things to do. At times it was RJ White, I believe, Paul Nunziata, myself, and I think that was it.

Q Do you recall watching portions of Mr. Baroni's testimony relating to the Port Authority Police Department?

A Yes, I did.

Q Miss Hardy, if we could please bring up Government Exhibit 7009, clip 3.

Officer DeFilippis, we're just going to play you some clips and ask you questions about those clips.

(Video plays)

Q Officer DeFilippis, do you recall watching that portion of the testimony?

A Yes.

Q At any point, including in August of 2013, did you speak with David Wildstein or Bill Baroni about any traffic conditions at the George Washington Bridge relating to the local access lanes?

A No, I didn't.

Q And to your knowledge, did anyone at the PBA?

A Not to my knowledge, no.

Q Did you ever tell Mr. Baroni that you spoke to Mr. Wildstein about traffic conditions at the George Washington Bridge?

A No, I didn't.

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Q Miss Hardy, if we could please go to Government Exhibit 7009, clip 25.

(Video plays)

Q Officer DeFilippis, at any point in time, including late July, 2013, did you speak with David Wildstein about closing, altering, or looking at reducing the local access lanes in Fort Lee?

A Absolutely not.

Q To your knowledge, did anyone at the PBA?

A Not to my knowledge, no.

Q And did you ever tell Mr. Baroni you spoke to Mr. Wildstein about the local access lanes in Fort Lee?

A No, I didn't.

Q Miss Hardy, could we please play Government Exhibit 7009, clip 14.

(Video plays)

Q Officer DeFilippis, do you recall watching this portion of Mr. Baroni's testimony?

A Oh, yes, I do.

Q And what was your reaction when you saw it?

A My immediate response was: He's full of shit.

Q Why was that your reaction?

A Because I had no input. I didn't request traffic studies. I didn't know what was going on.

Q Now, do you recall Mr. Baroni saying in that clip that you

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were the PBA delegate who worked at the George Washington Bridge?

A Yes.

Q re you the PBA delegate who works at the George Washington Bridge?

A I was a delegate in 1984. I never held any delegate position at the George Washington Bridge.

Q Now, do you recall in that clip Mr. Baroni's testimony that you and Mr. Nunziata were the police officers who raised the issue: We ought to look at this?

A That's what it said.

Q Did you ever raise the issue that anyone should look into anything relating to the local access lanes in Fort Lee?

A No.

Q Did you ever request any study relating to the local access lanes in Fort Lee or at the George Washington Bridge?

A No.

Q Did you ever raise any issues relating to the local access lanes or the George Washington Bridge?

A No.

Q And did you ever tell Mr. Baroni that you wanted to look into anything relating to the local access lanes in Fort Lee?

A No.

Q Your Honor, if I could just have a moment?

THE COURT: Sure.

* * *

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
CRIMINAL ACTION 2:15-cr-193-SDW

UNITED STATES OF AMERICA, : TRANSCRIPT OF
: PROCEEDINGS
: TRIAL
-vs- :
: WILLIAM E. BARONI JR., : Pages 1 – 147
and BRIDGET ANNE :
KELLY, :
Defendants. :
----- :

Newark, New Jersey
October 17, 2016

B E F O R E: HONORABLE SUSAN D. WIGENTON,
UNITED STATES DISTRICT JUDGE
AND A JURY

A P P E A R A N C E S:

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Pursuant to Section 753 Title 28 United States Code,
the following transcript is certified to be an accurate
record as taken stenographically in the above entitled
proceedings.

S/Carmen Liloia
CARMEN LILOIA
Official Court Reporter
(973) 477-9704

* * *

I always voted across political aisle. And in the Port Authority, unless you got the ability to work with people of different political parties from New York and different geography from New York, you don't get anything done. And my understanding was that the Governor wanted someone up there that could actually break some log jams on projects that had just stalled. And sent me up there because I had a — I was pretty lucky, I had a reputation of working cross the political aisle.

Q And when did you start at Deputy Executive Director?

A March 1st — March of 2010.

Q And what were your duties and responsibilities as the Deputy Executive Director?

A Well, as I said before, the Port Authority is this unique agency where you got essentially two CEOs, the Governor of New York and the Governor of New Jersey, who co-own, co-oversee, the Port Authority. And then below them are a Board of Commissioners, six from each state, so that's equal. Six from New York and six from New Jersey. And then you got administration, the bureaucracy that's overseen by an Executive Director from New York and a Deputy Executive Director from New Jersey. Although we, one didn't — I didn't answer to the other. So you sort of have two equal Governors, two equal Boards, and two equal day-to-day operators and then the bureaucracy. So it creates this, by structure, it creates

either conflict or work together.

Q And what did you do on a day-to-day basis?

A Everyday was different. Largely the biggest part of my responsibility was overseeing the bureaucracy of the agency. So everything from the budget of the Port Authority, the capital plan, construction projects. My focus being construction projects on the New Jersey side and Pat and his predecessor on the New York side. And then jointly we did projects, overseeing things like construction planning, engineering planning. And then just running of the 7,000-person agency. And it was — there was no day that was the same. Because even if you had sort of a day planned, things would just happen and you'd react to things that would happen as you went along in the day.

Q And at the time you were at the Port Authority, what was the annual revenue of the organization?

A Well, the annual budget was just, just short of 7 billion dollars.

Q And I believe you mentioned a capital plan.

A Yes.

Q What was the capital plan?

A The capital plan was a planning document that was ten years of projects. So the construction, maintenance projects on all the facilities would be planned. New projects would be planned out over the next ten years. And from that plan, each year's

* * *

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A. Yes.

Q And what was your understanding of the message that was forwarded to you that morning?

A Well, two. One, the bottom email referenced the test, which I knew what had been discussed to start on Monday. And then looking at Bob's — Mr. Durando's email, that Operations, Maintenance, and the police were aware of it, controlling traffic, on board, which meant to me, I interpreted it, as involved. So that told me that this was a project that had the professionals in the agency at the bridge involved.

Q What was your understanding of the term "police" in that email?

A Well, it was — I interpreted it as a general term because often if emails at the PA, if you meant PAPD, meaning the Port Authority Police, you said PAPD. But I read that more generally. At the time, on September 8th, I read it more generally than that.

Q Okay. Now, Mr. Baroni, we've heard a lot of testimony in this case regarding the week of September 9th through September 13th. And so before I turn to the specific events of that week. I want to ask you why you didn't call Mayor Sokolich back.

A I have asked myself that question a thousand times. I think of it — the first thing I think of when I get up in the morning, it is the last thing I think of when I go to bed. I

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listened to David Wildstein when he said to me that if I called the mayor back, that because of my relationship, that I would wimp out, give in, and stop, ruin the study, which was very important. And he said to me, David said to me: Let me handle it. And I listened to him, and I have regretted it ever since.

Q Mr. Baroni, I want to turn to September 9th.

A Yeah.

Q How did your day start?

A I had — I was giving a talk at a transportation conference in Monmouth County. So it started early and I went down, I think the conference was like 9 a.m. So the day started at six or so, and I went down to Holmdel, I think it was.

Q So you were speaking on a panel?

A Oh, yes, I'm sorry. I was speaking on a transportation panel of transportation professionals from across New Jersey.

Q Who else was on the panel?

A The Commissioner of Transportation, the head of Amtrak, the head of New Jersey Transit, the head of the Federal Aviation Administration, me. May very well have been more, it was not a short panel.

Q And were there other people in attendance?

A Yeah, probably 500,000 people. It was a large event.

Q And about how long did that event last?

A Two hours, maybe. I don't remember. It was lengthy.

Q And at some point during that morning did you receive a

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message about the lane realignment?

A Yes, I did.

Q Okay. When did you receive that?

A I believe I received it while I was sitting on the panel. So it would have come to my Blackberry or

iPhone, whatever I had at the time while I was on the panel.

Q Okay. Mr. Baroni, I want to show you what's in evidence as Government Exhibit 1089. Can you see the document, Mr. Baroni?

A Yes, I can.

Q Now, what is this document?

A It's an email from Bob Durando to David Wildstein, Cedric Fulton, and Diannae Ehler.

Q And this was sent on Monday, September 9th, at 9:10 a.m.?

A Yes.

Q Could you please read the email for me?

A Sure. "Just got off the phone with the FL — Fort Lee Police Department Chief, who's not happy about our new traffic pattern. He's particularly upset that no one from the GWB, either civilian or Port Authority Police Department, had the courtesy or the neighborly intent to either call the Mayor's office for Fort Lee Police Department about testing a new traffic pattern. The Chief asked how he goes about ending this miserable failure. I advised him to have the Mayor call Bill Baroni. I also, at their request, met with them at the facility and advised them of same in person. They advised that

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the mayor would be calling Bill this morning. Bob."

Q Now, who is Cedric Fulton?

A Cedric Fulton was — is, I believe, still, the Director of Tunnels, Bridges and Terminals. He oversees the six Hudson River crossings, the Port

Authority bus terminal, the Port Authority bus station. The six crossings, the two bus station — that's right.

Q Who is Diannae Ehler?

A I'm not sure what Diannae's title was in 2013. I think she may now be the general manager of the Lincoln Tunnel. But I'm not certain. When I left she was in Tunnels and Bridges, so I don't know what her title is now.

Q And did Mr. Wildstein ever forward you this email?

A He did not.

Q Did you see it the morning of September 9th?

A I did not.

Q Mr. Baroni, I want to show you what's in evidence as Government Exhibit 274. Mr. Baroni, what is Government Exhibit 274?

A It is an email from — at the bottom it's an — an email from Mat Bell to me and Gretchen DiMarco. Then that's forwarded to David Wildstein and then responded to by David Wildstein.

Q Okay. Let's start with the email on the bottom.

A Okay.

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Q Who's Mat Bell?

A Mat was my assistant. He was my — worked outside my office and he was my assistant.

Q And who is Gretchen DiMarco?

A Gretchen was — did my schedule. She would attend events with me. She did my correspondence and a lot of things.

Q And what is the content of that email message?

A It's the "subject", so it's a phone call from Mayor Sokolich with his number about an urgent matter of public safety in Fort Lee.

Q And this was sent at 9:29 a.m., correct?

A Yes, that's right.

Q Okay. At that time were you still at your panel discussion?

A I think so.

Q What did you do when you received that message?

A Well, looking at the timing, I received it and forwarded it, so my remembrance was something — I was sitting on the panel, so I would just take it — took it, saw it, forwarded it, sent it to David Wildstein. This was his project, he was the point on it, and he was going to be responsible for it.

Q And did David Wildstein respond to you?

A He did later, yes, he did, he responded.

Q And what did he say?

A Radio silence.

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Q And what did you understand that to mean?

A When I saw it, it meant to me, don't call the mayor back. David was telling me not to call the mayor back.

Q Was that a phrase you'd heard before?

A Yes.

Q Did you contact David Wildstein after you received his message “radio silence”?

A I did. When I finished the panel and got back in the car, I was then going to Atlantic City Airport. So I was going down the parkway. I then tried to get David Wildstein on the phone because I get this message saying “radio silence”, this voice message — to Mayor Sokolich’s message. I wanted to get him on the phone for an explanation.

Q Mr. Baroni, I want to show you what’s in evidence — let me just get the number. Okay, Mr. Baroni, I want to show you what’s in evidence as Government’s Exhibit 6013, which is a summary chart of phone calls.

A Yeah, I remember this from earlier in the trial, yes.

Q Alright. So if we look at the summary chart —

A Yes.

Q It appears that you had a number of calls with Mr. Wildstein on September 9th.

A Yes.

Q Okay. And on this chart, when does it show that you had those calls?

* * *

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Q Are there calls not reflected on this chart that you made to David Wildstein?

MR. CORTES: Objection, your Honor.

THE COURT: I’ll allow it. Overruled.

A Yes.

Q And are those the calls we just went over on your Verizon cell phone bills?

A Yes. Calls I made in that window of time when I was trying to get David on the phone are not reflected on that chart.

Q So the calls not reflected on the chart, are they here, approximately here, 10:30, between 10:30 and almost 1:06 p.m.?

THE COURT: Can't hear you, Ms. Mara

MS. MARA: I'm sorry?

THE COURT: Cannot hear you.

Q Sorry. Are those calls between 10:30 and 1:06 p.m.?

A The calls between — from my cell phone bill, between those two time windows, are not indicated on the summary chart.

Q Okay. And did you in fact speak to Mr. Wildstein that morning?

A Yes, I got him on the phone.

Q And what did you say to him?

A Well, I finally was able to reach him. I forwarded him the email from Mat Bell to me, forwarded it to him. I finally got him on the phone and said: Look, I got this call from the mayor. I got to call the mayor back. He's raising this issue,

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I got to call him back.

Q And what did he say to you?

A Absolutely not. That if I called Mayor Sokolich back, he would, because we had a relationship and I would wimp out, and this study would get cancelled, or it would get skewed, and it was too important and I believed David Wildstein.

Q Mr. Baroni, I'm going to show you what's in evidence as Government Exhibit 5003-BB-05.

Mr. Baroni, do you recognize this document?

A Yes. It's a text message to me from David Wildstein.

Q And can you read it, please?

A Yes. "Hudson Terrace South traffic has broke. Fort Lee from Martha wash, still heavy".

Q What did you understand that to mean?

A Well, again, it came in the same time as when I got off the panel I saw this text. What it told me was that one of the two roads, the two parallel roads that essentially feed into the Fort Lee lanes, one of them had cleared by 9:51, and the other was still heavy. What it told me was that somebody was measuring something, like there was a measurement going on.

Q At the time you read this text that morning, did you know if Mr. Wildstein was telling the truth?

A I had no reason to believe he was not.

Q So, Mr. Baroni, I just want to go back to Government Exhibit 274 for a moment. Mr. Baroni, based on this email

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or — yeah, email exchange, what time in the morning on Monday, September 9th, did you receive David Wildstein's email indicating radio silence?

A I received it about 9:48. That's what it says.

Q And if you look at Government Exhibit 5003-BB-05, what time did you receive this text message from David Wildstein?

A 9:51.

Q So approximately three minutes between the two?

A That's right.

Q Mr. Baroni, I want to turn to September 10th of that week. So that was the Tuesday of that week; correct?

A Yup.

Q Okay. I want to show you what's in evidence as Government Exhibit 5003-BB-06.

A Okay.

Q Can you see that?

A Yes.

Q Okay. Do you recognize this text exchange?

A I recognize both of the texts, yes.

Q Okay. And what's the first text on the left hand side?

A The left hand side is a text I believe to me from Mark Sokolich. And I think that's the gray one. And I think the blue one is an email to me — I'm sorry, text message to me from David Wildstein.

Q Okay.

A Yes.

Q Could you please read the text message from Mayor Sokolich.

A The gray one. "Presently, we have four very busy traffic lanes merging into only one toll booth. The bigger problem is getting kids to school. Help please. It's maddening."

Q And what did you do when you received that text message?

A I forwarded it on to Mr. Wildstein again.

Q And why did you forward it to David Wildstein?

A Because this was his project, and he had very clearly said it's important. And that he said to let him handle it. And I was sending that to him to indicate that that had just come in.

Q And what was your understanding of Mr. Sokolich's message?

A Mr. Sokolich was continuing his complaints about what was happening.

Q And the message on the right hand side, could you read that.

A "So I-95 traffic broke about five minutes ago, about 45 minutes earlier than usual. Because there are two additional lanes to handle morning rush."

Q And what did you understand that to mean?

A That — I understood that to mean that there was, as it says, at about 7:30 something in the morning, the — I interpreted 95 as — 80/95 upper level roadway into the bridge. And that it broke 45 minutes earlier than usual. And the reason being there were two extra lanes. So I received that

and it was the second consti-statistical information about traffic flow counts. The first being Monday morning and now on Tuesday morning.

Q At the time you received this message from Mr. Wildstein, did you know he was telling the truth?

A I had no reason to believe that he was not, I had no reason to believe he was making these numbers up.

Q Mr. Baroni, I want to turn to September 11th. Were you responsible for coordinating any of the activities that took place on September 11th, at the World Trade Center?

A I was one of the people who coordinated a series of events at the World Trade Center on 9/11. Pat Foye is also one of the people coordinated, amongst a number of other people within the agency.

Q And what types of activities did you coordinate back then?

A 9/11 at the World Trade Center at the time in 2013 was taking place on a still active construction site, so you had much more security fencing around the — both the memorial, itself, but the rest of the site. So one of the first challenges is getting people actually into the site. So Governor Christie was arriving to the site by ferry. Governor Cuomo was arriving to the site on a motorcycle with three hundred other people on motorcycles. Commissioners of the Port Authority were arriving at different times. There was coordination with the City of New York because the mayor — at

* * *

we'll take our 15-minute break and then we will resume.

(Jury excused)

THE COURT: Alright, everybody, we'll take 15 minutes.

(Recess)

(Juror brought out)

THE COURT: Everybody can have a seat. And, Miss Mara, you can proceed with your direct

MS. MARA: Thank you, Judge.

Q Mr. Baroni, before we continue, I'd like to just go back for a moment to Monday, September 9th.

A Okay.

Q And do you recall receiving the email from Mat Bell that day regarding Mayor Sokolich's call?

A Yes.

Q Did you do anything in reaction to that email which indicated safety issues?

A I did. As I said before, I sent it on to David Wildstein. In the message it mentioned public safety. So I wanted to check to see the facts that — and the Port Authority has a system, Port Authority Police have a system of alerts that when something happens at a Port Authority facility or around the Port Authority facility, an alert goes out. So sort of an around-the-clock email will go out. Example, something happens in Hoboken, and something at the path station, Hoboken, in the middle of the night, you get this alert. So I checked to see

whether there were any police alerts. So when I got back in the car, I checked to see if there were any police alerts and I saw none. But I wanted to check again. I called Mr. Wildstein, I asked him to call the bridge police desk and confirm that and he didn't. He got back to me and I believed David Wildstein that there had not been any reports that morning at the police desk. I believed it.

Q Mr. Baroni, I also want to talk to you about an email from September 10th. It's in evidence — it's Exhibit 1102. Can you read that, Mr. Baroni?

A I'm sorry. It's an email from Tina Lado to me on Tuesday. "Fort Lee mayor Mark Sokolich called this morning regarding traffic in Fort Lee. Reasons unclear to you. The mayor would like to you as soon as possible regarding the traffic congestion due the change in the GWB toll booth configuration. Remains concerned, but doesn't understand the purpose/need of the traffic test and doesn't understand why the Borough was not alerted. Additionally, he said he was trying to keep a lid on this, politically, and is getting pressure from members of the Borough council who want to take some action. He feels this is a life safety issue. One example that occurred on Monday, 9/9, three was Fort Lee volunteer ambulance attendants had to respond on foot leaving their vehicle to an emergency call. He was calm, but again reiterated he would like to talk with you. Let me know if you need anything additional. Thank you."

Q Mr. Baroni, do you remember receiving this email on Tuesday, September 10th?

A I do.

Q Did you call Miss Lado in response to this email?

A Not on Tuesday, no.

Q Why is that?

A I don't remember why. This was a project that David Wildstein assured me that he was handling, and I believed David Wildstein.

Q And did you call the mayor back?

A I didn't.

Q Mr. Baroni, I want to turn to September 13th, the Friday of that week.

A Okay.

Q No, actually, I'm sorry, September 12th, the Thursday of that week. Sorry, I misspoke. And I want to show you what's in evidence in evidence as Government Exhibit 1112.

Mr. Baroni, do you recognize this document?

A Yeah, I do, yeah.

Q What is it?

A It's a letter that I received at some point on September 12th, from Mark, from Mayor Sokolich.

Q If could you please read the second paragraph of this letter.

A "Permit me to elaborate. Without any notice whatsoever to

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Fort Lee, or any of its agencies, including our police department, the Port Authority reduced the available toll booth for traffic flowing through Fort Lee from three to one. Suffice it to say, this decision has reeked

havoc upon our community during the morning rush hour, visiting upon us police gridlock. Having received absolutely no notice of this decision, not having obtained any response from our multiple inquiries concerning same, and try as we may to understand its rationale without the benefit of response from the Port Authority, we are reaching the conclusion that there are punitive overtones associated with this initiative. What other conclusion could we possibly reach?"

Q Mr. Baroni, what did you understand by the term "punitive overtones"?

A Punitive overtones, punishment. He's saying it's punishment overtones. That's what I read that as.

Q And did you send this letter to Mr. Wildstein?

A Yes, I did.

Q Did you speak to Mr. Wildstein about this letter?

A Yes, I did.

Q What did you say to him?

A When I received the letter, I forwarded it to him and then I asked him to come into my office and I had believed him all week. I understood. And then I received this letter. And it — raising punitive overtones. And I said: David, tell me

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right now, is this true? Is there anything to this? And he looked me in the eye and he said: Absolutely not. Then he said. Call Bob Durando. The general manager of the bridge. And I did. This was sitting in the office. I picked the phone up and I called Bob Durando, and I said: Bob, what's going on, in the bridge? Is there a test going on on the bridge? And he said yes. And he said there had been about a four-minute savings on

the mainline, but traffic was really backed up in Fort Lee. And I looked at David, he was there, and I said: Thanks, Bob. I hung the phone up. I said: David, we had a four-minute savings. And this is for a four-minute savings? He said: We're finished the test. I looked at him again: David, is there anything to this accusation? And he said: Absolutely not. And I believed David Wildstein.

Q Did you also forwarded this letter to Bill Stepien?

A I did.

Q Why did you do that?

A Well, again, as I said before, my communications with Governor Christie were public events at this point. And I thought this rose to the level of importance. I now have a mayor that I had a relationship with saying that something that I had been told and seen data was legitimate, making an accusation of punitive behavior. And while I listened to David Wildstein, I believed David Wildstein, I talked about it with Durando, I thought this was important enough to get as close to

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the Governor as I could. And I knew Bill Stepien, he had been someone I had known for a number of years. And I knew — I said to Bill: You need to look at this. I'm being told this is very important. I understand the purpose of it. But this is now rising to a different level. So I sent it off to him. So I have now listened to David Wildstein, believed him. Called Bob Durando, someone who is a straight shooter, and someone — a career guy. And then I sent it to the Governor's campaign manager and had been his Deputy Chief of

Staff. So I knew he was close to the Governor. I said: Look, the Governor was talking about this on Wednesday. You need to look at this.

Q So at this time Mr. Stepien was Governor Christie's campaign manager?

A Yes. Yes.

Q Did you ever speak to Mr. Stepien about this?

A I think very briefly. I got it, I called him, I said: You need to look at this. Then I forwarded it to him.

Q Okay, Mr. Baroni, I'm going to show you what's in evidence as Government Exhibit 5003-BB-08. Do you recognize these text messages?

A Yes. Yes.

Q Okay. What are they?

A It's a text message — there's two of them, but there's a text message from me to David. I think it's me to David Wildstein — I think it's me to David Wildstein.

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Q What does it say?

A "From Serbia. My frustration is now trying to figure out who is mad at me."

Q What does Serbia mean?

A We have nicknames for lots of people. I had nicknames for lots of people. That was Mark's. It meant nothing other than people have nicknames, you know.

Q Did you mean any disrespect by it?

A Absolutely not. Same way people used to call me skinny.

Q And why did you send this to David Wildstein?

A Again, this was his project. I had not long before this directly asked him, directly asked him whether or not there was anything punitive, using the mayor's word, and he said no. So — absolutely not. And I believed David Wildstein. I then get this some point after he sent the letter, and now he's saying: Somebody mad at me? And I go to David again and I was like: David, this is — this needs to be focused on. And he said: The test is finishing up. It's going to finish up. I believed him.

Q Okay. Let's turn to Friday, September 13th.

A Okay.

Q How did your day start?

A I wasn't going to go in that day. I was going to take the day off. Take the weekend off. And very early in the morning my phone rang and it was David — I believe it was David

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Wildstein. Like six something in the morning.

Q Okay. What did he say?

A He said that he had just gotten a call from Bob Durando. And that Pat Foye had called Bob and wanted to know what was going on at the bridge. And that I had to call Bob Durando. I said: David, I spoke to Bob Durando. He said: You got to talk to Bob Durando.

Q Did you call Bob Durando?

A Absolutely

Q What did you say to him?

A So I get Bob on the phone, I said: Bob, what's going on? Mr. Foye just called me. He's — I'm going to get fired. I said: Bob, stop, stop. Wait, wait. You're not going to get fired. Tell me what's going on. He said: Well, Mr. Foye is really upset about the test at the bridge. I said: You said there was a four-minute study? He said: Yeah, but Mr. Foye is upset. I'm going to get fired. I said: Bob, you're not going to get fired. Let me find out what's going on.

Q What did you do after that call?

A I called David Wildstein back and I said: Pat's now telling Bob — Bob thinks he's going to get fired. Bob's not going to get fired. What's going on with the test? At this point now, this is getting even more complex, so I realize I'm going to work that day.

Q What did you do after that phone call?

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A I think I got up and started getting ready to go to work.

Q I'm going to show you what's in evidence as Government Exhibit 1131 R. Mr. Baroni, do you recognize this email?

A Yes, I do.

Q And what is this email?

A It's — excuse me, an email from Pat Foye to a group of people and I was cc'd on the email.

Q And what was your reaction to Mr. Foye's email?

A Certainly reading, so I see Pat's email early in the morning, I see it. Now, this is very serious. Pat is involved. And as you read through various parts of it, and — so I realize this was something that has now

become a significant issue because if you look at the email and the tone of — Pat's tone, it was a significant issue.

Q Did you forward this email on to David Wildstein?

A I did.

Q And why was that?

A Again, because it was his project and now the Executive Director is sending out a very pointed email on this — his project, his test.

Q Mr. Baroni, I'd like to show you another exhibit. It's in evidence as 1136R. Just a correction, Judge, it's actually Government Exhibit 1136.

THE COURT: Okay.

Q Mr. Baroni, do you recognize this email string?

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A I do, yes.

Q And could you focus on the email at 8:28 a.m. from Patrick Foye, sort of in the lower part of the page.

A Oh, yeah. On September 13th, 8:28 a.m., Patrick Foye wrote: Thanks, Bob. I'll set up meeting to discuss this issue. Looping Lisa. How do we get word out?

Q Okay. And did you respond to Mr. Foye's email shortly thereafter?

A Yes. I said: Pat, we need to discuss prior to any communications.

Q And what did you mean by that?

A Well, because when Pat's email came out, I said to David Wildstein: I sent a message to David Samson

because not only Samson on the email from Pat, but now what we have is we have the Executive Director focusing on an issue that had been, to my mind, a New Jersey traffic issue. But I also knew the relationship or lack of relationship, to say the least, between Pat Foye and David Samson. So I knew the moment that David Samson reads this Pat Foye email, it will continue the ongoing battle between the two of them. And wanted to call up Samson before things really blew up, which they had done in the past, blew up between the two of them.

Q And did Mr. Foye respond to your email?

A He did, yes.

Q And could you read that, please.

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A “Bill, we are going to fix this fiasco.”

Q Did you respond to that message?

A I did. At this point I think I was on the way, or on the subway. I said: I’m on the way to the office to discuss. There can be no public — it said discourse.

Q What did you mean by that, “there can be no public discourse”?

A Public discourse is not something I would normally say. Discussion I would think is what my iPhone replaced it with. Discourse is discussion. I said: Before we do anything, I now have a situation where the Governor of New Jersey has knowledge of an involvement in a traffic study on an issue that mattered to him. And that’s what David Wildstein was telling me. That’s what I heard from the two of them. And now I got David Samson, who’s the Governor’s best friend, who can’t stand Pat Foye,

yelling at me to go into the office and punch, his word, punch Pat Foye in the face. And obviously I'm not going to go in and punch Pat Foye in the face. Now I've got what to me was a week-long study at the bridge, which has now grown and grown and grown, to the Governor, and the Chairman of the Board, and the Executive Director of the Port Authority all involved. And all involved in a way that quickly, by nine something in the morning, had escalated to a very hot level. And I'm trying to go and in just dial everybody back because I had seen, not on this issue, I had seen Samson and Foye go at it in very strong

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ways. And it was just — created a toxic environment. And I'm thinking this is another part of that.

Q So did you have a conversation with Mr. Samson that morning?

A Yes.

Q About Mr. Foye's email?

A It was a discussion in the sense that David Samson made it very clear to me —

MR. CORTES: Objection, your Honor, to the hearsay.

THE COURT: Sustained.

Q What was your understanding of Mr. Samson's reaction to Pat Foye's email?

MR. CORTES: Same objection, your Honor.

THE COURT: I'll allow it.

A My very clearly made understanding was that I was expected to go in there, because this was the Governor's project. The Governor was interested in

this. And David Samson instructed me to go in and get the test completed and finished, and punch him in the face, which I wasn't going to do.

Q So did you go into the office that day?

A Yes.

Q What did you do when you got into the office that morning?

A I went to go see Pat Foye.

Q And did you have a meeting with him?

A Yes, I did. I did not punch him in the face.

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Q Was anyone else in that meeting?

A Yes, it was Pat, me, and John Ma, his Chief of Staff.

Q What was discussed during that meeting?

A I went into the meeting and, you know, I had been receiving David Samson, I'm receiving David Wildstein, they are firm, "get this test completed. Finish the test. I've got Pat saying: Absolutely not". I'm saying: Pat, we got to finish the test. And he's saying: Absolutely not. And I'm thinking, this is escalating quickly. I'm saying: Pat, as you heard, Trenton, which was the code for the Governor's Office, Trenton meant Christie and the administration, may call Cuomo and the administration, absolutely said, because that's what Samson said would happen.

Q And what was Mr. Foye's reaction?

A He said no. He said: Have them talk. Okay. So I left.

Q Okay. And what did you do after that?

A I'm not sure if David Wildstein was yet in the office or I spoke to him by phone, but he was very clear that the Governor wanted this test completed and I had to get this test completed. I then spoke, and I believed David Wildstein when he said that because he spoke for Chris Christie, and I spoke to Samson again and tried to sort of calm things. Didn't work. Did not work. I was instructed to get this started. This is a New Jersey issue. Pat was involving — my words, my understanding was that Pat was involving himself. David Samson

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said that Pat was involving himself in New Jersey issues and he needs to, more colorfully put, stay out of it.

Q Did you speak to Mr. Foye again at all that day?

A Yes. I went back to Pat and I said: Pat, we have to work through this. This is getting — and Pat said no. And at that point I said — I called Samson back. We were in the middle of negotiating a 30 billion dollar capital plan, New Jersey and New York, it was happening back to back. I did not think it was smart for us to be fighting, not that the traffic, what I understood the traffic study to be. David Samson told me and I believed him. Not that I'm saying it wasn't important, but we shouldn't, in my view, at that moment, be having a fight. And it was a fight over that, when we should have been negotiating the Bayonne Bridge. And I said to Samson: We just stop. And Samson agreed. And I said: That's it.

Q And so was the test disconnected?

A Yeah. I never went back to Pat again and said: Let's start it again because that — it was creating an

environment between Pat and I, and before Pat and I got along very well. This was crazy. This was not — we had real things to be fighting about, arguing about, negotiating about. And it was time.

Q Mr. Baroni, I want to show you what's in evidence as Government Exhibit 1141. So, Mr. Baroni, at the top is this an email from you to Steve Coleman.

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A Yes.

Q Who's Steve Coleman?

A Steve Coleman is a staffer in the Media, excuse me, Media Communications Department at Port Authority. He's been there long before I got there. And I think he's still there.

Q And was this, this was on Friday at 1:36 p.m.?

A Right. I sent him a response to his email from 1:29.

Q I see. And could you read his email to you.

A His email to me. "We received — all. We received inquiries today from the Bergen Record, WCBS radio, Fort Lee Patch, about the three GWB toll booths in Fort Lee that were taken out of service earlier this week and reinstated today. The media representatives have all asked us to confirm that the booths have in fact been reinstated and also asked why we made the change. In addition, John Chikowski of the Record, of the Bergen Record, has several additional questions, including what safety goal we achieved — we tried to achieve, and whether the booths will continue to remain open for the foreseeable

future. Please provide me whatever guidance you can how we can address these inquiries. Thanks.”

Q And what was your response to Mr. Coleman?

A At some point fairly soon after I said: Steve, I shall get guidance and get back to you.

Q What did you mean when you said “I shall get guidance”?

A It was the first time I used that. When we had media

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inquiries at the Port Authority about nearly anything that the Port Authority was going to respond to, they had to be approved by the Governor’s Office. So any statement the Port was going to put out about, not just this, but about anything, essentially had to go down the Governor’s Office, had to be approved. And that was one of the responsibilities that David Wildstein had been tasked with by the Governor and the Governor’s Office. So I was waiting to get the approval from the Christie Administration.

Q I’m going to show you what’s marked and in evidence as Government Exhibit 1142. Mr. Baroni, could you read the email on the top of this page.

A From me, Friday, 3:10 p.m. to Steve Coleman, Pat Foye, John Ma, David Wildstein, Lisa MacSpadden, re media inquiries, Fort Lee toll booths. “We are good with the following. The Port Authority has conducted a week of study at the George Washington Bridge of traffic safety patterns. We will now review those results and determine the best traffic patterns at the GWB. We will continue to work with our local law enforcement partners.”

Q How did you go about drafting that response to Mr. Coleman?

A Well, when the press inquiries came in, I went to David Wildstein, David Wildstein was there, and I said: David, got to do a response. Tell me what happened again. And he told me, traffic safety patterns, study at the bridge for a week.

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Q So regarding the 4.5 percent number you had mentioned, meaning 4.5 percent of the E-Z Pass users were from Fort Lee, was that accurate?

MR. CORTES: Objection to leading.

THE COURT: Just rephrase it.

Q Did you believe the E-Z Pass information that you relied upon was accurate?

A Yes, I did.

Q Did you believe the percentages within that information were accurate?

A Yes, I did.

Q Did you see any problem in using that information?

A I had no reason — no, no.

Q During your testimony, Mr. Baroni, you said that there had been a communication breakdown.

A Yes.

Q What did you mean by that?

A I meant, and I said it a number of times in my testimony, the communications with Mayor Sokolich and the town, not up to standard. Broke down. Didn't

work. I was one of the people responsible. That's what the communication breakdown was. And I said it over and over again. And I'm pretty sure I made a comment specific that it was problematic to me personally because of my relationship with him.

Q You also discussed a number of policy proposals in your

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Q Time.

A Two minutes, 90 seconds. I'm not sure it's that long.

Q No emails, no texts, nothing like that?

A No.

Q Never any discussions about Fort Lee, whether it's on the George Washington Bridge, on the Hudson River, any discussion with Bridget Kelly about Fort Lee, involving anything?

A No.

Q I have nothing further.

THE COURT: Alright, cross.

CROSS EXAMINATION BY MR. CORTES:

MR. CORTES: Thank you, your Honor. May I proceed.

THE COURT: You may.

Q Good afternoon, Mr. Baroni.

A Mr. Cortes, hello.

Q Mr. Baroni, on the morning of September 10th, 2013, Mayor Sokolich called you; is that right?

A I believe it was the 10th.

Q He left a voice mail?

A Yes. At some point that week.

Q You remember that voice mail; right?

A I do.

Q Do you know the one I'm talking about; right?

A I believe so.

Q Let me play it for you. Miss Hardy, can we have
Government

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7006, please.

(Video plays)

Q Mr. Baroni, that's Mayor Sokolich's voice; right?

A Yes, it is.

Q You recognize that voice, right?

A Yes.

Q You knew him?

A I —

Q You knew him?

A Mayor Sokolich?

Q Yes.

A Oh, yes.

Q In fact, I notice you called him Mark multiple
times during your examination; correct?

A Yes.

Q You're on a first name basis?

A I would say so.

Q He wasn't a stranger to you?

A No.

Q You'd known him for years?

A About 2000, midway through about 2010, yeah.

Q 2010, 2011, 2012, 2013. You had known him for years; right?

A Yes.

Q You consider him a gentleman; is that correct?

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A Yes.

Q In the past he had called you; is that correct?

A Yes.

Q In the past, had you answered; is that correct?

A I believe so.

Q Now, on September 10th, 2013, he called you; right?

A Yes, the voice mail, yes.

Q That was the second day of the lane reductions?

A Yes, sir.

Q He called your cell phone from his cell phone; right?

A I don't — I think so. I don't know which phone he called from, I'm sorry.

Q But that's your phone?

A It was my cell phone. I don't know where he called from.

Q But you got that message on your own your cell phone; is that right?

A Yes.

Q And had you given him your cell phone number; right?

A Yes.

Q Personally, you gave him your cell phone number?

A Yes.

Q And you did that when you met with him in the past; right?

A Yes.

Q You told him to call you if he needed anything from you?

A Yes.

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Q And he had called you the day before, right, on September 9th, 2013; right?

A Yes. I don't remember exactly what day but I'll take your word for it.

Q Well, he left you another voice mail; right?

A I think so.

Q You recall that voice mail; right? You've heard it in the courtroom here, haven't you?

A I believe so.

Q Right. And here on September 10th, he left you another voice mail; correct?

A The one that played?

Q Right.

A Yes.

Q And to be completely clear, you got this voice mail on September 10th, 2013, and you didn't call him back?

A That's right.

Q Miss Hardy, can we have the transcript of this one. I'll just note for you, Mr. Baroni, where he says towards the ends of that message, "we're in total gridlock"; right? Gridlock, you understand that word; right?

A Yes.

Q You used that word on your direct testimony when you were describing the Port Authority; didn't you?

A I did.

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Q And you described it as when you couldn't get anything done; right?

A Yes.

Q Jammed up. Gridlocked. You understand that term?

A Yes.

Q Mayor Sokolich mentioned in this voice mail that he was having problems getting children to school; is that correct?

A Yes, sir.

Q You knew it was the first week of school in Fort Lee, didn't you?

A I don't think I knew that. I may have, I don't know.

Q Well, Mr. Baroni, he's telling you here that he's having problems getting children to school; right?

A He says that, yes. I'm not certain I remember it was the first — I don't know.

Q But you understand when he's telling you he's having problems getting children to school, that means school is open; right?

A Yes.

Q And those are the school children in Fort Lee; right?

A Yes, sir.

Q Where he's the mayor?

A Yes, sir.

Q Mayor Sokolich at the end of this voice mail asks you who's mad at him; is that right?

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A. Yes, sir.

Q "Who was mad at me" is what he was asking you. This is in the voice mail that he left for you on September 10th; is that right?

A Yes.

Q So the first time you heard, you know, Mayor Sokolich ask who was mad at him, wasn't on September 12th, the Thursday; right?

A I thought it had been, actually. I thought I had seen it in a text — forgive me, Mr. Cortes, if you could show me. I don't recall.

Q Mr. Baroni, you recall getting this voice mail from Mayor Sokolich, don't you?

A I recall getting it, yeah.

Q You recall listening to it; right?

A I assumed I listened to it at some point.

Q You didn't forward it on to anyone; right?

A No.

Q You got it.

A Yes.

Q You listened to it.

A Yes.

Q You heard his voice.

A Yes, sir.

Q How he sounded.

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A Yes.

Q And you knew him.

A Yes, I did know him.

Q You didn't call him back?

A I did not.

Q He mentioned these things, total gridlock, children getting to school, who's mad at me, and you didn't call him back?

A As I said earlier, I didn't. I regretted it ever since that I listened to David Wildstein tell me that had I called him back he would have — I would wimp out and the study would be ruined. And as David said to me, David said: Let me handle it. And I have regretted listening to David Wildstein ever since.

Q We're going to get to David Wildstein and ruining the study. But I want to focus here right on

this phone call. Okay? This phone call that you didn't return. You made a choice; right?

A Yes.

Q You made a choice to ignore this voice mail, didn't you?

A As I have said, I have regretted listening and taking the guidance that I took.

Q So the answer to my question is yes?

A Yes. Yes.

Q And you've regretted, and you said you've regretted it ever since because before September 9th, 2013, you had a

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Q And this is about your presentation at the Fort Lee Fire Department; isn't that correct?

A Yes.

Q If we could go, Miss Hardy, down to — click out. Mr. Baroni, this says, starting at this paragraph, "that Baroni called the presentation of the 25,000 check a mark of ninety and ten, signifying the ninety years the Port Authority had been in existence, and the ten years since 9/11." Do you recall making that statement at that presentation?

A I don't recall it but I have no reason to doubt that I did.

Q Then it continues. "The presence of the George Washington Bridge, the challenges that the GWB creates every single day, we would not be able to be the leading transportation agency in the world if not

for partners like Fort Lee and its emergency services”.
Mr. Baroni, do you recall making that statement?

A Yes.

Q And you meant that; right?

A Yes, sir.

Q You used the word “partners”, right?

A Yes.

Q To describe Fort Lee.

A Yes.

Q And its emergency services; right?

A Including its emergency service, yes.

Q Including its emergency services, absolutely.
And you

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chose that word “partners” on purpose, didn’t you?

A Yes.

Q Now, this quote continues, Mr. Baroni. I’m going to read it to you. “Continuing to mark the years that we’ve worked together, not just on the bridge, but also marking what happened 10 years ago. Our check today is a continuing sign of that partnership, a continuing sign of working together.” Your words, Mr. Baroni?

A Yes.

Q And you used the words “partnership” and “working together” right?

A Yes.

Q You chose those words on purpose, right?

A Yes.

Q Miss Hardy, if you could give me the top of the next page — I'm sorry, let me just start with this. Just give me this one at the bottom. Sorry about that.

Mr. Baroni, this article continues: A former New Jersey State Senator said, Baroni said when he left the Senate to work for the — if you could give me the top now, that would be great — for the Port Authority, they made — and this is now it's a quote, "they made it very clear to me to make sure that I fought like heck for local towns, communities and fire departments." Your words, Mr. Baroni?

A I think so, yes. But I would certainly mean it.

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Q You certainly mean it; right?

A Yes.

Q You recall thinking that sentiment, right, when you made this presentation?

A I could have.

Q But no doubt that these are your words?

A I don't — yes, I have no reason to doubt that.

Q You recognize, Mr. Baroni, that not only was a partnership with Fort Lee important, a partnership with Fort Lee's emergency services also was important; correct?

A Yes.

Q Because public safety is a priority, isn't it?

A Yes.

Q It's a priority for the Port Authority; right?

A Yes.

Q Now, in that quote that I just read for you, you told the press you're going to fight like heck for New Jersey local towns, communities and fire departments. Right?

A Yes.

Q And you meant that, didn't you?

A Yes, I did.

Q You wanted to give the impression to someone reading this that Bill Baroni is going to fight for Port Authority host communities like Fort Lee; right?

A I think what I was saying was that I was going to fight

* * *

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Q Okay. Now, you have no doubt that you called him; right?

A Yes, correct.

Q Miss Hardy, can we have Government Exhibit 2058. Miss Hardy, why don't we give the top, first.

You recognize this, don't you, Mr. Baroni?

A Yes, sir.

Q This is a letter to Mayor Sokolich from August 1st, 2013; right.

A Yes.

Q And it's from you?

A Yes.

Q And the top here, the slash through "dear Mayor," so it just says "mayor"; right?

A Yes.

Q That's your handwriting?

A Yes, it is.

Q You did that?

A I did.

Q This letter to Mayor Sokolich is about a project at the bridge; is that correct?

A It was a construction project that was beginning, part of a massive project at the bridge that will rehabilitate the bridge decks and also replace the suspender — it's a long-term project.

Q And you're letting Mayor Sokolich know about that project

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in this letter; correct?

A Yes.

Q Miss Hardy, can we have the bottom of the letter. And you signed this letter; correct?

A Yes.

Q And you told Mayor Sokolich: We know the George Washington Bridge is a critical link for your constituents and that is why we were committed to completing this work as quickly and safely as possible. If you have any questions about the project, please do not hesitate to contact me?

A Yes.

Q Right, those were your words?

A I'm sorry, I thought you meant — yes, they were.

Q And you also gave the phone number for Government relations; right?

A Yes.

Q That's Government relations at the Port Authority; right?

A Yes.

Q Tina Lado's office?

A Yes, that would be the office, yes.

Q Mr. Baroni, the relationship with Mayor Sokolich wasn't the only one that was important to you; right?

A No.

Q You also built a relationship with the mayor of Weehawken, right?

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A Yes.

Q Richard Turner?

A Yes.

Q Weehawken hosts the Lincoln Tunnel, doesn't it?

A It does.

Q When the Port Authority was fixing the Lincoln Tunnel helix, you led outreach programs to that community with Mayor Turner?

A I wouldn't say I led, I was part of the group that

—
Q You went door to door with Mayor Turner?

A Absolutely did, yes.

Q That was your idea?

A Yes, it was.

Q And you went with him; right?

A Yes.

Q Miss Hardy, could we have Government's 52.

Mr. Baroni, that's you in the photograph; right?

A Yes, it is.

Q With one of — a Weehawken resident?

A Yes.

Q And Mayor Turner?

A Yes, that's Mayor Turner on the right.

Q And that's one of his constituents there; right?

A Yes.

Q And also one of your constituents; right?

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A Sure, conceivably.

Q Well, Port Authority has a facility in Weehawken; right?

A I was defining constituents as people who could elect you. But sure, the people around the neighborhood — the people in the neighborhood around the construction project, sure.

Q Well, you considered the residents of a town that hosts a Port Authority facility as your own constituents, didn't you?

A I looked at them that way, sure.

Q Right. And you thought it was important to be there yourself, right?

A I did.

Q That's why you personally went door to door; right?

A I did, yes.

Q And you handed out information to the residents that you were able to see, didn't you?

A Right. It was a brochure that explained the construction project. So the project had been planned over a long time, and the brochure was for residents because they were about to see a construction, massive construction project to redo the entire helix. So that's what the brochure I handed out was.

Q Now, Mr. Baroni, when you went door to door and you didn't see a resident, you would leave one of those brochures for them; right?

A Yes, sir.

Q You personally signed it?

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A Yes, I did.

Q And you did all that to be a good neighbor; right?

A Well, I did the signing because when I had run for assemblyman and campaigned, I knocked on like 11,000 doors and that's how I campaigned, and I thought that was a great way to meet people.

Q Ten thousand eight hundred ninety-nine; right?

A Yes. That was the first campaign, yes, sir.

Q You remember that number, right?

A When you knocked on 10,899 doors, you don't forget it.

Q You counted them all?

A We added them up.

Q You added them up; right?

A Yes. The campaign step — it was a follow-up, because people would knock on their door, they get a follow-up letter, and they got another follow-up letter.

At the end of the campaign it added up to something like that, yeah.

Q Something like that; is that right?

A Yes.

Q Now, one of the reasons you were doing this, Mr. Baroni, was to be a good neighbor; isn't that right?

A Yes.

Q Miss Hardy, can we have Government Exhibit 9000 just for the witness.

Mr. Baroni, why don't you take a look at that.

* * *

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Q You also told the Port Authority commissioners there that your very realtime communications with Mayor Sokolich was absolutely going to continue, didn't you?

A Yes.

Q But that very realtime communication did not continue, did it, Mr. Baroni?

A Can you be more specific as to time, Mr. Cortes?

Q Sure. From September 9th, 2013, that very realtime communication stopped, didn't it?

A Mr. Cortes, as I've said before, I have thought about that, regretted that. But I listened to Mr. Wildstein and did not get back to the Mayor. I let Mr. Wildstein — I listened to him. I believed him when he said if I called the mayor back, the mayor would — I would wimp out and the study would be ruined and I regret that.

Q So the answer to my question is yes, the very realtime communication with Mayor Sokolich stopped; right?

A To answer your question, Mr. Cortes, is that I regret that very much.

Q Try my question now. Okay? The very realtime communication to Mayor Sokolich, that you told the operations committee about, stopped; right?

A It did not happen that week, that's right.

Q And it didn't happen again. You didn't talk to Mayor Sokolich after that week, did you?

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A That's right.

Q Before the local access lanes were reduced in September of 2013, Mr. Baroni, there was no advanced notice to the Mayor of Fort Lee, was there?

A I now know that.

Q Now you know that; is that correct?

A Yes.

Q At the time you didn't know that?

A I found out about it Monday.

Q You found out on Monday; right?

A Right.

Q Okay. So no advanced notice to the Mayor of Fort Lee; right?

A Yes.

Q No advanced notice to the Fort Lee Police Department; right?

A I now know that.

Q You knew that on September 9th; right?

A No. I believe on September 8, that the email, the morning — the Sunday morning, the email from Bob Durando to David Wildstein — from Bob Durando to David Wildstein that I saw said the police would be monitoring and controlling traffic. I interpreted that as both. The next morning, or the next day, when I found out from one of the communications that that had not happened, I told David Wildstein that he needed to

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ensure that the police departments were speaking to each other and my understanding was that that did occur.

Q That's according to you — that's what you're saying David Wildstein said; right?

A No, I'm saying I said that I wanted to make sure that the police departments were communicating with each other. And my understanding is that either the assistant chief over the bridge or the lieutenant over the bridge did communicate with Chief Bendul ongoing throughout the week.

Q That's your — and that's — you got that information, from, according to you, from Mr. Wildstein; right?

A Well, I told Mr. Wildstein that must happen, and he told me that he had done that.

Q He told you that he had done that; right?

A Yes.

Q You didn't talk to anybody in the Port Authority Police Department about that, did you?

A Not — no, I did not talk to anyone in the police department.

Q You talked to Wildstein; right?

A That's right.

Q Now, during the week of September 9th, 2013, Mayor Sokolich contacted you; right?

A Yes.

Q He reached out to you multiple times?

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A He did.

Q In multiple ways?

A Yes.

Q He called you.

A Yes, sir.

Q He left you voice mails?

A Yes.

Q He texted you?

A Yes.

Q He wrote you a letter?

A He did.

Q You did not respond to any of those communications?

A I did not.

Q No realtime responses from you; right?

A No. No, I didn't.

Q Not responding to those communications was a choice that you made every time you got one of them; right?

A It was a choice that I made on Monday when I believed, listened to David Wildstein, and listened to him when he told me to let him handle it. And that was the choice that I made and I've regretted that choice for three years.

Q Let's show you some of those communication, Mr. Baroni. Miss Hardy, can we have Government's 274.

You do recognize this, right, Mr. Baroni?

A Yes. Yes.

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Q Monday September 9th, 2013; right?

A Yes.

Q 9:41 a.m.?

A Yes.

Q Now, you had already spoken to David Wildstein that morning, hadn't you?

A Yes, I believe so, yes.

Q On the telephone, right?

A I think on my way to my event — the panel I was going to, yes.

Q And he talked to you about the bridge, didn't he?

A I believe so. I believe he gave me some information about flow time on the mainline, I think.

Q He had been there. That phone call, Mr. Baroni, was right after he had personally been to the bridge; right?

A I think so.

Q He called you at 8:35 a.m.; isn't that right?

A I don't have — I don't have that in front of me.

Q Miss Hardy, can we have Government's 6013. If you could give me page 6.

Right, Mr. Baroni, 8:35 a.m.?

A Yes, this is the chart from earlier.

Q And that's a call from you to Mr. Wildstein for four minutes and forty-eight seconds; right?

A. Yes.

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Q And Mr. Wildstein told you that he had personally been at the bridge; right?

A He did tell me that, yes.

Q And he told you about the traffic; right?

A He discussed with me the moving of — the traffic on 80/95 was moving quicker than had been in the past.

Q He also told you about the traffic in Fort Lee; right?

A I believe there was traffic that was in Fort Lee.

Q The backups on the local streets of Fort Lee; right?

A It was not described in any great detail. It was not that long of a conversation.

Q So in a five — in this almost five-minute conversation on the morning of September 9th, after Mr. Wildstein had been at the bridge, he didn't give you an in-depth report about all the traffic problems in Fort Lee; right?

A It was not an in-depth report.

Q Miss Hardy, if we can have Government's 274.

You recognize this, right, Mr. Baroni?

A Yes.

Q You received it on September 9th?

A I did.

Q You testified about it on direct; right?

A I did.

Q Now, when you got this, Mr. Baroni, it's regarding an urgent matter of public safety in Fort Lee; correct?

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A Yes.

Q It did not mention traffic?

A It was an urgent matter of public safety, yes.

Q So it didn't mention traffic?

A No.

Q Didn't even mention the George Washington Bridge, did it?

A No.

Q The email does not say what the matter of public safety was about, does it?

A No.

Q But you knew what the Mayor was calling about, didn't you?

A I assumed the Mayor was talking about an issue in Fort Lee, and I assumed it had something to do with the new traffic study that was going on.

Q And you got this message at 9:29 a.m. Right?

A Yes.

Q You did not call Mayor Sokolich?

A 9:29 a.m. I couldn't have called Mayor Sokolich, I was sitting on a panel discussion. So I received the email, best as I can recollect, I received the email and forwarded it on to David Wildstein. I think I was still sitting on the panel. I could be wrong, I'm pretty sure I'm right.

Q You got an urgent matter of public safety message.

A Right.

Q You forwarded it on to David Wildstein.

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A Yes.

Q Forwarded it on to David Wildstein. Right?

A Yes.

Q But you couldn't get up from the panel, is that right?

A Well, as I mentioned before, that's the reason why —

Q Why don't you try my question, Mr. Baroni.

A Alright, I'm sorry.

Q You said you couldn't get up from the panel; is that right?

A I was sitting on the panel. I forwarded the email to — because it came, all the other emails are the same chain, and I got that, forwarded that to Mr. Wildstein, and then checked the other email to see if something had happened that was reported to the police department, we would have gotten it. If God forbid something happens at an airport, we get an alert from the police department saying Southwest jet just slid off the runway at LaGuardia. We get an alert about

that. So I checked. I don't recall any alerts at that time about anything at — in or around the George Washington Bridge.

Q So sitting there on that panel, you did those two things?

A Yes.

Q You forwarded it on and you checked this dataset or —

A Oh.

Q You checked for these reports; is that right?

A Yeah, it's not a dataset. It's 24-hour a day series of emails from the Port Authority police central desk that any

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time anything happens at a Port Authority facility, or in the area or town around a Port Authority facility, we'll get an alert.

Q You didn't stand up; right?

A I did not.

Q You did not walk out?

A No.

Q You did not call the number that's listed on this email; right?

A I didn't.

Q Nothing was stopping you from doing any of those things, was it?

A Nothing physically was stopping me.

Q Nothing physically was stopping you; right?

A Right.

Q You weren't restrained; right?

A No, I was not.

Q It's an urgent matter of public safety. You could have stood up; right?

A I could have.

Q You could have excused yourself; right?

A I could have.

Q And you could have called the Mayor; right?

A Yes.

Q Because it's about public safety; right?

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A Yes.

Q But you didn't do those things; right?

A Not at that moment I did not because —

Q Not at that moment. You never called the Mayor, did you?

A I'm sorry, Mr. Cortes, forgive me, I thought you were talking literal, as I sat there on the dais, forgive me.

Q I'm talking about call the Mayor at that — you never called that number that was listed there?

A No.

Q About an urgent matter of public safety. You never called those numbers there; right?

A That's right.

Q Now, you never did anything with this message until 9:41 a.m.; right?

A Yes. At 9:41 I saw it and forwarded it.

Q And you forwarded it to Wildstein; right?

A Yes.

Q You didn't say anything in your email; right?

A No, I didn't.

Q You didn't ask him to do anything; right?

A No, I thought it spoke for itself.

Q You didn't tell him to do anything, did you?

A No.

Q Wildstein responded to you at 9:48; right?

A Yes.

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Q That's nearly 20 minutes after you received the message from Mayor Sokolich; right?

A Yes.

Q You had not called Mayor Sokolich in those 20 minutes; right?

A No, I had not left the event.

Q And Wildstein told you "radio silence"; right?

A Yes, that's what he wrote.

Q You knew what that meant?

A I did.

Q Radio silence means no contact whatsoever; right?

A That's what don't call — yes, that's what it would mean.

Q Like a dead radio; right?

A I don't get that reference.

Q Radio silence, right?

A Oh, dead radio, okay. Yes, I don't —

Q No response at all?

A That's right.

Q Treat him like he doesn't exist?

A I wouldn't use that phrase, sir.

Q Well, you're not going to respond to him; right?

A But I would never use a phrase that he didn't exist.

Q Well, you're intentionally not getting back to him; right?

A Well, that email came in, and as I said before, when I got back in the car, I worked to get David Wildstein on the phone

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to explain this.

Q But you get it, you get the radio silence, and you don't get back to him; right?

A Right. I'm calling David Wildstein, whose project this is, to find out why is he saying radio silence. And took me sometime, I'm not sure when I finished, got in the car, but finally got him on the phone.

Q Mr. Baroni, you had seen that — those words before, right, "radio silence"?

A Yeah, I said I've heard it before.

Q You heard it from David Wildstein before, haven't you?

A Possibly, yeah.

Q Possibly. But with respect to Mayor Sokolich, right, you didn't forget to call him; right?

A No.

Q You didn't call him back on purpose?

A After talking to David Wildstein and unfortunately listening to David Wildstein and believing David Wildstein, I listened to him when he said to let him handle it, and I regret that.

Q Right. It was on purpose, right; Mr. Baroni?

A Yes. And I chose to listen to Mr. Wildstein.

Q And you chose not to call the Mayor back; right?

A Yes.

MS. MARA: Objection, Judge, asked and answered.

* * *

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
CRIMINAL ACTION 2:15-cr-193-SDW

UNITED STATES OF AMERICA,	:	TRANSCRIPT OF PROCEEDINGS
	:	
-vs-	:	T R I A L
	:	
WILLIAM E. BARONI JR., and BRIDGET ANNE KELLY,	:	Pages 1 – 214
	:	
Defendants.	:	
-----	:	

Newark, New Jersey
October 18, 2016

B E F O R E: HONORABLE SUSAN D. WIGENTON,
UNITED STATES DISTRICT JUDGE
AND A JURY

A P P E A R A N C E S:

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Pursuant to Section 753 Title 28 United States Code, the following transcript is certified to be an accurate record as taken stenographically in the above entitled proceedings.

S/Carmen Liloia
CARMEN LILOIA
Official Court Reporter
(973) 477-9704

* * *

your own, is it?

A No.

Q It's a job where you understood that you would be carrying out the policies of Governor Chris Christie; right?

A Yes.

Q Because the Governor was the one constituent, wasn't it?

A No. The Governors of the — the way it's set up, the two Governors are the top at the Port Authority, they run the Port Authority.

Q But for you, Mr. Baroni, Governor Chris Christie was the one constituent, wasn't he?

A The one constituent, as David Wildstein testified to, was something he talked about a lot. I viewed my role at the Port Authority, and that was a phrase that I was familiar with, but I viewed my role at the Port Authority everyday doing something different. It could be the World Trade Center. It could be a crossing. But the one constituent rule was something David liked to talk about. I viewed my job everyday as working for the people who paid the tolls and the people, and the Governors, absolutely. And the administration, absolutely

Q And you called the Governor, Governor Christie, I mean, the constituent, didn't you?

A Yeah, it was a phrase that David Wildstein liked to use and I used it.

Q You used it?

* * *

THE COURT: Alright, ladies and gentlemen, we'll take 15 minutes now and then we will resume.

(Jury excused)

THE COURT: Alright, everybody, we'll take 15 minutes, okay.

MR. CORTES: Thank you, your Honor.

(Recess)

THE COURT: Alright, everybody, we'll bring the jury out.

(Jury brought into courtroom)

THE COURT: All right, everybody, you can have a seat. We're going to continue with cross of Mr. Baroni. And you can proceed, Mr. Cortes.

MR. CORTES: Thank you, very much, your Honor.

Q Mr. Baroni, returning to the week of the lane reductions.

A Yes, sir.

Q Yesterday we talked about, and some today we talked about that 9/29 email about "urgent matter of public safety in Fort Lee". Right?

A Yes.

Q And also on Monday, September 9th, you got a voice mail from Mayor Sokolich; is that correct?

A Yes, I think we heard that yesterday.

Q I'd just like to play for you the September 9th —

A I'm sorry.

Q Okay? Miss Hardy, can you play the Government Exhibit 7004.

(Audio plays)

Q You recall that voice mail, don't you, Mr. Baroni?

A Yes, sir.

Q You received it from Mayor Sokolich; right?

A Yes, sir.

Q You recognized his voice?

A I do.

Q You didn't forward that email to anyone; right?

A I wouldn't know how to forward a voice mail, sir.

Q And so you didn't, right?

A No, I don't have any idea how I would do that.

Q In this voice mail he told you about traffic in the morning and the toll booths on Martha Washington; right?

A Yes.

Q You knew he was referring to the lane reductions; right?

A Yes.

Q And he said he's running into a big problem; right?

A Yes.

Q Schools are open?

A Yes.

Q And he said he'll give you the details when he speaks to you; right?

A Yes, sir.

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Q You did not call Mayor Sokolich back —

A No.

Q — in response to that voice mail?

A No.

Q And that was a choice; right?

A As I said yesterday, it was a choice and I have regretted ever making that choice.

Q Now, on Tuesday, the 10th, Mr. Baroni, you received a voice mail we played yesterday; is that correct?

A Yes, sir.

Q And in addition to that voice mail, Mayor Sokolich texted you on September 10th; isn't that right?

A I believe so.

Q You remember those texts, don't you?

A Yes.

Q Miss Hardy, can we have Government Exhibit 5008. If I could have the top two here.

These are dated Monday, September 10th, 2013, at 7:44 a.m. and Tuesday, September 10th, 2013, at 7:46 a.m. Right?

A Yes.

Q Just starting with the second one first, it reads. "Bill: Mark Sokolich here. Port Authority has reduced the toll booths — toll", did you understand to be toll booths?

A Yes.

Q “for Fort Lee from three to only one. As of yesterday, we

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are in total gridlock. Same thing today. Have a town that is ready to revolt. Who’s mad at me? What do I have to — what do I do when redevelopment 5 is online. Would not otherwise bother you, however I have no choice. Please call me. Rather all urgent”. That right?

A Yes.

Q You understood what the word “total gridlock” meant; right?

A Mayor Sokolich had used that term over a number of years, yes.

Q And when he said “total gridlock,” you understood what total gridlock meant; right?

MS. MARA: Objection, asked and answered.

THE COURT: Overruled.

A Again, yes, that’s a phrase that he had used in the past.

Q And you understood it when he used it here; right?

A Yes.

Q And he meant total gridlock from traffic; is that correct?

A Yes.

MS. MARA: Objection, asked and answered.

THE COURT: Sustained.

Q He meant — he was referring to the traffic in his town; is that correct?

A I believe so,

Q And he said: Have a town that is ready to revolt. Is that correct?

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A Yes.

Q You understood the town there to be Fort Lee; right?

A Yes.

Q He asked you a question. Who's mad at me? Right?

A Yes.

Q It's the same question from the voice mail on September 10th; right?

A Yes, from yesterday, yes.

Q That was played yesterday; right?

A I'm sorry, yes.

Q But it was the same day, September 10th; correct?

A I believe so.

Q And he asked you: What do I do when redevelopment 5 is online; right?

A Yes.

Q That was referring to a building that was being constructed in Fort Lee; correct?

A It was a building project, yes, sir.

Q He says: "Please call me", right, "rather urgent"?

A Yes, sir.

Q You understood what urgent meant; right?

A Yes, sir.

Q It means like it's a pressing matter; right?

A That phrase was something that, this is not criticism, but it's something that the mayor had used before.

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Q So you didn't take it seriously, did you, Mr. Baroni?

A I took it — actually the opposite, Mr. Cortes. I did take it seriously which is why when we were talking yesterday, I did take it seriously. Because I went first and checked, my memo, pulled the police updates, didn't find any. Specifically asked the Port Authority Police desk at the bridge, called to see if there was any. And I was told no. Mr. Wildstein. And specifically I asked Mr. Wildstein to make sure that the police were speaking to each other. I did take it seriously.

Q So even though you heard the term, or heard the phrase "rather urgent" before, using it here, you weren't like, man, he's making it up; right?

MS. MARA: Objection, asked and answered.

THE COURT: I'll allow it.

A Could you repeat?

Q You didn't think he was making it up; right?

A Make the word up, no, he used it before.

Q You took it seriously, right?

A I wanted to make sure that the information that Mayor Sokolich had in the past indicated sometimes

— I don't want this to be a criticism of Mark Sokolich, but sometimes the mayor in the years I had been there had used very similar language in the past about Port Authority, about New York City projects, about Leonia projects, and I heard it before. And I wanted to make sure that even though it was used here, that

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there wasn't that level — that we would have been informed, and I did check and it was not.

Q You checked and it was not on September 10th; is that right?

A I checked on September 9th. I asked to continue to be updated. But the police, as I explained yesterday, the police email briefings, my memory, it's three years ago, I haven't seen any since, they ran around the clock. So I didn't get any on September 10th. And I kept looking to make sure and I didn't have any that day either to my memory.

Q And in terms of what you did to check, you did that, you checked that and you talked to Wildstein; right?

A And I also asked Mr. Wildstein and he assured me this had happened, and I believed it did, that the police departments, the Port Authority Police Department and the Fort Lee Police Department, were in contact. If there was some question and that was not acceptable —

Q But the only person you talked to about that was David Wildstein; right?

A Yes.

Q You didn't talk to Mike Fedorko, did you?

A I did see Mr. Fedorko on that week on Wednesday and he didn't mention anything about Fort Lee.

Q You didn't ask him?

A No, I didn't. And he didn't raise it to me.

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Q Well, you knew about it; right?

A Yes. I knew about a number of things happening at the Port, sir.

Q Mike Fedorko is the Superintendent of the Port Authority Police; isn't he?

A Yes.

Q You didn't ask him, right?

MS. MARA: Objection, asked and answered.

THE COURT: I'll allow it.

Q You didn't ask him; right?

A No. I've known Superintendent Fedorko since I think I was in high school. Because he was the coach of one of the rival football teams. And Mike Fedorko knew me since I was young. And if there was something going on, as had happened in the past, Mike Fedorko would just say something to me and say "this is happening" or "that's happening". He didn't. There was no mention at all.

Q Alright. So my question, though, was about you asking him. You didn't ask him?

A No, I didn't.

Q Right.

Now, if we go up to this — the first text message here it says: Presently we have four very busy traffic

lanes merging into only one toll booth. The bigger problem is getting kids to school. Help, please. It's maddening.

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You recall getting that, right?

A Yes.

Q And when it said the "lanes merging into only one toll booth", you understood that was referring to the lane reductions; right?

A I interpreted that was relating to the study — what I believed to be the study happening

Q The study had only one toll booth available to that local approach; right?

A Yes.

Q And Mayor Sokolich said the bigger problem about getting kids to school; right? You recall that, right?

A Yes.

Q And that's the school kids of Fort Lee; right?

A I interpreted it that way, yes.

Q And he said "help, please"; right?

A Yes, sir.

Q That was the Mayor of Fort Lee asking you for help, please?

A Yes, sir.

Q You were the Deputy Executive Director of the Port Authority, weren't you?

A I was.

Q You were a public official; right?

A I was.

Q You were the one who was proud of responding to Mayor

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Sokolich in realtime; right?

A Absolutely

Q You didn't help him, did you?

A I looked at the situation, I checked with the police, I checked again. I made sure that I had been informed. And then, as I said yesterday, listened to Mr. Wildstein and believed, as is evident, that I would have wimped out and cancelled what I was told was an important study. But I didn't just look at his text message and go: Ahhh, I checked as much as I could.

Q You did nothing to help him, did you?

MS. MARA: Objection, Judge, asked and answered.

THE COURT: Overruled.

Q You did nothing to help him, did you?

A I looked and made sure that the Port Authority Police Department was not reporting public safety issues. I looked to make sure that the police departments were working together. I understood the argument that Mr. Wildstein was making that the study was important. I was seeing real time data of the study as the week went on. It seemed very legitimate to me. I realize, and I now regret this realization and have taken my personal responsibility and I should have called him back, but at the time the argument that was made to me at that time made sense.

Q So the answer to my question is: No, I didn't do — you

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didn't do anything to help him at the time, did you?

A Mr. Cortes, as I've said for two days, I regret not calling him back.

MS. MARA: Objection, asked and answered, Judge.

THE COURT: The question has been asked, but it hasn't been answered. It's a yes or no question. To the extent you can, answer it yes or no. If you can't answer it yes or no, just indicate that.

A Mr. Cortes, I've done the best I can to answer your question.

Q Answer yes or no, Mr. Baroni, did you help him or no?

A I did everything I could.

MS. MARA: Objection, Judge.

Q That was everything you could. What you described, that was everything you could do, right?

A In an environment where —

Q Mr. Baroni, do you understand my question?

THE COURT: Just answer yes or no. It's either yes, I did, or no, I didn't?

A I did not do enough.

Q Now, you said — you said a couple, multiple times now, that you regretted it.

A Yes.

Q Did you regret it at the time?

A At the time, on Monday, when I forwarded the email and was

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told and asked Mr. Wildstein, “look, I got to call the Mayor back”, and was told not to call him back, I would stop the study. The study was really important. I wanted to call him back. But I also understood the argument that it was important, the study was important. I was seeing realtime data, but that the Mayor would convince me or take steps to make the study not correct, and I made a decision. I regret that decision. But at no point in any factor was the idea of punishing somebody by shutting his town down, that’s never in my head at all.

Q Well, you keep mentioning about the fact of the data, altering it in some sense. Let me ask you about that.

A Yes, sir.

Q It’s — you said you were concerned if you talked to him, it could skew that data. Is that correct?

A Yes, sir.

Q Alright. And we’ll just — we’ll talk, you know, scroll down on this. You know, if you talked to Fort Lee, if you talked to the mayor, right, that could affect the study. Is that right?

A Yes.

Q If they knew about it, your argument goes, right, if you talked to the mayor; right?

A I —

Q People would learn about it?

A No, I think the initial point is I talked to the Mayor. Given the perception I'm not exactly the toughest guy, that I would have given in to the mayor. And the study, which was important, would not have happened, or we'd have it skewed.

Q Skewed. And by skewed, you mean people would alter their behaviors; is that right?

A No. Again, I don't want to sound critical of Mayor Sokolich, but he had had a history, both in writing to me and in his actions, blocking streets in his town and blocking streets into his town. And, again, I don't want to be critical, but that was the history. And it made sense to me at the time that he would just do that and I regret thinking that way.

Q He could have done that anyway though, right, Mr. Baroni?

A It's possible.

Q Right? He didn't need to talk to you to do that; right?

A It's possible.

Q In fact, he could have decided, man, this guy is not talking to me, I'm going to do that anyway. Right?

A I wasn't him, sir.

Q Right. But he knew, when the study was in place, right, he knew about it, didn't he?

MS. MARA: Objection, Judge, to what's in the Mayor's head.

MR. CORTES: I'll do a foundation, Judge.

THE COURT: Just rephrase it.

MR. CORTES: Sure.

Q Mr. Baroni, when changes were made at the Port Authority, right, they were visible; right?

A Yes.

Q The cones were orange; right?

A Yes.

Q They weren't invisible?

A I don't understand.

Q Well, anybody could see those cones; right?

A Yes.

Q It wasn't a secret that there was a pattern change at the bridge; right?

A No, sir.

Q So when Mayor Sokolich was calling you on Monday about the — about what was happening at the bridge, he knew about it?

A I'm not sure exactly what time, but I imagine so, at some point.

Q Alright. So when you're talking to him, he already knows there's a change; right?

A When the emails came in, I don't know what he knew.

Q But it was visible; right?

A Yes.

Q Now, in terms of affecting, how it could affect the study

in some way, who explained that to you?

A David Wildstein did.

Q Noted traffic expert David Wildstein; right?

MS. MARA: Objection, Judge.

THE COURT: Sustained.

Q A traffic engineer didn't explain that to you; right?

A No, but Mr. Wildstein explained to me that he had spoken to traffic engineers and engineers.

Q But you didn't speak to anyone; right?

A I did not.

Q And you had access to lots of traffic professionals; right?

A Yes.

Q You could have called the chief traffic engineer of the Port Authority; right?

A Yes.

Q You know him?

A Yes.

Q Jose Rivera?

A Yes, sir.

Q Could have called him right up; right?

A I could have, yes.

Q Now, going to the Thursday of the lane reductions, Mr. Baroni, you received a letter from Mayor Sokolich on Thursday; right?

A I did.

Q Miss Hardy, can we have 368.

You recall this, right, Mr. Baroni?

A Yes, sir.

Q And this is the email you received from Maryanne Leodori on September 12th; right?

A Yes.

Q And you forwarded it on to David Wildstein. Right?

A Yes, I did.

Q Miss Hardy, can we have the first page. I'm sorry, the second page — the third page of the document. Maybe the fourth page. Thank you.

This is the letter Mayor Sokolich sent to you; right?

A Yes.

Q And you received it on Thursday, didn't you?

A Yes, sir.

Q Mayor Sokolich wrote to you: Having received absolutely no notice of this decision, not having obtained any response to our multiple inquiries concerning the same, and try as we may to understand the rationale about the benefit of a response from the Port Authority, we are reaching the conclusion there are punitive overtones associated with this initiative. What other conclusion could we possibly reach?

Right?

A Yes.

Q That was the letter you received from Mayor Sokolich?

A It was — it is, yes.

Q He told you — he sent you this letter personally; right?

A Yes.

Q He told you he wanted to have the issue between the two of you; right?

A Yes, I believe so.

Q He was looking to end it, the lane reductions, quietly, uneventfully, and without political fanfare; right?

A I believe so, yes.

Q And you didn't respond to this letter; is that correct?

A I did not respond to the letter when he sent me this letter.

Q And that was a choice, Mr. Baroni; right?

A It was, yes.

Q Your choice?

A Yes.

Q And, again, he tried you again with a text message; right?

A I think so. I'm not sure, believe me. I think so.

Q The same day, September 12th; right?

A Again, I think so. I'm not certain.

Q Miss Hardy, can we have 5008. Oh, this will do. September — and this is, for the record, this is 5003-BB-08.

Mr. Baroni, you recognize this; right?

A Yes.

Q And it reads — and it's a text message from you to David

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Wildstein on September 12th; right?

A Correct.

Q And it's a forward of a text message that you had received from Mayor Sokolich that day; right?

A Yes.

Q And the — it says — this reads: From Serbia. My frustration is now trying to figure out who is mad at me.

A Yes.

Q And the words there, "my frustration is", that's from Mayor Sokolich to you; correct?

A Yes.

Q That was the text message you forwarded on to Mr. Wildstein?

A Yes.

Q And that text message, when you got it from Mayor Sokolich, that was now the fourth time he was asking you if someone was either mad at him or whether there were punitive overtones; right?

A I think the punitive overtones was in the letter.

Q Was in the letter?

A The mad at me was in a couple — was a text, yes.

Q A text, a previous text, and a voice mail; right?

A Yeah — yes, sir. I'll take your word.

Q Now, you chose not to respond to this text message as well?

A That's right.

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Q Now, when you sent it to David Wildstein, you said it was from Serbia. Right?

A Yes.

Q Serbia was how you referred to Mayor Sokolich when you were speaking with David Wildstein?

A It was one of a number of people who had nicknames.

Q And in terms of the — in terms of that nickname, Mr. Baroni, did Mayor Sokolich know you called him that?

A I don't know.

Q You don't know?

A I don't know.

Q You ever call him that in front of him?

A I did not.

Q Did Mr. Wildstein ever call him Serbia to his face?

A I don't know.

Q Did you know that he is of Croatian descent, not Serbia?

A I now know that.

Q You didn't know it at the time?

A I wasn't concerned.

Q Do you know whether Mayor Sokolich would consider that nickname derogatory?

MS. MARA: Objection.

THE COURT: Sustained.

Q To your knowledge, that nickname was used only between you and Wildstein; correct?

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MS. MARA: Objection, asked and answered.

THE COURT: Overruled.

A I'm not sure.

Q You've only ever used it with Mr. Wildstein; is that correct?

A I don't recall. It could very well be the case.

Q Do you recall using — calling Mayor Sokolich Serbia to anyone other than Mr. Wildstein?

A I don't recall.

Q And you and Mr. Wildstein — you gave lots of nicknames to people; is that correct?

A Yes. I'm sorry, people had lots of nicknames. It wasn't we gave people nicknames.

Q But you and Mr. Wildstein used nicknames for a lot of people; right?

A People had nicknames, yes, sir.

Q And you and Mr. Wildstein used them with each other; right?

A Yes.

Q You had a friend, the two of you have a mutual friend; right?

A Yes.

Q You call her the Chechen; right?

A Yes.

Q Same kind of play. She's actually Russian; right?

A Yes.

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Q That was the kind of friendship you had with David Wildstein, wasn't it?

A We were close. That's why I believed him.

Q Mr. Baroni, you understood that there was no advanced notice to the Mayor of Fort Lee on Monday, September 9th? I believe that was your testimony; correct?

A Yes, I think we talked about that, yes.

Q Right. We've talked about the reasons Mr. Wildstein gave you for not calling the Mayor back; correct?

A Yes.

Q And that was the — that you would wimp out — that the study would be cancelled or skewed, and it was important to Trenton; right? Those are the — that's what Mr. Wildstein told you?

A Yes.

Q Now, and that's your testimony — that is your testimony, right, today and yesterday; right?

A That —

Q That that's what Mr. Wildstein told you?

A Mr. Wildstein said to me, and I've said it before, that if I called the Mayor back, and the study was important, and given my relationship with him, that I would give in or stop the study, or skew the study, and

that it would be skewed. And because I never had a reason to think he would lie to me, I listened to him.

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Q Now, that's your testimony now. I want to ask you now about your testimony the last time you were asked to explain this.

A Yes.

Q Okay? And that was your legislative testimony; right?

A Yes.

Q You were asked to explain the lack of advanced notice and response to the Mayor by the Assembly Transportation Committee on November 25th, 2013; right?

A Yes.

Q You served with some of the people on that committee; right?

A Almost all of them.

Q You knew them?

A Some of them well, some not so much.

Q Some of them were your friends?

A I'm not sure I was friends with them. I was friends with Upendra Chivakula.

Q Now, you testified that when you walked in there, you knew it was political; right?

A Yes, it was.

Q But that didn't relieve you of your obligation to tell the truth, did it?

A No, and I did.

Q You appeared — when you appeared before them, you were the

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Deputy Executive Director of the Port Authority; right?

A Yes.

Q You were speaking for the Port Authority?

A I was speaking for myself, but I was appearing as the Deputy Executive Director to the Port Authority, yes, sir.

Q On behalf of the Port Authority?

A I'd say so, yes.

Q And you were a public official; right?

A Yes.

Q You were also a lawyer; right?

A I still am.

Q And at the time you were — you had an active law license; right?

A Yes.

Q You knew it was not okay to lie in those positions; right?

A Absolutely right.

Q And certainly not okay to lie in front of the committee of the New Jersey State Assembly; right?

A Correct.

Q It would be wrong to mislead them?

A And I did not,

Q And it would be wrong if you had; right?

A That's why I didn't.

Q So the answer to my question is yes?

A Correct.

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Q You testified that there was no advanced notice to Fort Lee because of communication breakdowns —

A Yes.

Q — in the Port Authority; right?

A Yes.

Q You told the Assembly Transportation Committee that you did not respond to Mayor Sokolich because of communication breakdowns with the Port Authority?

A Yes.

Q And you didn't stray from that explanation, right, communication breakdowns? Right?

A Correct.

Q You wanted to give the committee the impression that the lack of communication was unintentional?

A I didn't —

Q You wanted to give them the impression that the lack of communication was unintentional, didn't you?

A I don't think I said that.

Q But you wanted to give them that impression, didn't you?

A I did not intend that to be the impression at all.

Q Well, breakdowns, Mr. Baroni, that's like a car breaking down; right?

A No, a breakdown is the fact that I didn't listen to my instincts and I didn't call the Mayor back and that I was the breakdown.

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Q You didn't tell them that, though, did you?

A No. I think at some point I very much specifically said it was personal to me.

Q Right. You said it was personal, and we're going to get into that, Mr. Baroni. But never once did you tell the legislative committee that it was intentional, did you?

A I think on multiple occasions I admitted that the communication breakdowns, which I then and now are responsible for the — they were wrong. I shouldn't have done it. And if that was not the interpretation you took, sir, I apologize.

Q Mr. Baroni, I'm talking about what you said.

A Yes, sir.

Q Right?

A I talked — sorry.

Q You didn't say "I chose not to call back the mayor"; right?

A Those were not the words that I used, no, sir.

Q You didn't tell them that you had deliberately decided not to contact the Mayor; right?

A I don't believe those were my words, no.

Q You didn't tell them that the lack of advanced notice was part of the plan, did you?

MS. MARA: Objection.

THE COURT: Overruled.

A Again, I told the story, the news, the information, what happened, to the best of my knowledge as truthful as it was

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with the fact that the person who gave me the information hadn't told me the truth.

Q But you didn't — and at the time, though, Mr. Baroni, you thought it was true, though; right?

A I testified as truthfully as I thought the truth was and I had been led to believe, yes, sir.

Q But you didn't tell them that the lack of notice was part of the plan, did you?

A I talked extensively, repeatedly about a communications failure that I was personal — was responsible for. And I made it as clear as I thought — if I didn't, Mr. Cortes, I apologize, if there's an interpretation difference between our interpretation. I thought I said as often as I could it was broken. It didn't work. It shouldn't have happened. I went. I was the guy that went down there. I was the person who got pushed out to do it and I told the truth as best I could.

Q Listen to my question, Mr. Baroni. You didn't tell them that not telling Fort Lee in advance was part of a plan for the study, did you?

A Again, sir, your words, not mine.

Q But you didn't say any of those words, did you, Mr. Baroni?

A I didn't use your words, no, sir.

Q You didn't tell them that the study, the study required silence to Fort Lee, did you?

A I —

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MS. MARA: Objection, asked and answered.

THE COURT: Overruled.

Q Did you?

A Forgive me, Mr. Cortes, say it again?

Q You did not tell the committee that the study required silence to Fort Lee, did you?

A Again, sir, I'm not sure exactly the way it was — I thought I made it as clear as I possibly could. No one could question the fact that it was messed up. And I was taking responsibility. I showed up, I took responsibility.

Q Well, Mr. Baroni, let me ask you specifically. You didn't give them the explanations that you've given this jury, did you?

A Well, sir, it's been three years. And information such as the fact that David Wildstein didn't tell me the truth has — obviously I look back on it knowing today, what I know now, I couldn't have gone and said all the things that I said because David Wildstein didn't tell me the truth.

Q But listen to my question, Mr. Baroni. That was three months after the lane reductions, right, your testimony?

A Yes.

Q Was three months after it?

A Yes.

Q You didn't tell them: Hey, I had a conversation with David Wildstein on September 9th, and he told me that I would wimp

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out if I contacted Mayor Sokolich. You didn't tell the committee that, did you?

A I didn't use the words — I didn't exactly want to — I didn't want to say I was going to wimp out, not exactly self congratulations.

Q Substantively, Mr. Baroni, you didn't tell them that Mr. Wildstein told you that you couldn't contact the mayor because it would cancel the study; right?

A I did not say that.

Q You did not tell the committee that you didn't contact the Mayor because you were concerned about skewing the data; right?

A I think I did make a comment about data. Forgive me, I'm not certain, but I thought I had. Forgive me if I'm misremembering — if I haven't remembered it correctly.

Q You think you did tell them that?

A I'm not certain, Mr. Cortes.

Q Right. And you certainly didn't tell them that the study was important to Trenton, did you?

A I think I made it pretty clear that the topic, as we sat here and saw, that the public policy matter was very important. And whether it was important to Trenton, I'm not sure if that was clear enough.

Q Mr. Baroni, you've seen your testimony here in this courtroom; right?

A Yes, I did.

Q You reviewed the transcript multiple times, right, by now?

A I'm not sure about multiple times but, yes, I watched it.

Q Never once in that transcript of your testimony did you ever tell the committee that this study was done because it was important to Trenton?

A Again, Mr. Cortes, if it was not stated, I thought my two hours worth of words made it pretty clear this was an important policy matter. And important policy matters to the Port Authority are inherently important policy matters to Trenton.

Q But that's your interpretation, Mr. Baroni. I'm asking you about your words. You didn't say the words: Committee members, this study was important to Trenton. That's why we did it. Right?

A Mr. Cortes, going back three years and what I could have said and should have said, Mr. Cortes, I'd go back three years and three months and say to David Wildstein, if I knew that he was doing this for the purpose he tells us now he did it, I would have stopped it immediately. I didn't have that knowledge.

Q Listen to my question. Three months after the lane reductions, right?

A Yes, sir.

Q Is when you gave your testimony.

A Yes, sir.

Q During that testimony, you did not say to the members of

the committee that the — one of the reasons for the study was being it was important to Trenton?

A I don't recall. I don't remember. But I'll take your word for it, sir.

Q Mr. Baroni, isn't it a fact that you decided it was to your advantage not to tell the whole truth to a group of people trying to understand the truth?

A Absolutely not.

Q Didn't you lie to them repeatedly, sir?

A I did not.

Q So you thought you could get away with it, didn't you?

A No, sir. I wasn't trying to get away with anything. I went there to tell the truth and I did tell the truth, as I knew it.

Q Why don't we review some of what you told the committee. Okay? Miss Hardy, can we have Government 7009, clip 21.

(Video plays)

Q That was your testimony, Mr. Baroni; right?

A Yes.

Q You testified that Fort Lee was the Port Authority's partner; right?

A Yes.

Q You testified that you used the word "partner" on purpose to describe the relationship with Fort Lee?

A Yes.

Q Same partnership you described to the colleague at the operations committee at the Port Authority in 2011; right?

A Yes, sir.

Q And you told the Assembly Transportation Committee that, in that clip, that the communication with your partner was lacking; right?

A Yes.

Q You chose the word “lacking”; right?

A I chose it because it was true.

Q You used it on purpose, right?

A Yes.

Q And you picked it on purpose because it was false and misleading, didn't you?

A The word “lacking” was false?

Q Well, let me ask you, Mr. Baroni, lacking doesn't indicate that you, Bill Baroni, made a choice, does it?

A Forgive me, Mr. Cortes, I think what I said, it's not memorized, I think what I said, lacking, I admit it. I was there, I was taking responsibility. I didn't do the job I should have done. I should have listened to my instincts. I should have called him back. I have regretted that ever since, and I have said it, and I said it there. I've said it here.

Q But it doesn't — your choice of words there, that the communication was lacking, it doesn't —

A It was —

Q But it doesn't indicate that you, Bill Baroni, made a choice to ignore the mayor, does it?

MS. MARA: Objection, asked and answered.

THE COURT: Overruled.

A I didn't use the words you're now saying, sir.

Q It doesn't convey that you chose not to get back to him, does it?

A Sir, I repeatedly in my testimony, and maybe I should have done it more, tried to make it clear that communication was failure, and I personally did not communicate well enough, both with our partner in Fort Lee and within the agency.

Q Well, why don't we — why don't I ask you about more of your words here, Mr. Baroni.

Miss Hardy, can we have 7009, clip 23.

MS. MARA: Objection, Judge, if we could be heard at sidebar.

THE COURT: Okay.

(The following takes place at sidebar)

MS. MARA: Judge, the concern we have here is that the Government is showing very short snippets of the video and taking very short snippets out of a larger context. And it's difficult for the witness to have to answer questions about a 5- to 10-second snippet from what is, as we know, perhaps an hour, hour and a half testimony where other comments were made, and other questions were posed. And now being asked about one

* * *

MS. MARA: Okay.

MR. CORTES: Thank you, your Honor.

(The following takes place in open court)

MR. CORTES: Indulge me for one second, your Honor.

Q Miss Hardy, can we have, if you have clip 23 ready. Thank you.

(Video plays)

Q That was your testimony, correct, Mr. Baroni?

A Yes, sir.

Q Assemblyman Wisniewski asked you why didn't you make a call out to the mayor; correct.

A Yes.

Q That's a direct question; right?

A Yes.

Q He was asking you to explain why the communication was lacking; right?

A I think he was asking if it was lacking, and yes.

Q You answered — you answered his direct question: Communication failure. Right?

A Absolutely, it was.

Q You wanted to give him the impression that this was not intentional, didn't you?

A No. I gave him the impression it was a failed communication and in that same clip by me —

Q Mr. Baroni, did you not say: Assemblyman, I chose not to.

Right?

A Again, Mr. Cortes, I didn't use your words.

Q You didn't use those words; right?

A Correct, sir.

Q You did not tell Assemblyman Wisniewski: I deliberately ignored Mayor Sokolich?

MS. MARA: Objection, asked and answered, Judge.

THE COURT: Overruled.

A Again, the same answer, sir, I used those words and I thought it made it as clear as possible that I was taking responsibility for a communication failure. That I was responsible for not calling the mayor back, and I should have.

Q But you didn't say "I deliberately ignored him", did you.

MS. MARA: Objection, asked and answered.

THE COURT: Sustained.

Q You didn't say, we were giving — "Assemblyman, we were giving Mayor Sokolich the radio silence treatment", did you?

A No, sir, I don't think I said that.

Q Then Assemblyman Wisniewski asked you if you forgot to call the Mayor; right?

A In the clip — yes.

Q And that was another direct question; right?

A Yes.

Q You did not forget to call the Mayor, did you?

A No. And I said that there was, I believe —
Mr. Cortes, I

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don't know what more I can say then failure. It failed. I took responsibility. It shouldn't have. I should have called him back. I didn't. I've regretted it ever since. And I didn't listen to my instincts and I trusted someone I shouldn't have.

Q But, Mr. Baroni, failure on its own, communication failure, does not indicate whether someone made a choice not to get back to Mayor Sokolich, does it?

MS. MARA: Objection, asked and answered.

THE COURT: Overruled.

A I'm not sure what stronger word I could have used than failure.

Q How about: We chose not to?

A Sir, I was the one that had to sit there and repeatedly admit failure, and I did.

Q But you didn't give the answer that it was actually an intentional failure?

MS. MARA: Objection, asked and answered.

Q Right?

THE COURT: Sustained.

Q Now, instead of telling the committee that this was a decision that you had intentionally made, you threw professionals at the Port Authority under the bus, didn't you?

A Sir, I don't have any idea what you're referring to.

Q You said that there were multiple levels of communication

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failure; is that right?

A Yes.

Q That's a system-wide failure that you're suggesting, isn't it?

A Actually I was suggesting it by day, but okay.

Q But you were talking about multiple levels at the Port Authority; isn't that right?

A No. My reference was to the calendar of the week.

Q So when you said there were multiple levels of communication failure, you're not referring to any particular departments of the Port Authority?

A Referring to myself.

Q Yourself. You referring to others at the Port Authority, Mr. Baroni?

A At the time I said that, and it was back and forth with questions in the clip, I said what was in my mind, which is what was in my mind the whole the testimony, I was going to go down to Trenton and tell the truth, including my own failure.

Q I want to get to that understanding, Mr. Baroni. When you say — when you said: I've said repeatedly over and over again there were multiple levels of communication failure, applies to all of us, it should have been better. He asked — Assemblyman Wisniewski asked you: Including yourself? You responded yes. Just want to make sure I got it. You're

talking about, you say including yourself, are you including others at the Port

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Authority in that as well, Mr. Baroni?

A I don't recall, Mr. Cortes, exactly — as we all saw, that was not exactly a slow debating society. And I don't recall exactly what I meant at that moment, I apologize.

Q Now, you had mentioned about the — how it was personal to you.

A Yes.

Q How it was problematic, personally.

A Yes.

Q Sorry, if we can have that clip, 7009, clip 18.

(Video plays)

Q Hugely means very, very big; right?

A Yes.

Q And problematic, that means it's a problem; right?

A Yes.

Q Personally, meant it was a problem for you personally; right?

A Yes.

Q And given — and you said it was a huge problem for you, hugely problematic for you personally because all the time you had spent building a relationship with Mayor Sokolich; right?

A Yes.

Q But you did not tell the committee of all the times Mayor Sokolich reached out to you personally that week, did you?

A No. I thought I summed it up pretty well with failure.

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Q Right. But you didn't tell them about all those communications and all those times you didn't respond to him. Right?

MS. MARA: Objection, asked and answered.

MR. CORTES: Your Honor, this is not —

THE COURT: Overruled.

MR. CORTES: Thank you.

A Again, sir, I'm sorry?

Q You didn't tell them about all the times he reached out to you and all the times had you failed to respond to him — you chose not to respond to him, did you?

A That was not what I said.

Q Now, Mr. Baroni, in terms of what you were doing not responding to Mayor Sokolich, in addition to that, you actively prevented others at the Port Authority from responding to Mayor Sokolich, didn't you?

A Just one.

Q Just one. Tina Lado; right?

A Yes.

Q Now, when you said there were multiple levels of communication failure at the Port Authority, you were including GOCOR, weren't you?

A No.

Q You weren't including the Government and Community Relations, were you?

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A The same reason I talked to Tina Lado in the first place was the same reason I was not going to throw Tina Lado under the bus with that legislature.

Q Mr. Baroni, let me go through some of the communications with Miss Lado. Alright? She sent you an email on Monday; isn't that right?

A I'm not trying to be argumentative, I just don't remember which day.

Q You don't remember the email she sent you on that Monday?

A I don't remember the day.

Q She sent you multiple emails, didn't she?

A Again, you would tell me the truth, so I take your word for it.

Q Why don't we have Government Exhibit 1091. Miss Hardy, can we have Governmented 1091, please.

Mr. Baroni, that's an email you got from Miss Lado on September 9th, 2013?

A Yes, sir.

Q And she, if we look here, she said the Mayor placed calls to your office; right?

A Yes.

Q And you didn't respond to this email from Miss Lado, did you?

A I did not.

Q You didn't call Miss Lado on Monday, did you?

A. No.

Q This email on Monday, September 9th, at 11:24, Miss Lado told you the Borough — she stated that the Borough Administrator from Fort Lee stated that the Borough and the PD — PD stands for police department; right?

A Oh, I'm sorry, forgive me. Yes, the paragraph 3.

Q Paragraph 3. Had no advanced notice of the planned change. Right?

A Yes, that's what she said.

Q And you received that email on Monday; right?

A Yes.

Q Miss Lado did her job, she contacted you; right?

A Yes.

Q And she asked you, she said: If there's anything you need me to do, let me know. Right?

A Yes.

Q And then she sent you another email on Tuesday, September 10th, didn't she?

A I believe so. I don't again remember the day but, yes, she sent another email.

Q Can we have Government 1102, Miss Hardy.

That's an email from Tina Lado to you on September 10th; right?

A Yes.

Q And she's — she lets you know that Mayor Sokolich called;

right.

A Yes.

Q No one else was copied on this email; right?

A Correct.

Q You did not forward it to anyone, did you?

A I don't recall.

Q In this email Miss Lado told you what the Mayor said; right?

A Yes.

Q And she did her job; right?

A Yes.

Q She then offered: Let me know if you need anything additional. Right?

A Yes.

Q She was ready, willing and able to do communication; right?

A Yes.

Q You did not respond to Miss Lado, did you?

A Not on Tuesday.

Q And you did not — and she's relaying a message from the Mayor of Fort Lee and you didn't respond to that message from him either; right?

A Correct.

Q On Thursday, Mr. Baroni, you got — Miss Hardy, can we have just for the — I think Government Exhibit 1111, please. Mr. Baroni, this is an email from an email exchange from Mat Bell

and Tina Lado on Thursday, September 12th; right?

A Yes.

Q Mathew Bell was your assistant; right?

A Yes.

Q And in this email exchange, Miss Lado let's Mr. Bell know that Mayor Sokolich called again; right?

A Yes.

Q And Mr. Bell said he'd mention it to you; right?

A Yes.

Q And he did, didn't he?

A Oh, yes, I believe he did. I have no reason to doubt that Mat would. He was very diligent.

Q And you contacted Miss Lado; right?

A I did.

Q And you made it clear to her that she should not call back Mayor Sokolich; right?

A Yes, I did. Because when that message came in, or the one previous, forgive me, Mr. Cortes, background on this is important. When we first got — when I first got to the Port Authority, Tina Lado had been there before I got there. She was hired under Governor Corzine. And she had been on a list that we've heard talked about before that Mr. Wildstein had presented political appointees that could be fired. I did not fire Tina Lado because she was a good employee and I didn't want to fire her because she was a Democrat. David Wildstein,

over the course of the time there, wanted to. He said

to me, when that message came in, if Tina Lado skewed this study, there was nothing I could do to protect her job. And I did not want Tina Lado to get fired. And that's why I said what I said. And that's why I did not throw her under the bus at the legislature.

Q And let me be clear about what you said to her. Okay? You made it clear to her she was not to call back Mayor Sokolich. Right?

A Yes.

Q And you did it in code?

A I don't remember it being in code. I thought I was more direct. But I don't remember being in code.

Q You told her that you had been looking at GOCOR's phone bills, hadn't you — didn't you?

A I don't remember that.

Q And you had found GOCOR had high charges on outgoing phone calls?

A Again, Mr. Cortes, I thought I was more direct.

Q And GOCOR had to be careful and not make unnecessary phone calls, Mr. Baroni?

A I don't think I needed to say that.

Q Particularly calls to New Jersey, right, Mr. Baroni?

A Again, Mr. Cortes, I don't think it was code. I didn't need code.

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Q You think you told her straight on: Don't call back the Mayor. Is that what you're saying, Mr. Baroni?

A I don't remember the exact language. But I wanted to — Mr. Cortes, I saw David Wildstein fire people at the Governor's direction for three years, and I didn't want Tina Lado to be one of those people. And I was going to step in the middle of that between those two, and I did.

Q You were going to save her job?

A Yes.

Q And that's why you spoke to her in code?

A I don't remember speaking to her in code.

Q Well, you told her: Wildstein is going to fire you unless you don't call back the Mayor. Right?

A I did not say that. I never wanted an employee to worry that when David Wildstein walked down the hall, they were next.

Q Now, Mr. Baroni, in terms of what you told Miss Lado, you told her something direct; is that your testimony?

A I don't remember the exact words.

Q You gave her a reason, right, as to why she shouldn't call back Mayor Sokolich, didn't you?

A It was not a long conversation. I don't remember the exact conversation.

Q You just gave her an order; is that right, Mr. Baroni?

A I wouldn't use the word "order," Mr. Cortes.

Q She reported to you, didn't she, Mr. Baroni?

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A She did.

Q She's somebody — you're the head of the agency;

right?

A Yes.

Q And you told her what to do, didn't you?

A I indicated to her that she should not do that.

Q You indicated to her by telling her don't call the Mayor back explicitly?

A Again, I don't remember the exact words. I don't talk in code so I don't — that's why the code, I don't remember that.

Q You talk directly, right, Mr. Baroni?

A I think we were on the phone when the conversation happened so there was no — I didn't want it to be misread. I also didn't want Tina Lado to go home worried that her job was on the line.

Q I want to talk a little bit more about Miss Lado, Mr. Baroni. Miss Hardy, can we have Government Exhibit 1042, please. Mr. Baroni, you recall this, don't you?

A Yes.

Q This is an email about Weehawken, isn't it?

A Yes.

Q That's the host town to the Lincoln Tunnel; right?

A The Lincoln, yes.

Q We've talked about Weehawken; right?

A Mayor Turner, yes.

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Q Right. And he's one of the mayors that you worked on a relationship with; right?

A Yes.

Q And this is an email chain between yourself and Miss Lado on October 31st, 2012, isn't it?

A Yes.

Q The evening hours; right?

A I'm sorry, Mr. Cortes, forgive me.

Q The evening hours; right?

A Yes.

Q Seven o'clock?

A Yes.

Q This email took place in the aftermath of Superstorm Sandy, didn't it?

A I think it was right in the middle of it because I remember Halloween got cancelled.

Q And you had a lot going on at the time; right?

A I was working in the emergency center, yes, that's right.

Q A lot of things taking place; right?

A Oh, yes, sir.

Q Now, Miss Lado sends you an email on October 31st, 2012, at 7:08 p.m., didn't she?

A Yes.

Q And she wrote to you: Bill, sorry to add to your burden. Right? She's apologizing for adding to your burden; right?

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A Yes.

Q Right there?

A It's completely unnecessary for her to do that.

Q But she wanted you to know that “Jeff Wells, the Director of Weehawken Public Safety, called me at the Mayor’s request to convey their concerns with the planned LT HOV”. That’s Lincoln Tunnel, right?

A Yes.

Q “And implementation tomorrow. They’re very concerned, re: traffic impact to re Weehawken streets, especially in light of their own impacts from the storm.” That’s what the email reads. Right?

A Yes.

Q And it continues on; right?

A Yes.

Q She said —

A I’m sorry, forgive me.

Q She said: What can I respond to him or do you prefer to contact the Mayor? Thank you, Bill.

Right?

A Yes.

Q And that was at 7:08 p.m.; right?

A Yes.

Q And you responded to her; right.

A I did.

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Q And you wrote her back at 7:47 p.m.; right?

A Yes.

Q You wrote: I just tried the Mayor, no answer. Fedorko is calling their chief.

Right?

A Yes.

Q So, even with all you had going on with respect to Sandy, right, you got back to her; right?

A Yes.

Q You told her that you had called the Mayor?

A Yes.

Q You also wrote that Fedorko was calling their chief; right?

A Yes.

Q And Fedorko is the Superintendent of the Port Authority Police Department; right?

A He is.

Q He was the top — the top cop; right?

A Correct.

Q And you told her that Fedorko was calling the chief. Right? And that's the Weehawken police chief; right?

A Yes.

Q And he was doing that because you had told him to do that; right?

A They were literally sitting next to each other in the emergency center.

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Q Right. And you turned to him and you told him: Call the Weehawken police chief; right?

A This email came at a, the part that was not read is, at one point Mayor Bloomberg, without talking to anybody, just announced that you couldn't come into New York — this was — you couldn't come into New York City unless you were in a bus or an HOV, multiple people in a car, but didn't tell us. And all of

a sudden we have this problem with cars coming to the Lincoln because the Holland was closed because it was flooded. And we were scrambling. It wasn't one of many things at that moment, it was "the thing" at that moment because Mayor Bloomberg had already announced in New York that this was going to happen and we were scrambling. So this was part of that.

Q And you got the email, and you turned to Superintendent Fedorko and you say: Call the Weehawken Police Chief on this issue. Right?

A Correct.

Q And that issue, you did that and you got back to Miss Lado with a response. You did all that in responding to her within 40 minutes; right?

A Yes.

Q You understood, Mr. Baroni, how to respond when there was a concern with the town; didn't you?

A Yes.

Q You called the town; right?

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A Depending on what the issue was. In this case, that's right.

Q Right. Here, in this case, "I just tried the Mayor, no answer".

A Yes.

Q Right? That's Mayor Turner; right?

A Yes.

Q Mayor of Weehawken?

A Yes, sir.

Q You called the town when there's an issue like this, and you call them as soon as you can; right?

A I called Mayor Turner. I had to find out more info at 7:08. But once I hit, I tried to call Mayor Turner, and then I asked Mike — excuse me, Superintendent Fedorko to call the chief.

Q Right.

A To tell him what the Bloomberg Port Authority plan was going to be.

Q You understood how to respond to the concerns of the local Mayor, right, Mr. Baroni?

MS. MARA: Objection, asked and answered.

THE COURT: Overruled.

A Yes, I responded to Mayor Turner in this email, yes, sir, I did.

Q And that's how you respond to the concerns of a local

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mayor, right, you call them?

A I did call him.

Q That's how you respond; right?

A Yes, I did.

Q You call — you have the Port Authority Police Department call the Weehawken Police Department too; right?

A Yes.

Q And you call them right away; right?

A Again, looking at the time window, it doesn't look like right away, but yes.

Q But you weren't waiting around — there wasn't waiting around, right, it was within the hour; right?

A Correct. I was able to get the info out of New York DOT and find out what the Mayor — Mayor Bloomberg's plan was, and implement as best we could our response to it.

Q And talk to Weehawken so that they know what's going on too; right?

A Yes.

Q Mr. Baroni, in terms of your responsibilities, right, public safety means protecting the people from harm; right?

A That's one of them. That's one of the definitions.

Q That's one of definitions; right?

A Yes.

Q Protects citizens?

A Not just citizens, sir, everyone.

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Q Everyone. Protecting everyone; right?

A Yes.

Q At the Port Authority, that was part of your responsibility. Right?

A Public safety was one of the areas that was in the — actually we set it up as a separate department when I was there.

Q Right. The safety of Port Authority customers and commuters was your most important responsibility at the Port Authority; right?

A There's — in an agency that had two terrorist attacks, we were very cognizant in our role, making sure people on planes, trains, boats, cars were safe.

Q Your most important responsibility; right?

A I would say any transpor —

MS. MARA: Objection, Judge. This entire line of questioning was done yesterday.

MR. CORTES: It was not, your Honor.

MS. MARA: Yes, I believe it was.

THE COURT: Overruled.

Q Your most important responsibility, Mr. Baroni?

A My important responsibility is to work with the law enforcement in the Port Authority to make sure public safety was our number one concern.

Q And, Mr. Baroni, during your time at the Port Authority,

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you dealt with numerous public safety issues; right?

A Yes.

Q You dealt with — you interacted with first responders; right?

A Yes.

Q And at the Port Authority, you interacted with the Port Authority Police Department; right?

A Yes.

Q You also interacted with EMS and fire services; right?

A Usually at drills.

Q Right. And they respond to emergencies, don't they?

A Excuse me? Yes.

Q It's their job? That's their job to respond to emergencies?

A Yes, sir.

Q And you wanted them to do their job; right?

A Yes.

Q You would agree in an emergency you want to respond as fast as possible; right?

A I would say so.

Q A rapid response to emergencies is critical; right?

MS. MARA: Objection, asked and answered.

THE COURT: I'll allow it.

Q A rapid response to emergencies is critical, isn't it?

A I would say so, in a responsible manner.

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Q In a health emergency, you want an ambulance to get there as fast as possible; right?

A You would, yes.

Q When there's a fire, you want the fire truck to get there as soon as possible; right?

A Yes.

Q Because seconds count, don't they?

A Yes.

Q You responded to emergencies, seconds count; right?

A I think that's fair,

Q Mr. Baroni, it was not part of your job to make responding to emergencies harder for emergency services personnel; right?

MS. MARA: Objection.

THE COURT: Overruled.

A I'm sorry, sir?

Q It was not part of your responsibility to make responding to emergencies harder for emergency services personnel, was it?

A I don't understand but, no, make it harder.

Q You don't want to make it harder for cops and firefighters to respond to emergencies; right?

A No, sir.

Q Now, you testified on direct and here about responding — about what you did when you got the public safety email from Mr. Wildstein.

A I didn't.

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Q Now, in addition to that email on Monday morning, though, you talked about — you were apprised of public safety issues multiple times, weren't you?

A I believe it was in the number of emails — forgive me, let me start again. I believe it was in a number, a handful, a number of the emails, that's right.

Q I want to show you again, Government Exhibit 1091. Can I have that Miss Hardy, 1091. This is an email from Tina Lado on September 9th; right?

A On the Monday.

Q And this is after you had gotten the phone message about an urgent matter of public safety; correct?

A Yes.

Q And this message, Miss Lado gives you a message from the Fort Lee Borough administrator; right?

A Yes.

Q And there are details about public safety issues; right?

A Yes.

Q And Miss Lado told you that Fort Lee first responders had difficulty responding to emergencies; right?

A Yes.

Q A missing child and a cardiac arrest; right?

A Yes.

Q And the difficulty was because the streets were full of cars; right?

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A I'm not sure. It says that, but I'll take that as — I'll take your word for that.

Q Did you understand, Mr. Baroni, that the difficulty was because Fort Lee had traffic problems on September 9th?

A Well, my understanding was informed when I both checked the emails from the police department and didn't, as I said before, forgive me, didn't see — there was nothing mentioning that. But in addition to

that, calling to check because, as Mayor Sokolich said here and he said in his letters, Fort Lee is often in gridlock. And the police departments worked together, and I was informed that they worked together, to, if there is that situation, the police departments and other first responders work together because that happens, as Mayor Sokolich said, a lot. I think at one point he said thirty or forty days or something. And this was something they were used to dealing with and that's why I asked the police department to check and confirm with me that that was not happening

Q You didn't ask the police department, did you?

A No, I asked David Wildstein to ask the police department, yes.

Q Those are different, aren't they, Mr. Baroni?

A Yes.

Q Right. You asked Wildstein to do it; right?

A Yes. This was someone I had known for well more than a decade. I didn't ever think he had a reason not to tell me the

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truth.

Q Now, just to — and you made in your response you talked about Mayor Sokolich. I just want to focus you in on this email here. This email, Miss Lado when she conveys it to you, she said: Peggy Thomas, Borough Administrator, called me. Right?

A Yes.

Q And that's the Borough Administrator from Fort Lee; right?

A Yes.

Q And in the second paragraph when talking about these incidents it says “she”; right?

A Yes.

Q That’s Peggy Thomas, the Borough Administrator of Fort Lee?

A Yes.

Q Now, regarding these two public safety — these two incidents reported here, Mr. Baroni, what did you do to make sure that child was okay?

A Well, as I said before, Mr. Cortes, just, you know, I’m — as I said yesterday, I’m on my way to an event and I checked the emails to see if that was listed as factually correct. I asked Mr. Wildstein to check with the police desk at the bridge to see if that was correct. And I made sure that the — because there was a comment in one of them about the police not necessarily being in touch with each other, and I made sure the police were in touch with each other. On my way to the next

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event, that’s what I did.

Q And, again, when you say you made sure the police were in touch with each other, who you talked to was David Wildstein; right?

A Yes.

Q You didn’t have the Super — you didn’t contact the Superintendent of the Port Authority Police Department and tell him to contact Fort Lee; right?

A No.

Q Mr. Baroni, after seeing these incidents, you didn't contact any of the professionals at the Port Authority —

MS. MARA: Objection. Asked and answered, Judge.

Q To see —

THE COURT: Overruled.

Q After seeing these incidents, Mr. Baroni, you didn't contact any of the traffic professionals at the Port Authority to see if the study could be adjusted in some way to make sure that there were no risks to public safety, did you?

A No, sir. I talked to the person who was the point on that project.

Q David Wildstein?

A Yes.

Q Wally Edge?

A David Wildstein, someone I knew for more than a decade, who I helped carry at his kid's bar mitzvah. I thought I could

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trust him.

Q The guy who stole Frank Lautenberg's coat?

A I don't believe that.

Q That's who you relied on?

A Mr. Cortes, as I said before, when you've — you listed the numbers before. When you talked to someone nearly everyday and you've been to family events, and you ask somebody directly and they look

you in the eye and they don't tell you the truth. I trusted him.

Q Now, you got another message from Miss Lado about more public safety issue; right?

Can we have that 1102 now, Miss Hardy.

This time it's from Mayor Sokolich, isn't it, Mr. Baroni?

A Yes.

Q And just to read you, Miss Lado is telling you that Mayor Sokolich feels this is a life/safety issue. Life/safety about the safety of people; right, Mr. Baroni?

A Yes.

Q And Mayor Sokolich gave an example to Miss Lado; right?

A Yes.

Q And it reads: One example that occurred on Monday, 9/9 3 was Fort Lee volunteer ambulance attendants had to respond on foot leaving their vehicle to emergency call. That's what's there, right; Mr. Baroni?

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A Yes, sir.

Q And this was again due to the traffic congestion due to the change in GWB toll booths configuration?

A Yes, sir.

Q Now, what's being described to you here, Mr. Baroni, is the, you know, volunteer ambulance attendants exiting their ambulance, getting their

gear, and running to an emergency. Isn't that right, Mr. Baroni?

A I think you've added to some of the description, but that's what that is, yes.

Q Responding on foot means getting out and walking and — or running; right?

A I assume so.

Q You agree with me, Mr. Baroni, that driving in an ambulance has the potential to be faster than walking or running; right?

A I guess so.

Q Mr. Baroni, this email is now the third message you've gotten in three days about public safety regarding — in Fort Lee, isn't it?

A Yes, sir. And with this email, the reference, and I'm not saying it was unimportant, but the reference was to Monday, the event on Monday. Which on Monday I had, again, different levels, checked with the police department as best I could, and this is what I was told. I was misled.

Q And in terms of after getting this email, Mr. Baroni, you

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didn't contact the Superintendent of the Port Authority Police to contact Fort Lee; right?

MS. MARA: Objection, Judge, we've been over this.

MR. CORTES: This is with respect to this email, Judge.

THE COURT: Yeah, overruled.

A I'm sorry, Mr. Cortes, please.

Q Sure. With respect to this email, Mr. Baroni, you get — you didn't contact the superintendent of the Port Authority Police Department to call Fort Lee; did you?

A No, because the interim, between Monday and this, I made sure that the police departments were communicating with each other and my understanding is that is exactly what happened.

Q Made sure means the only person you spoke to was David Wildstein; right?

A I spoke to Mr. Wildstein and he relayed back to me that he had spoken with either Chief Koumoutsos. Chief Koumoutsos is right under Mike Fedorko or Gloria Frank, who was the next person down in that chain. And Gloria, Assistant Chief, I think it's Assistant Chief, she oversaw the Bridges and Tunnels, so he assured me he had spoken to those people.

Q And you didn't, in terms of the people you spoke to, you spoke to, Mr. Baroni, the only person was David Wildstein?

A Spoke to — on this project?

Q Yes. On this — in response to this.

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A On the study, yes, sir.

Q On the study, that's it.

A The —

Q In terms of the public — in terms of — when you say —

A At this time.

Q When you say “I made sure”, when you testified, “I made sure,” you made sure by speaking to David Wildstein; right?

A Yes.

Q And no one else?

A As of Tuesday, no, because I spoke to Bob Durando Thursday and Friday, and I — right. So I think on Tuesday it was Mr. Wildstein. Yes, I think that’s right.

Q And no one else?

A I don’t think so. But on a project that someone runs, you don’t talk to — that’s an agency of 7 billion dollars worth of projects. You put someone in charge of a project and they do it. If they don’t tell you the truth, at some level you have to trust the people who work for you.

Q And the guy that you were trusted to do the work for you is the same guy who bought domain names for a reporter who did a news story about him; is that right, Mr. Baroni?

A Actually my comment was more general of all the projects across the Port Authority.

Q Alright. But on this project, it was David Wildstein. Right?

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A Yes.

Q Wally Edge?

A Yes.

Q And, Mr. Baroni, on Thursday — Miss Hardy, if we could have Government Exhibit 368, and give me page 4.

Mr. Baroni, this states: Our emergency service vehicles are experiencing tremendous response time delays and my office is overwhelmed with complaints. Unquestionably this decision has negatively impacted public safety here in Fort Lee.

Is that right?

A Yes. Excuse me, yes.

Q Now, in terms of what Mayor Sokolich is describing there, when he said “our emergency service vehicles” he’s talking about Fort Lee; right?

A Yes.

Q Fort Lee emergency services?

A I assume so, yes.

Q You didn’t contact Fort Lee emergency services to see if this was true; right?

A No, I contacted the Port Authority Police Department.

Q And you did that by contacting who?

A Well, the first was — throughout the week, continuing to monitor the ongoing emails of emergency events that took place, which weren’t there. And I asked Mr. Wildstein, the point on

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this project, to speak to the police department at the bridge.

Q But you keep saying you spoke to them, Mr. Baroni. But you didn’t speak to them, did you?

A If I, Mr. Cortes, I thought I was very clear. Mr. Wildstein — I asked Mr. Wildstein to check with the George Washington Bridge police desk in order to

reconfirm the lack of emails announcing events in — on the bridge and around the bridge. So I asked him — I didn't just — I didn't want something to have shown up in an email. I wanted there to be a confirmation and I asked him to do that, yes, sir.

Q And I just want to make sure it's clear. That it's — you're telling Wildstein to contact the Port Authority Police Department, George Washington Bridge desk; right?

A I did.

Q Now, that's not you calling the George Washington — the Port Authority Police Departments, the George Washington Bridge desk; right?

MS. MARA: Objection, asked and answered.

THE COURT: Overruled.

Q It's not you doing that, right?

A No, sir. Forgive me, I'm trying to be as clear as I can. I asked Mr. Wildstein to call the police desk at the GW to make sure that the emails that I was referring were correct, and that the police departments were speaking to each other.

Q And when you did that, sir, you didn't tell Mr. Wildstein

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to call the Fort Lee Police Department; right?

A No, the police departments speak to police departments.

Q So the answer to my question is no?

A No.

Q You didn't ask him —

A Correct. I asked him to call the Port Authority Police Department.

Q Now, on Friday, Mr. Baroni, you got an email from Pat Foye —

A Yes.

Q Right? Ending the lane reductions; right?

A Yes.

Q And he wrote that this hasty and ill-advised decision has resulted in delays to emergency vehicles, didn't he?

A Yes.

Q Did you tell Mr. Foye that he was wrong?

A That morning, as we discussed yesterday, the focus on that — in that email was not — it was trying to dial back what was becoming a huge fight between the Chairman of the Port Authority, the Executive Director of the Port Authority, that was my objective.

Q My question was, did you tell Pat Foye that he was wrong about emergency services —

A We didn't even get into those details.

Q So the answer to my question is no?

* * *

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getting stuck behind the cash paying customers; right?

A I'm not sure I call it a mistake, but okay.

Q But that's happened; right?

A Of course.

Q It's annoying, it takes time, right?

A I don't know if it's annoying.

Q You can't just go through the E-Z Pass line without stopping, it requires stopping; right?

A It does.

Q Now, the idea though for the traffic study involving the local access lanes, Mr. Baroni, was to reduce that access point to one lane and one toll booth; right?

A Yes, that's what I understand,

Q You thought that was a good idea?

A Again, I was not focused on every level of detail of the planning of the study. I was informed of it Saturday, I believe, and then Sunday I was informed but got the email from Bob Durando at some point in the morning, forwarded to me, explaining the different areas of the agency to be involved that next morning. I don't think I focused specifically on any of that specific detail, I'm sorry.

Q You understood that it was going to be one lane and one toll booth available to that entrance, right, Mr. Baroni?

A I do believe — I certainly found — I learned during the course of the week, yes.

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Q You thought that made sense; right?

A I believe making the study made sense, yes.

Q And you understood that that one lane, that one toll booth, right, was going to be a mixed use; right?

A I believe so.

Q So the cash paying customers and the E-Z Pass customers had to go through the same toll booth; right?

A Again, I believe so, yes.

Q And you knew that would cause backups, right, Mr. Baroni?

A I didn't know that, sir. I think that's the point of what the test was to study.

Q You didn't think the E-Z Pass customers would get stuck behind cash paying customers, and that would cause backup, Mr. Baroni?

A Surely any traffic study you're shifting lanes is going to cause traffic to shift. So, again, any — the first study I saw out there in 2011 as they moved, they pulled toll booth takers out and they pulled the same thing, you're going to see effect — that to me made sense as part of the test. I didn't want to prejudge the outcome of the test, but I thought the test was a legitimate question.

Q Now, you're talking a little bit more about studies and traffic study, right, Mr. Baroni?

A Yes.

Q You seen lots of traffic studies; right?

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A I'm not sure about lots, but I saw some when I was there, yes.

Q Many years at the Port Authority, right, where there were traffic studies presented to you; right?

A I was there for three years, so yes.

Q And you were in lots of meetings, right —

A Yes.

Q — where traffic engineers were presents; right?

A Some, yes.

Q And they presented on traffic studies, didn't they?

A Some, yes.

Q And lots of projections were given to you; isn't that right?

A Correct.

Q And in making those projections, they used existing data, don't they?

A I didn't delve often into the exact numbers of the data, no. Sometimes the data was — various engineers would present data to us. I didn't delve into exact details.

Q But they do computer modeling, don't they?

A Sometimes, yes.

Q And you recall an analysis done about the Lincoln Tunnel helix fix; right?

A Yes, that was one of the computer modeling.

Q That was done at your request; right?

* * *

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Q Mr. Baroni, you recognize this; right?

A Yes, sir.

Q It's an email from September 12th, 2013. Right?

A This is the pendings.

Q This is the media pendings; correct?

A Yes.

Q Sent out nightly by the Port Authority — one of the Port Authority staffers; right?

A Yes.

Q And you're copied on this; right?

A Yes.

Q And the second bullet point here, right, relates to the Chikowski article; right?

A Yes.

Q And with respect to that, it has the statement that Mr. Wildstein drafted and you reviewed; is that correct?

A Yes.

Q And looking at the second sentence of that bullet point it says: We told the reporter that the Port Authority is reviewing traffic safety patterns at the GWB and that PAPD has been in contact with Fort Lee PD throughout the transition.

Right?

A Yes.

Q Traffic safety patterns includes the word "safety"; is that correct, Mr. Baroni?

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A Yes.

Q The word "fairness" is not included in that release, is it?

A No.

Q The statement also included that the Port Authority Police Department had been in contact with the Fort Lee Police Department throughout; correct?

A Yes.

Q That was not true; right?

A No, I think it was true.

Q Mr. Baroni, there had been no advanced notice to the Fort Lee Police Department; isn't that correct?

A I now learned that's correct, yes, sir.

Q You knew that on September 9th, didn't you?

A No. I believed, when I saw the email on September — Sunday, September 8th, that said police, I had interpreted that as — because it didn't say PAPD, which was normal, I interpreted that as collective. When I learned that it was not my interpretation, I guess on Monday, it was not correct, that's when I asked — forgive me, that's when I asked Mr. Wildstein to make — to reach out to whether it was Chief Koumoutsos or Assistant Chief Franks to make sure they were in touch and I was told they were.

Q Right. But you were told that by Mr. Wildstein; right?

A Yes, sir.

Q You had been told by Miss Lado, right, on Monday the 9th,

* * *

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contact with the Fort Lee PD throughout the transition, you don't recall that?

A I do.

Q So Wildstein used the word "throughout"?

A He could have.

Q He could have?

A Yes.

Q You could have reviewed it?

A I'm sorry.

Q You reviewed it, didn't you?

A I believe so.

Q So you saw that word being used that it was throughout the transition?

A I don't recall Thursday the exact — I don't recall the exact words on Thursday, I don't.

Q Now, on Friday, Mr. Baroni, you personally sent to Steve Coleman a statement about the lane reductions; right?

A Yes.

Q And you approved that release; right?

A Yes.

Q And, Miss Hardy, could we have Government Exhibit 1142.

That's your email to Mr. Coleman and Mr. Foye as well as others, right, Mr. Baroni?

A Yes.

Q And it says, in the first sentence — and it says: Steve,

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we are good with the following. Right?

A Yes.

Q And "we" includes you; is that correct?

A Yes, Pat and I.

Q Pat and you?

A Yes.

Q And that's Mr. Foye, the Exec —

A Excuse me, Pat Foye and I, yes.

Q You approved this release; right?

A Yes.

Q And it states: The Port Authority has conducted a week of study at the George Washington Bridge of traffic safety patterns. Correct?

A Yes.

Q It uses the word "safety"; right?

A Yes.

Q Not fairness, correct?

A No, it says traffic safety patterns.

Q Right. Now, after this statement, when the prior statement on traffic safety patterns, you had that conversation with Mr. Foye and Mr. Ma. Right?

A Forgive me, Mr. Cortes, could you repeat the question. I'm sorry.

Q Sure. After the media pendings on Thursday night —

A Yes.

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Q That went out, and it said traffic safety patterns. Right?

A Yes.

Q Now, that was Thursday. On Friday, you have the meeting with Mr. Foye and Mr. Ma. Right?

A Yes.

Q And during your meeting with Mr. Foye and Mr. Ma —

A Yes.

Q You told them that the lane reductions were something that Trenton wanted; right?

A The study was, yes, sir.

Q As you say, the study was —

A Yes, sir.

Q That's your testimony, that the study was important to Trenton; right?

A I don't know the exact words that I used, but I said it was very important to Trenton, or it was important to Trenton, yes.

Q It turns out that explanation was true; right?

A That it was important to Trenton?

Q Yes.

A Yes.

Q You didn't tell Foye that it had to do with safety, did you?

A Again, the conversation was very brief and very focused on trying to turn down the heat at the same time following the very clear direction I had been given that the test needed to

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be completed. So we didn't have an extended conversation. And Pat, as we heard here, Pat made his position very, very clear.

Q And by turning down the heat, you told him to — that the lane closures needed to continue, didn't you?

A The test needed to be completed, yes.

Q The justification for why it needed to continue, as you told Mr. Foye, was that it was important to Trenton; right?

A Yes.

Q You didn't tell him: It's an important safety test, Pat, we need to continue it?

A Again, I don't remember the entire conversation verbatim, but it was — this was a time crunch situation. It was 8 a.m., 9 a.m., something like that, and we were not having an extended conversation. And, yeah, one of my top priorities was having seen this — having nothing to do with the bridge, but having seen this Samson/Foye, New Jersey/New York thing blow up before on other things, my goal was to let's calm everybody down.

Q So my question, though, Mr. Baroni —

A Yes, sir.

Q Is that you didn't tell him that it was an important safety study; right?

A Again, I don't remember everything, but I very much remember saying it was important to Trenton.

Q And you don't remember telling him it was about fairness; right?

* * *

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A The red markings, yes, sir.

Q Alright. Miss Hardy, can we have — could you please play Government Exhibit 7009, clip 7.

(Video plays)

Q You recall that testimony, right, Mr. Baroni?

A Yes, sir.

Q And you testified — just so I got it, you testified that 4.5 percent are going in, and you talk about using the local access lanes. Right?

A I was referring to the E-Z Pass.

Q Right, to the E-Z Pass, right.

A Yes, sir.

Q And you told the committee, right, they're in that clip, 4.5 percent go there, 95 percent go here. Right?

A Yes, basically on the E-Z Pass data, yes, sir.

Q Based on the E-Z Pass data, right.

A Yes.

Q And your understanding of the E-Z Pass data, that's where the tag holders' address was, right?

A That was my understanding that was the town.

Q The town where their E-Z Pass account is located in. Correct?

A Yes.

Q Now, that data, Mr. Baroni, you knew that data, where their address was, didn't tell you anything about what toll plaza

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they went in; right?

A No, it told me the 4.5 percent was from Fort Lee, and that the other towns made up the rest of the 105,000. That's what the data I was provided told me.

Q That's where their address was?

A I made the assumption that's where they're from.

Q That's making an assumption, right? Mr. Baroni, you understand there are three toll plazas at the George Washington Bridge. Right?

A Correct.

Q So where an individual's E-Z Pass account is registered, that doesn't tell you which one of the three toll plazas they used; right?

A I'm not sure.

Q You didn't — you don't know; right?

A Again, I was working with E-Z Pass data because that was the data that we had to measure the time distance — the, forgive me, the traffic time measuring VMS measurements. So I was using apples and apples data. That's what I was given, that's what I was using

Q Mr. Baroni, you knew that data didn't tell you anything about the volume of cars going through those lanes; right?

A I don't know if that's true, sir.

Q Now — but you were at — when you were making the presentation to the committee, you were saying this is the

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truth; right?

A Yes, because that is what I believed to be true.

Q So when you made the statement 4.5 percent go this way, 95 percent go this way, you were saying the truth as you understood it; is that correct?

MS. MARA: Objection, asked and answered.

THE COURT: Overruled.

A I think as the hearing went on, I think I tried to make it as clear as possible that there was the E-Z Pass data registered to people, held by people in Fort Lee. I believe that's what I made pretty clear.

Q Right. But when you were saying 4.5 go here, and 95 go here, your testimony, you believed that to be true; right?

A I believe so.

Q With the 95 percent as well, you were saying 95 percent go this way; right?

A I believe so, yes, sir.

Q But, Mr. Baroni, again, that's E-Z Pass data; right?

A Yes, sir, that's the E-Z Pass data.

Q And your understanding of the E-Z Pass data was that's where their town — that's the town where they live; right?

A Yes.

MS. MARA: Objection, asked and answered.

THE COURT: Sustained.

Q But, Mr. Baroni, that number, you don't know what toll

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plaza they went through; right? Whether it be at the upper level, the lower level, or the PIP. Right?

MS. MARA: Objection, asked and answered.

THE COURT: Overruled.

Q You don't know?

A I think the material that I had for my presentation which I don't have, talks about E-Z Pass. So I don't recall completely, Mr. Cortes, I apologize.

Q Right. It talks about E-Z Pass, Mr. Baroni. But your testimony was that that's where their account was registered. Right?

A I think it was more. I interpreted it as where they live.

Q Where they lived, right. But where they lived doesn't tell you what toll plaza they went through, does it?

A I'm not sure. I'm not sure. I'd have to go back through the data. I'm not sure.

Q And, Mr. Baroni, you conveyed to the committee about the 4 — you wrote on that board 4.5 percent, and the other 95 percent go the other way. Right? And the 4.5 percent here is Fort Lee users; right?

A I think I said 4.5 percent was people who lived in Fort Lee, yes, sir.

Q But you knew other communities used those lanes, didn't you?

A I think at one point in the testimony I even said if you

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double the number into towns around it, you still have an inequity.

Q Right. But that's based on your E-Z Pass addresses; right?

A Yes, sir.

Q Not the actual volume of how many cars go through those lanes; right?

A Well, that was the data that I had, yes.

Q That was the data that you had; right?

A Yes, sir.

Q But you understand that every car that goes through a Port Authority toll booth gets recorded; right?

A I don't know if I knew that every tag got read because we were — the Port Authority was in the process of going to that — what they call all electronic tolling, where you don't pay a toll, you get a bill in the mail. So I don't know that we even had that technology. We could have, I don't remember that. That's why I thought the E-Z Pass was the most reliable data.

Q But you didn't ask anyone for that data, did you?

A No.

Q Miss Hardy, can we have Government Exhibit 7009, the transcript. Page 17, please.

Mr. Baroni, you were asked by Assemblyman Wisniewski: So how many vehicles, if you could do a percentage, how many vehicles of the total through put are using those lanes as

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opposed to just E-Z Pass customers?

Correct?

A Yes.

Q Now, you don't answer that question; right?

A Well, I answered the question, yes.

Q But you start talking — your answer is: I believe it's two and one, cash and E-Z Pass, of the three lanes we're talking about. That's the answer, right?

A Yes.

Q You don't answer him about the through put; right?

A I think I interpreted his question as about the lanes, themselves.

Q Right. You didn't answer that the through put, Assemblyman, is actually 25 percent —

MS. MARA: Objection.

Q — of the lanes?

MS. MARA: Asked and answered.

MR. CORTES: This is not asked and answered, your Honor.

THE COURT: Overruled.

A I'm sorry, Mr. Cortes.

Q Mr. Baroni, a truthful answer to that question would have been: Yes, about 25 percent of the traffic goes through those three local access lanes. Twenty-five percent of those lanes; right?

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MS. MARA: Objection.

THE COURT: Overruled.

A No, my answer was truthful, sir.

Q But, Mr. Baroni, you didn't know when you gave that answer about the 4.5 percent, you didn't know what percentage of the users actually used those lanes; right?

A It was the best data that I had been given that I have, yes.

Q And, again, you got that data from David Wildstein; right?

A I got that data from David Wildstein. In addition, there was data that came from the Engineering Department, including that chart, the early assessment chart that has been seen before.

Q Oh, we're going to get to that.

A Okay.

Q But this, the E-Z Pass data, you didn't go to anybody in Tunnels, Bridges and Terminals and say, "hey, how many people actually use these lanes," did you?

MS. MARA: Objection, asked and answered.

THE COURT: Overruled.

A No, sir. I asked for the data to get put together in my briefing, as I had done before, and that's what you ask someone who works with you and is working on a project to do. I didn't — yes, I didn't go down to the Tunnels and Bridges department and ask them to pull a different set of data. I had

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a set of data that I believed was valid, truthful and believable.

Q You didn't go to the chief traffic engineer and say: Hey, give me the best data that I can use to explain who uses these lanes. You didn't do that, right?

MS. MARA: Objection, asked and answered.

THE COURT: Overruled.

A No, sir; I did not.

Q You actually didn't want the actual volume of the users of those lanes, did you, Mr. Baroni?

A No, I wanted the best available data and that's what I thought I had.

Q You wanted the E-Z Pass data in particular, though, Mr. Baroni, didn't you?

A Well, I wanted the data, yes.

Q It set up your argument — I'm sorry, I'll strike that. It set your argument up as a way of dodging the committee's questions, didn't it?

A No, sir.

Q Well, why don't we show you your binder, Mr. Baroni. Could we have Government Exhibit 1209, page 7, please.

You recognize that, don't you, Mr. Baroni?

A Yes, sir.

Q In your binder, right, Government Exhibit 1209, right —

A Yes.

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Q When we flip it open, it's the first thing you see. Right?

A Yes.

Q That's the first thing, this sheet that's up here, isn't it?

A Yes.

Q And what you got here, Mr. Baroni, is the listing of the different members; right?

A Yes.

Q By name, a column with their name?

A Yes, sir.

Q A column with their hometown?

A Yes, sir.

Q And a column with the number of vehicles; right?

A Yes, sir.

Q And that's using that same E-Z Pass data that you had; right?

A Excuse me, I believe so.

Q And you used these numbers in order to dodge their questions by referencing each legislator's home district or hometown; right?

A No, sir. I used that data to answer the legislators' questions about their hometown.

Q In your responses, Mr. Baroni, you picked the vehicles purportedly from the towns of members against the vehicles purportedly from Fort Lee; isn't that correct?

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A I thought it was important, having been there, I talked about my hometown as well in my remarks that legislators know what the issue was. And having been there, it was important that they understand what their — the impact of their towns.

Q And you were arguing that where their members, their citizens, their constituents, you argued that they were waiting in longer lines because of some special lanes for Fort Lee. That was your legislative testimony; isn't that correct?

A I testified that the reason that the issue, the policy issue was worth studying, was that very question.

Q But you knew that was a sham, didn't you, Mr. Baroni?

A No, sir.

Q Those lanes weren't restricted to Fort Lee's exclusive use, were they?

A Sir, I think I've answered your question. I believed these numbers were from the people in the district, and I believed that the data that I had from the 4.5 from Fort Lee was legitimate, truthful E-Z Pass data.

Q Now, answer my question. You knew that those lanes weren't restricted to Fort Lee, didn't you?

A Sir, I believed that those lanes were primarily lanes used by people in Fort Lee.

Q Right. Now answer my question. You knew —
MS. MARA: Objection, Judge.

Q — they weren't restricted to people from Fort Lee, didn't

* * *

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
CRIMINAL ACTION 2:15-cr-193-SDW

UNITED STATES OF	:	TRANSCRIPT OF
AMERICA,	:	PROCEEDINGS
	:	
-vs-	:	TRIAL
	:	
WILLIAM E. BARONI JR.,	:	Pages 1 – 181
and BRIDGET ANNE	:	
KELLY,	:	
Defendants.	:	
-----	:	

Newark, New Jersey
October 19, 2016

B E F O R E: HONORABLE SUSAN D. WIGENTON,
UNITED STATES DISTRICT JUDGE
AND A JURY

A P P E A R A N C E S:

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Pursuant to Section 753 Title 28 United States Code,
the following transcript is certified to be an accurate
record as taken stenographically in the above entitled
proceedings.

S/Carmen Liloia
CARMEN LILOIA
Official Court Reporter
(973) 477-9704

* * *

MR. CRITCHLEY: Objection, Judge. That is not what he said.

THE COURT: If you know.

MR. CRITCHLEY: He already answered that question, Judge.

THE COURT: If you know.

A I'm sorry, could you repeat —

Q In this instance, Mr. Baroni, Trenton was Ms. Kelly?

A My interpretation was that Trenton — Ms. Kelly was seeking whatever guidance she had to get to see if I could get this meeting approved.

Q The instructions from Trenton were going to come from Ms. Kelly?

A Yes.

Q They weren't going to come from David Samson; right?

A I didn't know — they were not going to come from David Samson, right.

Q They were not going to come from Kevin O'Dowd; right?

A I don't know who in Trenton Bridget would have to get that approval from in that office.

Q When Wildstein told you he had not heard back from Bridget Kelly, you did not write back to him, 'why are we waiting on Bridget Kelly', did you?

A I indicated we should schedule a meeting.

Q But you didn't indicate that, "why are we waiting on that",

proposal, were they?

A I think I did. I think I said two weeks advance notice.

Q Well, the fact is, Mr. Baroni, that the Port Authority generally gives far in excess of two weeks notice when doing a change to one of its facilities; isn't that correct?

A I think there would be a difference between a change, construction project, and a study, so yes.

Q So a facility change, Mr. Baroni, is it your testimony that the Port Authority gives less than two weeks notice on a facility change?

A I think it depends on the situation, sir, so yes, I think.

Q Mr. Baroni, point three of Mr. Foye's email is:

Consideration of the effects on emergency vehicles. And again signoff by PAPD.

A Yes.

Q That was not in your proposals, was it?

A No. I was including all of that in putting it in the leadership, the top leadership positions.

Q Mr. Baroni, the consideration of the financial impact on the Port Authority in terms of overtime, that too was not in your proposal, was it?

A Not that specific, no, sir.

Q And about that, Mr. Baroni, you recall Mr. Wildstein's email to you on September 8th, 2013, that forwarded Mr. Durando's email; correct?

A. Yes.

Q And in that email you were told — Mr. Durando discussed with Mr. Wildstein a toll booth operator that had to be brought in on overtime; isn't that correct?

A Yes.

Q And when Mr. Wildstein forwarded that email to you, you received it; correct?

A Yes, I did.

Q You read it; right?

A Yes.

Q You did not object to the toll booth operator being brought in on overtime, did you?

A No.

Q Mr. Baroni, you testified to the committee about access to other Port Authority facilities. Do you recall that?

A Yes.

Q And you testified about the Lincoln Tunnel. Right?

A Yes.

Q And you testified that the Lincoln Tunnel does not provide segregated lanes for local traffic. Correct?

A Yes.

Q And you disagreed with Assemblyman Wisniewski about the Lincoln Tunnel, didn't you?

A Yes.

You told Wisniewski he was wrong. Right?

* * *

A I'm glad I had an opportunity to speak to them, yes.

Q You testified that on November 22nd, 2013, you read Nunziata and DeFilippis a portion of your testimony; is that correct?

A Yes.

Q And you testified that you especially read to them the part of your testimony about their raising the issue of safety with Wildstein. Correct?

A The July meeting, yes, sir.

Q And you meant the issue of safety regarding the local access lanes. Correct?

A Correct.

Q Safety issue; right?

A Yes.

Q Not fairness?

A The issue was safety, yes, sir.

Q You testified that Nunziata and DeFilippis told you that the conversation — that that conversation did not happen. Right?

A They indicated to me that they were saying they didn't want to be involved and, no, that conversation did not happen that way.

Q And you testified that Nunziata and DeFilippis told you that they may have met with Wildstein in July but that conversation about the lanes did not happen.

A That's what he said, they wanted to stay out of

it.

Q That's what they told you; right?

A Yes.

Q And you testified that Nunziata and DeFilippis told you to keep them out of it. Correct?

A Yes.

Q And this conversation was in your office; right?

A Yes.

Q Your office at the Port Authority?

A Yes.

Q And after that — and when you had that interaction, you then — you testified that you got up and you went over into Mr. Wildstein's office; is that correct?

A I'm not sure if he was in his office or not but, yes, I went to Mr. Wildstein, yes.

Q But you testified that you got up and you went to Mr. Wildstein's office, didn't you?

A Yes.

Q And you testified that you told Mr. Wildstein that Mr. Nunziata and Mr. DeFilippis said to keep them out of it and that the conversation did not happen. Correct?

A They said that that was — that did not happen, yes.

Q And you testified that you told Mr. Wildstein that. Correct?

Yes.

Q You testified that Mr. Wildstein told you that Mr. Nunziata and Mr. DeFilippis were wrong and that they had told him about safety issues in July.

A Yes.

Q You also testified that you believed Mr. Wildstein; correct?

A Yes, I did believe Mr. Wildstein.

Q You believed Mr. Wildstein rather than believe Mr. Nunziata and Mr. DeFilippis; correct?

A Mr. Cortes, yes, I agree with you. I believed Mr. Wildstein and I don't think anyone should.

Q And those are the two police officers that you did not believe; correct?

A That's right.

Q You did not get the three of them together at that time to clarify what happened, did you?

A I believed that they had left.

Q after they had left, Mr. Baroni, you didn't call them back and huddle up and get the three of them together to clarify what had actually happened, did you?

A I did not. Because I had a recollection of that July conversation and other conversations about traffic safety issues.

Q You had a recollection — you had your own recollection of an interaction with Mr. Nunziata and Mr. DeFilippis; is that

* * *

Q And that was two days before you met with Mr. Nunziata and Mr. DeFilippis; right?

A Yes.

Q And then on November 25th, you gave the following testimony, didn't you? Miss Hardy, can we have Government Exhibit 7009, clip 14.

(Video plays)

Q That was your testimony; right?

A Yes, it was.

Q Mr. Baroni, you did not tell the Assembly Transportation Committee that Michael DeFilippis had denied that conversation, did you?

A I did not.

Q You did not tell the Assembly Transportation Committee that Paul Nunziata had denied that conversation?

A I did not.

Q Was that a communication breakdown too, Mr. Baroni?

A No, sir. I was listening to the person who had spoken to them, not once, but twice, and I believed him. And I knew that nobody wanted to be anywhere near this issue. Everybody was running away. And I was the one out there. And when Chairman Wisniewski asked me a direct question, I wasn't going to lie.

Q But rather — but, Mr. Baroni, those two officers had denied that conversation, correct?

A. Correct.

MS. MARA: Objection, asked and answered.

THE COURT: Overruled.

Q And rather than checking with them again and clarifying with Mr. Wildstein, Mr. Baroni, instead you gave that testimony; is that correct?

A Yes. Mr. Wildstein assured me that they had said that on that occasion and I was reassured of that an hour later when they put out a statement supporting what I said.

Q An hour — and that was after your testimony, though, right?

A Yes, sir, that's right.

Q But before your testimony, you didn't get Wildstein, Nunziata and DeFilippis together and make sure that what you were going to tell the committee was accurate?

MS. MARA: Objection, Judge, asked and answered.

THE COURT: I'll allow it.

A I didn't put another meeting together.

Q Where the three of them would discuss this and clarify, did you?

A Correct, I didn't put another meeting together.

MR. CORTES: Your Honor, I have nothing further.

THE COURT: Alright, we'll go into redirect.

Counsel, can I see you sidebar for one second?

(The following takes place at sidebar)

THE COURT: I wanted to ask you, before you sit down

some traffic issues". Right?

A Yes.

Q Do you know if that traffic management plan was ever devised?

A I don't recall.

Q Miss Mara asked you some questions about Jersey City; is that correct, Mr. Baroni?

A Yes, sir.

Q Miss Hardy, can we have Government Exhibit 5003-BB-03.

You recall this text message, right, Mr. Baroni?

A Yes, sir.

Q This is the one where you were discussing a meeting between David Samson and Jersey City Mayor Fulop?

A Yes, sir.

Q And at the end here it says: Gov wants nobody to meet with Fulop. And you responded "great".

A Great, yeah.

Q And this text exchange is dated August 28th, 2013; is that correct?

A Yes.

Q Miss Hardy, can we have Government Exhibit 5003-BB-04.

This is three days later, isn't it, Mr. Baroni?

A Yes.

Q September 1st, 2013?

A Yes.

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Q And it reads “Jersey City start of school”. Right?

A Yes.

Q Jersey City is where the mayor — and Jersey City’s mayor at that time was Steven Fulop. Correct?

A Yes.

Q Now, and you meant, in terms of start of school, that was the Jersey City start of school; correct?

A Yes. To do the event, yes — to do the event for the — with the Urban League on the first day of school.

Q Now, the lane reductions at that time in Fort Lee were already planned, weren’t they, Mr. Baroni?

A I don’t know if I knew that on September 1st.

Q And they were set to begin on September 9th, weren’t they, Mr. Baroni?

A I think my first indication, when Mr. Wildstein told me, I think it was the Saturday before the 9th. The 7th or 6th.

Q September 9th was the first day of school in Fort Lee, right, Mr. Baroni?

A I have now learned that, yes.

Q You didn’t know that at the time?

A I did not.

Q You didn’t is discuss that with David Wildstein?

A The first day of school in Fort Lee? Absolutely not.

Q But when Mayor Sokolich left you voice mails and text messages about kids to school, you knew school was open in Fort

Page 59

Lee, didn't you?

A I assumed school starts in September, so that's — yes.

Q Now, Wildstein told you in response to this text message Thursday; right?

A Yes.

Q Thursday of that week; right?

A That's how I interpreted it, yes.

Q This text message was on a Sunday; right?

A Yes.

Q And you asked him if there was anything we can do; right?

A Yes.

Q "We" being you and Wildstein?

A The Port Authority.

Q The Port Authority. He answered: Probably not. Right?

A Right.

Q And you wrote: Unfortunate.

A Yes.

Q It was too bad you couldn't do something in Jersey City on the first day of school?

A It wasn't something — no, it wasn't something — it was something that Mr. Wildstein and I had discussed before and actually before that, which was

to do a ground breaking for this two and a half million dollar school that the Port Authority had funded in Jersey City.

Q A school, is your testimony; right?

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A Yes.

Q Okay. A school in Jersey City?

A Yes.

Q Not a program?

A It was a building.

Q Not an apprenticeship program?

A Yes.

Q You mean a school, a building, an actual building, that's what your testimony is?

MS. MARA: Objection, asked and answered.

MR. CORTES: Not answered, your Honor.

THE COURT: Overruled.

Q You mean an actual physical building; right?

A My understanding was that the Port Authority was funding an expansion of a building next to the Urban League that existed already, that was going to house this apprenticeship program with the local building trades, yes.

Q Mr. Baroni, there was no ground breaking done for the Urban League in 2013, was there?

A There was not.

Q Mr. Baroni, the Port Authority money that went to the Urban League was for an apprenticeship program, not a building?

A My understanding when that was approved, it was going to go to brick and mortar to build.

Q Miss Hardy, can we have Government Exhibit 9018 for the

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witness.

Mr. Baroni, could you take a look at this email exchange, please.

A Yes.

Q And do you recognize this email exchange?

A Yes.

Q It's an email exchange about a press release; correct?

A Yes.

Q Miss Hardy, can you give me page 2. You and that's the press release, isn't that correct?

A Yes.

MR. CORTES: Any objection? I'm sorry, you can take it down. I meant just for the witness, sorry. Miss Hardy, if you could just put that back up for the witness, please.

Mr. Baroni, can you take a look at that press release.

A Yes.

Q You recognize it?

A Yes.

Q And that press release was issued, wasn't it?

A Yes.

MR. CORTES: Any objection? Your Honor, the Government offers this exhibit, 9018.

MR. BALDASARRE: Judge, we haven't had a chance, we're trying to look at it now, it's three pages.

Page 62

THE COURT: Alright.

MR. BALDASARRE: Sorry, your Honor. Thank you for the time. These are both fine.

THE COURT: 9018, that will be in evidence.

MR. CORTES: Thank you, your Honor.

Q Miss Hardy, can we have page 1, please.

Mr. Baroni, this an email chain; right?

A Yes.

Q And the bottom is an email from Steve Coleman; correct?

A Yes.

Q And that's to David Samson, Scott Rechler, Pat Foye and yourself?

A Yes.

Q With copies to John Ma, David Wildstein, Patrick O'Reilly and Lisa MacSpadden?

A Yes.

Q And the subject: Draft apprenticeship training press release. Right?

A Yes.

Q And it says: Attached is a draft release based on last week's board action to provide funding for two job training programs in New York and New Jersey. We will issue the release as soon as we have everyone's

signoff. Please let me know if you have any suggested edits? Correct?

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A Yes.

Q And you forwarded that to Mr. Wildstein; correct?

A Yes.

Q You said: Don't we want Trenton to lead this. Correct?

A Yes.

Q And that's a reference to the Governor's office. Correct?

A Yes.

Q And that's because the directive to give this money to the Hudson County — the Urban League of Hudson County, had come from the Governor's Office; correct? And you were asking Mr. Wildstein if, instead of the Port Authority announcing these funds, you wanted the Governor's Office to announce these funds?

A Well, the Governor's Office just signed off — they were about to sign off on the board item and. We thought this would come from Trenton, it was their directive to the Port Authority.

Q And it was your idea to ask Mr. Wildstein, don't you — "don't we want Trenton to lead this"?

A No, I think before that there had been a discussion of that.

Q There had been a discussion with Mr. Wildstein, right?

A Yes.

Q Where it was his idea, right?

A I don't recall exactly who's idea it was. The idea for the

Page 64

Port Authority to do it was Trenton's.

Q But the words you used here was "we", right?

A Yes.

Q Meaning you and Wildstein?

A Yes.

Q And Wildstein responded to you: Have asked step. Waiting for an answer. Right?

A Yes.

Q Step was Stepien, right?

A Bill Stepien.

Q And at the time he was the Deputy Chief of Staff for Intergovernmental Affairs; right?

A I think so, yes.

Q He was not in the Authorities Unit; correct?

A No.

Q And the Authorities Unit has oversight over the Port Authority, is that correct, from the Governor's Office correct?

A But this had proceeded past the stage of the Authorities Unit giving the Governor's Office formal non-veto of a board item, and now it was a press issue, so yes.

Q Miss Hardy, can we have page 2, please.

And if you look down here, Mr. Baroni — oh, I'm sorry, at the time top first, Miss Hardy. You don't have

to assume in. The announcement is — you don't have to zoom in. The announcement is: Port Authority authorizes 2.25 million in

Page 65

funding for pre-apprenticeship construction training programs. Right?

A Yes.

Q Now, if we look down here, Mr. Baroni, at the bottom —

A Yes.

Q It reads: The Board — that's the Port Authority Board; correct?

A Yes.

Q “Also approved a three-year agreement to provide a” — a three-year agreement, right?

A Yes.

Q “To provide funds for civil construction worker training and entrepreneurial development center administered by the Urban League of Hudson County”. Correct?

A Yes.

Q And that's construction worker training; correct?

A The building trades, yes.

Q The building trades; right?

A Yes.

Q And entrepreneurial development center. Entrepreneurial meaning business; right?

A Yes.

Q It continues. “The program prepares” — and Miss Hardy, if you could give me the next page. “Hudson County residents and small and minority and women-owned businesses to compete for

Page 66

opportunities on regional and civil construction projects. The Port Authority will provide up to 500,000 per year through February of 2016.” Is that correct?

A Yes. Yes, sir.

Q So \$500,000 per year?

A Yes, sir.

Q For three years. Three years, right?

A Yes.

Q Mr. Baroni, you gave a quote in this press release, didn't you?

A Yes.

Q Miss Hardy, can we have that. Mr. Baroni, your quote reads: The maintenance of our transportation facilities in a state of good repair is inextricably linked to our economic development and job creation goals. Without a reliable, safe transportation infrastructure, business and the economy suffer and that leads to job losses. Our investment in these training programs helps address all three aspects of our mission and underscores our commitment to the people of our region”. Correct?

A Yes.

Q And the words there that you used in that quote was “training programs”; correct?

A Yes.

MR. CORTES: Your Honor, the Government offers 9019.

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THE COURT: Any objection?

MR. CORTES: On consent.

THE COURT: Alright, 9019 will be in evidence.

Q Mr. Wildstein got back to you, correct, Mr. Baroni?

A Yes.

Q And this is on February 12th, 2013. Correct?

A Yes.

Q And he said: Step says from PA, will tell Coleman we are good. Is that correct?

A Yes.

Q And from PA is the Port Authority.

A Correct. The release would go out from the Port Authority, not the Governor's Office.

Q And, again, these text message, this announcement was in February of 2013; right?

A Yes, the Board announcement was.

Q And your text with Wildstein that we were just reviewing, they were in September; is that correct?

A That's right. There was a period back —

Q There's no question pending.

A Forgive me, Mr. Cortes, I'm sorry.

Q Coming back for a moment, Mr. Baroni, to the policies that you announced.

A Yes, sir.

Q Mr. Foye's email came out on September 13th, isn't that

* * *

Page 163

A Overall, it was a tight group of people, I think.

Q Stepien, Kelly and Wildstein?

A Yes.

Q Mr. Drewniak, you were asked some questions by Mr. Critchley at the end of his direct examination about an interaction in December. Do you recall that?

A Yes.

Q You were asked questions about, did anyone ask Bridget Kelly certain questions. Do you recall that?

A Yes.

Q I want to take you back now from then to September. September of 2013. Okay?

A Yes.

Q Miss Hardy, can I have the elmo, please. Mr. Drewniak, I'm going to show you what's in evidence as defendant's K-2129. You see that, sir?

A Yes, I do.

Q Now, you were asked some questions about this interaction with Ms. Kelly; correct?

A Yes.

Q Now, you went to see Ms. Kelly on this day, September 17th, 2013; is that right?

A I did.

Q And you were aware that Ms. Kelly had been copied on two emails that Mr. Wildstein copied — sent to you on September

Page 164

12th, 2013, about the lane reductions; right?

A Yes.

Q So you went to Ms. Kelly's office to speak with her, didn't you?

A I did.

Q And you went there to see what if anything she knew about the lane reductions; right?

A Correct.

Q You asked Ms. Kelly: You didn't know anything about this? Right?

A That was my basic, do you know anything about this, what's going on there.

Q And you asked Ms. Kelly what do you need to know, if anything, about these lane reductions; right?

A Correct. It wasn't a grilling or anything like that, but I did ask that question.

Q You wanted to know what was going on; right?

A Only because they had been on the prior emails.

Q But you wanted to know what was going on —

A Yes.

Q And you wanted to know it from Ms. Kelly?

A If she knew anything.

Q And Ms. Kelly — her response to you is a back of the hand; right?

A Correct.

Q She said it's a traffic study; right?

A I believe she said it was a Port Authority matter, let them handle it.

Q Ms. Kelly didn't indicate to you that she knew anything about these lane reductions, did she?

A No.

Q And you believed her, right?

A I had no reason not to.

Q This was September 17th, 2013; right?

A Correct.

Q In the afternoon?

A Yes.

Q And when you were talking with Ms. Kelly, did she tell you that earlier that same day David Wildstein had sent her a text message that Mayor Sokolich of Fort Lee had sent to Mr. Baroni?

A I'm sorry, did she tell me about that?

Q That's right.

A No.

Q Did she tell you that in that text message she received, the mayor had written to Mr. Baroni: We should talk. Someone needs to tell me that the recent traffic debacle was not punitive in nature. Did she tell that you?

A No.

Q Did she tell you that David Wildstein had texted her: Please let me know instructions?

A No.

Q You were asked some questions about mid-October of 2013 too on direct examination. Right?

A Yes, sir.

Q And there were some inquiries from the Wall Street Journal at that time; is that correct?

A Correct.

Q And had you received a copy from David Wildstein of a letter that had been sent to Mr. Baroni by Mayor Sokolich during the week of the lane reductions; right?

A I had to ask for it but yes, I got it.

Q You got it. And you got it from him?

A I did.

Q And an article appeared in the Wall Street Journal in mid-October of 2013; right?

A I've got to remember which one that was, but yes.

Q Again, about the lane reductions; is that correct?

A Yes.

Q And after the article appeared and you had the letter, right, you went and asked Bridget Kelly about the lane reductions again. Right?

A A second time, yes.

Q A second time you went and asked her questions about the lane reductions; right?

A Yes.

* * *

Q I'm just — your Honor, I'm going to withdraw the question. May I approach?

THE COURT: Yes, sir.

MR. CRITCHLEY: I can shut this now?

MR. CORTES: Yeah.

Q Mr. Drewniak, returning you to that conversation with Ms. Kelly in October, you asked her: Do you know any more about this? Is that correct?

A Yes.

Q And she told you: Look, this is just a Port Authority thing. Right?

A Yes.

Q She told you: I don't know anything about it. Right?

A Yes.

Q What was her tone?

A Probably a little flustered and just — I mean, she appeared busy.

Q Was she dismissive?

A Yes.

Q Did she then turn away from you?

A Yes.

Q Did Ms. Kelly tell you during this encounter that she had sent an email to David Wildstein on August 13th, 2013, that read: Time for some traffic problems in Fort Lee?

A Did she tell me that?

* * *

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
CRIMINAL ACTION 2:15-cr-193-SDW

UNITED STATES OF AMERICA, : TRANSCRIPT OF
: PROCEEDINGS
: TRIAL
-vs- :
: Pages 1 – 196
WILLIAM E. BARONI JR., :
and BRIDGET ANNE :
KELLY, :
Defendants. :
----- :

Newark, New Jersey
October 20, 2016

B E F O R E: HONORABLE SUSAN D. WIGENTON,
UNITED STATES DISTRICT JUDGE
AND A JURY

A P P E A R A N C E S:

PAUL FISHMAN, ESQ., UNITED STATES
ATTORNEY
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Attorneys for Defendant Baroni

Pursuant to Section 753 Title 28 United States Code,
the following transcript is certified to be an accurate
record as taken stenographically in the above entitled
proceedings.

S/Carmen Liloia
CARMEN LILOIA
Official Court Reporter
(973) 477-9704

* * *

A Friday I do recall the statement. I don't remember the exact dates, but I do recall the statement.

Q Was the statement accurate?

A I did not know it not to be accurate.

Q Didn't you say it wasn't accurate when you were interviewed?

A Did I say it was not accurate?

Q Right.

A I did not know whether there was a study. I knew there was a study that may have been done, but it was an unauthorized study.

Q But you do not recall saying to anyone at the time that the statement that was put out by the Port Authority was not accurate?

A Again, I don't recall saying that. I remember when the statement came through, I asked Pat Foye if the statement was appropriate to send out and he told me yes. And I relied on him to have that statement sent out.

Q Did David Garten tell you it was bullshit?

MR. FEDER: Objection.

THE COURT: Did he tell you that?

A I don't recall. I wouldn't put it past him, but I don't recall.

Q I'm not being funny.

A I'm not trying to be funny.

* * *

Q If I could just read it. It's directed to Pat Foye. "We should strategize about our next steps on Fort Lee. How we can use the upcoming board meeting and subpoena to advance our goal of getting rid of David Wildstein".

Why couldn't you just fire him?

A I think I explained that already, which is that, in the Board by-laws, the Port Authority by-laws, we didn't have the authority to fire David Wildstein without the consent of David Samson, who was the Chairman of the Operations Committee.

Q Now, what strategy were you talking about?

A Again, my view was that David Wildstein was a dangerous character within the Port Authority. And to the extent we could — the fact that now we were having subpoenas and, again, this is evolution, right. In September there was not a lot of clarity on our part as to what happened. We just knew there was an unauthorized lane closure. We didn't know why. We didn't know by who. And as time went on, we began to see more and more things develop. Now we're in November 30th, so now we're two and a half months later, and we now have subpoenas coming. So it's risen to a level to say that obviously this was really dysfunctional. And if David Wildstein was involved, which we believed he was imminently involved based on the feedback we were getting, that, you know, we should — could we use that to get him terminated and put pressure on David Samson to do so.

And by the way, reading on in the email, to also

restructure the government structure of the Port Authority, which was dysfunctional because you had an Executive Director with Pat Foye, and a Deputy Executive Director with Bill Baroni, which created two parallel chains of command, which in my mind was what enabled this unauthorized lane closure to take place for the number of days it did without us knowing about it.

MR. BALDASARRE: Judge, I'd object to unauthorized. I mean, if that's his opinion, but he doesn't know that. That's for the jury.

THE COURT: This is your opinion?

THE WITNESS: This is my opinion, yes.

Q You said David Wildstein had become a dangerous person. You used the term "a dangerous person". You couldn't get rid of a dangerous person?

A The way I can get rid of a dangerous person in this circumstance because I couldn't fire him was I could appeal to David Samson, which I did on a regular basis, that David Wildstein was a challenge and needed to be terminated.

Q Did you get the opinion — you have the opinion that David Wildstein must be some important person in Trenton?

A Whether Trenton or within the David Samson/Bill Baroni universe of representatives, he was an important — I felt he was an important person because otherwise I would imagine they

* * *

Q And you saw that email?

A Yes, I did.

Q And that was the email that ended the lane reductions. Correct?

A That's correct.

Q You spoke with Mr. Baroni on the morning of September 13th. Correct?

A Correct.

Q He called you, Mr. Baroni called you?

MR. BALDASARRE: Your Honor, this is outside the scope of calls with Mr. Baroni.

THE COURT: Overruled.

A Yes.

Q And Mr. Baroni told you that the lanes were closed because they were conducting what he said was a study; is that correct?

A I believe that's what occurred.

Q He said that the lanes were closed by guidance through Trenton. Is that what he told you?

A That is correct.

Q And you understood Trenton in the Port Authority's world to mean the Governor's Office in New Jersey; correct?

A That's correct.

Q He told you it was important that the lane reductions remain in effect; is that correct?

A That's correct.

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Q But during that conversation, he didn't tell you why it was so important, did he?

A He did not.

Q He didn't say he needed Friday's data to complete study. Correct?

A No. I asked him what was going on but he referred to: This is an important study for Trenton.

Q You challenged him a little bit on the call; correct?

A Correct.

Q Because something strange was happening at the Port Authority. Right?

A Correct.

Q And you asked him: Why didn't you tell the Executive Director before this happened? Correct?

A I wanted to know why we didn't know about it and how it appeared to be an unauthorized action and what the rationale was for it.

Q Why you didn't know about it as Vice Chairman?

A Right. The Executive Director first, and then I would have found out about it subsequently.

Q Because in your experience at the Port Authority, when something like this happened, you would get advanced notice of it?

A Typically the protocol would be to have an announcement to all of the board members as well as the public and local

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officials as to any study.

Q But you got no notice of what happened in Fort Lee before it happened; correct?

A No.

Q And after you asked Mr. Baroni about the lack of notice, he didn't give you a straight answer; correct?

A The only answer I got was: It was important to Trenton.

Q That it was directed by Trenton?

A Correct.

Q And other than that, he never told you why there hadn't been any communication to Executive Director Foye?

MR. BALDASARRE: Asked and answered, Judge, objection.

THE COURT: I'll allow it.

Q He didn't say why — I'm sorry. Other than that, he never told you why there hadn't been any communication to Dep — excuse me, to Executive Director Foye?

A He did not, no.

Q And he didn't tell you why you never got word about the lane reductions?

A No.

Q Even though you were the Vice Chairman of the Port Authority?

A That's correct.

Q Did Mr. Baroni say that if you, Scott Rechler, had gotten

Page 127

notice about what was happening in Fort Lee, that it might have skewed data?

MR. BALDASARRE: Objection. It calls for speculation.

THE COURT: Overruled. If he told you that or you knew that?

A He did not say that.

Q Did Mr. Baroni tell you the reason that they were conducting what he said was a traffic study?

A He did not.

Q He didn't tell you why there was no communication with Fort Lee about the lane reductions; correct?

A He did not.

Q And, again, in your experience at the Port Authority, local communities were notified about changes to Port Authority operations; correct?

A Correct.

Q He didn't tell you that he received many communications from the Mayor of Fort Lee during the week of September 9th, did he?

A He did not.

Q He didn't say that he had received communications about the lane reductions jeopardizing public safety in Fort Lee from the Mayor; correct?

A Correct.

* * *

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
CRIMINAL ACTION 2:15-cr-193-SDW

UNITED STATES OF	:	TRANSCRIPT OF
AMERICA,	:	PROCEEDINGS
	:	
-vs-	:	TRIAL
	:	
WILLIAM E. BARONI JR.,	:	Pages 1 – 184
and BRIDGET ANNE	:	
KELLY,	:	
Defendants.	:	
-----	:	

Newark, New Jersey
October 21, 2016

B E F O R E: HONORABLE SUSAN D. WIGENTON,
UNITED STATES DISTRICT JUDGE
AND A JURY

A P P E A R A N C E S:

PAUL FISHMAN, ESQ., UNITED STATES
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Attorneys for Defendant Baroni

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S/Carmen Liloia
CARMEN LILOIA
Official Court Reporter
(973) 477-9704

* * *

Q Okay. In your dealings with David Wildstein, did there ever come a time when David Wildstein mentioned to you the — I'll use the term, the special lanes in Fort Lee accessing immediately the George Washington Bridge?

A Yes.

Q Tell us approximately when and what did he say?

A He mentioned it early on in — I want to say in 2011 for the first time, and he just explained that there were access lanes to the bridge in Fort Lee and that it was something that the Port Authority at some point was going to look at. But, you know, at the time there were a lot of things going on with the Port Authority and with the legislature so it was just a running stream of conversation. But that was the first time he probably really mentioned it to me and I didn't hear from him again about it for a while.

Q Approximately when did he first mention it is to you. When I say "it" I'm talking about the lanes.

A For the first time? Probably around early 2011 and then again — not again for sometime.

Q Did he have anything to say about the lanes, what he thought of them?

A He thought that it was unfair and that there was an issue that the mainline traffic was moving much slower because they had fewer lanes. And so he just thought it was something — it was a policy issue that he wanted the Port Authority to look

at, at some point.

Q Did he tell you how the lanes originated in his mind?

A He told me that it was a back room political deal between the former mayor of Fort Lee, who I believe is now deceased, and a former administration. And that because, I think he said the mayor owned a bank or his wife worked at a bank, and there was backup along — in front of that bank, and it was because of these access lanes. Or because of the bridge, I'm sorry, and that's why they got the access lanes.

Q Did he ever follow up that conversation with you —

A He did.

Q about the Fort Lee lanes?

A He did.

Q Do you know approximately when?

A Mid — probably June of 2013.

Q And do you recall in substance what he said?

A It was at that time that he told me that he was working with engineers. He had talked to the Port Authority Police Department and they were going to look to study the access lanes at the bridge.

Q Can I just have, please, pull up just for the witness 1014. Judge, I move K-14 in evidence.

THE COURT: K-14 will be in evidence.

Q Now, Miss Kelly, would you take a look at this document.

A Okay.

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Q Alright. This is an exchange of emails between

you and David Wildstein on June 6th. Correct?

A Correct.

Q And on the first one working up, June 6th, 2013 at 14:59.

He says: Dates that work for Bayonne. Dates that work for Samson for Bayonne, June 18th, 20th, 25th and 27th. Did you understand what he meant by that?

A I did — I do.

Q And what was? What was your understanding as to what that was about?

A large part of my role was coordinating schedules. Many schedules and trying to figure out when the Governor and David Samson could be in the same place at the same time was challenging. So the Bayonne Bridge event was going to be a large public event. The Governor wanted lots of labor folks there, wanted to tout this project, and so he was telling me, he, meaning David Wildstein, was telling me dates that worked for David Samson to be available for the Bayonne Bridge event.

Q What is the, you know, but what is the Bayonne Bridge event?

A I don't know anything about the project. I just know that it was a Port Authority project where the Governor could stand with the Port Authority, but with labor, and tout that he was putting a lot of people to work. And so it's not a familiar site to have a Republican Governor and labor stand together,

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labor groups. So he, meaning the Governor, wanted to make sure he was standing with labor groups in the midst of, well, I don't think the primary would have

taken anyway — he was going to win the primary and go onto the general election. So he wanted to stand with labor, which is typically a Democratic organization where they support Democrats, and so he wanted to be the one standing with labor groups at the Bayonne Bridge and taut his cooperation with these groups.

Q Were you at the Bayonne Bridge event?

A I was not.

Q Then it says: Remind me to talk to you about Outerbridge Crossing closures, July-November. Do you know what he meant by that?

A I didn't at the time until we spoke and he explained what that was.

Q What was your understanding of what that meant?

A The Port Authority, they operate the Outerbridge Crossing. I think it goes to Staten Island. But they operate that and they were going — there's going to be some redecking or resurfacing, and David explained to me that there was going to be, during the time of July to November, which is kind of a long time, a vast amount of traffic problems in that vicinity. So he was just letting me know, again, this email is very brief. But when we talked about it he explained it.

Q Did they subsequently have a lot of traffic problems the

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Outerbridge Crossing?

A There was, yes.

Q And then you're talking about — then you say to him — say to him, you email to him, on Thursday, June 6th. "I'm doing a 5K on Sunday, which will take me across the GW Bridge, run. I'm very excited". And he responds, shortly thereafter: Okay. We can delay everyone else in the race so that you win. How did the GW Bridge bolt go over in the elementary school?

You understand what which communication was about?

A I do.

Q What was it about?

A I was running, I think it's called — I don't know what it's called, but it was going to be from Engelwood Cliffs over the George Washington Bridge, just to the New York line at the end of the New Jersey line, and then back. And I thought it was cool. It was a 5K. It was a Sunday morning. And I was telling David that I was running in this 5K. And he then responded — do you want me to go into it?

Q Yes.

A His response, he said he would delay everyone else in the race so I would win.

Q That was a joke; right?

A A total joke. Then how did the George Washington Bridge bolt go over in elementary school, my little guy Liam was studying something. He asked me how many — how often is the

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George Washington Bridge repainted? And I knew I could call David and ask him that, or email him, or whatever. I did and I asked David about that. And then he sent to me a bolt. It wasn't big, which is scary.

But it was a bolt from the George Washington Bridge for Liam to bring in for show and tell. I think he was in third or fourth grade at the time.

Q Can we please pull up K-4006. Just for the witness. Move K-4006 in evidence if it's not already in evidence.

THE COURT: Alright, K-4006 will be moved in evidence.

Q Now, this is an email from David Wildstein to you on June 13th, 2013, subject: Fort Lee. And it says: Forgot my number one item for you. Call whenever you have a moment. And then you respond: I'll call you a little later.

Now, you have an understanding of what this email exchange was about?

A I do.

Q Please tell us what it was.

A So, this was the next time after early on that David had mentioned the Fort Lee access lanes, the access lanes to the bridge. And it was at this time that he said he was working with engineers, Port Authority Police Department, to put together what would be a study or a review of these lanes.

Q And what happened following that?

A Well, he explained a little bit more as to the — why they

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want to look to do this again and kind of reiterated what he told me early on, which I really kind of forgotten. And just said that — he asked me to make sure I ran this by the Governor, which I said I would.

Q As of June 13th, how long had you been Deputy Chief of Staff?

A Six weeks, maybe. Five weeks.

Q And when he said, meaning David Wildstein, to run it by the Governor, what was your understanding of that?

A At some point to mention to the Governor that the Port Authority was going to be doing this study. One of the things he said to me at the time was that the residual traffic –

Q Who's he?

A I'm sorry, David Wildstein. One of the things — one of the residuals of doing this study was going to be traffic problems in Fort Lee. But that they would correct themselves over time because people would change the manner in which they travel. Once the mainline had the additional lanes, people would then not try to get through Fort Lee. They would look to just go on the mainline. So he explained that at the time to me, that the benefits were going to outweigh the inconvenience in the long-term.

Q And when did he tell you this?

A That was mid-June of 2013.

Q And he asked you to advise the Governor or tell the

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minutes.

Q And did he subsequently give you a call?

A We did speak, yes.

Q Did you speak about this?

A We did.

Q Now — and the text message to Kevin O’Dowd followed these, correct, about you want to give him foresight about a few things?

A Correct. It was that evening, about five hours later.

Q And how much time passed between the time the Governor asked you to give Kevin O’Dowd foresight about the lane issue that you send a text message?

A To Kevin? Probably too long, but several hours.

Q Okay. Now, obviously on August 13th, we’re going to get that email. And I think for the record — you sent an email to David Wildstein at — in the morning hours, where it says: Time for traffic problems. Do you recall that?

A I do.

Q Now, when you said “time for traffic problems”, was that intended to be a code to punish Mayor Sokolich?

A Absolutely not.

Q What — tell us what was going on in your mind and why did you send it?

A So, prior to the email, I had had the conversation with the Governor and the Governor said he was fine with the traffic

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study. He, you know, said — about the event, “that’s typical Wally”. And he said — even after I told him

everything, I said, you know, there's going to be traffic problems in Fort Lee. There's going to be, you know, the Port Authority Police Department is involved. I told him all that. I knew I had to tell O'Dowd, but I had spoken to the Governor. And because I was going to be going — potentially going to lunch with the Governor, I didn't want him to say to me: Did you talk to O'Dowd? So I had my base covered there with sending him the text message. And then if he said: Did you let David Wildstein know we're okay with this, I'm okay with this? And I sent off a text message parroting exactly what David had told me, there were going to be traffic problems in Fort Lee, exactly what I had told the Governor, and then I sent that to David in a very quick manner.

Q And why did you use those words?

A Those were words that David used all the time when discussing Port Authority related issues that may involve traffic. Traffic problems were just two words that went together when you talked to David about the Port Authority. Anything related to obviously that.

Q Had you been — in terms of your daily activities, I can't give us a day in the life of Bridget Kelly, but in terms of context, how many emails do you send or receive a day?

A At the time, too many. Probably, between three and four

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hundred between different, you know, my two accounts.

Q And did you sit down and deliberate and say: Let me send — how did it come about?

A I was just — I was stressed out about thinking about having lunch with the Governor. And I was driving to Trenton and I just was trying to check things off my list of things I needed to get done.

Q Now, did you go to lunch with the Governor the next day?

A I did.

Q And what was your — and who else went to lunch with you?

A Deb Gramiccioni, who had an office right next to mine and was the Deputy Chief of Staff for policy, I think.

Q And you said you were anxious about having lunch with the Governor. I know you hadn't had lunch with him. Had you ever been out with the Governor on a social event?

A No. Any time I was ever with him I was working.

Q And why were you concerned, and what did you do about those concerns about having lunch with the Governor the next day?

A I just — I tried to think about what we would talk about and what would come up and tried — I was embarrassed that I didn't know what the relationship was with Mark Sokolich on the spot. I was trying to really think about anything he could ask me and be prepared. You know, I had never been in that singular environment with him at lunch. I mean, it just — to me, it was something that I was having a hard time. I couldn't

say no, but I was having a hard time being comfortable with going, so I wanted to be as fully prepared as I could.

Q Now, did you, that day, also have a conversation with Kevin O'Dowd about — tell us about your conversation with Kevin O'Dowd on August 13th.

A I managed to see Kevin — I had texted him the night before. He responded I think early in the morning and just said that he was around all day or most of the day. I did see Kevin before I went to lunch and I talked to him about all the things I knew I wanted to check off my list. And then that way I knew at lunch I could tell the Governor that I spoke to Kevin and told Kevin all the things that were going on.

Q Had you told Kevin about the things that were going on?

A I did, that morning, yes.

Q But you had already sent the time for traffic problems?

A I had, yes.

Q Poor choice of words?

A Very.

Q Tell me about that.

A At the time, and I know that's hard to believe, this wasn't a big deal. This was something David told me the Port Authority was doing. He told me it was something that, excuse me, that the Port Authority believed was a public policy issue. It was a public safety issue. And I chose words parroting words that he had used to me. And I chose words that I'm

pretty sure if I said “it’s time for a traffic study in Fort Lee”, we wouldn’t all know each other.

Q Now, when you told Kevin O’Dowd about the traffic study, what if anything did he say?

A I told him that I had spoken to the Governor, that he wasn’t — the day before, yesterday, I said to him, and I said he was okay with it. And Kevin said: That’s great. As long as the Governor’s fine, I’m good. That was it. And I spoke to — I don’t mean to interrupt you. I gave Kevin a rundown of things. It wasn’t solely, again, this wasn’t that big of a deal at the time.

Q What do you mean by that?

A This was just one of many things going on in the month of August. There was so much. I think back to that time and I can’t even understand how the days just, they just blended into one another. So this was just one of many things, whether it was with the Port Authority, or the Lieutenant Governor, or the Governor, that I was personally working on.

Q Now, when we get to the lunch, did you have lunch with the Governor?

A I did.

Q On August 14th?

A I did.

Q Where did you have lunch?

A It’s called Cafe Antonio, I think it’s in Morrisville,

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know, obviously had gotten all his approvals, but he had worked with the Port Authority Police Department and the engineers and that they were ready to go. This was Sunday night. That they were ready to go for the next morning.

Q Did he say anything about the police?

A The Port Authority Police Department, yes.

Q What did he say about the Port Authority Police Department?

A That they — he had been working with them on various — the safety issues so that it would go off as smoothly as can be knowing what the immediate effects would be.

Q Now, did you have a conversation — did you ultimately — well, the lane study — a lane study started September 9th, correct?

A Yes.

Q Did you have a discussion with David Wildstein in the morning of September 9th?

A I did.

Q Was it a long discussion?

A It was not.

Q What did he tell you? What did you say to him? When I say “he,” I’m talking about David Wildstein.

A Yes. David called me the morning of September 9th and told me he was with the Port Authority Police Department and that they were driving around. There was volume, but they were able to move around fine.

Q Did he tell you who from the police department he was with?

A No.

Q And did you — that day, have any discussions — or whose Jeanne Ashmore?

A Jeanne Ashmore was the Director of Constituent Relations in the Governor's Office in 2013.

Q Did you have a conversation with Jeanne Ashmore on September 9th, regarding Fort Lee?

A I did.

Q What did you say to her and what did she say to you about that discussion? And approximately when was this discussion with Jeanne Ashmore?

A Late morning, very early afternoon. Jeanne Ashmore had come to my office and told me that she — the Office of Constituent Relations had received some inquiries about traffic in Fort Lee and that she and Nicole Crifo called David Wildstein to find out what was going on.

Q When she told you Nicole Crifo, was there anything unusual about Nicole Crifo knowing about it? Not knowing about it, her telling you she was in on the conversation with David Wildstein?

A Yeah. I was surprised because Nicole had, I guess it was her first day back from maternity leave. I recall when Jeanne said her and Nicole made a call, I thought: She must be back from maternity leave.

* * *

talked to the Governor in August and he was fine with

it. And she said: Well, if the Port Authority is handling it, let the Port Authority handle it.

Q Now, on that morning of September 9th, had you received any emails — or I think it was emails, emails from David Wildstein forwarding you communications from Mayor Sokolich's office?

A Yes.

Q What communications did you receive?

A Specifically, it was —

Q In general, what was it?

A It was an inquiry that Mayor Sokolich made to Bill Baroni:

Yeah, to Bill Baroni, about a safety issues.

Q Is that the one we've seen: Urgent matter of public safety?

A Yes.

Q Now, you had an email exchange, we'll show it to you in a second, where you ask: Did Mr. Baroni call him back?

A Correct.

Q And "he", meaning Wildstein, says: Radio silence.

A Correct.

Q Now, what did you understand radio silence to mean?

A That they hadn't connected.

Q And what do you respond?

A TY.

Q What did that mean?

A Thank you.

Q And why are you saying “thank you”?

A Just letting me know they hadn’t connected.

Q Did you subsequently have a conversation with David Wildstein that afternoon on September 9th?

A I did.

Q Approximately what time?

A The early part, 1:30ish.

Q Now, when you received the email that contained “urgent matter of public safety”, were you surprised to see such a provocative statement?

A I wasn’t.

Q Why not?

A David had explained to me that the Mayor of Fort Lee — this was the anticipated response from the Mayor. That — and, again, this was prior to the study. He said that Mayor Sokolich was going to cry wolf. He was going to, you know, be upset about this when he’s threatened, and has done this in the past to other communities, blocked off roads, caused traffic in, his own — to outside communities. So I wasn’t overly surprised, no. And David had assured me — I’m sorry, David had assured me in the morning. I figured — assured me, he told me he was driving around with the Port Authority Police Department? If there was a safety issue, he was with the Port Authority Police Department. So there was no urgency in my

mind.

Q Now, did you have a following conversation with him, meaning David, in the afternoon?

A I did.

Q And what was discussed in that conversation?

A He told me that the Port Authority had met with Fort Lee. He told me —

Q Let me stop you there. He said the Port Authority had met with Fort Lee?

A He said: We met with Fort Lee.

Q Okay.

A And —

Q Go ahead. What else did he say?

A And he said, you know, the Mayor is overreacting. He said: There's no safety issue. And that this isn't the Governor's Office's problem.

Q And when you heard that, either before or after, did you take any action?

A I did.

Q What did you do?

A I reached out to Mat Mowers and I reached out to Evan Ridley.

Q Okay. Why did you reach out to Mat Mowers? What was the purpose and what did you ask him?

A I asked Mat Mowers if he had heard from the Mayor. I don't

* * *

A Yes.

Q And then you say to him: Have you spoken to

Fort Lee mayor? And he says: Not in a while.

Now, why did you send this again?

A Because if — I believed at the time that if Mayor Sokolich was that upset, he would have reached out to one of his contacts — well, his contact in the Governor's Office, which was Evan Ridley or Mat Mowers, who is his contact prior to Evan.

Q Now, can we have the next one, K-52.

Now, similarly, this an email you said to Mat Mowers, on September 9th at 1:56.

A Yes.

Q "Have you heard from Sokolich in a while?" And why did you send it to him?

A Because I knew that if Mayor Sokolich was that upset, he would have reached out — or I believed that if Mayor Sokolich was that upset he would have reached out to Evan in the Governor's Office or Mat, because they had a long-standing working relationship.

Q When David Wildstein told you on September 9th there was no public safety in Fort Lee, did you believe him?

A I did.

Q Why did you believe him?

A Everything he said. They, the Port Authority, had met with

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Fort Lee. He was in touch with the Port Authority Police Department. He was with the Port Authority Police Department. There was no reason to believe otherwise.

Q Now, during the course of this trial there's been some testimony about a meeting between Mayor Sokolich, or lunch between Mayor Sokolich and Lieutenant Guadagno. Do you recall that?

A Yes. It was an event that she — yes.

Q And I'll just give a time reference and we'll go into it.

A Sure.

Q Lieutenant Guadagno, just for the record, Lieutenant Governor?

A Lieutenant Governor Guadagno is the Lieutenant Governor of the State of New Jersey. She is the first Lieutenant Governor we've had in the State of New Jersey.

Q And in terms of scheduling events, does the Lieutenant Governor's office have its own schedule?

A Yes.

Q And the name of that scheduler or scheduler are who?

A At the time it was a young man named Sam Vivatine.

Q Vivatine, V-I-V-A-T-I-N-E, maybe?

A Sure. Something like that.

Q Does the Governor's Office have any role in scheduling matters for the Lieutenant Governor?

A. Yes.

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
CRIMINAL ACTION 2:15-cr-193-SDW

UNITED STATES OF AMERICA, : TRANSCRIPT OF
: PROCEEDINGS
: :
-vs- : TRIAL
: :
WILLIAM E. BARONI JR., : Pages 1 – 158
and BRIDGET ANNE :
KELLY, :
Defendants. :
----- :

Newark, New Jersey
October 24, 2016

B E F O R E: HONORABLE SUSAN D. WIGENTON,
UNITED STATES DISTRICT JUDGE
AND A JURY

A P P E A R A N C E S:

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Pursuant to Section 753 Title 28 United States Code,
the following transcript is certified to be an accurate
record as taken stenographically in the above entitled
proceedings.

S/Carmen Liloia
CARMEN LILOIA
Official Court Reporter
(973) 477-9704

* * *

well, that that would be beneficial to the Governor because that's what he told me the intention was. So day one to me seemed that it was going in the way he expected it to.

Q And were you involved in other activities in terms of your duties as Deputy Chief of Staff besides talking to David Wildstein?

A Yes. That was just a small part of my day.

Q Now, you talked about, when we discussed the urgent matter of public safety and you explained your response to that. What was that again, please?

A So, Mayor Sokolich had reached out to David Wildstein — pardon me, to Bill Baroni that morning. And David had forwarded me, this is the — David had forwarded to me the urgent matter of public safety. And I asked him back: Did he call him back? Is what I said. And David said: Radio silence. And I responded: TY. And my, you know, at 9:45 or whatever time that email was, it seemed to me, and I read that quickly, was that they hadn't connected. That the Port Authority and Mayor Sokolich had not connected.

So when I spoke to David later that day he told me they, the Port Authority, met with Fort Lee, and he told me that the Port Authority Police Department and the Fort Lee Police Department were working together and there was no issues of safety. He said that this is exactly how he expected Mayor Sokolich to react. And that he was going to scream the safety

card, or he was going to cry wolf. And that this is how

he was going to get the lanes back.

Q When you responded: Did he call him back? What was your intent there?

THE COURT: Mr. Critchley, put that microphone close to you.

Q When you responded, did he call him back, what were you intending to communicate?

A I was asking, did he call him back. I wasn't saying: I hope he didn't call him back. I said did he call him back? Meaning that, to me, is a very normal question. If the Mayor called, did he call him back. And when I talked to David at two o'clock, or quarter to, David assured me that the Port Authority met with Fort Lee.

Q Okay.

Now, the next day there's a text exchange; correct? And that's on 9/10.

A Yes.

Q And there's two documents that I have to pull them up one at a time. They're already in evidence, Judge.

THE COURT: Okay.

Q The first one I believe is Government Exhibit 5003-BK-03. Let me just focus on this. Carm, this is the one I talk to?

THE REPORTER: Yes.

Q Now, we have in front of us Government 5003, and I believe

it starts from the top down; correct.

MR. KHANNA: Yes.

Q Now, if we could just read that, and I'm going to read that document and another document because it's in two. First of all, what is this document?

A This is a text exchange, text message exchange between myself and David Wildstein.

Q And this is at 9/10, around 7 o'clock, 7:04 in the morning. Okay.

A Correct.

Q Now, it reads: Sokolich text to Baroni. Presently have four very busy traffic lanes merging into only one toll booth. The bigger problem is getting kids to school. Help, please. It's maddening. And then you respond: Is it wrong that I'm smiling? And then: I feel badly about the kids, I guess. And then he responds: They are children of Buono voters. Bottom line, he didn't say safety. And then he says: At Newark now, but expect this to get cancelled by Gov. Will call you later. And then there's a response: Exactly, with an exclamation point. And then: Yes, we may cancel.

And now, could we please, I'm going to come back to this. Can we please pull up 5003-BK-04. And then he responds: So I-95 traffic broke about five minutes ago. About 45 minutes earlier than usual. Because there are two additional lanes to handle morning rush. You respond: That is good, no? He

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responds: Very good. And you respond: Small favors.

Now, do you recall this text exchange on September 10th, between 7:04 in the morning and 8 o'clock?

A I do.

Q Can we go back please now to Government Exhibit — okay. Now, when you are having this exchange, could you just explain what you're intending to communicate, you, what you were intending to communicate by these words? Particularly, "is it wrong I'm smiling? I feel badly about the kids, I guess". Just explain to us what was going on.

A Okay. So David had touted the day before the success, the first day success of the study. It seemed that traffic was on the mainline moving along at a quicker speed because of the two additional lanes. And he had told me that the day before. When he sent me this text about, it's not on my screen any more. When he sent me the text that morning, I responded: Is it wrong that I'm smiling? I wasn't sitting there smiling or gloating. I was happy for David, and I should have used different words. But I was happy that the first day of the study was successful. My — then I said: I feel badly about the kids. The unfortunate byproduct of the success of the study seemed to be that these kids were late getting to school. And that I did feel badly about that. So it was almost mixed emotions. Professionally, I was happy that the study seemed to be taking the turn that it was, which that it was successful

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now on day two, and that was good for the Governor. And — but on the other hand, the children were late for school. I'm a mother, I have four kids, that really upset me. And that bothered me. So then when he said: You know what, though, the mayor didn't say safety. So the kids are safe, they're just unfortunately later for school because they're trying to move these

lanes or these commuters along the bridge or along the access lanes quicker. So it was mixed emotions for me. But I certainly was not sitting there gloating over the fact that children were sitting in traffic and that people were — it was maddening. I certainly wasn't doing that.

Q Now, when you say "I guess", what do you mean by that?

A It, again, it was mixed emotions. It was, I guess that it's good that the traffic's moving along quicker. But at the same time, the kids are late for school. So what's the happy medium? You know, is it better that the kids are sitting and are delayed, or is it better that the majority of commuters are moving faster through the access lanes?

Q And when he says to you: They are children of Buono voters.

A That's — I didn't pay that any mind when he sent that. That's not something I would have ever thought about.

Q And when he said: Bottom line is he didn't say safety. What was the significance of that to you?

A Again, it went to the fact that David assured me there were

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no safety issues. Went to the fact that David had been in touch with the Port Authority Police Department. That they were working with the Fort Lee Police Department. If there's no safety issues, then clearly this renewed or new traffic pattern was working and it wasn't having ill effects.

Q And when you say “exactly”, what’s the “exactly” for?

A The safety.

Q Okay. And then when you refer to: Yes, we may cancel.

A So this refers back to the path, the Newark event that was due to be on the 12th. This is now September 10th, and it was still up in the air as to whether or not this was going to happen. I had heard the evening before that it may get cancelled but David was clearly at Newark Airport, I believe, meeting with the Governor’s advance team just in case. And the advance team is the team that basically sets up the podium and the stanchions and what not and maps out where the Governor will walk in. That usually happens before an event, so I didn’t want to not explain that.

Q So you’re talking about two different topics?

A Yes.

Q Can I please now have 5003-BK-04. And this is a continuation of the other text message; correct?

A It is, yes.

Q And then he says to you: So I-95 traffic broke about five minutes ago, about 45 minutes earlier than usual, because there

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are two additional lanes to handle morning rush. And you respond: That is good, no? And he responds. Very good. And then you respond: Small favors.

A Right.

Q What was your intent in that communication?

A So this is David, his text message to me at 7:45 is telling me that now traffic is — has broken five minutes — well, had broken five minutes ago, so that was 45 minutes earlier than normal. So he was right, that after day one, day two now looks to be successful and there are two additional lanes — because of the two additional lanes handling morning rush. So this theory that the Port Authority had that if they have — the mainline has the two additional lanes, the mainline commuters will be moving faster through the toll booths. So I questioned that because that's my knowledge of a traffic study in this case is that — about these access lanes. I said "that is good, no," looking for affirmation. He says: Very good. And then I said: Small favors. Because, again, the kids are delayed, but the majority of the commuters are moving faster, which, you know, you have some good but then there's some, unfortunately some bad.

Q Now, did you continue to have phone conversations with Mr. Wildstein during that week?

A I did.

Q Now, can we pull up, I think it's already in evidence, I

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Office release this without IGA making these phone calls or counsel's office making these phone calls? So there was — I was very frustrated that we weren't able to let the elected officials know prior to that appointment going out.

Q So you had other activities going on?

A Yes.

Q Okay. Now, as of September 12th, this email to you from Miss Renna, she makes reference to Evan. Did you know who the Evan was that she was referring to?

A Yes, Evan Ridley.

Q Now, what was your sentiment toward Evan Ridley at that particular period of time?

A I was trying to do our best to keep a close hold on him. He was someone whose judgment I questioned and he was someone who — he just needed to be watched. And he needed to be kind of reigned in a little bit. And probably more so than the other — others, his time needed to be accounted for better.

Q And the last line of Miss Renna's email to you is: Evan told the fine Mayor he was unaware that the toll lanes were closed but he would see what he could find out. And after you receive this, you respond to Miss Renna at 11:44, what did you write and why did you write it?

A So I responded at 11:44 p.m., which is probably the time that I was able to finally sit down and go through my phone after — I think I'm sure I was up at 5 that morning. And I

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wrote: Good. And the good was in response to the last line of that email. Evan told the fine Mayor that he was unaware that the toll lanes were closed but he would see what he could find out. At that point I had spoken to Christina Renna about the lane study back in August. But at that point, Evan gave an answer that was actually good, because he didn't go out on his own. He didn't try to pretend that he knew what was

going on. He actually took the call, took the incoming, and then was going to obtain whatever information he needed to, and then call the Mayor back.

Q Okay. Now, the next day, which is September 13, and that's a Friday; correct?

A Yes, it is.

Q Now, did you receive any emails from David Wildstein on September 13th? Let me just — can we just pull up Government Exhibit 443. Okay? Now, can we just make the top clearer? Okay.

Now, this is — tell us what this is.

A This is an email from David Wildstein to me at 6:22 in the morning on September 13th.

Q And what was this article about?

A So I read this article quickly. This is in the morning chaos of getting four kids out the door. But I read this quickly. And it talked about what was going on in Fort Lee. And it talked about the access lanes. And there was a

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the media is reporting something contrary to that. So I was very confused. And then, I'm sorry, but then there's the Samson helping us to retaliate. It just — it just — none of it was fitting together.

Q Now, had there been press statements put out by the Port Authority at this time?

A Yes.

Q And what did you understand the press statements to be saying? Did you read about the press statements?

A On Thursday, the 12th, at some point in the afternoon was the first time I saw anything about an inquiry, really, from the Road Warrior. David had sent to myself and Mike Drewniak, forwarded us a copy of the email that the Road Warrior sent to the Port Authority, and so I saw that. I knew that inquiry. And a few minutes later a Port Authority statement, David sent to me the Port Authority statement. So Mike Drewniak was on those. He's the Director of Communications, or he's the Press Secretary. So it made perfect sense to me that Mike was on it. I was on it. David was giving me an FYI. And, I mean, that's when I saw it. But I also saw those same statements embedded in the article or contained within the article.

Q And when you saw those statements coming from the Port Authority saying there's a study, what effect if any did that have on you?

A Well, it confirmed everything David had told me, just that

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this was a traffic study that was reviewing traffic safety patterns, which is what I believed it to be.

Q Did you believe that was a personal statement from David or a statement from the Port Authority as an institution?

A Oh, the Port Authority as an institution.

Q And David discussed with you these press statements?

A The night — I did speak to him twice the night of the 12th. You know, he wanted to know the details of the fire, and he wanted to hear the whole story

about Brian Williams and all that information. And he wanted to make sure the Governor was happy that the Seaside Heights — pardon me, the Port Authority Police Department came down to Seaside Heights. At some point he said that we issued, we, meaning the Port Authority, issued a statement about the study. And I said: I saw that. And he — I believe he said he would talk to Drewniak, but again there was so much going on and I needed to just focus on getting home.

Q Was the Port Authority statement released in multiple news articles in various days, I mean?

A Yes.

Q What do you mean — tell us what that —

A I — the following week, perhaps, I think that the next major article on this issue was the Wall Street Journal the following week. And there was a statement contained in there.

Q Okay. Now, did Mr. Wildstein respond to your email on the

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A Were looking at things very differently now than they were there.

Q What do you mean by that?

A Hindsight and foresight. I mean, I, at the time, had no reason not to believe David Wildstein. I, at the time had, no reason to question David Wildstein. I, at the time, didn't ask enough questions. If I knew any of what I know now, I would have been asking questions. I would have been annoying. I would have asked so many questions. But I don't know anything about traffic studies so guess what, if David Wildstein,

who works at the Port Authority, who was placed at the Port Authority with a title that sounds like he knows what he's doing, I'm not going to ask him any questions. If David Wildstein tells me that Pat Foye is crazy and he's going to get fired, I have no reason not to believe that. David Wildstein tells me that David Samson and Scott Rechler are handling this, I have no reason not to believe that. So at the time I believed I was doing everything I needed to do. But at the time, this was such a small part of my day and part of my life that looking, you know, looking at it now it sounds crazy. It was really a minute part of everyday in my daily routine.

Q Now, there came a point in time when there was an article in the Wall Street Journal on, just for — it's already in the record, October 1. And that's the article where Pat Foye's email was embedded in the article. Do you recall that

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testimony?

A Yes.

Q Now, do you recall at or about that time having any conversations with David Wildstein? And when I say "that time", I'm talking about October 1, October 2, 2013.

A In or around that time we did have a conversation in and around that time. It was definitely after the article. He was in Trenton and came by my office to see me.

Q Now, when you say he came by your office to see you, who's the "he"?

A David Wildstein, I'm sorry.

Q And did you have a discussion with him?

A I did.

Q And what was the discussion about?

A He was due to meet with Regina Egea, I believe, and Mike Drewniak. And, you know, had told me the day before that if he was in the State House, he was going to stop by, which was fine. And he stopped by and he had a large, it's called a redwell, like a burgundy folder with all his paperwork from the study and he wanted to show it to me. And I just, you know, if he was meeting with Regina, whatever he was doing down there, that was fine. I just — I didn't really — I didn't ask to see it. He wanted to show it to me and I just — it was a very — it was a very short conversation, and we moved on to something else.

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Q What did he say about the lane study and the article?

A Said — he went on. And after that article, everybody in the office, in the Governor's Office, was talking about how Pat Foye was a problem. You know, it was no secret that there was tensions between the New York and the New Jersey side. That article that had Pat Foye's email as a link really kind of incited the feelings about Pat Foye a little bit more. So there was a lot of talk about Pat Foye's future. I didn't think that our office could do anything about it because he's a New York appointee. But everybody in the Governor's Office was talking about Pat Foye and how he had ulterior motives and David was just talking about that as well. And to a degree you buy into that mentality. I never met Pat Foye in my life but you buy into the mentality. Everybody was talking about in the office.

Q What was David Wildstein's demeanor during that meeting?

A I think he was a little angry about Pat Foye and just very much wanted to pound his chest about the success of the study and he felt that he was not able to do so.

Q Now, can we please pull up Government Exhibit 5003-BK-09.

Now, the email on top is — reads — it's in evidence: Maybe Rabbi Carlebach can bless the crane and we will be good. And then you say: He showed up at the alliance for action event tonight. Annoying. Then he says: He wasn't with Netanyahu? And you say: Apparently not. What was this

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Mayor Sokolich — of our relationship with Mayor Sokolich. And she told me that there was — that it was back in late winter, early spring, that Mayor Sokolich had indicated that he couldn't endorse the Governor but he was still supportive.

Q Okay. Now, the email that you provided to Kevin O'Dowd on 12/13, was that the 9/12 email that Christina Renna had sent you —

A Yes.

Q — about —

A Yes, it was.

Q — the 9/12 email that — regarding the conversation that Evan Ridley had had with Sokolich?

A Yes.

Q And that's the same 9/12 email you forwarded to David Wildstein?

A Yes.

Q And that's the same 9/12 email you gave to Kevin O'Dowd on 12/13?

A Yes.

Q Now, during that conversation with Christina Renna, did you ever ask her to delete anything?

A Absolutely not.

Q Now, there came a point in time when Deb Gramiccioni came in to see you on 12/13; is that correct?

A She did.

* * *

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
CRIMINAL ACTION 2:15-cr-193-SDW

UNITED STATES OF	:	TRANSCRIPT OF
AMERICA,	:	PROCEEDINGS
	:	
-vs-	:	TRIAL
	:	
WILLIAM E. BARONI JR.,	:	Pages 1 – 236
and BRIDGET ANNE	:	
KELLY,	:	
Defendants.	:	
-----	:	

Newark, New Jersey
October 25, 2016

B E F O R E: HONORABLE SUSAN D. WIGENTON,
UNITED STATES DISTRICT JUDGE
AND A JURY

A P P E A R A N C E S:

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Pursuant to Section 753 Title 28 United States Code, the following transcript is certified to be an accurate record as taken stenographically in the above entitled proceedings.

S/Carmen Liloia
CARMEN LILOIA
Official Court Reporter
(973) 477-9704

* * *

BRIDGET KELLY, previously sworn, resumes the stand.

THE COURT: Good morning, everyone. We'll bring the jury out. Everyone good?

(All answer yes)

(Jury brought into courtroom)

CONTINUED CROSS EXAMINATION BY MR. KHANNA:

THE COURT: Alright, everybody. Good morning to all of you. Happy Tuesday. You can have a seat. We're going to proceed, and we are in the direct examination by Mr. Khanna of Miss Kelly.

You can proceed, Mr. Khanna.

MR. SKANNA: Thank you, your Honor. Good morning, Miss Kelly.

A Good morning, Mr. Khanna.

Q Miss Kelly, during your direct examination you testified that on September 9th, 2013, you received an email from David Wildstein about an urgent matter of public safety in Fort Lee.

A I did, yes.

Q And this was the first day of the lane reductions; right?

A Yes, it was.

Q And you received that email in the morning?

A Yes, it was in the morning.

Q Around 9:45?

A I would have to see it to confirm that time, but I will —

Q And when you got this email, Wildstein forwarded a message

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to you that came from Mayor Sokolich to Bill Baroni; correct?

A Correct.

Q And when he forwarded it, Wildstein didn't ask you any questions; right?

A He did not.

Q He just forwarded the message to you?

A Correct.

Q And when you got that email, you asked Wildstein whether Baroni had called the Mayor back; right?

A Correct — yes.

Q And Wildstein responded: Radio silence. Right?

A He did.

Q And you testified about that; right?

A I did.

Q And you responded: TY.

A Correct.

Q That meant "thank you"; right?

A It did.

Q And it was your testimony on direct examination that all radio silence meant was that Baroni tried to get a hold of Mayor Sokolich and they hadn't connected; right?

A I read the radio silence when David responded to me that they had not connected. Whether Mr. Baroni

or Mr. Sokolich had called and they had not connected, but I read radio silence to mean that.

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Q And according to you, when Wildstein said “radio silence”, it didn’t mean that there was a deliberate decision made not to call the Mayor back; right?

A Correct. Absolutely.

Q And according to you, radio silence didn’t mean that Mayor Sokolich was being iced out?

A It did not mean that to me, no.

Q And according to you, it didn’t mean that there was a choice to cut off contact with Mayor Sokolich?

A I did not read it as such.

Q Or a decision to punish him?

A Absolutely not.

Q Alright. I want to come back to this in a little while but first I want to talk about something else you testified to on direct examination. On direct examination you testified about Mayor Fulop; right?

A Yes.

Q And you testified you never met Mayor Fulop?

A I don’t believe I have, no.

Q You weren’t personal acquaintances?

A I — no.

Q Didn’t know him at all?

A I did not.

Q And you still don’t know him; right?

A I don’t believe I’ve ever met Mayor Fulop, no.

* * *

A The Governor told me to use Mr. Stepien as a resource and because he had institutional knowledge of my current role and the role that he held.

Q Miss Kelly, my question was, you viewed Mr. Stepien as your mentor; right?

A Mentor or resource, yes.

Q Well, the two are very different things. Did you view Mr. Stepien as your mentor?

A I viewed him as both.

Q Including your mentor; right?

A Mentor and resource. I see them as really the same thing.

Q Alright, we'll come back to that.

Now, you know someone named Chris Stark; right?

A I do.

Q He reported to you at IGA?

A He reported to me at IGA and at one point through Christina Renna at IGA.

Q He was a senior regional director; right?

A He was, yes.

Q And he came here and testified in this trial; right?

A He did.

Q And he was the one who sent you a text message on January 9th that he was praying for you. You remember that?

A I remembered when it was discussed, but I don't remember that day much at all.

Q Now, you remember what Mr. Stark testified about the Mayor's Day; right?

A If you could refresh me that would be helpful.

Q Well, do you recall that he testified that when you told Mr. Stark that the Mayor's Day with Mayor Fulop was cancelled, you also told him that one of the reasons for that was because Mayor Fulop had a meeting with Barbara Buono?

A I don't remember that at all.

Q Do you recall Mr. Stark's testimony that you told him that when the Mayor's Day was being cancelled, you told him that it was being cancelled because Mayor Fulop was playing both sides of the fence, meaning not committing to an endorsement of Governor Christie?

A I didn't discuss that with Chris Stark.

Q So it's your testimony that Mr. Stark's testimony on that was false?

A I didn't have that — Chris Stark wasn't the regional director for Jersey City, I wouldn't have had that conversation with Chris Stark. And I wasn't — I wasn't discussing what went on with Jersey City after Kevin told me to cancel the meetings and then I had that exchange or, pardon me, I was yelled at by the Governor the day after, so I was kind of — I wasn't kind of, I was uncomfortable with what went on. So I wasn't saying anything about Jersey City to anyone because of the situation. I knew I was asked to tell these departments to

cite a scheduling conflict and I was screamed at about

a meeting the Governor told me to set up. So, no, I didn't discuss anything with Chris Stark.

Q So that testimony, according to you, was false?

A His memory is not what mine is.

Q Now, even after the Mayor's Day was cancelled you and Mr. Stepien continued to exchange emails about Mayor Fulop; right

A I'm sure we did; yes. If you'd like to refresh me, that would be helpful.

Q Miss Hardy, could we bring up Government Exhibit 627 just for the witness.

Your Honor, the Government would move to admit with consent Government Exhibit 627.

THE COURT: Six twenty-seven will be in evidence.

Q This is an email you sent to Mr. Stepien on August 11, 2013. Correct, Miss Kelly?

A Yes.

Q And it contains a link to an article; right?

A It does. I can't remember the article, but it clearly contains a link.

Q Miss Hardy, if we could go to the next page, to the article.

Now, the title of this article that you linked to is: Jersey City Mayor Wins Belmar Chase 5K, \$2,500 price awarded to City's Recreation Department. Right?

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right?

A Correct. As —

Q And you understood it?

A I understood it because I was screamed at about it, yes. It was crystal clear to me.

Q Crystal clear.

Now, if we could please go, Miss Hardy, to Government Exhibit 279. Now, this is in September of 2013. Right, Miss Kelly?

A September 9th,

Q The first day of the lane reductions?

A Correct.

Q And this is that email where you're told about an urgent matter of public safety in Fort Lee.

A Yes.

Q And that is forwarded to Mr. Wildstein. Right?

A It is.

Q And then you ask — and then forwarded to you; correct?

A It is.

Q And you asked if Baroni had gotten back to Sokolich. Right?

A Correct, wondering if he called him back. I didn't say he didn't call him back, did he?

Q Well, Wildstein responded, didn't he —

MR. CRITCHLEY: Objection, Judge.

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THE COURT: Overruled.

Q Wildstein responded, right, Miss Kelly?

A He did respond,

Q And he said "radio silence". Right?

A Yes. And when I read this quickly, because I'm sure I was doing 300 other things on September 9th in the office, I read radio silence to mean they didn't connect.

Q Radio silence, the same —

MR. CRITCHLEY: Objection. I object. Can she be allowed to finish the answer.

THE COURT: I thought She was finished.

MR. FEDER: Judge, I believe she was finished.

Q Radio silence, the same phrase that was used just in July in relation to Mayor Fulop; right?

A And Mayor Fulop was a completely different situation.

Q Right. But Mr. Wildstein didn't just say "radio silence", right, Miss Kelly?

A At the time, Mr. Khanna, I just —

Q Let me —

MR. CRITCHLEY: Judge.

Q He didn't just say radio silence.

MR. CRITCHLEY: Objection.

THE COURT: Mr. Critchley, just say objection. But everybody can't talk at the same time. So you object, try not to speak over each other. If she's going to respond, let her

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respond and you can proceed, Mr. Khanna.

Q He said something that you weren't asked about on direct examination, Miss Kelly; correct?

A Correct.

Q He said “his name comes right after Mayor Fulop”; right?

A That’s what the email says, yes.

Q Mayor Fulop, the same person who you knew was iced in July and August?

A Mayor Fulop was iced, you are correct, as per the Governor. Mayor Sokolich, we had a good relationship with. There was no reason for Mayor Sokolich to be iced or boxed out, or anything. So his name comes right after Mayor Fulop didn’t make a whole lot of sense to me. Radio silence to me meant that they hadn’t connected.

Q Mayor Fulop, the same person who you knew, and Wildstein knew, in July and August, was being deliberately ignored. Correct?

A Mayor Fulop was being deliberately ignored, as per the Governor. Mayor Sokolich, we had a good relationship with. There was no reason to ignore Mayor Sokolich.

Q But what Mr. Wildstein wrote was “radio silence. His name comes right after Mayor Fulop”. Correct?

A That’s what Mr. Wildstein wrote.

Q And you didn’t respond: I don’t understand what you’re talking about. Why is Sokolich being treated differently than

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Fulop? Right? Or why is Sokolich being treated like Fulop?

A Because when I first read this, I read radio silence. It wasn’t until after when I had a conversation later in the day that I fully saw the email on my phone

and I wrote “TY”, thank you for the information. It was quick and, again, at the time and ever, we never had a bad relationship with Mayor Sokolich. There was no — the — any effort to compare him to what was going on with Mayor Fulop is just wrong.

Q But you responded to the email, right, Miss Kelly? A I did respond to the email “TY”, thank you.

Q And you responded thank you; right?

A Not thanking him for the radio silence, thanking him for the information.

Q Now, this radio silence email, you deleted it; right?

A I did.

Q And no one ask you to delete it?

A I’m sorry.

Q No one asked to you delete it?

A No, I deleted — I talked about my deletions yesterday.

Q No one told you to delete it?

A No one did.

Q You decided on your own to delete it; right?

A I was scared and I didn’t know what was happening and I chose to delete it, yes.

Q And it was just one of the many emails related to the lane

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reductions that you chose to delete; correct?

A When everyone started forgetting what they knew, I did delete it, yes.

Q Now, your testimony was that David Wildstein told you that he and the Port Authority were conducting a traffic study in Fort Lee; right?

A Yes.

Q But you knew David Wildstein was a political operative; right?

A I knew that he, you know, was a bit of a political junkie, yes.

Q You knew that he really, all he really cared about was politics; right?

A I didn't know him well enough. I knew him in the fact that he worked at the Port Authority and I knew that he had a wealth of information that he gathered over his time as Wally Edge. So if that's all he cared about, I'm sure he cared about his family and his children too.

Q But you knew him pretty well, right?

A I didn't know him that well. I mean, I knew him as I would know someone that you work with everyday. But it was more telephonic and emails. I didn't see him —

Q You were comfortable to exchange jokes with him?

A I joked back and forth, yeah. I joked with a lot of people.

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Wildstein said: "Reviews?" Right?

A Yes.

Q And you said: "I kind of think he may get it". Right?

A Yes.

Q That meant that even though he worked for the Lieutenant Governor, the Governor was the only constituent that mattered, right?

A Actually that's not what that meant.

Q What did it mean?

A He actually was referring to, there had been even at this point several issues with the Lieutenant Governor and Ernie. When I sat down with him, we had a conversation about how the Governor's Office wanted to make sure she was — her time was managed. So I was actually referring to the Lieutenant Governor and her existence in the office and how it was seen in the Governor's Office.

Q And Mr. Wildstein responded, "one constituent, exclamation point, exclamation point, exclamation point?"

A He did.

Q That was his refers to one constituent rule?

A That was his reference to this one constituent rule, yes.

Q And you understood what he meant?

A May I see my response? Do you want me to read that answer that?

Q That you understand what Mr. Wildstein said with the one

constituent rule.

A I responded: "Do you like him?" And I wasn't referring to the Governor, I was referring to Ernie Landante. What he said about the one constituent, I was asking him if he liked Ernie.

Q You didn't ask him what he meant by one constituent?

A I didn't. I didn't really pay attention to what he wrote. But David, I'm not saying I never heard him talk about it, but it was not something that I was responding to.

Q But you understood what the one constituent rule meant?

A Sure, absolutely.

Q And you understood Mr. Wildstein bought into that rule?

A I understood that Mr. Wildstein and the Governor had a long history. And I understood Mr. Wildstein talked about a one constituent, yes.

Q Now, you understood in terms of certain things that the Port Authority did, Mr. Wildstein was willing to use Port Authority resources which ever way the Governor's Office wanted to. Correct?

A I think that he, you know, wanted to have the support of the Governor's Office. But a lot of what David did, David did on his own and had the latitude to do so.

Q But you understood that he wanted to do what the Governor's Office wanted; correct?

A I think he wanted to do what the Governor wanted.

Q Well, if we could go to Government Exhibit 603.

these conversations were happening all over the place.

Q But you were a part of the conversations?

A I was, yes.

Q And you understood as of November 12th, that Mr. Wildstein was not going to be back at the Port Authority?

A My understanding was that David was going to serve the Governor in another role, yes.

Q And you also understood Mr. Baroni was not going to be back at the Port Authority?

A I knew that Mr. Baroni was going to be moving on to something else and that someone would be replacing him. As I said, it was either Deb or some other names were being floated around.

Q Thank you, Miss Hardy.

Now, you testified about Mr. Wildstein telling you about the local access lanes in Fort Lee. You testified they did that in 2011; correct?

A I think the first time that he ever told me about them or talked about them was 2011.

Q And you yourself had used those lanes; right?

A I am aware of those lanes, yes.

Q And you've used them; right?

A I have — I have cut through the back roads of Fort Lee to get on to the bridge. Did I know that the background of them at that time? Because this was all pre-2010. Yes, I have used

the back roads to get on to the bridge.

Q Because you're a life-long Bergen County resident?

A I am a life-long Bergen County resident. And for a long time I didn't like on driving on highways, so I would take the back road to get onto the bridge.

Q You didn't live in Fort Lee?

A No, I lived pretty far from Fort Lee.

Q You knew, even though you didn't live in Fort Lee, you could cut through Fort Lee to get on the bridge?

A There's four access points in Fort Lee to get onto the bridge. And so one of those four could be used to get onto the bridge. Some of them I'd have to be on the highway for a little while. But when I didn't drive on the highways, I would use the closest to the bridge, yes.

Q And you knew when you cut through Fort Lee no one would stop you and ask you: Are you a Fort Lee resident? Right?

A No.

Q You could just go straight through Fort Lee, get on the lanes, get on the bridge?

A I was focused more on taking back roads and getting onto the bridge. It was not — it is not something I gave a whole lot of thought to.

Q And you have an E-Z Pass account; correct?

A I have an E-Z Pass account.

Q And you had one while you were at the Governor's Office?

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A So then he's not endorsing? And Mat said no. And so for me to be armed with that information the next day was important.

Q And you told Mr. — and you told Mr. Mowers: That's all I needed to know. Right?

A No, we exchanged pleasantries. The phone call was brief, but it certainly wasn't one and done. We had a friendly relationship.

Q So you didn't say that to Mr. Mowers?

A I don't remember saying: That's all I needed to know.

Q And you don't recall asking him just whether Mayor Sokolich was definitely not endorsing the Governor?

A No. I asked him for the timeline so that I could — I asked him — I didn't use the words "refresh my recollection" as I do here, but I definitely asked him for the timeline because I couldn't remember.

Q And you trusted Mr. Mowers; right?

A I did.

Q And Mr. Mowers testified at this trial; right?

A He did.

Q And he described the same conversation; correct?

A He did.

Q And he described it differently than you're describing it now; right?

A He did.

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Q And so your testimony here today is that Mr. Mowers' testimony was false?

A I'm saying that I did ask him about the endorsement, but I also asked for a — not a chronology, but a history.

Q So your testimony is that Mr. Mowers, as he relayed the conversation, that testimony was false?

A I'm saying that the — there's part of the conversation that I believe that was not included.

Q So the way you saw it, Mr. Mowers's testimony was not accurate?

A There was more information that I believe he could have provided.

Q Now, you got that information from Mr. Mowers on the evening of August 12th?

A I did.

Q And so now you had that conversation for the Governor; right?

A I did.

Q The other thing the Governor told you to do is run it by Kevin O'Dowd; right?

A Correct.

Q And you sent him a text message?

A Correct.

Q Could we please bring up K-45, if we could.

This is the text message you sent to Mr. O'Dowd on

* * *

I'm okay, but run it by O'Dowd. It was: I'm okay, run it by O'Dowd. And so I knew I was going to see Kevin O'Dowd the next morning and I would let him know that I spoke to the Governor and he was okay with it.

Q But you sent the email before you even talked to O'Dowd; right?

A But I had spoken to the Governor.

Q And you sent the email before you had a chance to answer the question — the Governor's question on: What's our relationship with Mayor Sokolich? Right?

A Correct. But it was — there was no issues with the Mayor of Fort Lee that I needed to bring to the Governor's attention. This was — he had said he was okay with the study. I explained to him that there was going to be traffic problems in Fort Lee, which is David's words. And then he said he was okay with it, just run it by O'Dowd. And that's what I did, the next day.

Q As to the relationship, he just said: What's our relationship? Right?

A Right. He didn't say: I am okay with it, but find out our relationship is because if it's not okay, I am not okay with it. He asked — he said: I'm okay with it. And then he asked what the relationship was. They didn't seem to be — one didn't qualify the other.

Q And you sent "time for traffic problems in Fort Lee" before

telling the Governor anything about what you had learned from Mat Mowers; correct?

A That's correct, yes.

Q Now, the email you sent, it doesn't say anything about a traffic study; right?

A It does not.

Q It doesn't say the Governor is okay with the study? A It does not.

Q It doesn't say anything about a traffic analysis?

A It does not.

Q It doesn't say anything about the mainline?

A It does not.

Q It doesn't say: Time to make traffic more efficiently going cross the GWB?

A No. It was shorthand for something David and I had spoken of, which is the residual effect of the traffic study, which was traffic problems in Fort Lee.

Q Well, the email talks about problems; right?

A Which is what David told me there would be residual as a result of moving — go ahead. You seem to want to — did you want to — I'm sorry.

Q Please finish.

A He had told me that traffic problems were a residual effect of the study, and so I parroted his words to him. I parroted them to the Governor. And then I parroted them to Kevin the

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next morning.

Q But primary residual effect that he was interested in, was efficiency — was better traffic moving across the mainline. Right?

A Correct.

Q That was the primary motivation for it, according to you?

A That was the primary motivation that I understood from David Wildstein, yes.

Q Yet, even though that was his primary motivation, you said: Time for traffic problems in Fort Lee?

A I did.

Q Now, problem doesn't mean a study; right?

A No. But that was the residual effect. David would refer to traffic problems with regard to many Port Authority projects or many conversations I've had with him. So the words, and they are obviously why we're here today, but they were not as they are read.

Q Problem doesn't mean analysis?

A The problems would occur because of the analysis being done.

Q So the answer is no, right, Miss Kelly?

A If you could say the question again.

Q The problem didn't mean analysis?

A Problems does not mean analysis, no.

Q Problem doesn't mean something that is not — problem means

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something that's not okay; right?

A Problems, to me, meant that that was the effect of the study that was being done in Fort Lee.

Q A problem makes something more difficult?

A The — David was — had told me that the benefits were going to outweigh the inconvenience and the

problems would be short lived because the study — the commuters were going to be able to correct their travel ways and realize that they moved quicker on the mainline. That's what he told me.

Q If you are creating problems in Fort Lee, you are making things worse in Fort Lee; correct?

A The email and the words “traffic problems” means that there is going to be traffic. And, yes, there are going to be problems in Fort Lee. However, the goal of the study, as I understood it, was to move the traffic along the mainline quicker. And the residual problems in Fort Lee, the traffic problems, were going to self correct in a number of days because those commuters that normally cut through those streets would move quicker on the mainline. That is what I understood. And I used words, actually pour choice of words, but David and I had talked about the study.

Q When Wildstein answered your email, he didn't ask you what you mean by traffic problems in Fort Lee; right?

A No, he didn't ask me. He — we knew that we had — he knew — this was a conversation between the two of us. He knew

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that I was talking about the study. He had talked to me the day before about the study, then tied to the big event for the Governor. And the Governor seemed to be okay with the traffic study and the event. And so I sent a poorly-worded email intending to talk about the study.

Q Mr. Wildstein didn't ask for any clarification, whatsoever?

A We had just talked the day before about the study.

Q You talked about the study, but all the email says is “traffic problems in Fort Lee”, right?

A Correct.

Q He didn’t ask: By problems, do you mean the study of traffic safety patterns?

A No. He didn’t ask any questions. He just responded: Got it.

Q He didn’t say: By problems in Fort Lee, are you actually talking about my study to help the mainline?

A David and I were having a conversation. He knew the intent of the email, which was that I had had the conversation he asked me to have, which was with the Governor. And they could do their study because I did run it by the Governor.

Q The conversation that you say is entirely about a study; correct?

A The conversation with the Governor was about the study and the event tied to the study, yes.

Q A study.

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And Wildstein said: Got it.

A He was acknowledging my email.

Q He understood exactly what you were saying?

A He understood — he received my email. “Got it means to me that he received my email and he knew that I had the conversation that he asked me to have.

Q He didn’t need to follow up with you to figure out what you meant?

A We had followup conversations after this.

Q But he said "got it". I understand.

A Got it could mean that he received the email. That's all he wrote is "got it." I don't know if David said: I understand. He wrote "got it."

Q Now, this email was one of the other emails that you deleted; right?

A Yes.

Q No one asked to you delete it?

A No.

Q No one told you to delete it?

A No, I don't.

Q You, yourself, deliberately decided to delete it?

A I deleted it at a time in my life that I was very scared, yes.

Q Now, just six days after the "time for some traffic problems" email, you had a text message exchange with David

* * *

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A Oh, yes.

Q And her job was if everyday folks had issues, they could call her office to talk about them?

A Yes. She would have many, many phone calls in a day about a variety of issues, some of which could be dealt with and some of them were not dealt with or they would be farmed out to the appropriate departments.

Q And you understood that on September 9th, Miss Ashmore got some complaints about the traffic in Fort Lee?

A Yes. I don't think that — I think for this — the purposes here, that was the one that she would talk about the traffic. That she got that on September 9th. But I think the Governor's Office got complaints about traffic all the time.

Q But with this one, she came to you?

A She did.

Q And your testimony on direct examination was that Miss Ashmore told you that Mr. Wildstein had told her that the Port Authority was doing a traffic study to look at their local access lanes?

A Yes. She had told me that she and Nicole Crifo had called David Wildstein about this and that David said that Port Authority was doing a traffic study.

Q And according to you, you told her in response that that was your understanding too; correct?

A That was — I'm sorry, do I — that was my understanding as

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well, yes.

Q And you testified you told her that?

A I did.

Q And you testified that you told Miss Ashmore on September 9th that you had talked to David Wildstein as well as the Governor about this; correct?

A Correct.

Q That was your testimony?

A Yes.

Q Now, you recall that Jeanne Ashmore testified at this trial?

A She did.

Q And she gave an entirely different account of this interaction with you?

A She did.

Q She testified that she heard nothing from Wildstein about the Port Authority doing a traffic study?

A She did, but — go ahead, sorry. She did.

Q And she testified when she talked to you about what was happening in Fort Lee, you said nothing to her?

A That's incorrect.

Q So your testifying now that Miss Ashmore's testimony also is false?

A I am testifying that Jeanne Ashmore and I had a conversation about a traffic study that the Port Authority was

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doing in Fort Lee.

Q Just like Chris Stark and Mat Mowers?

A Correct.

Q All false testimony?

MR. CRITCHLEY: Objection, Judge.

THE COURT: I'll allow it.

MR. KHANNA: I'm sorry, your Honor.

Q Miss Kelly, you exchanged a — you had a text message exchange with David Wildstein on the morning of September 10th; correct?

A I did. But if could you refresh, that would be helpful, please.

Q Miss Hardy, if we could please go to Government Exhibit 5003-BK-03 already in evidence.

Now, in this text message exchange, your messages are on the left and Mr. Wildstein's are on the right. Correct?

A Oh, yes.

Q And the top message is a message from David Wildstein to you about a text that Mayor Sokolich had sent to Mr. Baroni.

A Yes, that's correct.

Q And that text message says: "Presently we have four very busy traffic lanes merging into only one toll booth. The bigger problem is getting kids to school. Help please. It's maddening."

There is nothing in this text message about

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improvements to mainline traffic; correct?

A There is not.

Q And when Wildstein forwarded this to you, he just sent you the message, nothing else?

A That is correct.

Q The Mayor in that message talked about the problem of getting kids to school?

A That is correct.

Q But that's not all he said; right?

A That's not all who said?

Q The Mayor.

A Oh, I thought you meant David Wildstein. No, that is not all he said.

Q He asked for help.

A Correct.

Q He said: Help, please, it's maddening.

A Correct.

Q You didn't reach out to the Mayor at all when you got this message?

A So, may I put this in context?

Q We can get there, Miss Kelly. But you didn't reach out to the Mayor when you got this message; right?

A I did not. The Port Authority, my understanding was that the Port Authority was in touch with Fort Lee.

Q But when you got this message, you didn't talk to David

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Wildstein right away; right?

A I don't know — I don't think — I didn't speak to David Wildstein I don't believe until that evening.

Q Right. So when you got this text message, even though you waited until the evening to talk to David Wildstein, in the meantime, you never reached out to the Mayor?

A I didn't. I believed that there was a second page of text messages also discussing further about the study.

Q In that meantime, you didn't have anyone in IGA reach out to the Mayor either?

A The Mayor — the day before, when I checked in with both Evan Ridley and Christina — pardon me, Christina Renna was copied on Evan's email and Mat Mowers. Neither of them had heard from the Mayor. And when I spoke to Mr. O'Dowd on Monday and told him that the Mayor had reached out talking about public safety, he told me to let the Port Authority handle it. At some point on the 9th, I spoke to David. He told me it was ridiculous, there's no issues of safety. That he was working with the Port Authority Police Department. He was with the Port Authority Police Department. I had no reason to believe, other than what David had told me, and reassured me that there were safety issues in Fort Lee.

Q On September 9th, you said Evan Ridley and Mat Mowers hadn't gotten the message from the Mayor; right?

A Correct.

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Q And that reassured you?

A In the sense that he hadn't reached out to IGA directly. He knew he had those two — IGA or Mat Mowers on the campaign, he had those two contacts.

Q Now, you were seeing a realtime text message from the Mayor.

A That is — yes, that was sent to me at 7:04 in the morning, yes.

Q He was asking for help.

A And he was asking for help and the Port Authority was in touch with Fort Lee as per David Wildstein from the day before.

Q But you didn't know that, that morning, right?

A No. He told me on the 9th he was in touch with Fort Lee.

Q But now the Mayor was texting on the 10th?

A He texted on the 10th, yes, and the Port Authority was handling this.

Q Your only response to this message was: Is it wrong that I am smiling?

A May I now explain that, since it's been —

Q That was your response, correct, Miss Kelly?

A That is my response.

Q And then you said: I feel badly about the kids. I guess.

A Absolutely

Q Now, you testified that you said you were smiling because Mr. Wildstein had touted the today before the success of the

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study and how traffic was moving along more quickly and you were happy for Mr. Wildstein's traffic study; right?

A I was pleased for Mr. Wildstein that the traffic study that he was tying to this particular public event for the Governor, that it was as of 9/9 moving along the way he had hoped it would. And so, yes, I was happy for him in that sense. However, now, as a mother of four, knowing that these kids are delayed going to

school, I truly felt badly about the children. And so this, I know it's been portrayed to be whatever everybody else wants it to be, but while I felt really pleased for David and for the Governor, these aftereffects or this byproduct of this study with the children sitting on a bus, I really felt badly about that.

Q But according to you, Miss Kelly, Mr. Wildstein touted the success of the study September 9th?

A Right.

Q You didn't text Wildstein on September 9th: Is it wrong that I'm smiling?

A No, I didn't.

Q The text message from Mayor Sokolich about the kids and "help, please, it's maddening", is at 7:04 a.m. on September 10th.

A I understand that, yes.

Q And your response is at 7:04 a.m. on September 10th.

A That is correct.

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Q You got that text message and you immediately responded: Is it wrong that I am smiling?

A And I was not smiling about the children being delayed to school.

Q When you responded to that text, Miss Kelly, you didn't say anything about mainline traffic?

A I didn't say anything about mainline traffic but I knew about the conversation I had had the day before with Mr. Wildstein touting the success of the first day.

Q You didn't say: David, I'm happy for you that the study is working?

A No, I didn't. I didn't say that. But I — as I said, the day before he pounded his chest and talked about how day one was working. So that was what I was responding to. However, finding out that there was a problem getting the children to school, I felt badly about that. I'm a mother, and any parent would.

Q Nowhere did you say anything about a traffic study?

A No, I didn't say anything about a traffic study, but we had conversations about a traffic study.

Q That's what you said you were happy about?

A We had that conversation the evening before or the day before about the traffic study, the numbers being, and the traffic moving the way he anticipated it would or had hoped it would.

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Q Now, when you said: I feel badly about the kids. I guess. Mr. Wildstein responded to you; right?

A He did.

Q He said: They are the children of Buono voters.

A He did say that — did he type that, yes.

Q Buono is a reference to Senator Buono, Governor Christie's opponent in the re-election at the time?

A She was his opponent in the re-election — in his election, his re-election, yes.

Q And Wildstein was saying: Don't feel bad about the kids stuck in traffic because they're the children of Buono voters.

A That's what —

Q Right?

A That's what David Wildstein was saying, yes.

Q That's how you understood it?

A No, you're — I'm sorry, you're incorrect.

Q That's not how you understood it?

A When he typed that?

Q When you got it?

A When he typed it and I received it, that's what it read. The next line is: Bottom line is, he didn't say safety. And I said: Exactly. Because he assured me there was no public safety issue. They were looking at the safety of the mainline. The fact that the — there were sideswiping with these access lanes. He assured me repeatedly that there was no safety

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issue. If there was a safety issue, I would have been in Kevin O'Dowd's office so fast you wouldn't even know it. So this, it bothers me the interpretation of this. It's bothered me since whenever these documents came out in 2014. It's wrong.

Q But when you got the Mayor's message, "help, please, it's maddening," you weren't in Kevin O'Dowd's office so fast; right?

A No, because the day before he told me to allow the Port Authority to handle it.

Q When Mr. Wildstein mentioned the children of Buono voters being stuck in traffic, he was talking about the lane reductions in stark political terms?

A David was talking about the children sitting on the bus, I was not.

Q By mentioning Barbara Buono?

A David Wildstein mentioned Barbara Buono. Bridget Kelly did not.

Q But he didn't hide that from you at all?

A That's David Wildstein, it's not Bridget Kelly.

Q He was comfortable enough that he could talk to you about the lane reductions in such stark political terms?

A I did not see that response or that statement, "they are the children of Buono voters," as anything other than a David Wildstein statement. He looked at things differently than other people.

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Q And even after receiving this text about the children of Buono voters stuck in traffic in Fort Lee, your testimony is that David Wildstein is the guy who you thought was doing legitimate traffic study?

A I did.

Q Your testimony is that David Wildstein was the guy who you believed, when he said: The Port Authority and Fort Lee were working together?

A I did. I had no reason not to believe him, Mr. Khanna. No reason.

Q No reason. Now this text message, you deleted that as well; right?

A I did.

Q No one asked to you?

A No one did.

Q No one told you to?

A No one did.

Q You did it yourself?

A I did.

Q Now, you've testified that you believed Mr. Wildstein about having — about having had communications with Fort Lee for quite a long time.

A At what period of time? If I'm being — I'm not trying to be cute, I just don't —

Q It's your testimony that only in early December did you

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finally start to question whether David Wildstein had actually interacted with Fort Lee.

A At the time there was — this was, again, not the biggest issue in the world. It certainly was getting much more attention after I would say probably October. It definitely was in the paper and people — people were paying attention to it. I started to question a lot, yeah, I did.

Q But you —

A Not just David Wildstein. I had started to question a lot, Mr. Khanna, in December.

Q But not before that; right?

A I probably was — had curious thoughts but not that — not to the point that I did in December, no.

Q It was only in early December where you say you finally thought: Maybe Wildstein didn't actually meet with Fort Lee?

A There was a lot in early December that wasn't adding up to what I believed to be the case.

Q But prior to that, you continued to believe Mr. Wildstein?

A I had no reason not to.

Q Now, that was through a lot of media articles that came out in relation to Fort Lee; right?

A Yes. There was, you know, a couple in — several in September, and then October, and then at, you know, there was periods of time where it seemed to quiet down. But yes, there were media articles.

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Q And some of those media articles talked about the Port Authority being in touch with Fort Lee?

A I testified to this, I think yesterday or Friday, any time I questioned it, it meaning the contact with Fort Lee, David assured me they were, or they had been.

Q And you believed him?

A I had no reason not to.

Q And — this included a September 12th call from Mayor Sokolich to Evan Ridley; correct?

A Bear with me. So what's the — Evan — so Mayor Sokolich reached out to Evan Ridley. Christina put it in an email. That is — are you saying, did that happen?

Q Even though you got no email, your testimony is you believed David Wildstein about the fact that he got in touch with Fort Lee?

A I did. I didn't ask. You know, if I could ask questions now, hindsight/foresight, I'd ask a lot more questions. When he told me he was in contact and in

touch, they, meaning the Port Authority, or he said we were in touch with Fort Lee, at the time I probably should have asked. I didn't. But I took his word for it.

Q Then Mr. Foye's email came out, right, in the press?

A Correct.

Q You testified you discounted it because everyone hated Foye?

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A Everybody in the Governor's Office was discussing — again, I've never met Pat Foye, but everyone in the front office was discussing their animosity towards Pat Foye.

Q But even through all that, you didn't check with Fort Lee, you believed David Wildstein?

A I had no reason to believe — anything other than David told me and I had no reason to believe anything that he told me was not what it was.

Q All the articles in the press, all the way up to early December, 2013?

A When my superiors also know what I knew, which was that it was a traffic study, because that's what I was told, no questions were asked. And then when faulty memories started to kick in, in December, that's when I got a little concerned.

Q That's the first time you thought: Maybe Wildstein didn't actually reach out to Fort Lee?

A I was more concerned about my superiors not remembering what information I had shared with them. So Wildstein wasn't really — I mean, he, again, to go back in that period of time, it was a little — I said

the other day, it was an alternate universe. Nobody was remembering anything and it was bothering me.

Q But before early December, on November 25th, Mr. Baroni testified before the New Jersey legislature?

A Yes, he did.

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Q You seen that testimony in this courtroom?

A The video are you referring to? Yes.

Q And his testimony was full of admissions that there was no communication with Fort Lee.

A Correct.

Q Certainly by that time you understood on November 25th, that Wildstein hadn't been truthful to you?

A I had questions but at that time I was not — this was not my sole focus and it was not something that I believed that there was a communication breakdown. But I still believed there had to be. There's no way that David Wildstein could have done this study without being in touch. And I still believed that pretty far down the road.

Q Miss Kelly, but you watched that testimony live?

A I really didn't. I had it in — it was almost like background noise in my office. But I didn't sit there and watch it live, no.

Q You texted David Wildstein about that testimony?

A I had it on as background noise. I think we went over the texts here, in my office.

Q You texted him about the specific positions Assemblymen were taking?

A I definitely — there was — not only that I had it on as background noise, it was on in most of the offices in the Governor's Office. And people were talking about the testimony

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and not only the testimony, but also about the questions.

Q When Assemblyman Chivakula spoke, you reacted?

A Yes, because he was supportive of what I understood.

Q Because you were watching?

A I wasn't watching, I had it on as background noise.

Q You heard what he said?

A I heard what he said, I didn't watch it.

Q And when he seemed to support Mr. Baroni's fairness argument, you texted David Wildstein: Go Chivakula?

A Because he was being supportive of what I knew to be a traffic study.

Q And when Assemblyman Wolfe suggested that maybe someone had lied, you texted David Wildstein: Screw Wolfe.

A Regrettably I did, yes.

Q Because you were watching?

A I was listening.

Q You were listening?

A Listening.

Q Listening to Mr. Baroni?

A As background noise. I did hear what the Republican members were saying, yes.

Q When Mr. Baroni was talking time and time again about communication breakdowns —

A There were communication breakdowns, as I understood it, at the time.

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Q But you said a few minutes ago you didn't know that until early December?

A I didn't know to what extent the communications breakdowns were.

Q And when it was crystal clear that Wildstein had not done what he claimed he said he would do, keep Fort Lee in the loop, you did nothing?

A If you could repeat that. I know that that — it was a little long.

Q On November 25th —

A Yeah.

Q When it became crystal clear from Mr. Baroni's testimony —

A Uh huh.

Q That Wildstein had not done what you thought he did, communicate with Fort Lee —

A Correct.

Q You did nothing?

A I didn't do anything and no questions were asked of me either by my superiors.

Q You didn't text David Wildstein: Why have you been lying to me for so long?

A I didn't want to ask any questions at that point, I was a little frightened.

Q You just cheered the testimony of Chivakula and you screwed the testimony of David Wolfe; right?

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A I said at the time that I was pleased with Assemblyman Chivakula's testimony and I was upset with how Assemblyman Wolfe reacted.

MR. KHANNA: Your Honor, if we could please end for the day, I just have to change topics.

THE COURT: Okay.

MR. KHANNA: Thank you.

THE COURT: Alright, ladies and gentlemen, we will break for today. And we will resume tomorrow at 9:30. We may stay until 3:30. Work with me people. We may stay until 3:30, so I appreciate you guys being accommodating to that extent. I'll let you know in the morning exactly what we're going to do. So thank you for that. I'll speak to the lawyers about that. Have a great night. Don't discuss the case. Don't read any accounts of the case. Don't allow anyone to discuss the case with you. Keep an open mind until all the evidence is in. Don't do any research on your own, computer or otherwise. Okay? So have a wonderful night and we'll see you tomorrow.

(Jury excused)

THE COURT: Alright, everybody, you can step down, Miss Kelly. And just don't discuss your testimony while you're still under cross. Counsel, we'll

reconvene in about three minutes. And see what we need to do. Okay? We are in recess.

(Recess)

THE COURT: All right. So I have what you've given

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for purposes of preserving the record, but I do not find it to be an amendment or a variance of the indictment. This whole argument about the purpose or the object of the conspiracy being to punish Mayor Sokolich goes to motive. Motive is not an element. That is not an element that has to be proven. You can argue all day long what you want to argue about motive, but in terms of instructing the jury, they aren't to be instructed on motive because it's not an element of the crime. So this argument that there is no indication as to what the charges are, I disagree. The bottom line is that the object is the misuse of Port Authority property.

Now, however we kind of couch those terms, but that's the argument in a nutshell in terms of what the object or the objective is of the conspiracy. So that's what the charge needs to read. Everybody can argue anything they want as to the motivation, the reasons behind what was done, or not done, whatever the case may be, but the object, itself. So I think it's improper, and I'm looking at 16, not even going back to I believe Government mentioned 7, but at 16, that that first paragraph should not include all that because that goes into motive, which is not an element of the crime.

MR. CRITCHLEY: Judge, so the record is clear, we're not just saying it applies to conspiracy, we're saying it applies to every count of the indictment.

THE COURT: I understand. I understand. Alright, so

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
CRIMINAL ACTION 2:15-cr-193-SDW

UNITED STATES OF	:	TRANSCRIPT OF
AMERICA,	:	PROCEEDINGS
	:	
-vs-	:	TRIAL
	:	
WILLIAM E. BARONI JR.,	:	Pages 1 – 112
and BRIDGET ANNE	:	
KELLY,	:	
Defendants.	:	
-----	:	

Newark, New Jersey
October 26, 2016

B E F O R E: HONORABLE SUSAN D. WIGENTON,
UNITED STATES DISTRICT JUDGE
AND A JURY

A P P E A R A N C E S:

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Pursuant to Section 753 Title 28 United States Code,
the following transcript is certified to be an accurate
record as taken stenographically in the above entitled
proceedings.

S/Carmen Liloia
CARMEN LILOIA
Official Court Reporter
(973) 477-9704

* * *

BRIDGET KELLY, previously sworn, resumes the stand.

Is.

THE COURT: Good morning, everyone. Good morning, Miss Kelly. So we're ready? So let me understand just four our purposes, I'll direct it to you, Mr. Feder.

MR. FEDER: We're good to go. We're printing right now.

THE COURT: Alright.

(Jury brought into courtroom)

THE COURT: All right. Good morning, everyone. You can have a seat. We're going to proceed with the cross of Miss Kelly.

And, Mr. Khanna, when you're ready to proceed, you can begin.

MR. KHANNA: Thank you, your Honor.

CROSS EXAMINATION BY MS. KHANNA:

Q Good morning, Miss Kelly.

A Good morning, Mr. Khanna.

Q Now, on Friday, September 13th, Mr. Wildstein let you know that the lane reductions were over. Correct?

A On Friday — yes, he had sent me an email later in the morning.

Q Miss Hardy, if we could bring up Government Exhibit 469.

And this is the email he sent you to indicate that the lane reductions ended; correct?

A Yes.

Q And on the bottom of the email what he said was that: The New York side gave Fort Lee back all three lanes this morning. We are appropriately going nuts. Samson helping us to retaliate. Correct?

A That's what it says, yes.

Q Now, Wildstein said Fort Lee was given back all the lanes. Right?

A That's how it reads, yes.

Q He didn't say they were ending a traffic study?

A No, but the lanes were located in Fort Lee.

Q But he didn't say that; right?

A He did not.

Q He didn't say that New York had interrupted a traffic study?

A No, he did not. But these are David Wildstein's words, not mine.

Q That he sent to you, right, Miss Kelly?

A He sent to me and my reaction was to the words "appropriately going nuts" and "retaliate".

Q We'll get to your reaction in one second. But in this email, Mr. Wildstein didn't say that the study was ruined. Right?

A He didn't say the study was ruined. I believe the study was ruined.

Q He said the lanes were given back?

A Fort Lee — the lanes are located in Fort Lee, so the lanes were given back, meaning the lanes were reopened in Fort Lee. That's how I read that.

Q So, Miss Kelly, the answer is that that's what he said; correct?

A That's what his email said, yes.

Q Wildstein said he was appropriately going nuts; right?

A That's what it says.

Q Over a traffic study?

A I don't know what he was going nuts over.

Q And he was so outraged that Samson — that David Samson, who's the Chairman of the Board; right?

A He was, at the time, he was the Chairman of the Port Authority in 2013, yes.

Q That David Samson was supposedly helping to retaliate?

A That's what it says.

Q He didn't say that Samson was helping to start the study over; right?

A This is David Wildstein's email to me and my reaction was in reaction to his email. Those words were a bit concerning, yes.

Q Miss Kelly, my question was, he didn't say that —

A He didn't say —

Q That David Samson was going to help start the study over;

right?

A He didn't say that. But this is David Wildstein's words, not mine.

Q He talked about retaliation?

A David Wildstein spoke of retaliation.

Q And Wildstein was comfortable telling you that?

A David Wildstein — I read this that the study had ended and my reaction was to “appropriately going nuts” and “retaliate”. Those words concerned me.

Q And Mr. Wildstein sent them to you; correct?

A He did send them to me. I don't know if he sent them to anyone else. I don't know what Mr. Wildstein did.

Q Now, it's your testimony that when you got this email, it made no sense to you; right?

A I didn't know what retaliate and going nuts — I didn't know to what he was referring.

Q And I believe you said on direct examination that made no sense to you; correct?

A It didn't make — it didn't make any sense because the words, to me, seemed awfully strong.

Q And you testified that this was totally contrary to anything Wildstein had previously told you. Right?

A Well, I was in, at this time, in Seaside Heights so I read this as the fact that — I had spoken to David that morning, and then he sent this to me. As far as I knew, the study was

going to be a short-lived, week long review of the

access lanes. So this language to me concerned me.

Q And I believe you testified that you thought it was totally contrary to anything Wildstein was telling you; right?

A Contrary in the sense that going nuts and retaliate are words that were contrary to what I knew David to be telling me.

Q Contrary to doing a traffic study; right?

A Because the words — why would Samson be retaliating? I was concerned with those words, yes.

Q But still, despite those words, you didn't do anything to reach out to Mayor Sokolich; right?

A I didn't do anything because I was told by my superiors that this was a Port Authority project. After I had spoken to my superiors about this, and when David Samson is involved, I'm not getting involved.

Q And when you got this email, according to you, even afterwards, you continued to believe that David Wildstein had conducted a legitimate traffic study; right?

A I did, yes.

Q Now, this email, you deleted this one as well, right, Miss Kelly?

A I have told you and others up front that I deleted emails, yes, Mr. Khanna.

Q Including this one?

A I did, yes.

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Q No one asked to you delete it?

A No one asked me to delete it.

Q No one told you to delete it?

A No one told me to delete it. And I'm not the only person, Mr. Khanna, who deleted emails and text messages.

Q And deleted it intentionally, right?

A I deleted it because I was petrified.

Q And you did it intentionally?

A And I said I deleted it.

Q Intentionally?

A I chose to delete the emails.

Q So the answer is yes, correct?

A Yes, Mr. Khanna, I deleted emails and I have not hidden that fact.

Q Now, the following week on September 17th, you had a text message exchange with Mr. Wildstein; correct?

A If you could please show it to refresh, I would appreciate it. Thank you.

Q Miss Hardy, if we could bring up Government Exhibit 5003-BK-06.

This is a text message exchange between you and Mr. Wildstein on September 17, 2013; correct?

A Yes, it is.

Q And your messages are on the left, and Mr. Wildstein's messages are on the right. Correct?

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A Correct.

Q And you testified about this exchange on direct examination; right?

A I did.

Q The text messages on the top, the first two, are text messages that Mr. Wildstein sent to you that were Mayor Sokolich's text messages to Mr. Baroni. Right?

A Yes.

Q And the first one that Mayor Sokolich sent to Baroni that was then forwarded to you says: We should talk. Someone needs to tell me that the recent traf, meaning traffic, debacle was not punitive in nature. The last four reporters that contacted me suggest that the people they are speaking with absolutely believe it to be punishment. Try as I may to dispel these rumors, I'm having a tough time. Right?

A That's what the first one says, yes.

Q And that was forwarded to you?

A It was forwarded to me; correct.

Q And then Mayor Sokolich said to Mr. Baroni: A private face-to-face would be important to me. Perhaps someone can enlighten me as to the errors of my ways. Let me know if you'll give me ten minutes. Regards, Mark. Correct?

A Yes, that's what the second one says.

Q And that was forwarded to you as well?

A It was.

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Q By David Wildstein?

A It was.

Q Now, Mayor Sokolich was asking for ten minutes of Mr. Baroni's time, face to face; right?

A Yes.

Q The Mayor wanted information?

A That's what it says, yes.

Q He wanted an explanation?

A Correct.

Q And he wanted a meeting to get that information and an explanation?

A Correct.

Q And then below that Wildstein sent you his own text; right?

A Correct.

Q The text doesn't say: Hey, ignore these messages from the Mayor because he already knows about the traffic study. Right?

A No, it does not say that.

Q And Wildstein didn't say to you: I'm not sure why the Mayor's so confused, we've already been in touch with him. Right?

A He didn't say that, no.

Q Wildstein didn't say: The Fort Lee PD actually knows what's going on. Right?

A He didn't say that in the text, but that's what he certainly told me in phone conversations.

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Q He didn't say in this text: As I've been telling you, I've been talking to Fort Lee for a week, so ignore these text messages. Right?

A No, but that's what he told me on phone conversations.

Q But in this text, what he says is: Please let me know instructions. Right?

A That's what he said.

Q And he sent it to you?

A He did.

Q He's asking instructions from you.

A When I had spoken to him on Friday, later in the day, 2 o'clock-ish, I was back in the office after being in Seaside, he had told me they were going to be scheduling a meeting with Mayor Sokolich. So let me let know instructions, I responded: Just finishing a meeting. David and I didn't speak until that evening and he told me Mr. Baroni had a meeting scheduled with Mayor Sokolich. So I know that this is your "want to interpret it that way". They scheduled a meeting on Monday the 17th to meet with Mayor Fulop (sic).

Q Miss Kelly, he sent to you, after sending you those two text messages from Mayor Sokolich, he said to you: Let me know instructions. Right?

A He did say that.

Q That is what he said, correct?

A He did. And around — that afternoon they scheduled a

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meeting with Mayor Sokolich.

Q And he wanted to know when he sent — when he said, "please let me know instructions", he wanted to know if Baroni could even meet with the Mayor; right?

A And, Mr. Khanna, they scheduled a meeting that afternoon to — and they scheduled a meeting with Mayor Sokolich. Not because I spoke to David in this

period of time. I didn't speak to David until 5 o'clock that night.

Q Yet, this is a Mayor who you say you believed Wildstein had been talking to for the whole past week?

A Correct. And so when I spoke to him on the 13th, he told me they were scheduling a meeting with Sokolich. I assumed that they were, meaning the Port Authority, scheduling that meeting, when I spoke to him on Friday afternoon. So this was new to me. But, again, this was not the only thing going on in the office. Which it was a Port Authority project. I was told that. I was told that Wildstein was handling it by the Governor and was told by Kevin O'Dowd to allow them to handle it. I wasn't getting involved. And when — Friday when Samson was involved, I certainly wasn't getting involved.

Q But this text message exchange continued. Right?

A It did.

Q Before any phone call; right?

A Correct.

Q Because you said "just finishing a meeting", right?

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A I was just finishing a meeting, yes.

Q And then Wildstein said: Okay. I'm in board meeting, but can step out to call when you're ready. Right?

A Correct. And we did not speak until 5 o'clock that night. So what went on in between then —

Q But then he said: Baroni crazed. So let me know when to call. I have something at three I can't walk out of. Right?

A That's what it says.

Q He didn't say: The Mayor's crazy for sending these text messages because he knows what's going on. Right?

A Right. I don't know —

Q He said Baroni is —

MR. CRITCHLEY: Judge, Judge, Judge.

MR. KHANNA: Judge, it was a yes or no question.

MR. CRITCHLEY: No, Judge. She's allowed to answer that question, Judge

MR. KHANNA: Judge, it was merely —

MR. CRITCHLEY: Judge, he asked the question —

THE COURT: Wait. I told you, you can't talk over each other. Okay? You objected. A lot of these yes or no questions. A lot of these are yes or no question, quite frankly. A lot of them are yes or no questions, and you can certainly follow up —

MR. CRITCHLEY: Respectfully —

THE COURT: Okay, I'm speaking.

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MR. CRITCHLEY: Yes, Judge.

THE COURT: Is there some problem with that? I am speaking, now, Mr. Critchley.

MR. CRITCHLEY: Yes, Judge.

THE COURT: Okay?

MR. CRITCHLEY: Absolutely.

THE COURT: You can follow up and ask whatever you want to ask on redirect.

MR. CRITCHLEY: Yes, Judge.

THE COURT: You can proceed.

MR. KHANNA: Thank you, Judge.

Q The message didn't say: The Mayor's crazy for sending these text messages because he really knows what's going on. Right?

A It does not —

Q It doesn't say that, right?

A It doesn't say that, no.

Q It says Baroni's crazed because he got this message from the Mayor.

A Well, it says Baroni is crazed. I don't know what Baroni was crazed about, Mr. Khanna.

Q Right after you are forwarded text messages from Mayor Sokolich to Bill Baroni; right?

A It was an hour later. There could have been other things that Mr. Baroni was crazy about.

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Q And then — and Mr. Baroni needed instructions on how to deal with that; right?

A I didn't speak to Mr. Wildstein until 5 o'clock that night, so no instructions were given from Bridget Kelly to David Wildstein about what to do with Mayor Sokolich. I was told on Friday the 13th that they were scheduling a meeting with Mayor Sokolich. What went on here, Mr. Wildstein and I didn't speak, my understanding, when I spoke to Mr. Wildstein at 5 o'clock or 5:30 that night, was that they had scheduled

a meeting that day with Mayor Sokolich. That's what I knew and that's what I went by.

Q Now, below that, Mr. Wildstein texted you again. Right?

A He did.

Q And he said: The WSJ, meaning the Wall Street Journal, right?

A Yes.

Q "Just called my cell, so I need to speak to you". Right?

A Right.

Q Now, the Port Authority has a Public Affairs Office; right?

A They do. And so does the Governor's Office. And Mr. —

Q Right. Let's talk about the Port Authority's press office. Their job is to handle press inquiries; right?

A I would imagine that is their job.

Q For the Port Authority?

A Correct.

* * *

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him that the Governor knew about the traffic study, yes.

Q Your testimony is that you told Mr. Drewniak the Governor knew about the study; right?

A I did, yes.

Q And your testimony is you also told Mr. Drewniak that you had already told Kevin O'Dowd about that; right?

A That is correct, yes.

Q Now, your attorney called Mr. Drewniak as a witness in this case; right?

A Yes.

Q Not the Government, but Mr. Critchley called him to testify?

A Yes.

Q And you recall that Mr. Drewniak testified that he went to your office to see you — to see whether you knew anything about the lane reductions. Right? That's what he testified to?

A He also asked about the lane reductions and the traffic study, yes. It was not just about the Governor, it was about the traffic study. He had spoken to Wildstein and he wanted to additional information.

Q But Mr. Drewniak, in this trial, testified that you gave him a back of the hand response; correct?

A Mr. Drewniak is incorrect.

Q And Mr. Drewniak in this trial testified after, your

* * *

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So to the extent it's something different than what Kevin O'Dowd said, did, whatever, that's a whole different thing. The question goes to Miss Gramiccione.

MR. CRITCHLEY: Thank you.

MR. KHANNA: Thank you, your Honor.

(The following takes place in open court)

THE COURT: Alright. You can proceed, Mr. Khanna.

MR. KHANNA: Thank you, your Honor.

Q Miss Kelly, when Miss Gramiccione testified in this courtroom about your and her meeting on December 13th, she described it entirely different as you have described it while you were testifying; correct?

A It is correct, yes. And —

Q So according to you, Deb Gramiccioni also came before this jury and gave false testimony?

A I'm saying that Deb has a different memory of what occurred when she and I had a conversation about my emails and my knowledge.

Q Now, on September 12th, 2013, on the Thursday of the week of the lane reductions, you had two exchanges about the lane reductions. Right?

A If you could refresh, please.

Q Well, first, Mr. Wildstein forwarded you a letter from Mayor Sokolich to Mr. Baroni; correct?

A Yes. And I would say that there was actually a couple more

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than two, two emails about — I just want to be clear that there was more than two emails from people about the lane reductions on that Thursday.

Q Okay. We're focusing on the letter. That letter, among other things, said that Fort Lee had had no

contact or information from anybody about the lane reductions. Right?

A May I see the letter, please?

Q We'll get to that in a second. That day you also got an email from Christina Renna; right?

A I did.

Q About a call that Evan Ridley had with Mayor Sokolich.

A Correct.

Q Miss Hardy, if we could please bring up Government Exhibit 565.

This is the email on the Thursday of the lane reductions from Miss Renna to you; correct?

A Yes.

Q And that's at the bottom?

A That is the bottom — the first, yes, the first in the bottom of the strand, yes.

Q And this email describes a call that Evan Ridley had had that day with Mayor Sokolich?

A It is, yes.

Q Now, the first paragraph of this email explains how the call happened; right?

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A This is this accounting of the call, I believe, that Evan's testimony, it was a different accounting. But this is —

Q Well, what Miss Renna said to you in the first paragraph is: This afternoon, Evan received a call from Mayor Sokolich. It came from a number he was

not familiar with that was actually a secretary who patched the Mayor through to Evan. Right?

A That's what it says.

Q The second paragraph of this email describes traffic conditions in Fort Lee. Right?

A Yes.

Q It says: The Mayor is extremely upset about the reduction of toll lanes from three to one. Not only is it causing a horrendous traffic backup in town, first responders are having a terrible time maneuvering the traffic because the backup is so severe. Right?

A Yes.

Q The third paragraph describes the Mayor's talking about the possible motive for the lane reductions; right?

A Yes.

Q The third paragraph says: The Mayor told Evan that he has no idea why the Port Authority decided to do this. But there is a feeling in town that it is Government retribution for something. He simply can't understand why that would be the case, however, because he has always been so supportive of the

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Governor. Right?

A That's how it reads.

Q And in the fourth paragraph, the Mayor talks about certain consequences that could come from these lane reductions. Right?

A Yes.

Q He says, in the email he says: Sokolich explained that the council wants to organize a press conference with picketers at the foot of the bridge. The Mayor feels he is about to lose control of this situation and that he looks like a “fucking idiot”. Right?

A Yes.

Q And finally the email recounts that Evan says he didn’t know about lane closures and would find out. Right?

A That’s how the last paragraph reads, yes, or the last line reads.

Q Now, your response to this entire email was just one word.

A And the one word “good” has been mischaracterized as with most things here —

Q Miss Kelly, your answer to this email was “good”?

A And, yes, may I tell the context?

Q Your testimony, as I understand it, is that good was just a response to the last paragraph; right?

A The last sentence, when it said that Evan would see what he could find out.

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Q It’s your testimony that you weren’t saying good that the Mayor was extremely upset; right?

A That’s absolutely correct, that I was not —

Q It’s your testimony that —

MR. CRTICHLEY: Objection, Judge.

MR. KHANNA: Judge, these are yes or no.

THE COURT: I think she said Mr. Khanna, actually. Let her finish the answer.

Q It's your testimony that you weren't saying "good" that there was horrendous traffic; right?

A I was absolutely not saying good that there was horrendous traffic, Mr. Khanna.

Q It's your testimony that you weren't saying good that first responders were having a terrible time maneuvering; right?

A I was absolutely not saying good that first responders were having a terrible time maneuvering, Mr. Khanna.

Q According to you, good didn't mean that?

A Good didn't mean that, Mr. Khanna.

Q It's your testimony that good just meant that Evan was following up; right?

A That's my testimony because that's the truth.

Q That Evan Ridley was going to obtain information and call the Mayor back.

A And I was pleased that Evan Ridley was going to follow up on something and do his job.

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Q Good that Evan Ridley was handling the situation?

A Good that Evan gave an appropriate response and it was 11:44 at night, and that I would follow up with them the next morning. I had spoken to the Governor about this very email, Mr. Khanna, on the night of the 12th, and he told me to let the Port Authority handle it.

Q Now, this is the same Evan Ridley who a month earlier to you had lied about having a face-to-face meeting with Mayor Sokolich. Right?

A Correct. And there was new —

Q That's the same Evan Ridley, correct, Miss Kelly?

A Yes, it is.

Q And the same Evan Ridley who you testified his judgment you didn't trust; right?

A And since August 16th, on or about, new controls or new standards were put into place so that there would be a different process. And we were giving him the benefit of the doubt in the midst of a very stressful time in the Governor's Office. And it was just trying to give him an opportunity, like we did everybody else, to finish out the first term.

Q Miss Kelly, my question was, this is the same Evan Ridley —

A It is, yes.

Q — whose judgment you testified you didn't trust just in August; correct?

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A Correct. And he was spoken to and I believed that he was going to try harder and do better, giving him the benefit of the doubt.

Q Despite your questions about his judgment, your testimony is that when you wrote "good," it was good that Evan Ridley was handling this situation about first responders and traffic issues with a very upset Mayor of Fort Lee? Right?

A My understanding at the time was that the Port Authority was handling it and that is what — when I even told the Governor about the allegation of retribution, he said: Let Wildstein — let the Port Authority handle it. That's what he said. Evan's response to the Mayor was appropriate at that moment. And at 11:44 p.m. after a very long day, I figured I would follow up the next day.

Q But you were not saying good, the Port Authority is handling it, your testimony is you were saying good that Evan Ridley was handling it?

A That Evan Ridley was going to get the information he needed to get back to the Mayor.

Q Evan Ridley was going to get information from Fort Lee?

A No. Evan Ridley was going to see what he could find out and then get back to the Mayor. Maybe I don't understand your question.

Q Evan Ridley was going to find out?

A That's what, this is what that email says. Evan —

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Q And you were happy —

MR. CRITCHLEY: Let her finish, please.

THE COURT: Let her finish.

Q Miss Kelly — go ahead.

A At 11:44 p.m., I was pleased that Evan was going to see what he could find out prior to giving the Mayor any information that may not be correct.

Q But when you got that email on September 10th, you knew exactly what was going on in Fort Lee?

A Which email on September 10th?

Q Excuse me, on September 12th, when you got this email from Christina Renna —

A I wasn't —

Q You knew what was going on in Fort Lee?

A I knew there was a traffic study. At 11:44 p.m., I was not going — first of all, I could barely see straight at that hour. It had been a very long day. So I responded and I went to bed after that. And I didn't type a diatribe or a lengthy response, no, you're absolutely right, I did not.

Q Miss Kelly, you testified that good meant Evan Ridley was going to go out and find information; right?

A That's what the email said, in the last line, and that's what my good was in response.

Q And at that time you knew exactly why the lanes had been reduced?

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A Well, there was clearly additional information in this email that the Mayor was making allegations of. And so Evan was going to find out. He was going to go through whomever in IGA he would go through, whether it was Kieran Tintle or Christina, or me, to get the right information. And then the next day the study was over.

Q But you could have gone to Mr. Ridley, called him, or emailed him, and told him all the information that you knew about this; right?

A Well, Christina Renna and I had met prior to — in August, prior to the lane study being instituted, and I told her that the lane study — that the Port

Authority was going to be doing this traffic study. So Christina Renna knew about the traffic study too.

Q Miss Kelly, my question is simply, you could have gone to Evan Ridley and told him everything that you knew about what was going on in Fort Lee; right?

A Not at 11:44 at night I wouldn't have, no.

Q You could have gone the next morning; right?

A No, I couldn't have, because I wasn't in the office, Mr. Khanna.

Q You could have called him?

A I could have called him, yes, but I —

Q You could have emailed him?

A My priority —

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Q You could have —

MR. CRITCHLEY: Judge, could she please finish.

THE COURT: It's a yes or no question. And if she wants to explain, she can explain.

MR. CRITCHLEY: Yes, Judge.

Q You could have emailed; right?

A I could have emailed him.

Q But you didn't?

A I didn't because I was told to allow the Port Authority and Wildstein to handle it.

Q Now, this "good" email, this was another email you deleted. Right?

A That is correct.

Q You testified yesterday that you deleted this in December.

A I did testify — I think it was before yesterday but yes, I did delete — I did say that I deleted emails in December, yes.

Q Including the “good” email, correct?

A Yes. I have — again, I have been forthright with you. I was forthright with Kevin O’Dowd. I deleted these emails, yes.

Q But you didn’t delete the other version of this email that was just the email Miss Renna sent you which you forwarded to David Wildstein; right?

A Mr. Khanna, I believe I missed a couple when I deleted them.

Q And that was one of them; right?

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A Not on purpose, I missed a couple.

Q And that was one of them; correct?

A It was — I am answering you yes, that’s correct. But I’m also telling you that I did not see that one so I didn’t delete it.

Q Miss Hardy, if we could please bring up Government Exhibit 377. On the bottom of this email is that same email from Christina Renna to you about Evan Ridley’s call with Mayor Sokolich. Right?

A It’s the exact same email, yes.

Q And this one is the one that you forwarded to David Wildstein?

A Well, I didn’t answer Christina until 11:44 at night, so I didn’t forward that to — I forwarded this when I received it to David Wildstein because the Mayor had reached out to IGA, yes.

Q And you forwarded this one to David Wildstein at 3:47 p.m. Right?

A I was — I was sitting in the Sandy meeting and we had just gotten word about the fire, yes.

Q This version of the email, without the “good” response, this one you didn’t delete?

A Because I just testified I missed it.

Q You didn’t delete it; right?

A I missed it.

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Q And that means —

A I did not.

Q And that means you didn’t delete it?

A I didn’t delete it, no.

Q No one told you to delete that “good” response; right?

A No one told me to delete any of them, Mr. Khanna. I deleted them because I was scared.

Q And you deleted them intentionally?

A I have not shied away from that from day one.

Q And you were here when Christina Renna testified; right?

A I was.

Q And you were here when she testified that you asked her to delete that “good” email?

A And that is incorrect.

Q So according to your testimony, Miss Renna, just like Chris Stark, Mat Mowers, Jeanne Ashmore, Deb

Gramiccioni, Michael Drewniak, David Wildstein, all of them, testifying falsely?

A All of them have a different recollection of what happened and I'll tell you right now that many of them, their livelihood depends on Chris Christie, and that's why —

Q Miss Kelly —

MR. CRITCHLEY: Judge.

MR. KHANNA: It's not responsive.

THE COURT: It's not responsive, Mr. Critchley. It's not responsive to anything that was asked, so.

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Q Miss Kelly, during the course of this trial, you have had to explain the words you wrote in various emails and texts. Right?

A Yes.

Q For example, you've had to explain that that "good" email we talked about, what that meant; right?

A What I meant versus others' interpretations, yes.

Q And you've had to explain what "radio silence" meant in light of an "urgent matter of public safety"; right?

A Yes.

Q You've had to explain what Wildstein meant when he said "Sokolich's name comes right after Fulop's". Right?

A Yes.

Q You've had to explain why you said "is it wrong that I'm smiling?" Right?

A Yes.

Q And you've had to explain your one line email that said "time for traffic problems in Fort Lee". Right?

A Yes.

Q And you had to explain that "good" email because Christina Renna saved a version of it; right?

A I am explaining it because I'm sitting here. I don't know — Christina Renna had a copy of it, sure, yes.

Q And that was what we were looking at, right, that —

A Is the version, but I believe she deleted it too.

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Q Because your version you deleted; right?

A I have said from the start that I deleted the emails. I told my boss that, who is what former U.S. Attorney, who never asked me a question about the deletions.

Q Miss Kelly, you had to explain the "radio silence" email because David Wildstein saved that email; right?

A Mr. Khanna —

Q He didn't delete, right?

A He didn't delete, no, he didn't.

Q But you did?

A I did, because I was scared.

Q And you had to explain that "is it wrong that I'm smiling message" because Mr. Wildstein saved that message; right?

A And I deleted it because I was scared.

Q If David Wildstein hadn't saved those emails and texts, you would never have to explain that; right?

A I don't know what would have happened.

Q Because they wouldn't have existed any more?

A Is —

Q If David Wildstein hadn't saved the emails and text message, the FBI would never have seen them and neither would the U.S. Attorney's Office. Right?

A I guess not, no.

Q And this jury would never have seen them either; right?

A I would guess not.

* * *

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Count 9 charges defendants with depriving the residents of Fort Lee of their civil rights, while acting under color of law, in violation of Title 18 of the United States Code Sections 242 and 2.

As I explained at the beginning of the trial, an indictment is just the formal way of specifying the exact crimes a defendant is accused of committing. An indictment is simply a description of the charges against a defendant. It is an accusation only. An indictment is not evidence of anything and you should not give any weight to the fact that the defendants have been indicted in making your decision in this case.

Misuse of Property of an Organization Receiving Federal Funds, Title 18 of the United States Code Section 666(a)(1)(A). Count 1 charges the defendant

with conspiring to commit the offense by obtaining by fraud, knowingly converting, and intentionally misapplying property of the Port Authority in violation of 18 U.S.C. Section 371. Count 2 charges the defendants with the substantive offense of obtaining by fraud, knowing converting or intentionally misapplying property of the Port Authority in violation of 18 Section 666(a)(1)(A) and 2.

I will instruct you on the law relating to conspiracy later, but first I will instruct you regarding the substantive offense. The statute 18 U.S.C. Section 666(a)(1)(A) reads in pertinent part. Whoever, being an agent of an organization,

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obtains by fraud or otherwise without authority knowingly converts to the use of any person, other than the rightful owner or intentionally misapplies property that: One, is valued at \$5,000 or more; and two, is owned by or is under the care, custody or control of such organization, commits a federal offense.

This law applies when the organization receives in any one year period benefits in excess of \$10,000 under a federal program involving a grant, contract, subsidy, loan, guarantee, insurance, or other form of federal assistance.

Section D, as used in this section, Section 1, the term "agent" means a person authorized to act on behalf of another person or a government, and in the case of an organization, includes a servant or employee, any partner, director, officer, manager and representative. And the term "in any one year period" means a continuous period that commences no earlier

than 12 months before the commission of the offenses or that ends no later than 12 months after the commission of the offense. Such period may include time both before and after the commission of the offense.

As you can see from the statute, Section 666(a)(1)(A) deals directly with an agent of an organization that receives in any one year period federal benefits in excess of \$10,000. In the indictment, Mr. Baroni and David Wildstein are alleged to be agents of the Port Authority.

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Ms. Kelly, who is not alleged to be an agent of the Port Authority, is included in this charge as having aided and abetted the commission of this crime. I will give you more detailed instructions on the aiding and abetting statute later.

Misuse of Property of an Organization Receiving Federal Funds: Essential Elements. In order to find the defendants guilty of violating Section 666(a)(1)(A), you must find that the Government proved each of the following five elements beyond a reasonable doubt. First, that from August through December, 2013, Mr. Baroni or Mr. Wildstein was an agent of the Port Authority. Second, that in the calendar year 2013, the Port Authority received federal benefits in excess of \$10,000. Third, that the defendants obtained by fraud, knowingly converted, or intentionally misapplied Port Authority property. Fourth, that the property obtained by fraud, knowingly converted, or intentionally misapplied, was owned by or was in the care, custody or control of the Port Authority. And fifth, that the value of the property obtained by fraud,

knowingly converted, or intentionally misapplied was at least \$5,000. I will explain each of these elements in more detail.

Agent of the Organization or Government Defined. The first element the Government must prove beyond a reasonable doubt is that at the time of the alleged — at the time alleged in the indictment, Mr. Baroni or Mr. Wildstein was an agent of the Port Authority. An agent is a person authorized to act on

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behalf of another person, organization or government, employees, partners, directors, officers, managers, and representatives are all agents of the organization or government with which they are associated. It is not necessary that the agent have control over the federal funds received by the organization.

Received Federal Funds Defined. The second element the Government must prove beyond a reasonable doubt is that in a one-year period, the Port Authority received federal benefits in excess of \$10,000. The Government and the defendants have entered into a stipulation that the Port Authority receive during the one year period beginning on January 1, 2013, benefits in excess of \$10,000 under a federal program involving a grant, contract, subsidy, loan, guarantee, insurance or some other form of federal assistance.

Obtain by Fraud, Knowingly Converted and Intentionally Misapplied Defined. The third element that the Government must prove beyond a reasonable doubt is that the defendants obtained by fraud, knowingly converted or intentionally misapplied the property or money of the Port Authority.

To obtain by fraud means to intentionally take something by false representations, suppression of the truth or deliberate disregard for the truth.

To knowingly convert money or property means to

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knowingly appropriate or use such money or property without proper authority for the benefit of one's self or any other person who was not the rightful owner with the intent to deprive the rightful owner of the money or property.

To intentionally misapply money or property means to intentionally use money or property of the Port Authority knowing that the use is unauthorized or unjustifiable or wrongful. Misapplication includes the wrongful use of the money or property for an unauthorized purpose, even if the use actually benefited the Port Authority. Property includes other things of value besides money and tangible objects. It also includes intangible things like the value of an employee's time and services. However, it does not include bona fide salary, wages, fees or other compensation paid or expenses paid or reimbursed in the usual course of business.

Belonging to and in the Care, Custody and Control of Defined. The fourth element the Government must prove beyond a reasonable doubt is that the property obtained by fraud, knowingly converted, or intentionally misapplied was owned by or was in the care, custody or control of the Port Authority. Although the words "care, custody and control" have slightly different meanings, for the purposes of this element they express a similar idea. That is, that the

Port Authority had control over and responsibility for the property.

Determining Value of Property. The fifth and final

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element the Government must prove beyond a reasonable doubt is that the value of the property obtained by fraud, knowingly converted, or intentionally misapplied was at least \$5,000. The Government is not required to prove the exact amount of money or the value of the property at issue, but the Government must prove beyond a reasonable doubt that the value of the money or property was \$5,000 or more.

The Government does not have to prove that the defendants knew of the specific property obtained by fraud, knowingly converted, or intentionally misapplied, or that the value of the property met or exceeded \$5,000. The word "value" means face, par or market value or cost price, either wholesale or retail, which ever is greater. Market value means the price a willing buyer would pay a willing seller at the time the property was stolen. Property does not include bona fide salary, wages, fees or other compensation paid or expenses paid or reimbursed in the ordinary course of business. Compensation for an employee's time and services obtained through deception is not legitimate or bona fide.

In deciding whether the \$5,000 value has been reached, you may consider: One, the value of compensation paid to Port Authority personnel whose time and services were allegedly obtained through deception. Two, the value of the affected real property,

including the lanes and toll booths as measured by the amount of tolls generated during the lane and

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toll booth reductions. And three, losses allegedly suffered by the Port Authority in connection with the Center and Lemoine traffic study.

If you find that the defendants devised a scheme or plan to obtain by fraud, knowingly convert, or intentionally misapply the property of the Port Authority through a series of acts, you can aggregate or add up the value of the property obtained from this series of acts to meet the \$5,000 requirement so long as those acts occur within the same one-year period of time.

The Government does not have to prove that the property obtained by fraud, knowingly converted, or intentionally misapplied was received by the Port Authority as federal benefits or derived from the federal benefits received by the Port Authority. What is required is that the defendants obtained by fraud, knowingly converted, or intentionally misapplied from the Port Authority at the same time that the Port Authority received federal benefits in excess of \$10,000 during a one-year period. In other words, the Government does not need to establish a connection between the criminal activity and the federal funds.

Conspiracy, Essential Elements. I explained that Mr. Baroni and Ms. Kelly are charged both with the substantive violation of Section 666(a)(1)(A). That's Count 2. And with conspiring to violate Sections 666(a)(1)(A), that's Count 1.

I'm going to explain the elements of that conspiracy count now.

18 U.S.C. Section 371 provides if two or more persons conspire either to commit any offense against the United States in any manner or for any purpose, and one or more of such persons do any act to affect the object of the conspiracy, each commits a federal offense.

Count 1 of the indictment charged that from in or about August, 2013, to in or about December, 2013, Mr. Baroni and Ms. Kelly agreed or conspired with each other and others, including Mr. Wildstein, to commit an offense against the United States; namely, to obtain by fraud, knowingly convert, or intentionally misapply Port Authority property and that to further the objective of the conspiracy, at least one member of the conspiracy committed at least one overt act as alleged in the indictment.

It is a federal crime for two or more persons to agree or conspire to commit any offense against the United States, even if they never actually reach their object. The conspiracy is a kind of criminal partnership. In order for you to find each of the defendants guilty of a conspiracy to commit an offense against the United States, you must find as to the particular defendant that the Government proved beyond a reasonable doubt each of the following four elements. First, that two or more persons agreed to commit an offense as charged in the indictment. I just explained the elements of the

Section 666(a)(1)(A). Second, that the defendant was

a party to or member of that agreement. Third, that the defendant joined the agreement or conspiracy knowing of its objective to commit an offense and intending to join together with at least one other alleged conspirator to achieve that objective; that is, that the defendant and at least one other alleged conspirator shared a unity of purpose and the intent to achieve a common goal or objective, to commit an offense against the United States. And fourth, that at some time during the existence of the agreement or conspiracy, at least one of its members performed an overt act in order to further the objectives of the conspiracy. I'll explain each of those elements in more detail.

Conspiracy, Existence of an Agreement. The first element of the crime of conspiracy is the existence of an agreement. The Government must prove beyond a reasonable doubt that two or more persons knowingly and intentionally arrived at a mutual understanding or agreement, either spoken or unspoken, to work together to achieve the overall objective of the conspiracy.

The Government does not have to prove the existence of a formal or written agreement, or an express oral agreement spelling out the details of the understanding. The Government also does not have to prove that all the members of the conspiracy directly met or discussed between themselves their

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unlawful objective, or agreed to all the details or agreed to what the means were by which the objective would be accomplished. The Government is not even required to prove that all the people named in the

indictment were in fact parties to the agreement; or that all members of the alleged conspiracy were named; or that all members of the conspiracy are even known. What the Government must prove beyond a reasonable doubt is that two or more persons in some way or manner arrived at some type of agreement, mutual understanding, or meeting of the minds to try to accomplish a common and unlawful objective.

You may consider both direct evidence and circumstantial evidence in deciding whether or not the Government has proved beyond a reasonable doubt that an agreement or mutual understanding existed.

You may or may not find the existence of a conspiracy based on reasonable inferences drawn from the actions and statements of the alleged members of the conspiracy, from the circumstances surrounding the scheme, and from evidence of related facts and circumstances which prove or do not prove that the activities of the participants in a criminal venture could not have been carried out except as the result of a preconceived agreement, scheme or understanding.

Conspiracy, Membership in the Agreement. If you find that a criminal agreement or conspiracy existed, then in order

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to find a defendant guilty of conspiracy, you must also find that the Government proved beyond a reasonable doubt as to each defendant that the defendant knowingly and intentionally joined that conspiracy during its existence. The Government must prove that the defendant knew the goal or objective of the agreement or conspiracy and voluntarily joined it during its existence, intending to achieve the common

goal or objective and to work together with the other alleged conspirators toward that goal or objective.

The Government need not prove that the defendant knew everything about the conspiracy, or that he or she knew everyone involved in it, or that he or she was a member from the beginning. The Government also does not have to prove that the defendant played a major or substantial role in the conspiracy. You may consider both direct and circumstantial evidence in deciding whether or not each defendant joined the conspiracy, knew of its criminal objective, and intended to further the objective.

Evidence which shows that the defendant only knew about the conspiracy, or only kept bad company by associating with members of the conspiracy, or was only present when it was discussed or when a crime was committed, is not sufficient to prove that the defendant was a member of the conspiracy, even if he or she approved of what was happening or did not object to it. Likewise, evidence showing that the defendant may have

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done something that happened to help a conspiracy does not necessarily prove that he or she joined the conspiracy. You may, however, consider this evidence with all the other evidence in deciding whether or not the Government proved beyond a reasonable doubt that the defendant joined the conspiracy.

Conspiracy, Mental States. In order to find a defendant guilty of conspiracy, you must find that the Government proved beyond a reasonable doubt that the defendant joined the conspiracy knowing of its objective and intending to help further or achieve that

objective. That is, the Government must prove: One, that the defendant knew of the objective or goal of the; two, that the defendant joined the conspiracy in intending to further or achieve that objective; and three, the defendant and at least one other alleged conspirator shared a unity of purpose toward that objective or goal. You may consider both direct evidence and circumstantial evidence, including the defendant's words or conduct and other factors and circumstances, in deciding whether or not the defendant had the required knowledge and intent.

Conspiracy, Overt Acts. With regard to the fourth element of conspiracy, overt acts, the Government must prove beyond a reasonable doubt that during the existence of the conspiracy at least one member of the conspiracy performed at least one of the overt acts described in the indictment for the

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purpose of furthering or helping to achieve the objective of the conspiracy.

Count 59 of Count 1 of the indictment alleges overt acts. The Government does not have to prove that all these acts were committed or that any of these acts were themselves illegal. Also, the Government does not have to prove that a defendant personally committed any of the overt acts. The Government must prove beyond a reasonable doubt that at least one member of the conspiracy committed at least one of the overt acts alleged in the indictment, and committed it during the time that the conspiracy existed for the purpose of furthering or helping to achieve the objective of the conspiracy. You must

unanimously agree on the overt act that was committed.

Conspiracy, Success Immaterial. The Government is not required to prove that any of the members of the conspiracy were successful in achieving the objective of the conspiracy. You may find a defendant guilty of conspiracy if you find that the Government proved beyond a reasonable doubt the elements I have explained, even if you find that the Government did not prove that any of the conspirators actually committed the substantive offense charged in Count 2. Conspiracy is a criminal offense, separate from the misuse of Port Authority property offense that was the objective of the conspiracy. Conspiracy is complete without the commission of that offense.

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Conspiracy, Acts and Statements of Co-conspirators. The acts or statements of any member of a conspiracy are treated as the acts or statements of all the members of the conspiracy if these acts or statements were performed or spoken during the existence of the conspiracy and to further the objectives of the conspiracy. Therefore, you may consider as evidence against a defendant any acts done or statements made by any members of the conspiracy during the existence of and to further the objectives of the conspiracy.

You may consider these acts and statements, even if they were done and made in the defendant's absence and without his or her knowledge. As with all the evidence presented in this case, it is for you to decide whether you believe this evidence and how much weight to give it.

Acts done or statements made by an alleged co-conspirator before a defendant joined the alleged conspiracy may also be considered by you as evidence against that defendant. However, acts done or statements made before the alleged conspiracy began, or after it ended, may only be considered by you as evidence against the person who performed that act or made that statement.

Wire Fraud. Now, I will instruct you on the second group of charges, the wire fraud counts. Count 3 of the indictment charges the defendants with — charges the defendants with wire fraud conspiracy. And Counts 4 through 7

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charge substantive wire fraud. Counts 4 and 6 as to Ms. Kelly and Counts 5 to 7 as to Mr. Baroni. I will instruct you as to the law relating to wire fraud conspiracy later. First, I will instruct you regarding the substantive offense of wire fraud.

The relevant part of the wire fraud statute, 18 U.S.C. 1343 provides: Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money by means of false or fraudulent pretenses, representations, or promises, transmits or causes to transmit by means of wire communication in interstate commerce, any writings, signs, signals, pictures or sounds for the purpose of executing such scheme or artifice, commits a federal offense.

Wire Fraud — Elements of the Offense. In order to find the defendant guilty of wire fraud, you must find that the Government proved each of the following three elements beyond a reasonable doubt. First, that the defendant knowingly devised a scheme to defraud

or to obtain money or property by materially false or fraudulent pretenses, representations or promises. Second, that the defendant acted with intent to defraud. And third, that in advancing, furthering or carrying out the scheme, the defendant transmitted any writing, signal or sound by means of a wire communication in interstate commerce or caused the transmission of any writing, signal or sound of some kind by means of a wire communication in interstate commerce.

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Scheme to Defraud or to Obtain Money or Property Defined. The first element that the Government must prove beyond a reasonable doubt is that for wire fraud — is that for wire fraud is that the particular defendant knowingly devised a scheme to defraud the Port Authority of money and property by materially false or fraudulent pretenses, representations or promises. A scheme is merely a plan for accomplishing a goal. Fraud is a general term, which embraces all the various means by which one person can gain an advantage over another by false representations, suppression of the truth, or deliberate disregard for the truth. Thus, a scheme to defraud is a plan, device or course of action to deprive someone else of money or property by means of false or fraudulent pretenses, representations or promises reasonably calculated to deceive persons of average prudence.

In this case the indictment alleges that the scheme to defraud was carried out by making and causing to be made certain false or fraudulent statements, representations and claims. The indictment alleges that the lane and toll booth reductions were conducted

on the false pretense of a traffic study. A statement or representation is false if it is untrue when it was made, and that the person making the statement or representation, or causing it to be made, knew it was untrue at the time it was made. A statement or representation is fraudulent if it was falsely made with the intention to

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deceive.

In addition, deceitful statements, half truths or the concealment of material facts or the expression of an opinion not honestly held may constitute false or fraudulent statements. The arrangement of the words or the circumstances under which they are used may convey the false and deceptive appearance.

The deception need not be premised upon spoken or written words alone. If there is a deception, the manner in which it is accomplished is immaterial. The false or fraudulent representation must relate to a material fact or matter. A material fact is one which would be of concern to a reasonable and prudent person in relying on the representation or statement in making a decision. This means that if you find that the representation that the lane and toll booth reductions was for the purpose of a traffic study was false, you must determine whether that representation was one that a reasonable person might have considered important in making his or her decision to commit Port Authority resources for that endeavor, including the services of Port Authority personnel.

In order to establish a scheme to defraud, the Government must also prove that the alleged scheme

contemplated depriving the Port Authority of money and property. An organization is deprived of money or property when the organization is deprived of the right to control that money or

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property. And one way the organization is deprived of the right to control that money and property is when the organization receives false or fraudulent statements that affect its ability to make discretionary economic decisions about what to do with that money or property.

The Government is not required to prove that the defendants originated the scheme to defraud. Furthermore, the Government also does not have to prove that the defendants actually realized any gain from the scheme, or that any intended victim actually suffered any loss.

In this case, the Government does contend that the proof establishes that the Port Authority was defrauded of its money and property. Although whether or not the scheme actually succeeded is really not the question, you may consider whether it succeeded in determining whether the scheme existed.

If you find that the Government has proven beyond a reasonable doubt that the scheme to defraud charged in the indictment did exist, and that the defendants knowingly devised or participated in the scheme charged in the indictment, you should then consider the second element.

Intent to Defraud Defined. The second element that the Government must prove beyond a reasonable doubt is that the defendants acted with the specific intent to defraud the Port Authority. To act with an

intent to defraud means to act knowingly and with the intention or purpose to deceive or to

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cheat. In considering whether a defendant acted with an intent to defraud, you may consider, among other things, whether the defendant acted with a desire or purpose to bring about some gain or benefit to himself or herself, or someone else, or with a desire or purpose to cause some loss to the Port Authority.

Transmits by Means of Wire, Radio or Television Communication in Interstate Commerce Defined. The third element of wire fraud that the Government must prove beyond a reasonable doubt is that in advancing, furthering or carrying out the scheme, a defendant transmitted a writing, signal or sound by means of a wire communication in interstate commerce or caused the transmission of a writing, signal or sound of some kind by means of a wire communication in interstate commerce.

The phrase “transmits by means of wire communication in interstate commerce” means to send from one state to another by means of telephone lines. The phrase includes a telephone conversation by a person in one state with a person in another state; or electronic signal sent from one state to another, such as by email or text message.

The Government and the defendants have agreed that the following stipulated facts are true. At all times relevant to the indictment, any email conducted through a gmail, yahoo or ymail account was a transmission of writing, signal or sound of some kind by means of a wire in interstate commerce.

The Government is not required to prove that the defendant actually used a wire communication in interstate commerce or that he or she even intended that anything be transmitted in interstate commerce by means of a wire communication to further or to advance or to carry out the scheme to defraud. However, what the Government does have to prove beyond a reasonable doubt is in a transmission by a wire communication facility in interstate commerce was in fact used in some manner to further, or to advance, or to carry out the scheme to defraud.

The Government must also prove either that the defendant used wire communication in interstate commerce or that he or she knew the use of wire communication in interstate commerce would follow in the ordinary course of business or events or that he or she should reasonably have anticipated that wire communication in interstate commerce would be used.

It is not necessary that the information transmitted by means of wire communication in interstate commerce itself was false or fraudulent or obtained any false or fraudulent pretense, representation or promise, or contained any request for money or things of value. However, the Government must prove beyond a reasonable doubt that the use of the wire communication in interstate commerce furthered or advanced or carried out in some way the scheme to defraud.

Each Transmission by a Wire Communication a Separate

Offense. Counts 4 through 7 are the substantive wire

fraud counts. You should consider them separately. Each transmission by wire communication in interstate commerce to advance or to further or to carry out the scheme to defraud may be a separate violation of the wire fraud statute.

Wire Fraud Conspiracy, No Overt Act Required. Mr. Baroni and Ms. Kelly are also charged with conspiring to commit wire fraud in Count 3. The same principles of conspiracy law that I instructed you on earlier apply here with one exception. Just as I explained to you regarding the Count 1 conspiracy, in order for you to find each of the defendants guilty of conspiracy to commit wire fraud, you must find as to the particular defendant that the Government proved beyond a reasonable doubt each of the following three elements. First, that two or more persons agreed to commit wire fraud as charged in the indictment. Second, that the defendant was a party to or member of that agreement. Third, that the defendant joined the agreement or conspiracy knowing of its objective to commit an offense and intending to join together with at least one other alleged conspirator to obtain — to achieve that objective. That is, that the defendant and at least one other alleged conspirator shared a unity of purpose and the intent to achieve a common goal or objective to commit wire fraud.

Unlike the conspiracy charged in Count 1, there is no requirement in Count 3 that the Government must prove beyond a

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reasonable doubt that any member of the conspiracy performed an overt act in furtherance of the

conspiracy, so you need not consider whether any of the alleged conspirators performed an overt act.

The Statute Defining the Offense Charged, 18 U.S.C. Section 242. Count 8 of the indictment charges the defendants with a conspiracy to injure or oppress certain civil rights. And Count 9 charges a substantive deprivation of civil rights. I will instruct you on the law relating to civil rights later, but first I will instruct you regarding the substantive offense.

Count 9 of the indictment charges the defendants with violating Section 242 of Title 18 of the United States Code and I will read the relevant part of that statute to you. Whoever, under color of any law, willfully subjects any person in any state to the deprivation of any rights, privileges or immunities secured or protected by the Constitution or laws of the United States commits a federal offense.

Title 18 of the United States Code Section 242 makes it a federal crime for anyone, while acting under color of state law, to willfully deprive someone else of his or her rights secured by the Constitution or laws of the United States.

Elements of Deprivation of Rights. For you to find the defendant guilty of the crime charged in Count 9 of the

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Government proved beyond a reasonable doubt each of the following four requirements. First, that the defendant was a member of the conspiracy charged in the indictment. Second, that while the defendant was still a member of the conspiracy, one or more of the

other members of the conspiracy committed the particular offense charged in the indictment by committing each of the elements of that offense as I explained those elements to you in these instructions. Third, that the other members of the conspiracy committed this offense within the scope of the unlawful agreement and to help further or achieve the objective of the conspiracy. And fourth, that this offense was reasonably foreseeable to or reasonably anticipated by the defendant as a necessary and natural consequence of the unlawful agreement. The Government does not have to prove that the defendants specifically agreed or knew that this offense would be committed. However, the Government must prove that the offense was reasonably foreseeable to the defendant as a member of the conspiracy and within the scope of the agreement as the defendant understood it.

Proof of Required State of Mind, Intentionally, Knowingly, Willfully. The offenses in the indictment require that the Government prove beyond a reasonable doubt that the defendant acted knowingly, intentionally and/or willfully with respect to certain elements of the offenses. Often, the state of mind with which a person acts at any given time cannot be

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proved directly because one cannot read another person's mind and tell what he or she is thinking. However, a defendant's state of mind can be proved indirectly from the surrounding circumstances. Thus, to determine a defendant's state of mind at a particular time, you may consider evidence about what he or she said or did not say; what he or she did and

failed to do; how he or she acted and all the other facts and circumstances shown by the evidence that may prove what was in his or her mind at that time. It is entirely up to you to decide what the evidence presented during this trial proves, or fails to prove, about the defendant's state of mind.

You may also consider the natural and probable results or consequences of any acts the defendant knowingly did, and whether it is reasonable to conclude that he or she intended those results or consequences. You may find, but you are not required to find, that the defendant knew or intended the natural and probable consequences or results of acts he or she knowing did. This means if you find that an ordinary person in the defendant's situation would have naturally realized that certain consequences would result from his or her actions, then you may find, but you are not required to find, that the defendant did know and did intend that those consequences would result from his or her actions. This is entirely up to you to decide as the finders of the facts in this case.

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Knowingly. The offenses charged in the indictment require that the Government prove that a defendant acted knowingly with respect to certain elements of the offense. A defendant acts knowingly if that person acts voluntarily and intentionally and not because of mistake or accident or other innocent reason. This means that the Government must prove beyond a reasonable doubt, that the defendant was conscious — was conscious and aware of the nature of his or her actions, and of the surrounding facts and

circumstances as specified in the definition of the offenses charged.

In deciding whether a defendant acted knowingly, you may consider evidence about what the defendant said or did not say, what the defendant did and failed to do, how the defendant acted, and all other factors and circumstances shown by the evidence that may or may not prove what was in the defendant's mind at that time. The Government is not required to prove that a defendant knew his or her acts were against the law.

Intentionally. The offenses of misusing Port Authority property, wire fraud and conspiracy to commit those offenses charged in the indictment, require that the Government prove that a defendant acted intentionally with respect to certain elements of the offenses. This means that the Government must prove beyond a reasonable doubt either: One, it was the defendant's conscious desire or purpose to act in a certain way or to cause a certain result; or that, two, the

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defendant knew that he or she was acting in that way or would be practically certain to cause that result.

In deciding whether a defendant acted intentionally, you may consider evidence about what the defendant said or did not say, what the defendant did and failed to do, how the defendant acted, and all other facts — all the other facts and circumstances shown by the evidence that may prove what was or was not in the defendant's mind at that time

Motive Explained. Intent and motive are different concepts. Motive is what prompts a person to act.

Intent refers only to the state of mind with which the particular act is done. Personal advancement and financial gain, for example, are motives for much of human conduct. However, these motives may prompt one person to intentionally do something perfectly acceptable, while prompting another person to intentionally do an act that is a crime. Motive is not an element of the offense with which a defendant is charged. Proof of bad motive is not required to convict. Further, proof of bad motive alone does not establish that the defendant is guilty. And proof of good motive alone does not establish that the defendant is not guilty. Evidence of the defendant's motive may, however, help you to determine his or her intent.

Willful Blindness. To find a defendant guilty of the offenses charged in the indictment, you must find that the Government proved beyond a reasonable doubt that the defendant

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knew that the purpose of the lane and toll booth reductions was not to conduct a legitimate Port Authority traffic study.

In this case, there is a question whether the defendants knew the lane and toll booth reductions were part of a traffic study or whether defendants knew the traffic study was a false pretense. The defendants contend that they believed the reductions were for a traffic study. The Government contends that the defendants knew that the traffic study was a false pretense. No one can avoid responsibility for a crime by deliberately ignoring what is obvious. When, as in this case, knowledge of a particular fact or circumstance is an essentially part of the offense

charged, the Government may prove a defendant's knowledge with evidence beyond a reasonable doubt that the defendant deliberately closed his or her eyes to what would otherwise be obvious to him or her. To find the defendant's knowledge in that circumstance you must find that the defendant subjectively believed that there was a high probability that the traffic study was a fiction, consciously took deliberate actions to avoid learning about that, and did not actually believe that the lane toll booth reductions were implemented for a legitimate Port Authority traffic study.

However, you may not find that a defendant knew that the traffic study was a fiction if you find that the defendant actually believed that the lane and toll booth reductions were part of a legitimate Port Authority traffic study. Also, you

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may not find that a defendant knew the reductions were implemented under the false pretense of a traffic study if you find only that the defendant consciously disregarded a risk that the fact existed or that the defendant should have known that the fact existed, or that a reasonable person would have known of a high probability that the fact existed.

It is also not enough that the defendant may have been reckless, or stupid, or foolish, or may have acted out of inadvertence or accident. You must find that the defendant actively subjectively believed there was a high probability that the traffic study explanation was a fiction, consciously took deliberate actions to avoid learning whether or not there was an alleged traffic study, and did not actually believe that the reductions were part of an actual traffic study.

Good Faith Defense. The offenses charged in the indictment variously require proof that the defendants acted knowingly intentionally and willfully. If you find that the defendants acted in good faith, that would be a complete defense to these charges because good faith on the part of the defendants would be inconsistent with their acting knowingly, intentionally and willfully. A defendant acts in good faith when he or she has an honestly held belief, opinion or understanding, even though the belief, opinion or understanding turns out to be inaccurate or incorrect. Thus, in this case, if the defendants made an honest mistake or had an honest

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misunderstanding that the lane or toll booth reductions were part of a legitimate Port Authority traffic study rather than part of a plan to cause traffic problems in Fort Lee as punishment to Mayor Sokolich, then they did not act knowingly, intentionally and willfully.

The defendants do not have the burden of proving good faith. Good faith is a defense because it is inconsistent with the requirements of the offenses charged that the defendants acted knowingly, intentionally and willfully. As I told you, it is the Government's burden to prove each element of the offenses, including the mental state elements.

In deciding whether the Government proved the defendants acted knowingly, intentionally and willfully, or instead, whether the defendants acted in good faith, you should consider all of the evidence presented in the case that may bear on the defendant's state of mind.

If you find from the evidence that the defendants acted in good faith, as I have defined it, or if you find for any other reason that the Government has not proved beyond a reasonable doubt that the defendants acted knowingly, intentionally and willfully, you must find the defendants not guilty of the offenses charged in the indictment.

Persons Not on Trial. You may not draw any inference, favorable or unfavorable, towards the Government or the defendants on trial from the fact that certain persons are

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**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA	:	Hon. Susan D. Wigenton
	:	
v.	:	Crim. No. 15-193 (SDW)
	:	
WILLIAM E. BARONI, JR. and BRIDGET ANNE KELLY	:	

FINAL
JURY INSTRUCTIONS

* * *

**Instruction 7: Misuse of Property of an
Organization Receiving Federal Funds
(18 U.S.C. § 666(a)(1)(A))**

Counts 1 charges the defendants with conspiring to commit the offense of obtaining by fraud, knowingly converting, and intentionally misapplying property of the Port Authority, in violation of 18 USC, § 371. Count 2 charges the defendants with the substantive offense of obtaining by fraud, knowingly converting, or intentionally misapplying property of the Port Authority, in violation of 18 U.S.C. §§ 666(a)(1)(A) and 2. I will instruct you on the law relating to conspiracy later. First, I will instruct you regarding the substantive offense.

The statute, 18 U.S.C. § 666(a)(1)(A), reads, in pertinent part:

Whoever . . . being an agent of an organization . . . obtains by fraud, or otherwise without authority knowingly converts to the use of any person other than the rightful owner or intentionally misapplies, property that-

- (i) is valued at \$5,000 or more, and
- (ii) is owned by, or is under the care, custody, or control of such organization, . . . [commits a federal offense.]

This law applies when "the organization . . . receives, in any one year period, benefits in excess of \$10,000 under a Federal program involving a grant, contract, subsidy, loan, guarantee, insurance, or other form of Federal assistance."

(d) As used in this section—

(1) the term "agent" means a person authorized to act on behalf of another person or a government and, in the case of an organization . . ., includes a servant or employee, and a partner, director, officer, manager, and representative; [and]

(5) the term "in any one-year period" means a continuous period that commences no earlier than twelve months before the commission of the offense or that ends no later than twelve months after the commission of the offense. Such period may include time both before and after the commission of the offense.

As you can see from the statute, Section 666(a)(1)(A) deals directly with an agent of an organization that receives, in any one-year period, federal benefits in excess of \$10,000. In the Indictment, Mr. Baroni and David Wildstein are alleged to be agents of the Port Authority. Ms. Kelly, who is not alleged to be an agent of the Port Authority, is included in this charge as having aided and abetted the commission of this crime. I will give you more detailed instructions on the aiding and abetting statute later.

**Instruction 8: Misuse of Property of an
Organization Receiving Federal Funds:
Essential Elements**

(18 U.S.C. § 666(a)(1)(A))

In order to find the defendants guilty of violating Section 666(a)(1)(A), you must find that the Government proved each of the following five elements beyond a reasonable doubt:

- First: That from August through December 2013, Mr. Baroni or David Wildstein was an agent of the Port Authority;
- Second: That in the calendar year 2013, the Port Authority received federal benefits in excess of \$10,000;
- Third: That the defendants obtained by fraud, knowingly converted, or intentionally misapplied Port Authority property;
- Fourth: That the property obtained by fraud, knowingly converted, or intentionally misapplied was owned by or was in the care,

custody, or control of, the Port Authority;
and

Fifth: That the value of the property obtained by fraud, knowingly converted, or intentionally misapplied was at least \$5,000.

I will explain each of these elements in more detail.

**Instruction 11: Obtained by Fraud, Knowingly
Converted, and Intentionally Misapplied
Defined**

(18 U.S.C. § 666(a)(1)(A))

The third element that the Government must prove beyond a reasonable doubt is that the defendants obtained by fraud, knowingly converted, or intentionally misapplied the property or money of the Port Authority.

To obtain by fraud means to intentionally take something by false representations, suppression of the truth, or deliberate disregard for the truth.

To knowingly convert money or property means to knowingly appropriate or use such money or property without proper authority for the benefit of oneself or any other person who was not the rightful owner with the intent to deprive the rightful owner of the money or property.

To intentionally misapply money or property means to intentionally use money or property of the Port Authority knowing that the use is unauthorized or unjustifiable or wrongful. Misapplication includes the wrongful use of the money or property for an unauthorized purpose, even if the use actually benefitted the Port Authority.

Property includes other things of value besides money and tangible objects. It also includes intangible things like the value of an employee's time and services. However, it does not include bona fide salary, wages, fees, or other compensation paid, or expenses paid or reimbursed, in the usual course of business.

**Instruction 13: Determining Value of Property
(18 U.S.C. § 666(a)(1)(A))**

The fifth and final element the Government must prove beyond a reasonable doubt is that the value of the property obtained by fraud, knowingly converted, or intentionally misapplied was at least \$5,000. The Government is not required to prove the exact amount of money or the value of the property at issue, but the Government must prove beyond a reasonable doubt that the value of the money or property was \$5,000 or more. The Government does not have to prove that the Defendants knew of the specific property obtained by fraud, knowingly converted, or intentionally misapplied or that the value of the property met or exceeded \$5,000.

The word "value" means face, par or market value, or cost price, either wholesale or retail, whichever is greater. "Market value" means the price a willing buyer would pay a willing seller at the time the property was stolen. "Property" does not include bona fide salary, wages, fees, or other compensation paid or expenses paid or reimbursed in the ordinary course of business. Compensation for an employee's time and services obtained through deception is not legitimate or "bona fide."

In deciding whether the \$5,000 value has been reached, you may consider:

1. the value of compensation paid to Port Authority personnel whose time and services were allegedly obtained through deception;
2. The value of the affected real property, including the lanes and toll booths as measured by the amount of tolls generated during the lane and toll booth reductions; and
3. Losses allegedly suffered by the Port Authority in connection with the Center & Lemoine traffic study.

If you find that the defendants devised a scheme or plan to obtain by fraud, knowingly convert, or intentionally misapply the property of the Port Authority through a series of acts, you can aggregate or add up the value of property obtained from this series of acts to meet the \$5,000 requirement, so long as those acts occur within the same one-year time period.

The Government does not have to prove that the property obtained by fraud, knowingly converted, or intentionally misapplied was received by the Port Authority as federal benefits or derived from the federal benefits received by the Port Authority. What is required is that the defendants obtained by fraud, knowingly converted, and intentionally misapplied from the Port Authority at the same time that the Port Authority received federal benefits in excess of \$10,000 during a one-year period. In other words, the Government does not need to establish a connection between the criminal activity and the federal funds.

Instruction 21: Wire Fraud

Now I will instruct you on the second group of charges, the wire fraud counts.

Count 3 of the Indictment charges the defendants with wire fraud conspiracy, and Counts 4 through 7 charge substantive wire fraud — Counts 4 and 6 as to Ms. Kelly and Counts 5 and 7 as to Mr. Baroni. I will instruct you on the law relating to wire fraud conspiracy later. First, I will instruct you regarding the substantive offense of wire fraud.

The relevant part of the wire fraud statute, 18 U.S.C. § 1343 provides:

Whoever, having devised or intending to devise any scheme or artifice to defraud, or for obtaining money or property by means of false or fraudulent pretenses, representations, or promises, transmits or causes to be transmitted by means of wire . . . communication in interstate . . . commerce, any writings, signs, signals, pictures, or sounds for the purpose of executing such scheme or artifice, [commits a federal offense].

Instruction 22: Wire Fraud Elements of the Offense**(18 U.S.C. § 1343)**

In order to find a defendant guilty of wire fraud, you must find that the government proved each of the following three elements beyond a reasonable doubt:

First: That the defendant knowingly devised a scheme to defraud or to obtain money or

property by materially false or fraudulent pretenses, representations or promises;

Second: That the defendant acted with intent to defraud; and

Third: That in advancing, furthering, or carrying out the scheme, the defendant transmitted any writing, signal, or sound by means of a wire communication in interstate commerce or caused the transmission of any writing, signal, or sound of some kind by means of a wire communication in interstate commerce.

Instruction 23: Scheme to Defraud or to Obtain Money or Property" Defined

(18 U.S.C. § 1343)

The first element that the Government must prove beyond a reasonable doubt is that for wire fraud is that the particular defendant knowingly devised a scheme to defraud the Port Authority of money or property by materially false or fraudulent pretenses, representations, or promises.

A "scheme" is merely a plan for accomplishing a goal.

"Fraud" is a general term which embraces all the various means by which one person can gain an advantage over another by false representations, suppression of the truth, or deliberate disregard for the truth.

Thus, a "scheme to defraud" is any plan, device, or course of action to deprive someone else of money or property by means of false or fraudulent pretenses,

representations or promises reasonably calculated to deceive persons of average prudence.

In this case, the Indictment alleges that the scheme to defraud was carried out by making and causing to be made certain false or fraudulent statements, representations, and claims. The Indictment alleges that the lane and toll booth reductions were conducted on the false pretense of a traffic study. A statement or representation is false if it is untrue when it was made and if the person making the statement or representation or causing it to be made knew it was untrue at the time it was made.

A statement or representation is fraudulent if it was falsely made with the intention to deceive.

In addition, deceitful statements of half-truths or the concealment of material facts or the expression of an opinion not honestly held may constitute false or fraudulent statements. The arrangement of the words, or the circumstances in which they are used may convey the false and deceptive appearance.

The deception need not be premised upon spoken or written words alone. If there is deception, the manner in which it is accomplished is immaterial.

The false or fraudulent representation must relate to a material fact or matter. A material fact is one which would be of concern to a reasonable and prudent person in relying upon the representation or statement in making a decision.

This means that if you find that the representation that the lane and toll booth reductions was for the purpose of a traffic study was false, you must determine whether that representation was one that a reasonable person might have considered important in

making his or her decision to commit Port Authority resources for that endeavor, including the services of Port Authority personnel.

In order to establish a scheme to defraud, the Government also must prove that the alleged scheme contemplated depriving the Port Authority of money or property. An organization is deprived of money or property when the organization is deprived of the right to control that money or property. And one way the organization is deprived of the right to control that money and property is when the organization receives false or fraudulent statements that affect its ability to make discretionary economic decisions about what to do with that money or property.

The Government is not required to prove that the defendants originated the scheme to defraud. Furthermore, the Government also does not have to prove that the defendants actually realized any gain from the scheme or that any intended victim actually suffered any loss. In this case, the Government does contend that the proof establishes that the Port Authority was defrauded of its money and property . Although whether or not the scheme actually succeeded is really not the question, you may consider whether it succeeded in determining whether the scheme existed.

If you find that the Government has proved beyond a reasonable doubt that the scheme to defraud charged in the Indictment did exist and that the defendants knowingly devised or participated in the scheme charged in the indictment, you should then consider the second element.

Instruction 24: "Intent to Defraud" Defined
(18 U.S.C. § 1343)

The second element that the Government must prove beyond a reasonable doubt is that the defendants acted with the specific intent to defraud the Port Authority.

To act with an "intent to defraud" means to act knowingly and with the intention or the purpose to deceive or to cheat.

In considering whether a defendant acted with an intent to defraud, you may consider, among other things, whether the defendant acted with a desire or purpose to bring about some gain or benefit to himself or herself or someone else, or with a desire or purpose to cause some loss to the Port Authority.

Instruction 41: Willful Blindness

To find a defendant guilty of the offenses charged in the Indictment, you must find that the Government proved beyond a reasonable doubt that the defendant knew that the purpose of the lane and toll booth reductions was not to conduct a legitimate Port Authority traffic study. In this case, there is a question whether the defendants knew the lane and toll booth reductions were part of a traffic study or whether defendants knew the traffic study was a false pretense. The defendants contend that they believed the reductions were for a traffic study. The Government contends that the defendants knew that the traffic study was a false pretense.

No one can avoid responsibility for a crime by deliberately ignoring what is obvious. When, as in this

case, knowledge of a particular fact or circumstance is an essential part of the offense charged, the Government may prove a defendant's knowledge with evidence beyond a reasonable doubt that the defendant deliberately closed his or her eyes to what would otherwise have been obvious to him or her.

To find a defendant's knowledge in that circumstance, you must find that the defendant subjectively believed there was a high probability that the traffic study was a fiction, consciously took deliberate actions to avoid learning about that, and did not actually believe that the lane and toll booth reductions were implemented for a legitimate Port Authority traffic study.

However, you may not find that a defendant knew that the traffic study was a fiction if you find that the defendant actually believed that the lane and toll booth reductions were part of a legitimate Port Authority traffic study. Also, you may not find that a defendant knew the reductions were implemented under the false pretense of a traffic study if you find only that the defendant consciously disregarded a risk that the fact existed, or that the defendant should have known that the fact existed, or that a reasonable person would have known of a high probability that the fact existed. It also is not enough that the defendant may have been reckless or stupid or foolish, or may have acted out of inadvertence or accident. You must find that the defendant actually subjectively believed there was a high probability that the traffic study explanation was a fiction, consciously took deliberate actions to avoid learning whether or not there was a legitimate traffic study, and did not

actually believe that the reductions were part of an actual traffic study.

Instruction 42: Good Faith Defense

The offenses charged in the Indictment variously require proof that the defendants acted knowingly, intentionally, and willfully. If you find that the defendants acted in "good faith," that would be a complete defense to these charges, because good faith on the part of the defendants would be inconsistent with their acting knowingly, intentionally, and willfully. A defendant acts in "good faith" when he or she has an honestly held belief, opinion, or understanding, even though the belief, opinion, or understanding turns out to be inaccurate or incorrect. Thus, in this case if the defendants made an honest mistake or had an honest misunderstanding that the lane and toll booth reductions were part of a legitimate Port Authority traffic study rather than part of a plan to cause traffic problems in Fort Lee as punishment of Mayor Sokolich, then they did not act knowingly, intentionally, and willfully.

The defendants do not have the burden of proving "good faith." Good faith is a defense because it is inconsistent with the requirements of the offenses charged, that the defendants acted knowingly, intentionally, and willfully. As I have told you, it is the government's burden to prove beyond a reasonable doubt each element of the offenses, including the mental state elements. In deciding whether the government proved that the defendants acted knowingly, intentionally, and willfully, or, instead, whether the defendants acted in good faith, you should

consider all of the evidence presented in the case that may bear on the defendants' state of mind. If you find from the evidence that the defendants acted in good faith, as I have defined it, or if you find for any other reason that the government has not proved beyond a reasonable doubt that the defendants acted knowingly, intentionally, and willfully, you must find the defendants not guilty of the offenses charged in the Indictment.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
CRIMINAL ACTION 2:15-cr-193-SDW

UNITED STATES OF	:	TRANSCRIPT OF
AMERICA,	:	PROCEEDINGS
	:	
-vs-	:	TRIAL
	:	
WILLIAM E. BARONI JR.,	:	Pages 1 – 223
and BRIDGET ANNE	:	
KELLY,	:	
Defendants.	:	
-----	:	

Newark, New Jersey
October 28, 2016

B E F O R E: HONORABLE SUSAN D. WIGENTON,
UNITED STATES DISTRICT JUDGE
AND A JURY

A P P E A R A N C E S:

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Attorneys for Defendant Baroni

Pursuant to Section 753 Title 28 United States Code, the following transcript is certified to be an accurate record as taken stenographically in the above entitled proceedings.

S/Carmen Liloia
CARMEN LILOIA
Official Court Reporter
(973) 477-9704

* * *

down. Evidence that you can draw upon. Evidence from which you can conclude that there was an illegal agreement and that is circumstantial evidence. What people said, what people didn't say, actions they took and actions they did not take, from which, when you apply your own common sense, you can conclude there was an illegal agreement. And I'm going to be focusing on a lot of that — much of that evidence during my time talking to you this morning.

Now, as I said, later on in my summation I'm going to cover the elements of each of these charges and how the Government has shown that each and every element of those charges has been proven beyond a reasonable doubt. The Government and defendants have agreed on some of those elements and some of them are in dispute. But for all nine of the charges, they really, really boil down to a central question. Alright? We can talk about all the elements later, but it really boils down to one central question in this case. Did the defendants, Bill Baroni and Bridget Kelly, know that the lane reductions were bogus? Did they know there was no traffic study? That's really the central question in the case. And I'm going to review with you in detail the evidence that shows beyond a reasonable doubt that Bill Baroni and Bridget Kelly knew that there was no traffic study. They knew that the lane reductions were punitive. They conspired with David Wildstein to use Port Authority resources to cause traffic problems in

Fort Lee. And they agreed from the very beginning to cover that up by calling it a traffic study.

Now, to start with the evidence, I want to show you what's in evidence as Government Exhibits 274 and 279. These are two emails that you've seen in this case. I have the large versions, I'm going to put up and show you guys because I'm going to come back to them several times during my summation.

MR. CRITCHLEY: Just exhibits?

MR. CORTES: Just exhibits.

Now, these are Government Exhibits 274 and 279. These are two email exchanges from Monday, September 9th, 2013. These are the — these are emails that both begin with an email from Mr. Baroni's assistant at the Port Authority to Mr. Baroni on the morning of Monday, September 9th, 2013, at 9:29 a.m. containing a message from Mayor Mark Sokolich about an urgent matter of public safety. The message is forwarded from Mr. Baroni to Mr. Wildstein on both of these documents.

On the document that's marked as Government Exhibit 274, Mr. Baroni — Mr. Baroni forwards it to Mr. Wildstein and Mr. Wildstein responded at 9: 8 a.m. on Monday, September 9th, 2013, "radio silence."

And then there's Government Exhibit 279. And that is the email, same email from Mr. Baroni to Mr. Wildstein that Mr. Wildstein then forwarded to Ms. Kelly. Ms. Kelly responded: Did he call him back? Referring to did Mr. Baroni call Mayor

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course of conduct. And it is shocking to the conscience. And the evidence also shows beyond a reasonable doubt that they agreed to do it with David Wildstein.

And that's Count Eight. That's the conspiracy count that these — that Mr. Baroni, Mr. Wildstein and Ms. Kelly agreed together.

One thing about the civil rights charges I want to spell out. They didn't have to know, Mr. Baroni and Ms. Kelly, they didn't have to know they were violating a particular provision of the Constitution. They didn't have to know that was Article 5 or Article 3. They don't have to know which clause, which article. They have to know, though, they have to have an understanding that they're doing something that the Constitution says you can not do. You can not do this. You can not do this to ordinary people. And the evidence has been — that we've covered here, the documents and the testimony, show that they understood that. And so — and shows that they agreed to do that with David Wildstein. And so that's Counts Eight and Nine.

Ladies and gentlemen, Bill Baroni and Bridget Kelly were each high-ranking Government employees. They were public servants. And they were acting under color of law. They had influence and they had authority. They had power. They had the power to turn the wheels of Government and affect people's lives. They had the power to do that with the simple phone call, a text, an email. At any point during the week of the

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lane reductions, either one of them could have picked up the phone and gotten back to Mayor Sokolich. Or they could have simply told Wildstein to stop. To move the cones back. That the lane reductions were clearly hurting ordinary people, citizens of Fort Lee. That no

traffic study was worth even the smallest chance of impacting public safety.

With all of that power and influence that Mr. Baroni and Ms. Kelly had, because of their positions, it meant that they had a higher responsibility. A higher responsibility to the public. To the people of Fort Lee. And that responsibility was to make each and every decision in the best interest of the people of New Jersey, the people that they served. Not what they believed was in the best interest of Bill Baroni, or Bridget Kelly, or Chris Christie. But Bill Baroni and Bridget Kelly turned their backs on their responsibility to the public. They abused the power that they were trusted with. They chose to use their government power to cause traffic problems in the first place. They chose to start the lane reductions on the first day of school to make the traffic even worse for Fort Lee parents. They chose to maintain radio silence despite repeated pleas for help by representatives of a town whose only sin was that the Mayor did not endorse Chris Christie for Governor. And not only did they abandon their responsibility to the public, but Bill Baroni and Bridget Kelly laughed about it. They actually delighted in

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got on the stand. He took a beating from the first three witnesses that the Government called. So they know that.

So in comes, on cue, the corroborative evidence. A whole list of other things that are put on those screens and came from that stand, to prop up, sure up

Wildstein. Because they can't make their case with him.

The problem is, in each and every instance, and we'll talk about them, things like 9/11, which by the way I don't know what happened to that in the Government's closing. It seemed like there were at least three full days of 9/11, 9/11, the Governor, Wildstein was there. No, Bill said it. What about the pictures? We saw pictures. They're standing laughing at 9/11. And in the closing today, nothing. Silence. Not calling the Mayor back. Radio silence. All of those things, and we're going to talk about them, all of those things are put in there to sure up David Wildstein. And it just doesn't work once you take them apart.

And lastly, the reason that they're not going to be able to move you over is because they cannot overcome Bill Baroni's legal defense called the good faith defense. And I know you heard about it yesterday. The good faith defense is not something that's fluff or made up out of thin air. It is a legally recognized defense. That's why you were instructed on it. And it is a powerful defense. It is the nuclear bomb of all defenses because it is absolute. And it is to every charge

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in this case.

And if you find that in trying to prove the intent, the willfulness, the knowingness. If you find that the Government failed to overcome, while proving those things, the assertion and the facts of the good faith defense, that's it. That's every element, every count. It's not guilty, automatically, on everything. That's

why the good faith defense is so powerful and that's why it's so important to this case.

One important thing that did not — was not spoken about on closing is the timeframe at issue in these charges. We've seen things as far back as 2010, a fair amount from 2011, a fair amount from 2012. The conspiracies that Mr. Cortes spoke to you about, the charged conspiracies are four months. That's it. August to December of 2013. Four months. That's the focus, that's the charge in every single count. Not just the conspiracies, but the wire fraud, the civil rights, all of them, four months. We heard about Jersey City, steel, all sorts of documents, emails well before, well before. It's a four-month case, every single count.

So David Wildstein, and I'm going to try to do this quick because I want to be respectful, everyone's paid attention and I can't believe that you need 45 minutes on David Wildstein's credibility problems.

Let's take a look, if we can, at stipulation number

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instead of a binder. The Republicans get a hold of him. "Mr. Baroni, this is a very important issue, and thank you for bringing it to our attention". It was theater. That's all it was. And they edited it today to make it look like all Bill did was sit there and say that over and over and over again. You know what they didn't show you, were some of the antagonistic questions that he was asked. What they didn't show you was how his tone changed when one of the legislators didn't yell at him like Assemblyman Wisniewski or Stender. As soon as — and I honestly don't even remember if it was a Republican or Democrat, started asking him

questions, then he talked to her like the way she was talking to him. They can edit everything they want. I'll tell you what, give me that video. Let me give it to my daughter, she'll make a snap chat of it have that will make the Democrats look like bigger bullies than Chris Christie was from that same footage, and they'd be embarrassed by it.

So they could do whatever they want with the video and edit it, it doesn't show Bill is a tough guy. If Bill was a tough guy, a lot of things that happened in this case wouldn't have happened.

So we're talking about intentionally and willfully. Can we look at, please, 23B, which is what I would ask you to consider, the most important jury instruction. Again, that's up to you. There's a lot of them. You read them yesterday.

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But let's take a look at 23B. The instruction for the good faith defense. And I would ask you while you're deliberating and thinking about Bill's mind at the time, what he knew at the time, to consider these sentences. Start with a defendant acts, yeah, right at it. And I know you just heard this yesterday but I have to protect Bill so please bear with me while I read a couple of sentences.

"A defendant,' Mr. Baroni, "acts in good faith when he or she has an honestly held belief, opinion or understanding, even though the belief, opinion, or understanding turns out to be inaccurate or incorrect." So let's go right to it before I read the next sentence. If Bill had reason to honestly believe that this was a traffic study, if he honestly believed it was a traffic

study and no more, that's good faith. What happens then, what's the next step?

"Thus, in this case if the defendants made an honest mistake or had an honest misunderstanding that the lane and toll booth reductions were part of a legitimate Port Authority traffic study rather than part of a plan to cause traffic in Fort Lee as punishment of Mayor Sokolich, they did not act knowingly, intentionally and willfully." And if they didn't act knowingly, intentionally or willfully, depending, that's it. It's not guilty. It is truly that simple. The prosecution might not like it, but it is that simple. And we do not have the burden. The next sentence, we do not have the

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burden of proving good faith.

The rest of it is important as well, but I'll leave that obviously for you guys hopefully to consider when you're thinking about what was in Bill's head. When you're thinking about the good faith defense, I would say, again, you know, there's no hindsight in a federal criminal case. There's no knowing what we know now. Everybody knows, sure, if I knew then what I know now, would I do things different? Yeah. That's true maybe even today for all of us. I would have done this. I would have taken that road. I wouldn't have talked to that person. But the good faith at the time and what Bill knew and didn't know is what matters.

So let's talk a little bit about Bill and then walk through not calling the Mayor back, radio silence, and all this stuff I imagine everybody wants to hear about.

Bill was a young legislator and was approached by an FBI agent. You heard testimony that Bill was specifically told: You're not in any trouble, we're just

looking for somebody to give us background information. They talked to him, I believe it was, for several years. They asked to talk to him. He talked to them. They asked for some help. He gave it to them. David Wildstein did the same thing, but it was also after he's talking his way down from 15 years and also would only talk to them with immunity.

The Government never challenged anything we said

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
CRIMINAL ACTION 2:15-cr-193-SDW

UNITED STATES OF	:	TRANSCRIPT OF
AMERICA,	:	PROCEEDINGS
	:	
-vs-	:	TRIAL
	:	
WILLIAM E. BARONI JR.,	:	Pages 1 – 144
and BRIDGET ANNE	:	
KELLY,	:	
Defendants.	:	
-----	:	

Newark, New Jersey
October 31, 2016

B E F O R E: HONORABLE SUSAN D. WIGENTON,
UNITED STATES DISTRICT JUDGE
AND A JURY

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Pursuant to Section 753 Title 28 United States Code, the following transcript is certified to be an accurate record as taken stenographically in the above entitled proceedings.

S/Carmen Liloia
CARMEN LILOIA
Official Court Reporter
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* * *

to Kevin O'Dowd where he ordered it. But now Bridget's also responsible for Fulop

And notice — we'll talk about something else. I'm just going to go a little quicker. Now, get to, please, 56. This is the good faith defense that we talked about. And, ladies and gentlemen, this is important, as Mr. Baldassarre had said, and I'm going to read it because it's highlighted. Right? "If you find that the defendants acted in good faith, that would be a complete defense to these charges because good faith on the part of the defendants would be inconsistent with their acting knowingly, intentionally and willfully. A defendant acts in good faith when he or she has an honest belief, opinion or understanding, even though the belief, opinion, or understanding turns out to be inaccurate". She had an honest belief. It may have turned out inaccurate. She had an honest belief because Wildstein told her. She had an honest belief because she discussed it with the Governor. She had an honest belief because she discussed it with Kevin O'Dowd. She wasn't hiding anything from anyone.

In this case, defendants make an honest mistake or have an honest misunderstanding that the lane and toll booth reductions are part of a legitimate Port Authority traffic study, rather than part of the plan to cause traffic problems in Fort Lee as punishment of Mayor Sokolich, then they did not act knowingly, intentionally, willfully. You know what's missing there? There's no mention of Fulop. Because Fulop is not part of the charge here. We spent a lot of time on

Fulop. But it's all about Sokolich. That's the charge. Did we do

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these three dozen witnesses, plus all the emails, the text documents. That evidence, ladies and gentlemen, that evidence is sufficient, more than sufficient, to prove Mr. Baroni and Mr. Kelly — and Ms. Kelly guilty beyond a reasonable doubt.

That's talk about what's relevant here, the evidence. Both defendants and defense counsel have highlighted what they call the good faith instruction. And Judge Wigenton gave that to you. And they argue as — and they're right, that in good faith if Mr. Baroni and Ms. Kelly believed that the traffic study was real, they're not guilty. And Mr. Baldassarre somehow says the Government is running away from this. We don't run from it at all. Mr. Cortes told you on Friday, that's the central issue in the case, whether Mr. Baroni and Ms. Kelly understood that the traffic study was real or not.

But there's another instruction, one that defense counsel did not raise. Keep in mind this instruction the Judge gave you. It's called willful blindness. As Judge Wigenton told you, when something is obvious, you can't avoid criminal liability by deliberately closing your eyes. So even if no one said to Bridget Kelly or Bill Baroni: Hey, this traffic study is fake. They can't avoid responsibility if it should have been obvious to them in the circumstances. No one, not Bill Baroni, not Bridget Kelly, can avoid responsibility for a crime by burying their heads in the sand. Keep that in mind. Now, the evidence in this case goes way

beyond that. But it's an important instruction that you should pay attention to.

Ladies and gentlemen, both defense attorneys got up here and tried to argue that David Wildstein is this whole

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Let's talk about Bill Baroni's defense through Mr. Baldassarre on last Friday. As I understood it, it's basically two things. First, that he believed from David Wildstein — Bill Baroni believed from David Wildstein that the traffic study was legitimate. That's one. Two, Bill Baroni ignored the Mayor's public safety concerns because he would have wimped out and ended the study. That's one. And two, that calling the Mayor back would have skewed the data. Ladies and gentlemen, the evidence in this case directly contradicts both of those arguments. Evidence, not just David Wildstein, but well beyond that.

So how do we know Mr. Wildstein didn't tell Mr. Baroni this was a real traffic study? Mr. Baroni, of all the people in the world, knew that David Wildstein was not into legitimate, efficient, Port Authority operations. There's been reams of evidence talking about how Mr. Baroni understood that David Wildstein was a cold, calculating, political operative who believed in the one constituent rule. And you've seen Mr. Baroni on communications where that is made clear.

Now, the other way of thinking about this is also: Why would David Wildstein have deceived Bill Baroni about punishing Mayor Sokolich? Why would he have told Bill Baroni: Hey, I'm just doing a traffic study

here? I mean, these two people talk all the time. And Mr. Baldassarre said: Oh, they just talk like normal colleagues. But normal colleagues don't talk several times a day after they leave work like Mr. Wildstein and Mr. Baroni did. And not only did they just talk, they shared nicknames. They shared inside jokes. They shared

Page 99

the same mentality in terms of servicing the Governor. And that goes to show you that they weren't just colleagues, they were really close friends.

And so Mr. Wildstein, you would have to believe, was somehow keeping from his close friend and his boss that he was punishing Mayor Sokolich. Well, he didn't do it with Mayor Fulop. Right? That's clear. Mr. Baroni was fully aware about the icing of Mayor Fulop. Wildstein didn't keep that from him. But somehow he kept the Sokolich punishment from him. That's just not believable.

And think of the people who came here and testified, defense counsel elicited their testimony, who commented on who David Wildstein really was. Mr. Critchley just spoke to you about it. Scott Rechler, Pat Foye, those two knew. They knew David Wildstein was not the type of guy that would do traffic studies. They knew David Wildstein was intimidating. He was a cancer. He was someone who was horrible for the Port Authority. But Scott Rechler and Pat Foye didn't know David Wildstein nearly as well as Bridget Kelly and Bill Baroni knew David Wildstein. So how can it be that Pat Foye and Scott Rechler would fully understand that David Wildstein would never do a traffic study? Yet Bill Baroni and Bridget Kelly, those

two, they were duped. That, ladies and gentlemen, if you use your common sense, makes slightly no sense at all.

Now, Mr. Baldassarre argued in his closing that Mr. Baroni had a legitimate reason not to get back to the Mayor. But that doesn't — argument doesn't work for several reasons.

* * *

Page 122

Ridley is handling the situation, one of her subordinates. She knows the Governor is giving a directive. No IGA, this should be David Wildstein. And she's not telling her subordinate that? How is that possible? How is it possible that she is ignoring the directive of the Governor of New Jersey when she claims she is so scared of him? Again, internal inconsistencies that arise when you are not telling the truth.

And course that "good" email was gone. It's deleted. But what's not deleted? The email below that, that's forwarded to David Wildstein. That one remained. Why did that one remain? Because that one looks like she's doing her job. She forwarded it to David Wildstein. It looks like she notified the Port Authority. That's called selective deletion. She went into one email chain and chose one specific email to delete. That doesn't happen by accident, you know that.

And then she says, Christina Renna testifies that, hey, Bridget Kelly asked me to delete that same "good" email that Bridget Kelly selectively deleted. And Bridget Kelly wants you to believe: Never happened. Never happened. Think about that, ladies and

gentlemen. She selectively deleted that same email, yet she wants you to believe the testimony of someone else that's saying Bridget Kelly asked me to do the same thing.

Here's this other text, right? Again, a lot has been said about this text message, but Mr. Critchley addressed it so I want to address it as well. The text is Mayor Sokolich talking about problems in Fort Lee. Talking about traffic lanes emerging into only one toll booth. Talking about the

Page 123

problem of getting kids to school. Saying: Help, please, it's maddening. Mayor Sokolich's words.

At 8:04 a.m., Bridget Kelly's response is at 8:04 a.m. The exact same time. It's an immediate response. And her response to that message is: Is it wrong that I am smiling? Nothing about traffic safety patterns. Nothing about the story — the study being successful. None of that is happening at this time. It's her immediate response to the plea for help of a Mayor in need. And that tells you all you need to know about her intent. Smiling at school children being stuck in traffic. That's her response. Don't let them whitewash it, it's as outrageous as it sounds.

And Wildstein's response is also outrageous. He says: It doesn't matter what those kids are doing, they're the children of Buono voters. They're the children of supporters of the other party. So let them sit in traffic. But why would he say this to Bridget Kelly? Her testimony is that Wildstein is trying to deceive her. That Wildstein is trying to keep from her what's actually going on. That Wildstein is trying to tell her this is a real traffic study. How can that

possibly be the case? He's talking to her about the lane reductions in despicable, outrageous political terms. Why would he do that if he's trying to dupe her? He wouldn't. The evidence is as it appears, ladies and gentlemen.

Now, what's more evidence of Ms. Kelly's tales that she was spinning on the witness stand? Ms. Kelly said that she didn't — Wildstein didn't come — didn't get back to the Mayor until early December. Early December is the first

* * *

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
CRIMINAL ACTION 2:15-CR-193-SDW

UNITED STATES OF AMERICA, : TRANSCRIPT OF
: PROCEEDINGS
: TRIAL
-vs- :
: WILLIAM E. BARONI JR., : Pages 1 – 33
and BRIDGET ANNE :
KELLY, :
Defendants. :
----- :

Newark, New Jersey
November 1, 2016

B E F O R E: HONORABLE SUSAN D. WIGENTON,
UNITED STATES DISTRICT JUDGE
AND A JURY

A P P E A R A N C E S:

PAUL FISHMAN, ESQ., UNITED STATES
ATTORNEY
BY: DAVID FEDER, ESQ.
LEE CORTES, ESQ.
VIKAS KHANNA, ESQ.
Attorneys for the Government

BALDASSARE & MARA, LLC
BY: MICHAEL Z. BALDASSARE, ESQ.
DILLON MALAR, ESQ.
JENNIFER MARA, ESQ.
G. MICHAEL BELLINGER, ESQ.

Attorneys for Defendant Baroni

Pursuant to Section 753 Title 28 United States Code,
the following transcript is certified to be an accurate
record as taken stenographically in the above entitled
proceedings.

S/Carmen Liloia
CARMEN LILOIA
Official Court Reporter
(973) 477-9704

* * *

not us driving six minutes from my office. First of all, I don't think it was a delay, number one. Number two, we — the lawyers had to confer. We're not like the Government of, you know, a monolith. Of course we came to the same conclusion but I think it's completely uncalled for, for the Government to tell us to stay closer than the PAC.

MR. CRITCHLEY: And yesterday we had to wait 20 minutes for the Government to get here and answer a simple question about a pad and an easel.

THE COURT: You guys are too much. Man.

MR. BALDASARRE: See what happens when we're away from you for 24 hours, we get all amped up.

THE COURT: You're so feisty. Just relax. We'll try another question. Again, if they take too long, that's it.

Alright. So you guys are free to disburse. I'm just going to write what I already told you and put that on a letter and send it back in.

(All say thank you)

(Recess)

MR. BALDASARRE: Judge, we made it back quickly. THE COURT: I'm impressed. Very nice, Mr. Baldasarre.

Alright, jury communication number 4 reads: Can you be guilty of conspiracy without the act being intentionally punitive toward Mayor Sokolich? They misspelled "punitive" and

* * *

and believe that they're focused simply on the good faith defense. I think that the instructions in and of themselves give them very clear direction. I'm going to respond to them that you can be guilty of conspiracy, you can be, without this specific purpose. I mean, that's the whole point that it's the object — Mr. Critchley.

MR. CRITCHLEY: Judge.

THE COURT: I'm not asking to you respond.

MR. CRITCHLEY: I know, Judge.

THE COURT: Do me a favor.

MR. CRITCHLEY: It's an involuntarily reaction, Judge.

THE COURT: but do me a favor.

MR. CRITCHLEY: I will, Judge

THE COURT: Control your involuntarily —

MR. CRITCHLEY: I will. But six weeks — okay, Judge, I'll stop.

THE COURT: I would really appreciate it.

MR. CRITCHLEY: Okay, I appreciate it, Judge.

THE COURT: Thank you.

So the answer is yes. And I will also once again advise them that they should follow all the instructions that have been given without specifying which specific instructions. There are a number of instructions that relate to conspiracy without directing them to those instructions directly. I think

* * *

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

UNITED STATES OF AMERICA : CR. 15-193
: :
: :
v. : Jury Communication #4
: :
WILLIAM E. BARONI, :
JR. and BRIDGET :
ANNE KELLY :

Can you be guilty of Conspiracy without the act being intentionally punitive toward Mayor Sokolich.

Yes. Please consider this along with all other instructions that have been given to you.

/s/ SDW

Date: November 1, 2016 Time: 12:15

Foreperson:

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
CRIMINAL ACTION 2:15-CR-193-SDW

UNITED STATES OF AMERICA, : TRANSCRIPT OF
: PROCEEDINGS
: TRIAL
-vs- :
: Pages 1 – 71
WILLIAM E. BARONI JR., :
and BRIDGET ANNE :
KELLY, :
Defendants. :
----- :

Newark, New Jersey
March 29, 2017

B E F O R E: HONORABLE SUSAN D. WIGENTON,
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S:

WILLIAM E. FITZPATRICK, ESQ.,
ACTING UNITED STATES
ATTORNEY
BY: DAVID FEDER, ESQ.
LEE CORTES, ESQ.
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Attorneys for the Government

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* * *

as well as what was determined to have transpired between September 9th and 12th of 2013.

Second, the Assembly Transportation Committee was also misled when Mr. Baroni asserted and maintained that the traffic study was legitimate, knowing that it was not. Mr. Baroni, you feigned that the purpose of the study was to determine fairness when it was completely calculated to reek havoc on those attempting to drive over the George Washington Bridge in Fort Lee. You went as far to state that inquiries by the Port Authority police officers Nunziata and DeFilippis triggered the lane reductions. And the testimony and evidence proved that the traffic study was never legitimate and it only served a punitive purpose. Once again, the goal was to impact the investigation and to intentionally mislead the Committee. In fact, a statement was prepared that was read or to be read before the Committee that you knew was false in many respects.

Third, at trial, perjury was committed when you testified that you told the truth during your Assembly Committee testimony. Moreover, you continued to maintain the traffic study was legitimate when you clearly knew and know today that it was not. If the study was legitimate, it would not have been necessary for you to dance the Committee, or words to that effect. At trial, it appears that your justification for not returning the calls of Mayor Sokolich took on a whole new meaning because the focus now became Mr.

Wildstein and the fact that the study would get skewed if you spoke to Mayor Sokolich.

And it's also important to note that perjury was committed as well at the time of trial when you explained that your text messages regarding Jersey City, inquiring about — and your inquiry about their first day of school and whether there was anything we can do, that that text message related to the ground breaking of a school that was part of an Urban League grant. Your own emails pointed to the fact that the grant for the — to the Urban League was for a pre-apprenticeship training program and not the construction of a building. There was no plan ground breaking or construction.

And so under this — in this Court's opinion, obviously obstruction of justice, the points that have been assessed under the Guideline Section 3C1.1 are appropriate and I do find that that is appropriately calculated in the offense level.

As it relates to the objections to the application of 2H1.1, those offenses involving individual rights, I certainly recognize the guidelines are advisory. The application of Section 2H1.1(a)(2) is appropriate as to Counts 8 and 9, which are the civil rights violations under Title 18 U.S. Code Sections 241 and 242.

While you challenge the applicability of the guideline, no alternative has been suggested. And arguments

* * *

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know that you too played a pivotal role. You tried to distance yourself from David Wildsteinth and downplay your authority as Deputy Executive Director. But the evidence was abundantly clear that

without your participation and your position of authority this debacle would not have occurred.

And as I've indicated before, and you didn't mention it today, but there was certainly testimony that would lead the jury to believe, and certainly me to believe, that there was this assertion that this traffic study was in fact legitimate. And I don't think anyone in this courtroom believes that that was the case, and quite frankly I don't think you believe that as well.

I've referred to the Sentencing Guidelines, I've used them in an advisory capacity. I understand I'm not bound by them. I have the discretion to impose whatever sentence I feel is appropriate. I'm aware that the goal of sentencing is in fact to promote justice and also promote respect for the law, provide just punishment, protect the public, and deter you specifically and to deter others generally. I've listened to all the testimony. I've reviewed all the evidence. I've ruled on motions before trial, during trial, and after trial. And as I've already stated, I do find that the presentence report appropriately calculates you at an offense level of 21 with a criminal history category of 1.

As I turn to the 3553(a) factors, it is my intention

* * *

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
CRIMINAL ACTION 2:15-CR-193-SDW

UNITED STATES OF AMERICA, : TRANSCRIPT OF
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-vs- :
: WILLIAM E. BARONI JR., : Pages 1 – 79
and BRIDGET ANNE :
KELLY, :
Defendants. :
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Newark, New Jersey
March 29, 2017

B E F O R E: HONORABLE SUSAN D. WIGENTON,
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S:

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* * *

So the testimony that Miss Renna was confused or intentionally wrong was just simply not supported by the evidence. There is no doubt that there was an investigation ongoing regarding what transpired earlier in September 2, 2013, and it just doesn't make sense that Miss Renna would forward an email to another email address under this — some confusion and that she was never asked to delete it. And, once again, I did find that testimony misleading in a material aspect.

In addition to that, there was testimony regarding the first time Ms. Kelly knew that Mr. Baroni did not return the calls of Mayor Sokolich and that her testimony is that she did not know that until December of 2013. And, once again, that strains credibility because on November 25th, 2015, Mr. Baroni testified before the Assembly Transportation Committee and it's very clear as reflected in the text messages by Ms. Kelly that she was following that testimony. She heard that testimony. And even in fact commented that she hoped that they believed him. So aside from other examples that obviously exist, I do find that the obstruction enhancement is appropriate for the reasons that I have outlined.

And with that in mind, I do find that we do land at a level 21 under the Sentencing Guidelines with a criminal history category of 1. And as relates to the 3553(a) factors and so on as well as Ms. Kelly's history and characteristics, I'll hear from you in that respect.

* * *

which occurred here, specifically and generally, and also promoting respect for the law and providing just punishment which is sufficient but not greater than necessary. I have consulted with the Sentencing Guidelines. But I understand I'm not bound by them and have the authority and discretion to impose whatever sentence I feel is appropriate.

As I look at the 3553(a) factors, and I look at you as an individual, Ms. Kelly, throughout these proceedings essentially you're portrayed as a victim or a scapegoat, or this powerless person in the Governor's Office who simply followed instructions and had no authority. You testified that you believed the traffic study was legitimate. That you advised the Governor of the legitimate traffic study and he approved it. What was unclear to me though is why the Governor's Office would need to be involved in a Port Authority traffic study and why approval for that legitimate traffic study would be necessary in the first place. But that being put aside, based on the testimony and the evidence, there just was no need for any type of approval and it was not customary nor was it credible that you believed it was a legitimate traffic study and you got approval from the Governor that this legitimate traffic study should proceed.

It is abundantly clear, as I said with Mr. Baroni, there never was a legitimate traffic study. And everything that happened in this courtroom, from the testimony to the

evidence, supported that there never was a legitimate traffic study.

And if in fact we are to believe that you thought that there was to be a legitimate traffic study, then it seems that once Mr. Baroni testified on November 25th, 2013, before the Assembly Transportation Committee, that you would have been significantly and severely disturbed at what his testimony consisted of because he talked about communication breakdowns, requests from Port Authority police for a study. He talked about fairness to all these other towns. And it seems to me that you would have been disturbed by that. But instead, what the evidence showed was that you were not surprised by that and you weren't confused by his testimony. Specifically, your texts read that "I hope they believe him". And from my advantage point in listening to all the testimony and the evidence in the case, why would hope be necessary for a legitimate traffic study? It just didn't make sense.

But I've watched throughout this entire process, I've listened and waited for some acceptance of responsibility on your part and I'm grateful that today you did at least acknowledge and show some remorse for your involvement because whatever you consider your role to have been, there were residents of Fort Lee, citizens of New Jersey, and travelers that needlessly suffered because of political payback and misuse of the resources of the Port Authority.

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The arguments that have been made that traffic was always bad in Fort Lee. Some of the letters said that. Certainly that was said during the course of the trial as well. I think those arguments completely miss the point. The orchestrated misuse of the Port Authority resources was for only one reason and that

was to send a message. The situation could have been fatal and the more troubling aspect of what occurred is that you ignored potentially dangerous information regarding emergency medical vehicles and the fact that it was the first day of school for a number of children, and the many desperate pleas from Mayor Sokolich for assistance. Your texts read: Is it wrong that I am smiling? Which you explained at the time of trial as being happy for David Wildstein that his traffic study was going well. And that just really did not make a lot of sense, quite frankly.

But the guidelines call for a sentence range, as you're aware, and certainly Mr. Critchley has noted it and so has the Government, of a sentence between 37 months and 46 months. However, I believe that the sentence I will impose does take into consideration your history and your characteristics, the nature and circumstances of what occurred in this matter, and it does in fact avoid unwarranted sentencing disparities.

A request has been made for a probationary term given the impact incarceration would have on your family. And, in

* * *

917

Subject: Re:
From: David Wildstein
<david.wildstein@gmail.com>
Received
(Date): Tue, 13 Aug 2013 07:35:31 -0400
To: Bridget Anne Kelly
<bridgetannekelly@yahoo.com>

Got it

On Aug 13, 2013, at 7:34 AM, Bridget Anne Kelly
<bridgetannekelly@yahoo.com> wrote:

> Time for some traffic problems in Fort Lee.



To: <811A9FE4-4063-4224-B707-B9BD1829395F@panynj.gov>
Received
(Date): Mon, 9 Sep 2013 09:48:03 -0400
Subject: Re: Phone call: Mayor Sokolich 201-224-4000 re: urgent matter of public safety in Fort Lee
From: David Wildstein
<david.wildstein@gmail.com>
To: "Baroni, Bill" <bbaroni@panynj.gov>

radio silence

On Mon, Sep 9, 2013 at 9:41 AM, Baroni, Bill <bbaroni@panynj.gov> wrote:

Sent from my iPhone

Begin forwarded message:

From: "Bell, Matthew" <mbell@panynj.gov>
Date: September 9, 2013, 9:29:02 AM EDT
To: "Baroni, Bill" <bbaroni@panynj.gov>
Cc: "DiMarco, Gretchen" <gdimarco@panynj.gov>
Subject: **Phone call: Mayor Sokolich 201-224-4000 re: urgent matter of public safety in Fort Lee**

* * *



To: david.wildstein@gmail.com
Subject: Re: Phone call: Mayor Sokolich 201-224-4000 re: urgent matter of public safety in Fort Lee
From: Bridget Anne Kelly
<bridgetannekelly@yahoo.com>
Received
(Date): Mon, 9 Sep 2013 10:14:52 -0400
To: David Wildstein
<david.wildstein@gmail.com>

Ty

On Sep 9, 2013, at 10:13 AM, David Wildstein <david.wildstein@gmail.com> wrote:

Radio silence
His name comes right after mayor Fulop

On Sep 9, 2013, at 10:06 AM, Bridget Anne Kelly <bridgetannekelly@yahoo.com> wrote:

Did he call him back?

On Sep 9, 2013, at 9:48 AM, David Wildstein <david.wildstein@gmail.com> wrote:



-----Forwarded message-----

From: **Baroni, Bill** <bbaroni@panynj.gov>
Date: Mon, Sep 9, 2013 at 9:41 AM
Subject: Fwd: Phone call: Mayor Sokolich 201-224-4000 re: urgent matter of public safety in Fort Lee
To: David Wildstein
<david.wildstein@gmail.com>

Sent from my iPhone

Begin forwarded message:

From: "Bell, Matthew"
<mbell@panynj.gov>
Date: September 9, 2013, 9:29:02 AM EDT
To: "Baroni, Bill"
<bbaroni@panynj.gov>
Cc: "DiMarco, Gretchen"
<gdimarco@panynj.gov>
Subject: **Phone call: Mayor Sokolich 201-224-4000 re: urgent matter of public safety in Fort Lee**

921

From: Matt Mowers Mowers@gmail.com
Sent: Monday, September 09, 2013 1:58 PM
To: Bridget Anne Kelly
Subject: Re:

I haven't

On Mon, Sep 9, 2013 at 1:56 PM, Bridget Anne Kelly
<bridgetannekelly@yahoo.com> wrote:

Have you heard from Sokolich in a while?



Subject: Fwd: Fort Lee Correspondence by Mayor Sokolich
From: David Wildstein
<david.wildstein@gmail.com>

Received

(Date): Thu, 12 Sep 2013 12:52:46 -0400
To: Stepien Bill <Stepien@yahoo.com> Kelly
Bridget <bridgetannekelly@yahoo.com>

DirectorBaroniCorrespond 20130912114422.pdf

Begin forwarded message:

> From: "Baroni, Bill" <bbaroni@panynj.gov>
> Date: September 12, 2013, 12:47:28 PM EDT
> To: David Wildstein <david.wildstein@gmail.com>
> Subject: FW: Fort Lee Correspondence by Mayor
> Sokolich
>
>
> From: Maryanne Leodori [mailto:M-
> Leodori@fortleenj.org]
> Sent: Thursday, September 12, 2013 12:44 PM
> To: Baroni, Bill
> Subject: Fort Lee Correspondence by Mayor
> Sokolich
> Importance: High
> Sensitivity: Personal



>
> Dear Director Baroni,
>
> Please see correspondence from Mayor Sokolich.
>
> Thank you.
>
> Sincerely,
>
> Maryanne Leodori
> Mayor's Office
>
>
> NOTICE: THIS E-MAIL AND ANY
> ATTACHMENTS CONTAIN INFORMATION
> FROM THE PORT >
> AUTHORITY OF NEW YORK AND NEW JERSEY
> AND AFFILIATES. IF YOU BELIEVE YOU HAVE
>
> RECEIVED THIS E-MAIL IN ERROR, PLEASE
> NOTIFY THE SENDER IMMEDIATELY,
>
> PERMANENTLY DELETE THIS E-MAIL (ALONG
> WITH ANY ATTACHMENTS), AND DESTROY
> ANY
>
> PRINTOUTS.

Begin forwarded message:

From: "Baroni, Bill" <bbaroni@panynj.gov>
Date: September 12, 2013, 12:47:28 PM EDT

To: David Wildstein <david.wildstein@gmail.com>
**Subject: FW: Fort Lee Correspondence by
Mayor Sokolich**

From: Maryanne Leodori [mailto:M-
Leodori@fortleenj.org]
Sent: Thursday, September 12, 2013 12:44 PM
To: Baroni, Bill
Subject: Fort Lee Correspondence by Mayor Sokolich
Importance: High
Sensitivity: Personal

Dear Director Baroni,

Please see correspondence from Mayor Sokolich

Thank you.

Sincerely,

Maryanne Leodori

Mayor's Office

NOTICE: THIS E-MAIL AND ANY ATTACHMENTS
CONTAIN INFORMATION FROM THE PORT
AUTHORITY OF NEW YORK AND NEW JERSEY
AND AFFILIATES. IF YOU BELIEVE YOU HAVE
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NOTIFY THE SENDER IMMEDIATELY,
PERMANENTLY DELETE THIS E-MAIL (ALONG
WITH ANY ATTACHMENTS), AND DESTROY ANY
PRINTOUTS



BOROUGH OF FORT LEE

Office of the Mayor

309 Main Street

Fort Lee, New Jersey 07024-4799

Telephone (201) 592-3500 –Ext 1003 Facsimilie
(201) 592-1657 E-mail: mayor@fortleenj.org

Mark J. Sokolich
Mayor

PERSONAL

Via Email:

September 12, 2013

The Honorable Bill Baroni
Deputy Executive Director
The Port Authority of New York & New Jersey
225 Park Avenue, 15th Floor
New York, New York 10003

Dear Bill:

I am writing this correspondence to you and am refraining from copying any other party in the hopes

that a recent decent decision by the Port Authority will be reversed quietly, uneventfully and without political fanfare.

Permit me to elaborate. Without any notice whatsoever to Fort Lee (or any of its agencies, including our Police Department), the Port Authority reduced the available toll booths for traffic flowing through Fort Lee from three to one. Suffice it to say, this decision has wreaked havoc upon our community during the morning rush hour, visiting upon us complete gridlock. Having received absolutely no notice of this decision, not having obtained any response to our multiple inquiries concerning same, and try as we may to understand its rationale without the benefit of a response from the Port Authority, we are reaching the conclusion that there are punitive overtones associated with this initiative. What other conclusion could we possibly reach?

Our emergency service vehicles are experiencing tremendous response time delays and my office is overwhelmed with complaints. Unquestionably, this decision has negatively impacted public safety here in Fort Lee. Adding insult to injury, many members of the public have indicated to me that the Port Authority Police Officers are advising commuters in response to their complaints that this recent traffic debacle is the result of a decision that I, as the Mayor, recently made. The basis, reason, or genesis of the decision is of no consequence to me; however, its profound and adverse impact on our community is of paramount importance to me.

I have incessantly attempted to contact Port Authority representative to no avail. Would you please

be good enough to please have someone contact me or Police Chief Bendul to discuss the basis of this recent policy change and what we must do to reverse it ... plain and simple. *Query*: What do I do when our billion dollar redevelopment is put on line at the end of the next year?

Please call me as soon as possible in the hopes that we can resolve this issue and reverse a policy change that is wreaking havoc on Fort Lee the otherwise cooperative and supportive host community to the busiest bridge in the world.

Mayor's Office	201-592-3500 X 1003
Law Office	201-224-4000
Home #	201-224-7755
Cell#	201-424-5014

Sincerely,

/s/ Mark J. Sokolich

Mark J. Sokolich

Mayor

MJS:ml

Received

(Date): Thu, 12 Sep 2013 15:18:17 -0400
To: david.wildstein@gmail.com
From: David Wildstein
<david.wildstein@gmail.com>
To: Bridget Kelly
<bridgetannekelly@yahoo.com>,
"michael.drewniak"
<Michael.Drewniak@gov.state.nj.us>

The Port Authority is reviewing traffic safety patterns at the George Washington Bridge to ensure proper placement of toll lanes. The PAPD has been in contact with Fort Lee police throughout this transition.



To: <9AC454D6-78CD-4BF5-9A1E-39A2DE1A401E@yahoo.com>

Received

(Date): Fri, 13 Sep 2013 12:07:07 -0400

Subject: Re:

From: David Wildstein
<david.wildstein@gmail.com>

To: Bridget Anne Kelly
<bridgetannekelly@yahoo.com>

Yes, unreal. Fixed now

On Fri, Sep 13, 2013 at 11:47 AM, Bridget Anne Kelly
<bridgetannekelly@yahoo.com> wrote:

What??

On Sep 13, 2013, at 11:44 AM, David Wildstein
<david.wildstein@gmail.com> wrote:

> The New York side gave Fort Lee back all three
lanes this morning. We are appropriately going
nuts. Samson helping us to retaliate.



XFINITY Connect **cmgenovese@comcat.net**

Fwd: Fort Lee

From: Christina Genovese
Renna ,Genovese@gmail.com>
Subject: Fwd: Fort Lee
To: CMGenovese@comcast.net

-----Forwarded message-----

From: Bridget Anne Kelly
<bridgetannekelly@yahoo.com>
Date: Thu, Sep 12, 2013 at 11:44 PM
Subject: Re: Fort Lee
To: Christina Genovese Renna
<Genovese@gmail.com>

Good.

On Sep 12, 2013, at 3:36 PM, Christina
Genovese~Renna <Genovese@gmail.com> wrote:

This afternoon, Evan received a call from Mayor Sokolich. It came from a number he was not familiar with that was actually a secretary who patched the Mayor through to Evan.



The Mayor is extremely upset about the reduction of toll lanes from 3 to 1. Not only is it causing a horrendous traffic back up in town, First Responders are having a terrible time maneuvering the traffic because the back up is so severe.

The Mayor told Evan that he has no idea why Port Authority decided to do this, but there is a feeling in town that it is government retribution for something. He simply can't understand why that would be the case however, because he has always been so supportive of the Governor.

Sokolich explained that the Council wants to organize a press conference with picketers at the foot of the bridge. The Mayor feels he is about to lose control of the situation and that he looks like a "fucking idiot."

Evan told the Mayor he was unaware that the toll lanes were closed, but he would see what he could find out.

--

Christina Genovese Renna
c. 856.466.6653

--

Christina Genovese Renna
c. 856.466.6653

Rivera, Jose

From: Rivera, Jose
Sent: Thursday, August 29, 2013 12:54 PM
To: Zipf, Peter, Wildstein, David
Subject: RE: GWB Upper Level Toll Plaza
Modified
Categories: Blue Category

As discussed, attached is a revised PDF showing the GWB Upper Level Toll Plaza under four scenarios:

- Sheet 1: Shows a typical mid-day operation, where traffic cones are set aside and traffic is allowed to move freely-from the various approaches.
- Sheet 2: Shows a mock up of the morning peak period, where the traffic cones are typically set up to segregate the three lanes from Fort Lee to flow into the three right-most lanes of the toll plaza.
- Sheet 3: Shows a mock up of a potential modified morning peak period where three lanes from Fort Lee are merged into two lanes and feed the two right-most lanes of the toll plaza. Since the traffic flows are extremely congested during the morning peak periods, Traffic Engineering recommends that the Fort Lee traffic be segregated from the other approaches by use of traffic cones, regardless of the number of toll lanes it is feeding, to reduce the risk of sideswipe crashes.



Sheet 4: Similar to above, however traffic from Fort Lee is restricted to two lanes then merged into one lane to feed the right-most lane of the toll plaza. Also as above, since traffic flows are extremely congested during the morning peak periods, Traffic Engineering recommends that the Fort Lee traffic be segregated from the other approaches by use of traffic cones to reduce the risk of sideswipe crashes.



GWB UL Tolls 6.pdf

Jose

From: Zipf, Peter
Sent: Wednesday, August 28, 2013 6:19 PM
To: Wildstein, David
Cc: Rivera, Jose
Subject: GWB Upper Level Toll Plaza Modified

David,

As requested, attached is a suggested modification. Jose will certainly work out the details/further development with GWB as needed. One additional scenario could be a merge down to one lane, if needed.

Let me know if you need anything further.

Peter

From: Rivera, Jose
Sent: Wednesday, August 28, 2013 6:11 PM
To: Zipf, Peter
Cc: Starace, Jim; Buchsbaum, Jack; Baig, Rizwan (Mirza); Diculescu, Michael
Subject: GWB Upper Level Toll Plaza Modified

Attached is a PDF showing the GWB Upper Level Toll Plaza under three scenarios:

Sheet 1: Shows a typical mid-day operation, where traffic cones are set aside and traffic is allowed to move freely from the various approaches.

Sheet 2: Shows a mock up of the morning peak period, where the traffic cones are typically set up to segregate the three lanes from Fort Lee to flow into the three right-most lanes of the toll plaza.

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<<File: GWB UL Tolls 5a.pdf>>

I hope this helps. Please advise if you need additional information.

935

Jose M. Rivera, Jr., P.E.
Chief Traffic Engineer

Port Authority of NY & NJ Two Gateway Center, 14th
Floor Newark, NJ 07102
Office: 973-565-7866 BlackBerry: 862-754-4781
jrivera@panynj.gov www.panynj.gov

ONE TEXT OF CALL COULD WRECK IT ALL
www.distraction.gov







From: Shabih, Raheel
Sent: Friday, September 06, 2013 4:16PM
To: Rivera, Jose; Baig, Rizwan (Mirza);
Diculescu, Michael; Lepore, Armando
Cc: Bates, Jennifer; Paradiso, John;
'McMenamin, Bill'; Rawashdeh, Anis;
Fraser, Craig; Altan, Osman; Laub, Ryan;
Patel, Umang
Subject: RE: GWB Upper Level Toll Plaza Modified

Update:

Bob Durando has confirmed in a phone conversation with Jose that the lane reduction plan will be implemented Monday morning. I called and informed Victor Chung who was under the impression that this will be delayed. I also informed him that we will assess the impact on the mainline travel time using our transmit readers and that TB&T needs to work with the facility to assess the impacts on the local streets.

Raheel A. Shabih, P.E., PTOE
Principal Traffic Engineer ITS Group
Port Authority of NY & NJ
2 Gateway Ctr, 14th Fl, Newark, NJ 07102
(W) 973 565 7841
(C) 201 953 1714
(F) 973 565 7648



From: McMEnamin, Bill
[mailto:wmcmenamin@gpinet.com]
Sent: Friday, September 06, 2013 11:39 AM
To: Diculescu, Michael; Shabih, Raheel; Baig, Rizwan (Mirza); Patel, Umang; Laub, Ryan; Altan, Osman; Fraser, Craig; Rawashdeh, Anis
Cc: Lepore, Armando; Bates, Jennifer; Paradiso, John
Subject: RE: GWB Upper Level Toll Plaza Modified

All –

I am actually at the facility today and was asked by Ricky to accompany he, Bob, and Ken on a visit to the site. A few observations:

- All Fort Less lanes will be tapered into toll lane 24, the southern-most toll lane, which currently operates as mixed mode.
- There are three signs that will be impacted by this change- one at the comer of BRB and Hoyt, one on the Hudson Street median just north of BRB, and one on the Martha Washington median just south of BRB. These signs, which currently depict lanes usage approaching the upper toll plaza will be covered by facility maintenance prior to Monday morning.
- The pavement markings on Martha Washington approaching the Hudson Street entrance permit for three lanes to go through. Based on my discussions, all tapering of these lanes into one will happen north of BRB.

The facility is expecting heavy congestion and delays during Monday morning's rush. Let me know if I can provide anything further.

From: Diculescu, Michael [mdicules@panynj.gov]
Sent: Friday, September 06, 2013 10:57 AM
To: Shabih, RaheeJ; Baig, Rizwan (Mirza);
Patel, Umang; Laub, Ryan; Altan, Osman;
McMenamin, Bill; Fraser, Craig;
Rawashdeh, Anis
Cc: Lepore, Armando; Bates, Jennifer;
Paradiso, John
Subject: RE: GWB Upper Level Toll Plaza Modified

We should probably also do some field observations once this is implemented to assess the situation. This would be more of a qualitative assessment rather than quantitative, but could be used to supplement the travel time/queue data.

In addition, the Fort Lee approach is currently striped as three lanes, and there are existing signs out there depicting the lane configuration/lane-use on the approach. (Anis: Please provide some photos showing this.) I'm assuming that the three lanes will be coned into the rightmost toll lane. We should take a look at how they plan to do this and work with them to make it as safe as possible. If this becomes permanent, we will need to modify the markings and signs accordingly.

Thanks,

Mike

From: Shabih, Raheel
Sent: Friday, September 06, 2013 10:45 AM
To: Baig, Rizwan (Mirza); Patel, Umang; Laub, Ryan; Altan, Osman; 'wmcmcnamin@gpinct.com'; Fraser, Craig
Cc: Lepore, Armando; Diculscu, Michael; Bates, Jennifer
Subject: RE: GWB Upper Level Toll Plaza Modified

Rizwan,

I spoke with Jose about this. We can measure the improvement in delays on the mainline but cannot measure the impact on the Fort Lee approach, as there are no travel time readers on local streets. Jose suggested that I talk to Jerry and see what TBT is planning to do. Jose also suggested that Skycom can be used to assess the queues.

Jerry is out on vacation. I am reaching out to Bob Durando to see who is working on this from TBT side and what they are planning to do to measure the impact.

Raheel A. Shabih, P.E., PTOE
Principal Traffic Engineer- ITS Group
Port Authority of NY & NJ
2 Gateway Ctr, 14th Fl, Newark, NJ 07102
(W) 973 565 7841
(C) 201 953 1714
(F) 973 565 7648

-----Original Message-----

From: Baig, Rizwan (Mirza)
Sent: Friday, September 06, 2013 9:55AM
To: Patel, Umang; Shabih, Raheel; Laub, Ryan;
Altan, Osman; 'wmcmenamin@gpinet.com';
Fraser, Craig
Cc: Lepore, Annando
Subject: Fw: GWB Upper Level Toll Plaza Modified
Importance: High

Yes or no? if no what needs to be done ?

Sent from my RizBerry Wireless Device

-----Original Message-----

From: Rivera, Jose
Sent: Friday, September 06, 2013 08:23AM
To: Baig, Rizwan (Mirza)
Cc: Shabih, Raheel; Patel, Umang; Diculescu,
Michael
Subject: FW: GWB Upper Level Toll Plaza Modified

Rizwan,

Yikes!!

Seems like David Wildstein is having TB&T limit the Fort Lee approach to the UL to just one lane.

Will it be possible to monitor delays using the travel time renders similar to the orthotropic deck project?
How involved would it be to set that up?

Jose

From: Zipt~ Peter
Sent: Friday, September 06, 2013 8:22AM
To: Fulton, Cedrick
Subject: FW: GWB Upper Level Toll Plaza Modified

Hi Cedrick,

This is what I called about -I just wanted to make sure that you were aware of the below plan. I assume GWB staff have already advised you- just wanted to be sure.

If you don't mind it would be good if our respective Traffic staff could work together to assess any and all impacts so we both can be on the same page.

Hope you agree. Please let me know if you need anything from us.

Have a great day!!

Peter

From: Zipf, Peter
Sent: Friday, September 06, 2013 8: II AM
To: Rivera, Jose
Subject: RE: GWB Upper Level Toll Plaza Modified

Jose,

I was advise that on Monday TBT plans to implement the plan per sheet 4 (neck down to one lane).

Is there any way that Traffic can be in touch with what ramifications come from this, -ie, I assume TBT will monitor traffic impacts on Fort Lee as well as GWB flow through. Do they share that with your group or does your group get its own information?

Thanks,
Peter

From: Zipf, Peter
Sent: Thursday, August 29, 2013 6:09PM
To: Rivera, Jose
Subject: RE: GWB Upper Level Toll Plaza Modified

Thanks Jose!

Peter

From: Rivera, Jose
Sent: Thursday, August 29, 2013 12:54 PM
To: Zipf: Peter; Wildstein, David
Subject: RE: GWB Upper Level Toll Plaza Modified

As discussed, attached is a revised PDF showing the GWB Upper Level Toll Plaza under four scenarios:

Sheet 1: Shows a typical mid-day operation, where traffic cones are set aside and traffic is allowed to move freely from the various approaches.

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segregate the three lanes from Fort Lee to flow into the three right-most lanes of the toll plaza.

Sheet 3: Shows a mock up of a potential modified morning peak period where three lanes from Fort Lee are merged into two lanes and feed the two right-most lanes of the toll plaza. Since the traffic flows are extremely congested during the morning peak periods, Traffic Engineering recommends that the Fort Lee traffic be segregated from the other approaches by use of traffic cones, regardless of the number of toll lanes it is feeding, to reduce the risk of sideswipe crashes.

Sheet 4: Similar to above, however traffic from Fort Lee is restricted to two lanes then merged into one lane to feed the right-most lane of the toll plaza. Also as above, since traffic flows are extremely congested during the morning peak periods, Traffic Engineering recommends that the Fort Lee traffic be segregated from the other approaches by use of traffic cones to reduce the risk of sideswipe crashes.

<<File: GWB UL Tolls 6.pdf>>

Jose

From: Zipf, Peter
Sent: Wednesday, August 28, 2013 6:19PM
To: Wildstein, David
Cc: Rivera, Jose
Subject: GWB Upper Level Toll Plaza Modified

David,

As requested, attached is a suggested modification. Jose will certainly work out the details/further development with GWB as needed. One additional scenario could be a merge down to one lane, if needed.

Let me know if you need anything further.

Peter

From: Rivera, Jose
Sent: Wednesday, August 28, 2013 6:11 PM
To: Zipf, Peter
Cc: Starace, Jim; Buchsbaum, Jack; Baig, Rizwan (Mirt.a); Diculescu, Michael
Subject: GWB Upper Level Toll Plaza Modified

Attached is a PDF showing the GWB Upper Level Toll Plaza under three scenarios:

Sheet 5: Shows a typical mid-day operation, where traffic cones are set aside and traffic is allowed to move freely from the various approaches.

Sheet 6: Shows a mock up of the morning peak period, where the traffic cones are typically set up to segregate the three lanes from Fort Lee to flow into the three right-most lanes of the toll plaza.

Sheet 7: Shows a mock up of a potential modified morning peak period where three lanes from Fort Lee are merged into two lanes and feed the two right-most lanes of the toll plaza. Since the traffic flows are extremely congested during the morning peak periods,

Traffic Engineering recommends that the Fort Lee traffic be segregated from the other approaches by use of traffic cones, regardless of the number of toll lanes it is feeding, to reduce the risk of sideswipe crashes.

<<File: GWB UL Tolls Sa.pdf>>

I hope this helps. Please advise if you need additional information.

Jose M. Rivera, Jr., P.E.
ChiefTraffic Engineer

Port Authority of NY & NJ Two Gateway Center, 14th
Floor Newark, NJ 07102
Office: 973-565-7866 I BlackBerry: 862-754-4781 I
jrivcra@panynj.gov<mailto:jrivcra@panynj.gov> I
www.panynj.gov<http://www.panynj.gov>

* * *

From: Wildstein, David
Sent: Sunday, September 08, 2013 10:48 AM
To: Baroni Bill
Subject: Fwd: Re:

Begin forwarded message:

From: "Durando, Robert"
<rdurando@panynj.gov>
Date: September 8, 2013 10:21:57 AM EDT
To: "Wildstein, David"
dwildstein@panynj.gov>
Subject: Re:

So will I. Ops is on board, Mtce is covering signs tonight, and Police are aware that they will be controlling traffic in the intersections for the extended rush. We've also brought a toll collector in on overtime to keep toll lane 24 (the extreme right hand toll lane Upper level) in the event the collector assigned to TL 24 needs a personal. See you in the morning.

----- Original Message -----

From: Wildstein, David
Sent: Sunday, September 08, 2013 10:09 AM
To: Durando, Robert
Subject:

Will be at bridge early Monday am to view new lane test.



951

From: Lado, Tina
Sent: Monday, September 09, 2013 11:24 AM
To: Baroni, Bill; Wildstein, David
Cc: Fulton, Cedrick
Subject: Ft Lee

Wanted you both have a heads up--Peggy Thomas, Borough Administrator, called me regarding the increased volume and congestion of AM rush traffic throughout the Borough as a result of the GWB toll lanes adjustment that occurred.

She mentioned that there were 2 incidents that Ft Lee PD and EMS had difficulty responding to; a missing child (later found) and a cardiac arrest.

She stated additionally that the Borough and PO had no advance notice of the planned change. Also, Bill the Mayor had placed calls to your office.

If there is anything you need me to do. let me know. Thank you.

Please excuse any typos; sent using BlackBerry handheld device.
tlado@panynj.gov



From: Lado, Tina
Sent: Tuesday, September 10, 2013 11:30 AM
To: Baroni, Bill
Subject: Fort Lee

Fort Lee Mayor Mark Sokolich called this morning regarding the traffic in Fort Lee

“reasons unclear to us...”

The Mayor would like to talk to you as soon as possible, regarding the traffic congestion due to the change in GWB toll booths configuration. He remains concerned, doesn't understand the purpose/need of the traffic test and doesn't understand why the borough was not alerted. Additionally, he said that he is trying to “keep a lid on this” (politically) and is getting pressure from members of Borough Council who want to take some action. He feels this is a “life /safety” issue. One example that occurred on Monday 9/9 3 was Fort Lee volunteer ambulance attendants had to respond on foot, leaving their vehicle, to a emergency call.

He was calm but again, reiterated he would like to talk with you. Let me know if you need anything additional. Thank you.



Tina Lado
NJ Director, Government & Community Relations
THE PORT AUTHORITY OF NY & NJ
tlado@panynj.gov
212-435-6903
<http://www.panynj.gov>



BOROUGH OF FORT LEE

Office of the Mayor

309 Main Street

Fort Lee, New Jersey 07024-4799

Telephone (201) 592-3500 –Ext 1003 Facsimilie
(201) 592-1657 E-mail: mayor@fortleenj.org

Mark J. Sokolich
Mayor

PERSONAL

Via Email:

September 12, 2013

The Honorable Bill Baroni
Deputy Executive Director
The Port Authority of New York & New Jersey
225 Park Avenue, 15th Floor
New York, New York 10003

GOVERNMENT
EXHIBIT
1112

Dear Bill:

I am writing this correspondence to you and am refraining from copying any other party in the hopes that a recent decent decision by the Port Authority will be reversed quietly, uneventfully and without political fanfare.

Permit me to elaborate. Without any notice whatsoever to Fort Lee (or any of its agencies, including our Police Department), the Port Authority reduced the available toll booths for traffic flowing through Fort Lee from three to one. Suffice it to say, this decision has wreaked havoc upon our community during the morning rush hour, visiting upon us complete gridlock. Having received absolutely no notice of this decision, not having obtained any response to our multiple inquiries concerning same, and try as we may to understand its rationale without the benefit of a response from the Port Authority, we are reaching the conclusion that there are punitive overtones associated with this initiative. What other conclusion could we possibly reach?

Our emergency service vehicles are experiencing tremendous response time delays and my office is overwhelmed with complaints. Unquestionably, this decision has negatively impacted public safety here in Fort Lee. Adding insult to injury, many members of the public have indicated to me that the Port Authority Police Officers are advising commuters in response to their complaints that this recent traffic debacle is the result of a decision that I, as the Mayor, recently made. The basis, reason, or genesis of the decision is of no consequence to me; however, its

profound and adverse impact on our community is of paramount importance to me.

I have incessantly attempted to contact Port Authority representative to no avail. Would you please be good enough to please have someone contact me or Police Chief Bendul to discuss the basis of this recent policy change and what we must do to reverse it ... plain and simple. *Query*: What do I do when our billion dollar redevelopment is put on line at the end of the next year?

Please call me as soon as possible in the hopes that we can resolve this issue and reverse a policy change that is wreaking havoc on Fort Lee the otherwise cooperative and supportive host community to the busiest bridge in the world.

Mayor's Office	201-592-3500 X 1003
Law Office	201-224-4000
Home #	201-224-7755
Cell#	201-424-5014

Sincerely,

/s/ Mark J. Sokolich

Mark J. Sokolich

Mayor

MJS:ml

Foye, Patrick

From: Foye, Patrick
Sent: Friday, September 13, 2013 7:44AM
To: Fulton, Cedrick; Durando, Robert
Cc: Baroni, Bill; Dunne, Joseph P.;
Koumoutsos, Louis; Zipf, Peter; Samson,
David; Reenter, Scott; Buchbinder, Darrell
Subject: Fort Lee eastbound access toGWB
Importance: High

After reading last night's media pendings, I made inquiries and received calls on this matter which is very troubling. Here is what I learned: reversing over 25 years of PA GWB operations, the three lanes in Fort Lee eastbound to the GWB were reduced to one lane on Monday of this week without notifying Fort Lee, the commuting public we serve, the ED or Media. A decision of this magnitude should be made only after careful deliberation and upon sign off by the ED. Reports are that Fort Lee has experienced severe traffic delays engulfing the entire Fort Lee area since Monday. I am appalled by the lack of process, failure to inform our customers and Fort Lee and most of all by the dangers created to the public interest, so I am reversing this decision now effective as soon as TBT and PAPD tell me it is safe to do so today.

I am making this decision for the following reasons:



1. 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.
2. This hasty and ill-advised decision has undoubtedly had an adverse effect on economic activity in both states. That is contrary to the directive we have from our Governors to do everything possible to create jobs in both States.
3. I will not allow this hasty and ill-advised decision to delay the travels of those observing Yom Kippur tonight or the holidays to follow.

To be clear, I will get to the bottom of this abusive decision which violates everything this agency stands for; I intend to learn how PA process was wrongfully subverted and the public interest damaged to say nothing of the credibility of this agency.

Finally, I am open to considering changes to each of our facilities If there is a case to be made that change will benefit the public interest. In the case of the Fort Lee eastbound access lanes, approval of this action will require:

1. Written sign off by TBT, Traffic Engineering and PAPD. That sign off was not sought or obtained here.
2. Prior discussion with the local government and a communication plan and plenty of advance notice to the commuting public. That did not occur here.
3. Consideration of the effects on emergency vehicles and sign off by PAPD. That did not occur here.

4. Consideration of the financial impact on the PA in terms of O/T. That too did not occur here.

Cedric and Bob—please let this group know when access to three lanes in Fort Lee can be restored as soon as possible today. This is a matter of public safety and time is of the essence.

Pat

From: Foye, Patrick
Sent: Friday, September 13, 2013 9:32 AM
To: Baroni, Bill
Cc: MacSpadden, Lisa;
'dsamson@wolffsamson.com';
'srechler@rxrrealty.com'
Subject: Re: Fort Lee eastbound access to GWB

Bill that's precisely the problem: there has been no public discourse on this.

From: Baroni, Bill
Sent: Friday, September 13, 2013 09:03 AM
To: Foye, Patrick
Cc: MacSpadden, Lisa
Subject: Re: Fort Lee eastbound access to GWB

I am on way to office to discuss. There can be no public discourse.

Sent from my iPhone

On Sep 13, 2013, at 8:55 AM, "Foye, Patrick"
<pfoye@panynj.gov> wrote:

Bill we are going to fix this fiasco



From: Baroni, Bill
Sent: Friday, September 13, 2013 08:40 AM
To: Foye, Patrick; MacSpadden, Lisa
Subject: Re: Fort Lee eastbound access to GWB

Pat we need to discuss prior to any communications.

Sent from my iPhone

On Sep 13,2013, at 8:28AM, "Foye, Patrick"
<pfoye@panynj.gov> wrote:

Thanks, Bob. I'll set up a meeting to discuss this issue. Looping Lisa—how do we get word out?

From: Durando, Robert
Sent: Friday, September 13, 2013 08:04 AM
To: Foye, Patrick; Fulton, Cedrick
Cc: Baroni, Bill; Dunne, Joseph P.;
Koumoutsos, Louis; Zipf, Peter;
Samson, David;
'SRechler@RXRReattv.com'
<SRechler@RXRRealty.com>;
Buchbinder, Darrell
Subject: Re: Fort Lee eastbound access to GWB

We have restored the 3 toll lanes to Ft Lee.

From: Foye, Patrick
Sent: Friday, September 13, 2013 07:44 AM
To: Fulton, Cedrick; Durando, Robert

Cc: Baroni, Bill; Dunne, Joseph P .;
Koumoutsos, Louis; Zipf, Peter;
Samson, David; 'Rechler, Scott •
<SRechler@RXRRRealtv.com>;
Buchbinder, Darrell

Subject: Fort Lee eastbound access to GWB

After reading last night's media pendings, I made inquiries and received calls on this matter which is very troubling. Here is what I learned: reversing over 25 years of PA GWB operations, the three lanes in Fort lee eastbound to the GWB were reduced to one lane on Monday of this week without notifying Fort lee, the commuting public we serve, the ED or Media. A decision of this magnitude should be made only after careful deliberation and upon sign off by the ED. Reports are that Fort lee has experienced severe traffic delays engulfing the entire Fort Lee area since Monday. I am appalled by the lack of process, failure to inform our customers and Fort lee and most of all by the dangers created to the public interest, so I am reversing this decision now effective as soon as TBT and PAPD tell me it is safe to do so today.

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Cedric and Bob—please let this group know when access to three lanes in Fort Lee can be restored as soon as possible today. This is a matter of public safety and time is of the essence.

Pat

From: Baroni, Bill
Sent: Friday, September 13, 2013 3:10 PM
To: Coleman, Steve; Foye, Patrick
Cc: Ma, John; Wildstein, David;
MacSpadden, Lisa
Subject: RE: Media inquiries -- Fort Lee toll
booths

Steve, we are good with the following:

“The Port Authority has conducted a week of study at the George Washington Bridge of traffic safety patterns. We will now review those results and determine the best traffic patterns at the GWB. We will continue to work with our local law enforcement partners.”

From: Coleman, Steve
Sent: Friday, September 13, 2013 1:30 PM
To: Foye, Patrick; Baroni, Bill
Cc: Ma, John; Wildstein, David;
MacSpadden, Lisa
Subject: Media inquiries — Fort Lee toll booths

All:

We received inquiries today from the Bergen Record, WCBS Radio and the Fort Lee Patch about the three



GWB toll booths in Fort Lee that were taken out of service earlier this week and reinstated today. The media representatives have all asked us to confirm that the booths have in fact been reinstated and also have asked why we made the change.

In addition, John Cichowski of the Bergen Record has several additional questions, including what safety goal we tried to achieve and whether the booths will continue to remain open for the foreseeable future.

Please provide me whatever guidance you can on how we can address these inquiries. Thanks.

From: DeCerreno, Allison
Sent: Friday, December 06, 2013 12:59 PM
To: Ma, John
Subject: Fort Lee — Traffic Analysis
Attachments: Fort Lee Traffic DFT v06 12-06-13.xlsx

Hi John,

A few more stats, based on the attached analysis (which has some charts as well), that maybe of help for Pat on Monday, as follows (the second one is interesting).

1. During the 4-week period, September 16-October 11, 2013 (weekdays only), the three Fort Lee lanes carried, on average, 25% of total eastbound GWB UL traffic during the peak morning hours (6-9am). The highest portion of traffic these lanes carried during that period was 29%.

2. During the 4 days the lanes were opened to full traffic, the one lane that remained devoted to Fort Lee handled 13% of total eastbound GWB UL traffic (the highest percent during that period was 15%); the other two lanes combined handled 14.5% of total eastbound GWBUL traffic (almost the same as the single Fort Lee lane).



I'm not sure you have everything you need. Have asked around and I don't have much else. On pics, Engineering might have some other aerials for you beyond what I sent.

--Allison

Date	Fort Lee	%	Other	%	Total
09-Sep-13	14,718	27.8%	38,161	72.2%	52,879
10-Sep-13	16,310	27.2%	43,653	72.8%	59,963
11-Sep-13	16,138	27.3%	42,939	72.7%	59,077
12-Sep-13	15,610	27.7%	40,710	72.3%	56,320
AVG		27.5%			
MIN		27.2%			
MAX		27.8%			

Date	Fort Lee	%	Other	%	Total
16-Sep-13	13,600	24.8%	41,291	75.2%	54,891
17-Sep-13	13,955	24.3%	43,480	75.7%	57,435
18-Sep-13	16,173	28.0%	41,618	72.0%	57,791
19-Sep-13	15,417	26.0%	43,804	74.0%	59,221
20-Sep-13	17,264	25.6%	50,046	74.4%	67,310
23-Sep-13	13,946	24.6%	42,833	75.4%	56,779
24-Sep-13	15,115	28.0%	38,786	72.0%	53,901
25-Sep-13	14,979	26.8%	41,011	73.2%	55,990
17-Sep-13	15,755	27.7%	41,033	72.3%	56,808
17-Sep-13	15,548	25.6%	45,117	74.4%	60,665
10-Sep-13	13,965	28.1%	35,697	71.9%	49,662
01-Oct-13	13,972	26.7%	38,370	73.3%	52,342
02-Oct-13	14,668	25.8%	42,119	74.2%	56,787
03-Oct-13	16,580	28.5%	41,494	71.5%	58,074
04-Oct-13	16,478	25.6%	47,981	74.4%	64,459
07-Oct-13	13,176	23.7%	42,512	76.3%	55,688
08-Oct-13	14,807	25.8%	42,332	74.2%	57,139
09-Oct-13	14,549	25.3%	43,071	74.8%	57,620
10-Oct-13	15,010	24.8%	45,577	75.2%	60,587
11-Oct-13	16,490	24.6%	50,502	75.4%	66,992
AVG		26.0%			
MIN		23.7%			
MAX		28.5%			

3-Hour Periods (Unreconciled)

	GWBU04	GWBU05	GWBU06	GWBU08	GWBU10	GWBU12	GWBU14	GWBU16	GWBU18	GWBU20	GWBU22	GWBU24
712	4,556	5,797	7,445	3,811	3,718	3,788	4,301	3,013	3,885	3,777	3,777	7,056
056	5,178	6,555	8,737	4,377	4,256	4,051	5,417	3,056	4,057	4,374	4,374	8,779
134	4,815	7,685	8,779	4,170	3,709	3,727	5,375	3,664	3,664	4,282	4,282	8,172
269	4,653	5,855	7,452	4,215	3,915	3,960	4,624	3,747	4,470	4,470	4,470	6,667
181	19,202	25,892	31,913	16,573	15,598	15,946	19,717	12,841	16,096	16,906	16,906	29,776

	GWBU04	GWBU05	GWBU08	GWBU10	GWBU12	GWBU14	GWBU16	GWBU18	GWBU20	GWBU22	GWBU24
044	4,726	6,148	7,653	4,200	3,872	4,066	5,071	3,511	3,438	6,974	3,168
986	5,057	6,966	8,076	4,115	4,051	4,346	5,609	3,274	3,768	7,056	3,131
898	3,574	4,791	8,594	4,263	3,876	3,712	5,738	3,182	4,076	8,818	3,279
807	3,786	5,197	9,368	4,554	4,262	4,071	5,604	3,155	3,461	8,439	3,517
036	5,593	6,247	9,299	4,732	4,707	4,332	6,679	3,921	4,322	9,258	3,574
003	4,978	6,403	7,371	4,180	4,181	4,420	5,405	3,892	4,386	6,434	3,126
959	4,441	5,398	6,171	4,132	3,717	4,200	4,950	3,838	4,201	7,531	3,383
971	4,910	6,041	7,156	4,477	3,844	4,080	5,414	3,418	4,254	7,634	3,091
946	5,192	5,886	7,157	4,270	3,932	4,277	4,852	3,541	4,114	8,364	3,277
104	6,143	7,104	8,186	3,949	3,980	4,312	5,796	3,743	4,116	7,872	3,560
077	3,933	4,625	5,276	3,530	3,539	3,869	4,503	3,545	3,925	5,516	3,524
728	3,998	5,830	7,338	3,812	3,806	3,748	4,849	3,463	3,273	7,320	3,279
106	3,744	5,248	6,115	4,387	3,711	3,852	5,565	3,391	3,380	8,073	3,215
322	3,472	4,817	8,988	4,405	3,935	3,868	5,679	3,092	4,062	9,187	3,321
823	6,199	7,731	8,971	4,619	4,173	4,354	5,735	3,837	4,061	8,891	3,269
823	3,428	4,696	9,021	4,382	4,202	3,847	5,886	3,227	3,686	6,521	2,969
552	4,834	6,762	8,692	4,197	4,048	4,062	5,309	3,076	3,838	7,869	3,000
712	5,218	7,001	8,795	4,403	4,077	3,660	5,417	2,768	3,803	7,800	2,946
192	5,708	7,266	8,570	4,281	4,053	4,355	6,025	3,127	3,817	8,057	3,136
343	6,603	8,312	9,815	5,129	4,475	4,530	5,633	3,662	4,220	8,917	3,353
45	55,537	122,469	164,602	86,017	80,441	82,021	109,719	68,443	78,221	157,631	65,585

e lanes (one dedicated)
 e lanes (three dedicated)
 lanes

970

George Washington Bridge

Background Information

Legislative District Information

4

11/25/13



Reallocation of Toll Lanes at the GWB

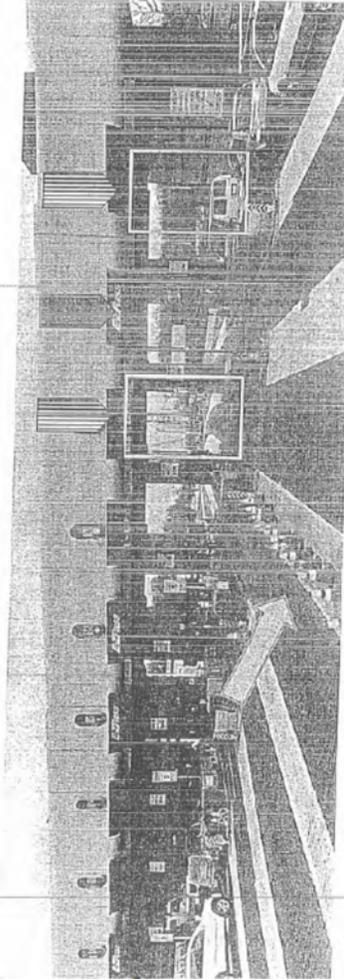
An EARLY assessment of the benefits of the trial

September 12, 2013

THE PORT AUTHORITY OF NY & NJ

Trial: Reallocate Toll Lanes Presently Dedicated to Ft. Lee Traffic During the AM Peak

Lanes 20, 22, and 24 were dedicated to "local" traffic during the AM peak using a cone line.



Local Traffic Throughput

By eliminating two of the toll lanes dedicated to "local" traffic from Ft. Lee, this traffic was forced to queue on local streets:

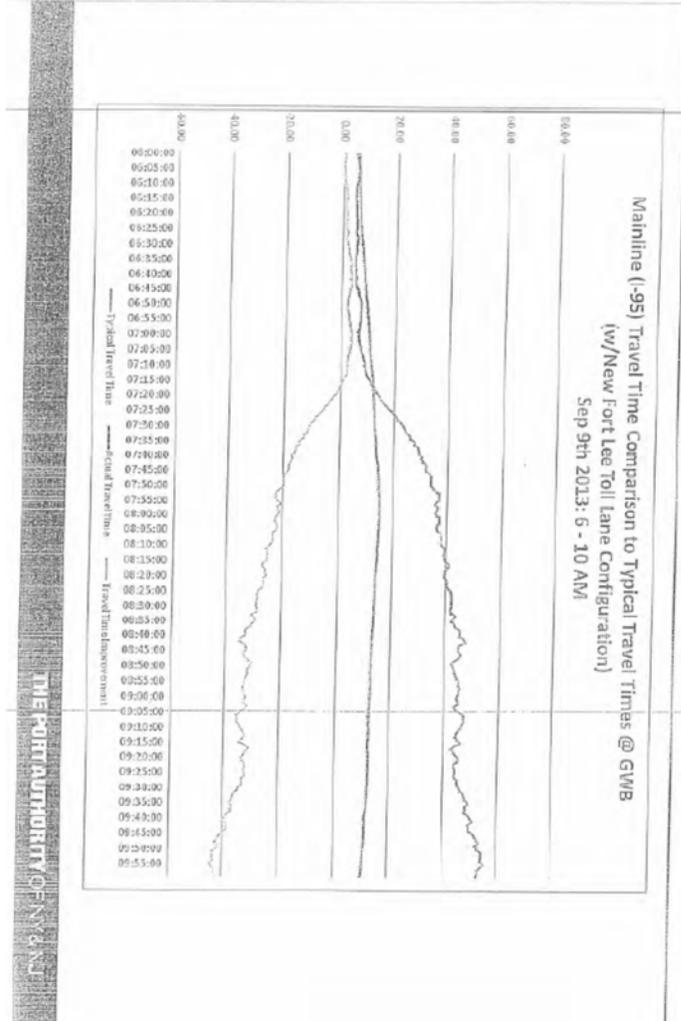
- An analysis of traffic prior to implementation assumed that unprocessed demand could reach over 600 vehicles
 - This analysis was based on the assumption that only traffic originating in Ft. Lee would use the local ramp after trial implementation
- Validation: Two separate queues set up in Ft. Lee each stretch for over 0.5 miles (equivalent to over 260 vehicles)
- Validation: Queues were predicted to continue until around noon,
 - This matches actual performance observed by GWB management
- "Local" E-ZPass traffic lost its dedicated E-ZPass lane, requiring this traffic to join the CASH queues
 - Prior to the trial, "local" traffic had an E-ZPass market share of around 87% during the AM peak period . . .

Route B: Local Queues in Fort Lee (PAPD Detour)

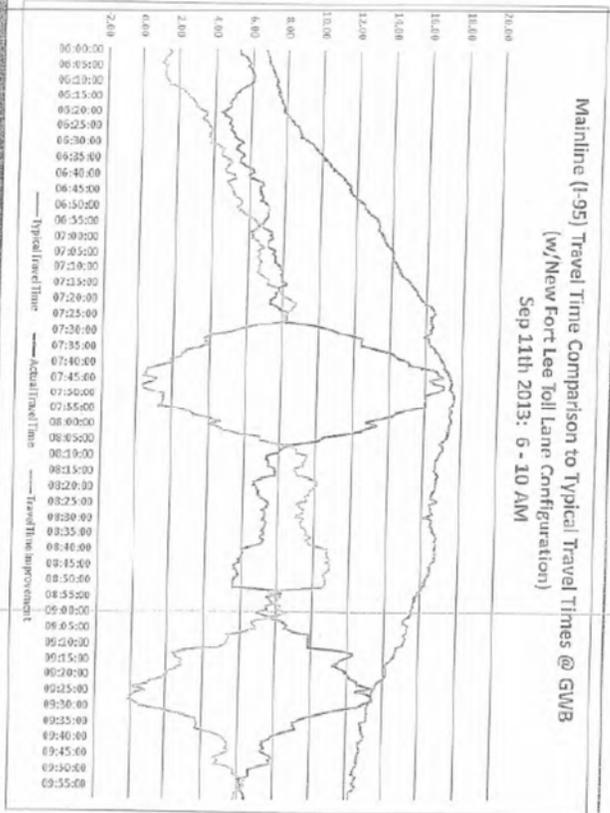


THE PORT AUTHORITY OF N.J.A.N.

AM Peak Highway Approach Travel Times on 9/9/2013



AM Peak Highway Approach Travel Times on 9/11/2013



Vehicle Hours of Delay

The trial results in a trade-off between travel time savings for highway approach traffic and delays for "local" traffic:

- Assuming the 11,592 vehicles using the mainline toll lanes after implementation of the trial each saved 5 minutes, the total savings would be approximately 966 vehicle hours of reduced delay.
- Based on estimated Fort Lee queues of approximately 600 vehicles over the course of four hours, local traffic is experiencing an additional 2,800 vehicle hours of delay.
 - Even if queues are half those originally estimated, the additional delay would still far exceed the savings of mainline traffic . . .
- Based on estimated Fort Lee queues of approximately 550 vehicles at 10 AM, many of these vehicles will pay the off-peak toll
 - At an E-ZPass market share of 84% during the 9 o'clock hour, this works out to a revenue loss of around \$1000 per day or \$250k per year.

<p><i>Conclusions</i></p>	<p>:</p> <ul style="list-style-type: none">TBD
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The Port Authority of NY & NJ
2012 to 2015 TOLL RATE TABLE
 General Westchester Bridge, Lincoln Tunnel, Holland Tunnel, Goethals Bridge, Connecticut Thruway, Bayonne Bridge
 PEAK HOURS: Weekdays 6:30 am - 8:30 am, Sat & Sun 12:00 - 6:00 pm
 OVERSIGHT HOURS for Trucks: 10:00 am - 6:00 pm, Weekdays

VEHICLE TYPE	November 2011			March 2012			June 2012			October 2012						
	Off-Peak	Peak	Tax (Overweight)	Off-Peak	Peak	Tax (Overweight)	Off-Peak	Peak	Tax (Overweight)	Off-Peak	Peak	Tax (Overweight)				
1 Vehicles with Two Axles and Single Rear Wheels	\$8.25	\$10.25	N/A	\$13.00	\$9.00	\$11.00	N/A	\$13.00	\$9.75	\$11.75	N/A	\$14.00	\$10.50	\$12.50	N/A	\$15.00
2 Vehicles with Two Axles and Dual Rear Wheels**	\$22.00	\$24.00	\$16.00	\$30.00	\$26.00	\$34.00	\$20.00	\$32.00	\$27.00	\$33.00	\$27.00	\$38.00	\$34.00	\$38.00	\$31.00	\$42.00
3 Vehicles with Three Axles**	\$33.00	\$36.00	\$28.50	\$45.00	\$39.00	\$44.50	\$51.00	\$45.00	\$48.00	\$48.00	\$54.00	\$48.00	\$57.00	\$54.00	\$48.00	\$63.00
4 Vehicles with Four Axles**	\$44.00	\$48.00	\$38.00	\$50.00	\$52.00	\$60.00	\$46.00	\$58.00	\$60.00	\$64.00	\$64.00	\$76.00	\$68.00	\$72.00	\$68.00	\$84.00
5 Vehicles with Five Axles**	\$55.00	\$60.00	\$47.50	\$75.00	\$65.00	\$70.50	\$75.00	\$85.00	\$85.00	\$90.00	\$90.00	\$102.00	\$95.00	\$95.00	\$102.00	\$108.00
6 Vehicles with Six Axles or more**	\$66.00	\$72.00	\$57.00	\$90.00	\$76.00	\$84.00	\$90.00	\$102.00	\$98.00	\$108.00	\$108.00	\$120.00	\$114.00	\$120.00	\$126.00	\$132.00
7 Class 1 or 11 with Trailer and Receptacles/Vehicles	\$11.00	\$12.00	\$9.50	\$15.00	\$13.00	\$14.50	\$15.50	\$17.00	\$15.00	\$16.50	\$18.00	\$18.00	\$20.00	\$18.00	\$20.00	\$22.00
8 Buses and Mini Buses with Two Axles	\$10.75	\$10.75	N/A	\$21.00	\$11.50	\$14.50	N/A	\$22.00	\$12.25	\$12.25	N/A	\$23.00	\$13.00	\$13.00	N/A	\$24.00
9 Buses and Mini Buses with Three Axles	\$10.75	\$10.75	N/A	\$21.00	\$11.50	\$14.50	N/A	\$22.00	\$12.25	\$12.25	N/A	\$23.00	\$13.00	\$13.00	N/A	\$24.00
10 Motorcycles	\$7.25	\$9.25	N/A	\$12.00	\$6.00	\$10.00	N/A	\$13.00	\$8.75	\$10.75	N/A	\$14.00	\$8.50	\$11.50	N/A	\$15.00
11 Carpool Plan Class 1 or 11 vehicles with 3 or more people	\$4.25	\$4.25	N/A	N/A	\$5.00	N/A	N/A	\$5.75	\$5.75	N/A	N/A	N/A	\$6.50	\$6.50	N/A	N/A
7 Carpool Plan Class 7 vehicles with 3 or more people	\$11.00	\$11.50	N/A	N/A	\$13.00	N/A	N/A	\$14.50	\$14.50	N/A	N/A	N/A	\$16.00	\$16.00	N/A	N/A
* GREENPASS Each additional	\$7.25	\$7.25		\$8.00	\$8.00		\$8.75	\$8.75		\$8.75		\$9.50	\$9.50		\$9.50	
1/11 Eight low-emission Class 1 vehicles	\$4.75	\$10.25	N/A	N/A	\$5.50	\$11.00	N/A	N/A	\$6.25	\$11.75	N/A	N/A	\$7.00	\$12.50	N/A	N/A
7 Eight low-emission Class 7 vehicles	\$12.00	\$17.50	N/A	N/A	\$13.50	\$19.00	N/A	N/A	\$15.00	\$20.50	N/A	N/A	\$16.50	\$22.00	N/A	N/A
* Each additional	\$7.25	\$7.25		\$8.00	\$8.00		\$8.75	\$8.75		\$8.75		\$9.50	\$9.50		\$9.50	
7 SB Discount Plan Class 7 Vehicles	\$12.00	\$12.00		\$13.50	\$13.50		N/A	\$15.00	\$15.00		N/A	\$16.50	\$16.50		N/A	
* Each additional	\$7.25	\$7.25		\$8.00	\$8.00		\$8.75	\$8.75		\$8.75		\$9.50	\$9.50		\$9.50	

* Toll rates for Class 1, 7, and 11 vehicles with non-commercial plates, who avoid the Plate at the NY or NJ E-ZPass Customer Service Centers. The South Victoria Expressway (SVE) 25-day connected accounts in NY and NJ with vehicles in Classes 2 to 6 a 10% discount on all non-week days of 100 or more in any monthly account statement apply on the basis of an account credit, provided the amount is a good standing.

**Tolls are collected for a round trip when entering New York.

Date & Source	Hour	20	22	24	Total 20, 22, 24	GWBU Total	Percentage
9/10/2012	6am - 7 am	193	507	175	875	4157	21.05%
GX1092-A	7am - 8 am	387	411	323	1121	4139	27.08%
	8am - 9am	336	336	342	1014	3609	28.10%
	9am - 10am	179	477	181	837	3477	24.07%
	6am - 10am				3847	15382	25.01%
9/11/2012	6am - 7 am	196	503	178	877	4008	21.88%
GX-1235-A	7am - 8 am	413	364	381	1158	4197	27.59%
	8am - 9am	316	339	266	921	3114	29.58%
	9am - 10am	363	558	277	1198	3714	32.26%
	6am - 10am				4154	15033	27.63%
9/12/2012	6am - 7 am	194	511	144	849	4131	20.55%
GX-1235-B	7am - 8 am	406	356	344	1106	4124	26.82%
	8am - 9am	334	319	304	957	3388	28.25%
	9am - 10am	116	476	164	756	3740	20.21%
	6am - 10am				3668	15383	23.84%
9/13/2012	6am - 7 am	212	488	168	868	4139	20.97%
GX-1236-A	7am - 8 am	420	382	350	1152	4372	26.35%
	8am - 9am	321	265	278	864	3429	25.20%
	9am - 10am	339	339	278	956	3517	27.18%
	6am - 10am				3840	15457	24.84%
6am - 10am Total for 9/10/2012 - 9/13/2012							
					15509	61255	25.32%

**GOVERNMENT
EXHIBIT
1242**

SEPT. 9, 2013 - SEPT. 13, 2013: HOURLY EARNINGS FOR ADDITIONAL TOLL COLLECTORS

Name of Port Authority Employee	Employee #	Date	Hours	Description	Pay Rate	Hourly Earnings (Hours x Pay Rate)
Barnett, Rhonda	29602	09/09/13	12	C/T Earned - Time & 1/2	42.4875000	\$509.85
Jackson, Karen	35838	09/10/13	8	Overtime @ 1.5 Regular	42.4875000	\$339.90
Gettes, Ebony	46436	09/10/13	0.25	FLSA Overtime - Regular	21.8895645	\$5.47
Gettes, Ebony	46436	09/10/13	8	Overtime @ 1.5 Regular	20.1937500	\$161.55
Charlton, Lena	35964	09/10/13	9	FLSA Overtime - Regular	44.3089815	\$398.78
Green, Harriet	34584	09/11/13	8	FLSA Overtime - Regular	44.6073870	\$356.86
Green, Harriet	34584	09/12/13	8	FLSA Overtime - Regular	44.6073870	\$356.86
Fox, Roslyn	46180	09/11/13	8	Overtime @ 1.5 Regular	25.9312500	\$207.45
Brown, Sheila	46461	09/11/13	9	FLSA Overtime - Regular	20.8877565	\$187.99
Boakye, Abena	44511	09/12/13	8	Overtime @ 1.5 Regular	42.4875000	\$339.90
Haynes-Joseph, Candice	46951	09/12/13	8	Overtime @ 1.5 Regular	19.0312500	\$152.25
Haynes-Joseph, Candice	46951	09/12/13	1	FLSA Overtime - Regular	20.6670225	\$20.67
Lee, Regina	43521	09/13/13	8	Overtime @ 1.5 Regular	42.4875000	\$339.90
McCoy, Tammy	33569	09/13/13	7.5	Overtime @ 1.5 Regular	42.4875000	\$318.66
TOTAL						\$3,696.09



THE PORT AUTHORITY OF NY & NJ
Bill Baroni
Deputy Executive Director

August 1, 2013

The Honorable Mark Sokolich
Mayor, Borough of Fort Lee
309 Main Street, Room 202
Fort Lee, NJ 7024

ADMINISTRATIVE OFFICE
2013 AUG -7 AM 11:25
RECEIVED

Dear Mayor Sokolich,

The Port Authority is continuing to invest in the iconic George Washington Bridge, the busiest bridge in the world. Next week, phase two of a project to rehabilitate the roadway of the upper deck will begin. In order to complete the project as quickly and safely as possible, our engineers have taken an innovative approach to replacing the existing roadway deck panels. The project, with a total investment of \$145 million, will result in a smoother, safer riding surface and reduce the frequency of needed repairs in the future.

This new phase of work will require closing up to three lanes of the roadway on the upper level over night, alternating between the westbound and eastbound direction, with periodic traffic holds managed by the Port Authority Police Department (PAPD). All lanes on the lower level will remain open. Using this



aggressive approach, we anticipate that this phase of the project will conclude, weather permitting, by the end of 2013 and will save the Port Authority approximately \$47 million. This is money that can be further invested in improving our region's infrastructure.

Anticipating the impact to motorists using the bridge, a public communications and traffic diversion plan has been developed which includes:

- A roadway diversion plan to encourage the use or other Hudson River crossings by motorists in partnership with New York and New Jersey transportation agencies.
- Signage directing cars on approaches in New York and New Jersey to the Lower Level of the bridge.
- Use of staffed cash and standard EZ·Pass lanes on the lower level while the diversion is in place in the eastbound direction.
- Motorist communication including radio advertisements, PANYNJ website, social media, PANYNJ alerts, EZ·PASS customer notices, use of 511NY and 511NJ messaging.

More information about the project can be found by calling our Government Relations office at 212-435-6903 or visiting our website: <http://newpal.panynj.gov/bridges-tunnels/gwb-upper-deck-stell-rehab.html>.

We know the George Washington Bridge is a critical link for your constituents, and that is why we are

committed to completing this work as quickly and safely as possible. If you have any questions about this project, please do not hesitate to contact me. Thank you for your continued support.

Sincerely,

/s/ Bill Baroni

Bill Baroni

Deputy Executive Director

Evan Ridley

From: Evan Ridley
Sent: Monday, September 09, 2013 1:58 PM
To: Bridget Kelly
Cc: Christina Renna
Subject: Re:

No, not in a while.

From: Bridget Kelly
Sent: Monday, September 09, 2013 01:50 PM
To: Evan Ridley
Cc: Christina Renna
Subject:

Have you spoken to the Fort Lee Mayor?



Jersey city start of school

9/1/13 9:00 AM

Thursday

9/1/13 9:03 AM

Anything we can do?

9/1/13 9:07 AM

Probably not

9/1/13 9:10 AM

U fortunate

9/1/13 9:11 AM

GOVERNMENT
EXHIBIT
5003-BB-04a



8/19/13 7:06 PM



8/19/13 7:06 PM



8/19/13 7:07 PM



8/19/13 7:07 PM

**GOVERNMENT
EXHIBIT
5003-BK-01a**



8/19/13 7:07 PM



8/19/13 7:07 PM



8/19/13 7:07 PM

I think this qualifies as some sort of stalking.

8/19/13 7:21 PM

You are too much

8/19/13 7:21 PM

He is Jewish Cid Wilson

8/19/13 7:25 PM

You are really so funny

8/19/13 7:25 PM

He is. No doubt

8/19/13 7:26 PM

And he has officially pissed me off

8/19/13 7:26 PM

Clearly

8/19/13 7:26 PM

We cannot cause traffic problems in front of his house, can we?

8/19/13 7:33 PM

Flights to Tel Aviv all mysteriously delayed

8/19/13 7:35 PM

Perfect

8/19/13 7:35 PM

Sokolich text to Baroni: Presently we have four very busy traffic lanes merging into only one toll booth..... The bigger problem is getting kids to school. Help please. It's maddening

9/10/13 8:04 AM

Is it wrong that I am smiling?

9/10/13 8:04 AM

No

9/10/13 8:05 AM

I feel badly about the kids

9/10/13 8:05 AM

I guess

9/10/13 8:06 AM

They are the children of Buono voters

9/10/13 8:11 AM

Bottom line is he didn't say safety

9/10/13 8:13 AM

At Newark now but expect this to get cancelled by gov, will call you later

9/10/13 8:13 AM

Exactly!

9/10/13 8:15 AM

Yes. We may cancel

9/10/13 8:15 AM

GOVERNMENT
EXHIBIT
5003-BK-03a

Tuesday, September 10, 2013 7:45:44 AM

Presently we have four very busy traffic lanes merging into only one toll booth.....
The bigger problem is getting kids to school. Help please. It's maddening

Me

Tuesday, September 10, 2013 7:46:27 AM

Bill: Mark Sokolich here... Port Authority has reduced the toll Boots for Fort Lee from three to only one. As of yesterday we are in total gridlock. Same thing today. Have a town that is ready to revolt. Who's mad at me? What do I do when Redevelopment 5 is online. Would not otherwise bother you however I have no choice. Please call me. Rather urgent.

Me

Thursday, September 12, 2013 5:46:32 PM

My frustration is now trying to figure out who is mad at me.

Me

Tuesday, September 17, 2013 1:31:54 PM

We should talk. Someone needs to tell me that the recent traffic debacle was not punitive in nature. The last four reporters that contacted me suggest that the people they are speaking with absolutely believe it to be punishment. Try as I may to dispel these rumors I am having a tough time.

Me

GOVERNMENT
EXHIBIT
5008

Tuesday, September 17, 2013 1:33:07 PM

A private face-to-face would be important to me. Perhaps someone can enlighten me as to the errors of my ways. Let me know if you'll give me 10 minutes.
Regards Mark

Me

Transcript of Voicemail: September 9, 2013

[UI]. Hey Bill, Mark Sokolich. How are you? Umm. I knew you were in an engagement earlier on. I didn't want to bother you again. See if you could give me a call back. It's kind of important. I'll give you my cell. It's 201-424-5014, regarding, uh, traffic in the morning and the toll booths of the Martha Washington lanes in Fort Lee. Running into a big problem. Schools are open. I—I'll give you the details when I speak to you. I'm sorry to bother you with this. I don't know who else to call and they're telling me to call you. Thanks.

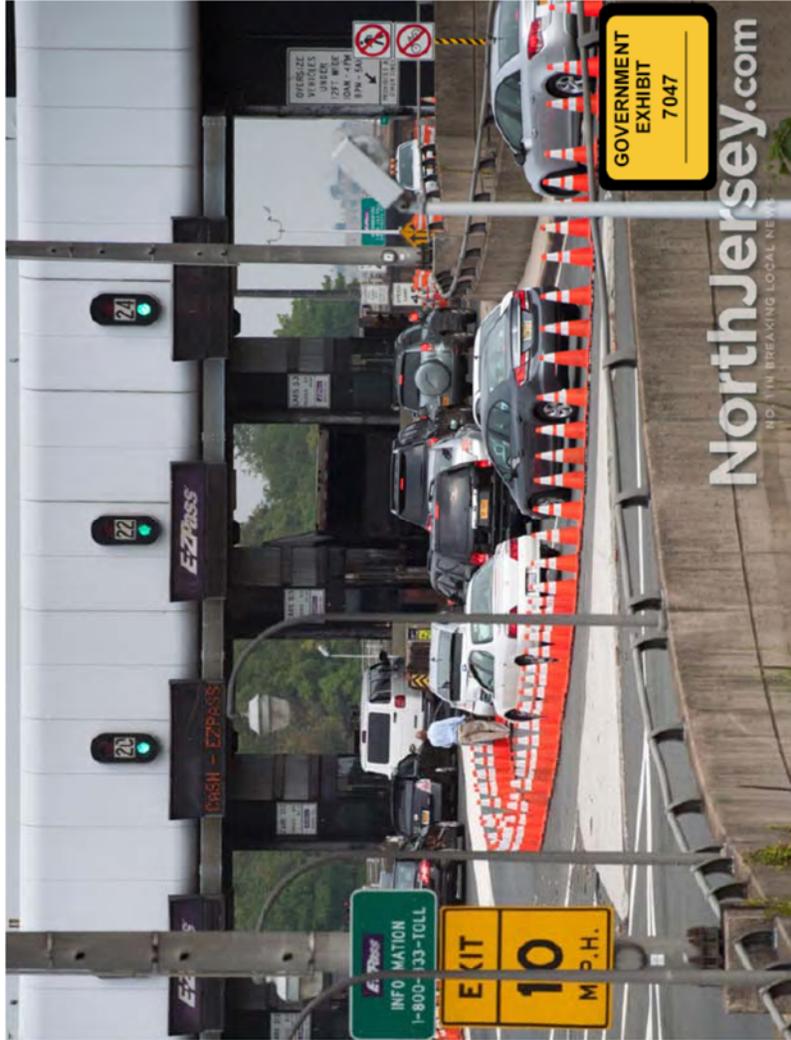


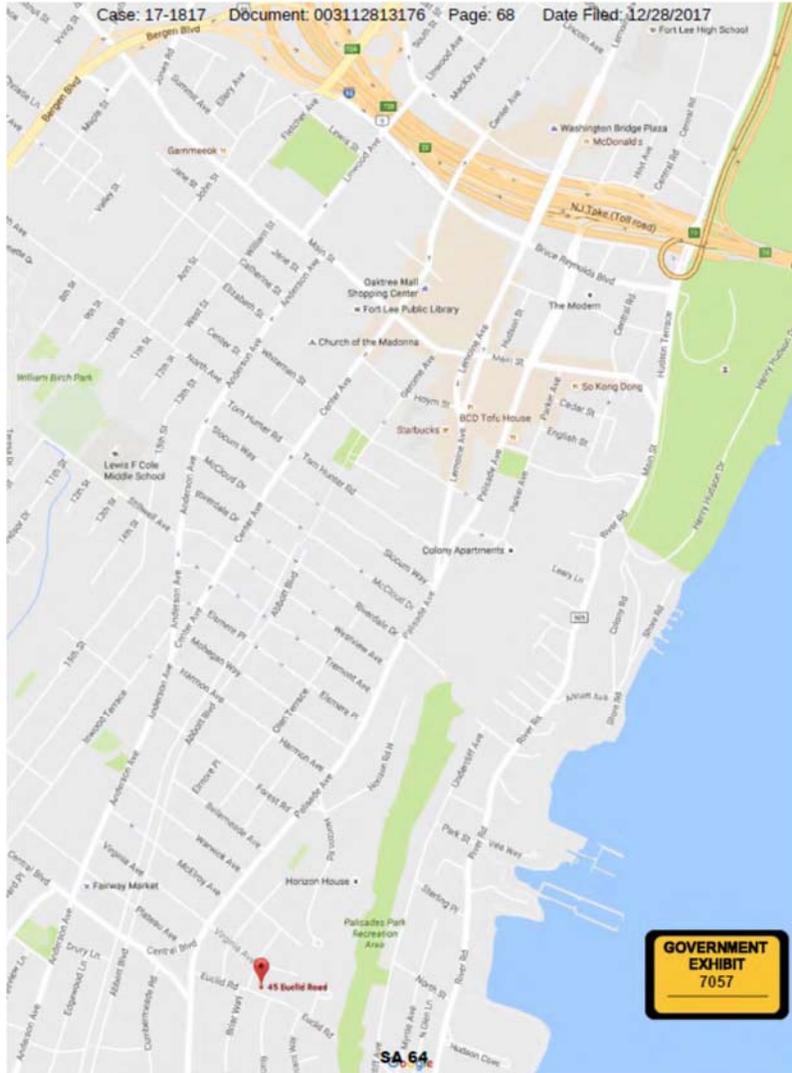
Transcript of Voicemail: September 10, 2013

Bill, Mark Sokolich. Sorry to hawk you here. It's 7:30. I — I gotta talk to somebody about this new policy at the bridge. It's truly shutting Fort Lee down. Umm. I can't get the kids to school, so forth and so on. Please give me a call back. 201-424-5014. I'm here with my chief now at the intersection of Lemoine and Main and it's -we're in, we're in total gridlock. I'm just trying to figure out who — uh — who's mad at me. Thanks.









Review of bridgetannekelly@yahoo.com Account

Exhibit	Date	Time	From	To	A*	B**
GX-145	Tuesday, August 13, 2013	7:34 AM	bridgetannekelly@yahoo.com	david.wildstein@gmail.com	No	56
		7:35 AM	david.wildstein@gmail.com	bridgetannekelly@yahoo.com	No	
GX-240	Friday, September 06, 2013	2:50 PM	david.wildstein@gmail.com	bridgetannekelly@yahoo.com	No	n/a
	Saturday, September 07, 2013	9:30 AM	bridgetannekelly@yahoo.com	david.wildstein@gmail.com	Yes	42
		9:43 AM	david.wildstein@gmail.com	bridgetannekelly@yahoo.com	No	
		10:00 AM	bridgetannekelly@yahoo.com	david.wildstein@gmail.com	No	
		10:09 AM	david.wildstein@gmail.com	bridgetannekelly@yahoo.com	No	
GX-279	Monday, September 09, 2013	9:48 AM	david.wildstein@gmail.com	bridgetannekelly@yahoo.com	No	35
		10:06 AM	bridgetannekelly@yahoo.com	david.wildstein@gmail.com	No	
		10:13 AM	david.wildstein@gmail.com	bridgetannekelly@yahoo.com	No	
		10:14 AM	bridgetannekelly@yahoo.com	david.wildstein@gmail.com	No	
GX-368	Thursday, September 12, 2013	12:52 PM	david.wildstein@gmail.com	stepien@yahoo.com	No	79
				bridgetannekelly@yahoo.com		
GX-389		3:36 PM	genovese@gmail.com	bridgetannekelly@yahoo.com	No	
		3:46 PM	bridgetannekelly@yahoo.com	david.wildstein@gmail.com	Yes	
		3:56 PM	david.wildstein@gmail.com	bridgetannekelly@yahoo.com	No	
		5:27 PM	bridgetannekelly@yahoo.com	david.wildstein@gmail.com	No	
		5:30 PM	david.wildstein@gmail.com	bridgetannekelly@yahoo.com	No	
GX-565		11:44 PM	bridgetannekelly@yahoo.com	Genovese@gmail.com	No	
GX-469	Friday, September 13, 2013	11:44 AM	david.wildstein@gmail.com	bridgetannekelly@yahoo.com	No	65
		11:47 AM	bridgetannekelly@yahoo.com	david.wildstein@gmail.com	No	
		12:07 PM	david.wildstein@gmail.com	bridgetannekelly@yahoo.com	No	
*Column A - Located in bridgetannekelly@yahoo.com Account						
**Column B - Number Of Sent Emails Located in bridgetannekelly@yahoo.com On Date						



1000



BOROUGH OF FORT LEE
Office of the Mayor
309 Main Street
Fort Lee, New Jersey 07024-4799
Telephone (201) 592-3500-Ext. 1003
Facsimile (201) 592-1657
E-mail: mayor@fortleenj.org

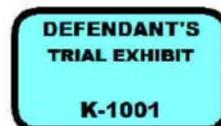
Mark J. Sokolich
Mayor

Via Facsimile 212-435-6489 & Regular Mail:

November 9, 2010

Mr. William Baroni
Deputy Director
Port Authority of New York & New Jersey
225 Park Avenue South, 15th Floor
New York, New York 10003

*Re: PROPOSED SHUT-DOWN OF FORT LEE
ROADWAYS*



Dear Director Baroni:

I preface the following correspondence to you by conceding we are all very frustrated here in Fort Lee and we are hopeful that the Port Authority will intervene and assist our community with our day-to-day battle with crippling traffic gridlock that we experience. Fort Lee has always had to deal with the extraordinary traffic burdens caused by the George Washington Bridge (“GWB”); however, lately the traffic has reached unbearable status and without some assistance from the Port Authority, Fort Lee will be in a perpetual state of emergency.

As you may recall, we met on September 16, 2010 to discuss various issues regarding the Port Authority, the Borough of Fort Lee and the promotion of an open-line communication. While we here in Fort Lee undertake to handle as many problems internally as possible utilizing all resources available to us, we have unfortunately reached a point where we are considering taking extraordinary measures to address the regular traffic shut-down and gridlock occurring in our Borough. Please permit me to elaborate.

On approximately 20 occasions over the last forty days, our Borough has been completely gridlocked. Traveling from the south to the north end of our Borough takes upwards of one hour. Our safety vehicles are unable to traverse our own thoroughfares to attend to emergencies which place our residents in harms way. Most recently, on October 30 through October 31, scheduled construction occurred on the lower level of the GWB which caused complete traffic gridlock in our Borough. Other causes of traffic shut-down include unscheduled and unanticipated events

such as vehicular accidents; holiday and event traffic and even modest vehicle break-downs on the Cross Bronx Expressway. The traffic caused by these events, and others too numerous to mention, cripples our entire community holding our residents hostage until the traffic subsides. I continue to meet with our Chief of Police, our Traffic Department and our engaged Traffic Consultants to determine how and if these ongoing gridlocks can be avoided or at least somewhat abated. There is one conclusion that we have all reached which is that this regular traffic shut-down in our Borough must somehow be alleviated.

We concede that there are many circumstances which contribute to the traffic problems that we face in Fort Lee. There is, however, a contributing factor which is easily addressed. On each and every occasion when complete and crippling traffic gridlock occurs, we contact the Port Authority Police Department and request the ranking officer to dispatch officers to the intersections committed to be manned by the Port Authority and otherwise facilitate the flow of traffic and to prohibit vehicles from "blocking the box". Vehicles which "block" the box are a direct and proximate cause of the complete traffic shut-down in our Borough. Prohibiting vehicles from blocking the intersections will certainly not cure or completely abate the traffic; however, it will at the very least allow our residents to drive through their own community to get to work, school; doctor's appointments so forth and so on. On limited occasion, the Port Authority Police Department will comply with our requests to assist our local department due to what we are told is a severe shortage of manpower. With no other alternative, we in Fort Lee dispatch our

own officers to man the posts that the Port Authority is required to man, thereby depleting our resources to attend to other responsibilities required by our officers during these regular gridlock events. Consequently, we recall officers who are off-duty to assist at exorbitant expense to the Borough. Essentially, rarely is our Borough provided with assistance from the Port Authority during periods when we are most in need of assistance.

In order to personally understand and appreciate the hundreds of complaints that I have received, I have taken my children to Fort Lee High School in the morning as opposed to utilizing the public school bus service. Essentially, each and every morning I ultimately arrive at the intersection of Lemoine Avenue and Bridge Plaza South and remain at a complete standstill for approximately 30 minutes solely as a result of four or five vehicles which sit in the intersection and "block the box". Accordingly, I along with a line of hundreds of other vehicles extending back to the southernmost end of Fort Lee remain at a complete standstill. By merely preventing vehicles from blocking the intersection, hundreds of vehicles would be free to travel through the intersection to their ultimate destination and help relieve our community. This circumstance occurs at several other critical intersections in Fort Lee and are a direct cause of the regular traffic gridlock that we experience. The mere dispatching of Port Authority Police Officers to these critical intersections would substantially alleviate the problems that we face on virtually a daily basis.

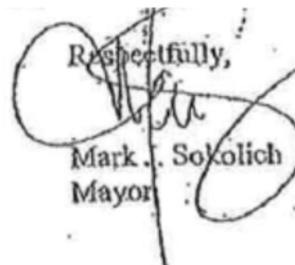
Another circumstance that is readily rectifiable and the cause of regular and avoidable traffic gridlock is

the Port Authority's election to substantially reduce the number of toll booth workers and resultant reduction in toll lanes on Saturday and Sunday of each week. Consequently, many vehicles exit the major approach roads and utilize our local thoroughfares as a "short-cut" in search of available toll booths. Accordingly, even weekends no longer provide a respite from traffic and gridlock on our roadways.

Please remain assured that our community has not given up hope and has tried to cope with the daily traffic onslaught and increased frequency of complete gridlock traffic events. We offer free (borough-subsidized) bus service to the local ferry system in Edgewater, we have installed a new state-of-the-art camera system to monitor all intersections impacted by the GWB to better and more quickly dispatch our officers, we now offer a "real-time" traffic alert system advising all subscribers of traffic events and alternate routes which is accessible through our webpage which is known as "NIXLE" (see www.fortleenj.org). Most telling and based on a recent study commissioned by the Borough of Fort Lee, we employ approximately fifteen police officers directly as a result of our proximity to the George Washington Bridge and the traffic it generates on our local thoroughfares. We estimate that our Borough expends in excess \$3.5 Million per year between alternative transportation initiatives, salaries (inclusive of benefits and pension contributions) and infrastructure maintenance and replacement which would not otherwise be required. In other words, Fort Lee has and is doing more than its part to address the extraordinary burden placed on our community and we respectfully request the Port Authority to likewise make an effort.

You had indicated in our meeting that you would be our contact to address any concerns or grievances that our Borough had, and I implore you to intervene in this matter. We are host community to the George Washington Bridge and respectfully request attention to the critical issues raised herein. Absent some form of relief, we find ourselves with no other alternative other than to direct the Chief of Police to completely close off our local roads over which we maintain exclusive jurisdiction to avoid Fort Lee from becoming a parking lot in the future and thereby require all vehicles to remain on the major approach thoroughfares (i.e., Route 46, Route 4, Route 80, I-95, etc.) and not otherwise meander through our local thoroughfares which causes safety concerns (especially for children) and complete traffic shut-down for all of our residents. This is an action that I would rather not take; however, we find ourselves with no other alternative.

Please contact me as soon as possible with regard to this matter. I am available to meet with you and your representatives at any time to discuss the issues raised in this correspondence and establish a protocol going forward to address the ongoing traffic shutdowns we experience here in Fort Lee and avoid the extraordinary step of closing down access to our roads. We simply have no other alternative.

Respectfully,

Mark J. Sokolich
Mayor

MJS:mil

1006

cc: Borough Council
Borough Administrator
Police Chief Thomas O. Ripoli
William Young, Port Authority Client Manager

1007



U.S. Department of Justice

*United States Attorney
District of New Jersey*

*Bruce P. Keller
Assistant U.S. Attorney/
Special Counsel to the U.S. Attorney*

*970 Broad Street, 7th floor
Newark, New Jersey 07102*

973-645-2930

May 2, 2018

BY ECF

Patricia Dodszuweit, Clerk
United States Court of Appeals
for the Third Circuit
U.S. Courthouse
601 Market Street, Room 21400
Philadelphia, PA 19106-1790

Re: *United States v. Baroni & Kelly*, Nos.
17-1817 & 1818 (argued April 24, 2018
before Judges Ambro, Scirica & Siler)

Dear Ms. Dodszuweit:

Pursuant to the Court's post-argument, April 25, 2018 order, this addresses the evidence the jury had regarding the \$5,000 threshold set forth in 18 U.S.C. § 666(a)(1)(A)(i), as well as the instructions it was given and arguments it heard on that issue.

I. The Evidence.

The Government proved the value of the PANYNJ resources obtained by the Defendants exceeded \$5,000 based on detailed evidence in the three categories described below.

A. PANYNJ Overtime Costs.

- Defendants knew before September 9, 2013 that reducing the three local access lanes to one would require the PANYNJ to incur overtime costs. They were told that, because all traffic now would feed into a single lane “furthest to the right . . . that was a ‘cash only’ lane,” the PANYNJ would need to pay “a second toll collector” to “sit and wait in case the” toll collector servicing that single local access lane “had to go to the bathroom.” JA1686-87. Wildstein confirmed this to Baroni, who “had asked to be kept in the loop on everything,” JA1698, in an email, SA49.
- When Wildstein discussed the required overtime with both Baroni and Kelly, they found it “funny” and ironic that the PANYNJ would have to pay “an extra toll collector just to sit and wait in case someone needed a bathroom break.” JA1686-87, 1697-98; SA49. During cross-examination, Baroni corroborated as much when he admitted he knew about, but did not object to, the extra overtime costs in advance. JA4005-06.
- The lane reductions resulted in a single toll booth for both cash and EZ Pass customers. JA853; GX7047 (attached). Under the prior, three-lanes/toll booths configuration, two serviced both cash and EZ Pass customers and one was EZ Pass only. JA813-14, GX7054 (attached) & JA5819. Under that arrangement, with toll booths 20 and 24 both capable of taking cash (as well as EZ Pass),

even if one toll collector “needed a personal break, “at least one of the lanes had a person in it,” so there was no need for someone else to cover. JA2902-03.

- Under the reduced, one-lane/toll booth arrangement, however, replacement toll takers were drawn from those who either “worked on their regular day off or in excess” of their regularly scheduled “eight hours.” JA2898; GX1245, GX1246 (both attached). There was no way to bring in excess toll collectors at any rate other than overtime. JA2898. Detailed payroll records, GX1246, showing the overtime costs for the 11 different excess toll collectors, were admitted without any objection from Defendants. JA2898-99.
- The jury heard testimony that the “cumulative” total of the required overtime costs for the week of the lane reductions amounted to \$3,696.09. JA2901. That amount also was set forth in a chart. GX1245. The jury was told that overtime would not “have been paid if the lane reductions had not taken place.” JA2901.

B. PANYNJ Employee Time Spent In Service Of The Fraud.

- In addition to toll taker overtime costs, the jury also knew “career” PANYNJ employees had to be misled by the “traffic study cover story,” JA1632, for which there was no PANYNJ “business reason,” JA1621.
- Payroll records for the relevant PANYNJ employees were admitted by stipulation on the

first day of trial. JA787-89, GX8000 (attached). They included payroll records for Baroni, GX1148, Chung, GX1154, Hwang, GX1163, Patel, GX1168, and Wildstein, GX1174 (all attached).

- The first page of each exhibit shows an hourly rate assigned to these individuals, something the PANYNJ calculated in the course of regularly conducted business activity. GX8000; JA788. Accordingly, the rate to be applied to the number of hours spent per PANYNJ employee was clear from the face of the exhibits.
- Three PANYNJ employees who worked on the fraudulent traffic study told the jury the number of hours they had spent on it, 2819-23 (Hwang, 10 hours), JA2840-41 (Chung, 14 hours), 2859-63 (Patel, 14 hours). Their total hours, multiplied by their hourly rates, equals \$1,828.84 in wasted time.
- Wildstein supplied the range of hours he and Baroni had spent. JA1951. Even taking the low end of Wildstein's estimated range of 40 to 50 hours, the time value for Wildstein and Baroni alone equaled \$4,294.69. Gov't Br. 47; JA650-51. Adding that to the \$1,828.84 in wasted time of the other PANYNJ employees, the total is \$6123.53
- The Government explained the calculation in closing. JA5295-96 ("Based on . . . payroll records and testimony . . . for the time in connection for the lane reduction work performed by" Hwang, Chung, Patel, Baroni

and Wildstein, there was over \$5,000 in “wasted” services).

- At no point did Defendants object to, challenge or question in any way these underlying calculations, which, combined with toll taker overtime, equal \$9,819.62. There was no lack of clarity on this issue. Baroni Reply at 32-33.

C. The Legitimate C&L Traffic Study.

- The jury also heard from two witnesses who testified as to the amounts the PANYNJ incurred to redo the C&L study. JA2766-82, 2791-803.
- The “abnormal traffic conditions in Fort Lee during the week of September 9th” resulted in \$3,597.22 in “additional costs,” consisting of extra labor, travel and videotaping expenses, which CHA Consulting passed along to the PANYNJ. JA2780-82, GX7070 (attached) (marked for identification only). In addition, the PANYNJ paid an additional \$807.20 to Hardesty and Hanover. JA2794-99; GX 7071 (attached) (marked for identification only).
- Defendants did not object to any of the testimony, underlying invoices or the summary exhibits prepared to aid the jury in understanding the \$4,494.44 in additional expenses involved in redoing the C&L study. *See, e.g.*, JA2780, 2798.

II. What The Jury Was Told About This Evidence.

Defendants incorrectly argue it was error to instruct the jury to consider the costs associated with the C&L

study, but even without it, they are left with a minimum of \$9,819.62 in wasted PANYNJ employee compensation, nearly double the \$5,000 threshold. That forces them to claim uncertainty as to which of the remaining employee compensation components the jury credited when it concluded the \$5,000 threshold had been satisfied. Baroni Br. at 73 (“there is no way to know which components” the jury credited); Baroni Reply at 32-33 (incorrectly stating the record is “unclear” as to the hours Baroni spent and how his hourly rate was calculated by the PANYNJ).

The record shows that a rational juror easily could have credited (and, indeed, did credit) the Government’s calculations. Further, the suggestion that eliminating the C&L study somehow casts doubt on the remaining \$9,819.62 is a *non-sequitur*. The wasted employee PANYNJ expenses are distinct from the C&L study vendor costs and one category has nothing to do with the other. The jury had no reason to consider some PANYNJ employee costs, but not others, because it received the same instruction as to all. The jury was told that:

- For § 666 purposes, “[p]roperty includes . . . intangible things like the value of an employee’s time and services,” “bona fide” compensation paid by the PANYNJ to employees could not be included when calculating the threshold amount, but that “[c]ompensation for an employee’s time and services obtained through deception is not legitimate or bona fide,” JA5109-10.

- Although the Government did not have to “prove the exact amount of money or property at issue,” it had to “prove beyond a reasonable doubt that the value of the money or property was \$5,000 or more.” JA5110.
- In deciding “whether the \$5,000 value has been reached,” it could consider, as a category distinct from the C&L study, “the value of compensation paid to the Port Authority personnel whose time and services were allegedly obtained through” the deception of the traffic study cover story. JA5110-11. No further distinctions were drawn among PANYNJ employees and Defendants did not request any special instructions or verdict forms.

Accordingly, excluding the costs of the C&L study from the total calculation raises no question about whether the employee compensation calculation itself satisfied the \$5,000 threshold. No jury presumed to have followed the instructions would have parsed among PANYNJ employee time: Any rational jury concluding *some* employee time was wasted had to find that *all* of it was wasted because none of the wages for that time could be considered “bona fide.” Given that the costs associated with the C&L study fell below \$5,000, the jury necessarily determined that the wages paid for wasted time alone satisfied § 666’s \$5,000 threshold.

Consistent with the instructions, in summation, the Government described, as a category, the “overtime paid to toll collectors,” along with “payroll records and testimony” establishing “the time” worked by

PANYNJ employees “in connection for the lane reduction[s].” JA5295-96. Those employee “services were wasted.” *Id.* See JA5194 (Defendants “misuse[d] the time and services of” PANYNJ employees, which “have value,” including “the overtime toll booth collectors,” “Baroni and Wildstein themselves,” and the “staff who wasted time collecting data no one ever wanted”).

The extent to which Defendants’ arguments on this issue have evolved obscures that the proofs below were *never* an issue. On appeal, Defendants began by generally suggesting that, without the C&L study, the jury might have credited only some, but not all, of the wasted employee time spent in service of the fraudulent scheme. Baroni Br. at 73. They were more specific in reply, contending the jury never had a factual basis for calculating “non-C&L amounts,” and that the Government “did not address” the calculations in summation. Baroni Reply at 32-33.

Not only does the record make clear none of those assertions is correct, it also shows that, at trial, Defendants essentially conceded this issue. The evidence as to these costs was so overwhelming Defendants barely referenced the \$5,000 threshold at closing. Kelly made one vague reference to “the jurisdictional amount.” JA5436. Baroni downplayed it as something that, because it was not “particularly super exciting to talk about,” could be treated in entirely summary fashion. JA5380 (completely ignoring the proof of wasted PANYNJ employee time). It is not as if Defendants did not know how to highlight an issue they believed might be helpful. Both emphasized the good faith instruction, JA5132 (the “absolute” “nuclear bomb” of defenses), JA5454 (“this

is important”) because it made clear that Defendants could not be convicted if they believed “the lane or toll booth reductions were part of a legitimate Port Authority traffic study,” JA5141-42.

Even Defendants’ opening briefs appeared to generally acknowledge “*sufficient* evidence of \$5,000 in property.” Baroni Br. at 73 (emphasis in original) (citing the sentencing chart summarizing the trial evidence). Similarly, Kelly never challenged the quality of that proof, preferring instead to contend that evidence was rendered “legally irrelevant” under § 666(c), regardless of the calculations. Kelly Br. at 37-38.

The Government mistook this for acknowledgement of the underlying evidence in the record and it too cited the sentencing chart summarizing that evidence, rather than detail the non-controverted trial evidence on which it was based. Gov’t Br. 47-48. Doubtless, more granularity would have helped the Court, but there is no escaping that, at trial, the total of the PANYNJ employee compensation spent in service of the fraudulent traffic study was overwhelmingly proven. The jury had (1) payroll records admitted by stipulation, (2) overtime payments admitted with no objection, and (3) the direct examination and cross-examination of PANYNJ employees involved.

Defendants have not rebutted the presumption that the jury listened to and followed their instructions and concluded that wasted PANYNJ employee time alone amounted to at least \$9,819.62, almost double the \$5,000 threshold. Accepting *arguendo* that it was error to instruct the jury the C&L study counted toward § 666’s \$5,000 threshold (and it was not), there

was overwhelming and undisputed evidence that the value of PANYNJ employee time exceeded \$5,000, rendering any error harmless beyond a reasonable doubt. *See Neder v. United States*, 527 U.S. 1, 17 (1999).

Respectfully submitted,

MARK E. COYNE
ATTORNEY FOR THE UNITED
STATES*

By: /s/Bruce P. Keller
Assistant U.S. Attorney
Special Counsel to the U.S.
Attorney

cc: Michael A. Levy, Esq. (via ECF)
Yaakov M. Roth, Esq. (via ECF)

* Acting under authority conferred by 28 U.S.C. § 515.

Certificate of Service and Compliance

I certify as an Assistant U.S. Attorney that I caused a copy of this letter to be served by ECF upon:

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Bruce P. Keller
Assistant U.S. Attorney/
Special Counsel