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COMMONWEALTH OF PENNSYLVANIA
HOUSE OF REPRESENTATIVES
COMMITTEE ON JUDICIARY

In re: Report of the Pennsylvania Crime Commission
Investigation into the Conduct of Lackawanna
County District Attorney/Attorney General
Ernest D. Preate, Jr.

* * * * *

Stenographic report of hearing held
in Majority Caucus Room, Main Capitol
Building, Harrisburg, Pennsylvania

Friday,
May 20, 1994
1:00 p.m.

MEMBERS OF COMMITTEE ON JUDICIARY

Hon. Thomas R. Callagirone, Chairman
Hon. Harold James, Chairman, Subcommittee
on Crime and Corrections

Also Present:

William H. Andring, Chief Counsel
Richard Scott, Counsel
David Krantz, Executive Director
Karen Dalton, Republican Counsel
Galina Milahov, Research Analyst
Margaret Tricarico, Committee Staff

Reported by:
Ann-Marie P. Sweeney, Reporter

ANN-MARIE P. SWEENEY
3606 Horsham Drive
Mechanicsburg, PA 17055
717-732-5316

ORIGINAL

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1
2 CHAIRMAN CALTAGIRONE: The hour of is
3 1:00 o'clock has arrived. Good afternoon. I am State
4 Representative Thomas R. Caltagirone, chairman of the
5 House Judiciary Committee.

6 This is the time and place designated for
7 a hearing of the Judiciary Committee for the purpose of
8 receiving testimony from the Pennsylvania Crime
9 Commission relative to its investigation in the conduct
10 of former Lackawanna County District Attorney and
11 present Attorney General Ernest D. Preate, Jr.

12 I would like the other persons here
13 present with me to identify themselves for the record.

14 MR. SCOTT: Richard Scott, staff
15 attorney.

16 MR. KRANTZ: David Krantz, Executive
17 Director of the committee.

18 MR. ANDRING: William Andring, Chief
19 Counsel to the Judiciary Committee.

20 CHAIRMAN CALTAGIRONE: I'm told that some
21 other members will be arriving, so as they arrive we'll
22 have them introduced.

23 Before we begin, there are two matters
24 which I wish to address. First, to my knowledge,
25 Attorney General Preate has never formally responded to

1 the substance of the Crime Commission report or
2 answered questions concerning the allegations contained
3 in the report at a proceeding such as this hearing.
4 Therefore, Minority Chairman Piccola and myself jointly
5 sent a letter to General Preate on May 11, 1994,
6 inviting him to appear and testify at this proceeding.
7 In addition, the Office of Attorney General is on our
8 committee mailing list and regularly receives notice of
9 all committee functions.

10 In our letter of May 11, Chairman Piccola
11 and myself requested that the Attorney General respond
12 in writing to our invitation by Wednesday, May 18. The
13 Attorney General failed to respond in any manner to
14 this invitation by May 18, so on May 19 a committee
15 staff member contacted Fran Cleaver, the Legislative
16 Liaison for the Office of Attorney General, to
17 ascertain whether Mr. Preate would appear here today.
18 Ms. Cleaver indicated at that time that she did not
19 know whether or not the Attorney General would appear
20 today. I would like to include the letter from myself
21 and Chairman Piccola dated May 11, 1994, as a part of
22 the record for this proceeding.

23 (See Appendix for a copy of the letter.)

24 Today at approximately 12:00 noon, Fran
25 Cleaver contacted William Andring, Chief Counsel to the

1 committee, by telephone and indicated that Attorney
2 General Preate would not appear at the hearing today.
3 She then stated that General Preate had retained
4 attorney Bruce Kauffman to represent him and that they
5 desired to have Mr. Kauffman read a letter into the
6 record at the beginning of this hearing and prior to
7 any testimony by the Crime Commission. She further
8 indicated that Mr. Kauffman would refuse to answer any
9 questions.

10 As I indicated, this committee has given
11 Ernie Preate every opportunity to participate in this
12 proceeding. If the man's a coward and afraid to answer
13 questions in public about his conduct, then that is his
14 problem. I will not provide him a forum to continue
15 his assaults on the integrity of other public officials
16 while hiding in his office. If he or Mr. Kauffman wish
17 to hold a press conference or release a statement, they
18 can do so, but it will not be before this committee.

19 The second matter that I wish to
20 address--

21 MR. KAUFFMAN: No, sir, Mr. Chairman.

22 CHAIRMAN CALTAGIRONE: You're out of
23 order. You sit down, sir.

24 MR. KAUFFMAN: You talk about cowards,
25 no, you're a coward.

1 CHAIRMAN CALTAGIRONE: You are out of
2 order, sir.

3 MR. KAUFFMAN: I demand the right to be
4 heard.

5 CHAIRMAN CALTAGIRONE: You are out of
6 order, sir, and I will have you ejected from this room
7 if you don't sit down.

8 MR. KAUFFMAN: You have me ejected then.

9 CHAIRMAN CALTAGIRONE: You will be
10 ejected.

11 MR. KAUFFMAN: I demand the right to be
12 heard on behalf of the Attorney General.

13 CHAIRMAN CALTAGIRONE: You will be
14 ejected. You are out of order. As a judge sitting on
15 the highest bench in this State, you should know what
16 orders are all about.

17 MR. KAUFFMAN: I have asked for the
18 opportunity to be heard, and you are refusing that
19 opportunity.

20 CHAIRMAN CALTAGIRONE: You are out of
21 order. This is a formal proceeding.

22 MR. KAUFFMAN: I will sit down, but I
23 expect to be recognized before this hearing begins. I
24 have an objection to this hearing.

25 CHAIRMAN CALTAGIRONE: You are out of

1 order.

2 MR. KAUFFMAN: I have an objection to
3 this hearing--

4 CHAIRMAN CALTAGIRONE: You are out of
5 order.

6 MR. KAUFFMAN: --which I wish to be made
7 before the hearing begins.

8 CHAIRMAN CALTAGIRONE: You will be
9 removed from this proceeding, sir. You will be
10 removed.

11 MR. KAUFFMAN: I demand the right to be
12 heard, to object to this hearing.

13 CHAIRMAN CALTAGIRONE: You will be
14 removed.

15 MR. KAUFFMAN: Well, then remove me.

16 CHAIRMAN CALTAGIRONE: You will be so
17 removed. Get the--

18 MR. KRANTZ: They're coming.

19 CHAIRMAN CALTAGIRONE: Get them in here
20 and get him removed immediately.

21 Get the Capitol Police, Bill.

22 MR. ANDRING: We're getting them.

23 MR. KAUFFMAN: Common decency would
24 provide the right to allow the Attorney General to make
25 a statement objecting to this hearing, and to call him

1 a coward and then not permit his counsel to make a
2 statement before this hearing--

3 MR. ANDRING: I'm sorry, sir, but you're
4 not recognized.

5 MR. KAUFFMAN: --is absolutely
6 outrageous.

7 Well, I don't know who you are.

8 MR. ANDRING: I'm chief counsel to the
9 committee, sir.

10 MR. KAUFFMAN: Well, that's terrific, but
11 I happen to be--

12 MR. ANDRING: I'm the person that you
13 contacted.

14 MR. KAUFFMAN: --counsel for the Attorney
15 General of Pennsylvania, and he is entitled to the
16 courtesy of at least being heard.

17 MR. ANDRING: He was extended every
18 courtesy, sir. He was extended an invitation to
19 appear.

20 MR. KAUFFMAN: To appear before a
21 kangaroo court--

22 MR. ANDRING: He was given the
23 opportunity to make his statement.

24 MR. KAUFFMAN: --you have nobody here but
25 the chairman of this committee--

1 MR. ANDRING: He was given an opportunity
2 to--

3 MR. KAUFFMAN: Well, I can shout you down
4 just like you can shout me down.

5 MR. ANDRING: No, sir, we're not shouting
6 down anyone, sir.

7 MR. KAUFFMAN: There's only one member of
8 this committee. There's not even a quorum to have a
9 hearing.

10 MR. ANDRING: We requested that questions
11 be directed to him, who is hiding in his office, who
12 waits until the last second before the hearing and
13 sends his lackey over to cover for him.

14 MR. KAUFFMAN: I'm a lackey?

15 (Whereupon, Capitol Police officers
16 entered the hearing room.)

17 CHAIRMAN CALTAGIRONE: Do your duty, sir.
18 Remove this gentleman from the hearing.

19 MR. KAUFFMAN: I'm a lackey?

20 CHAIRMAN CALTAGIRONE: Sir, I ask you to
21 do your duty, sir, to have this gentleman removed from
22 the hearing. This gentleman right here with the red
23 tie. Please remove him at my request as chairman of
24 this special meeting.

25 MR. KAUFFMAN: (To a Capitol Police

1 officer) I represent the Attorney General of
2 Pennsylvania, sir, and there is no quorum for this
3 hearing.

4 CHAIRMAN CALTAGIRONE: This is a hearing,
5 it has been duly noted. You are being requested to
6 excuse yourself.

7 MR. KAUFFMAN: (To a Capitol Police
8 officer) I am representing the Attorney General of
9 Pennsylvania and I am asking the gentleman to have the
10 opportunity to make statement.

11 CHAIRMAN CALTAGIRONE: Please do your
12 duty, gentlemen.

13 MR. KAUFFMAN: (To a Capitol Police
14 Officer) There is no hearing. There's no quorum here.
15 There's only one man.

16 CHAIRMAN CALTAGIRONE: Please do your
17 duty.

18 MR. ANDRING: Remove the gentleman,
19 please. That's by direction of the chairman of the
20 committee. This is our hearing. The hearing has been
21 convened.

22 MR. KAUFFMAN: (To a Capitol Police
23 officer) I represent the Attorney General of
24 Pennsylvania.

25 MR. ANDRING: I don't care who he

1 represents, remove him. Obviously, Ernie Preate has
2 tried every stunt he can to keep this hearing from
3 occurring. He has slandered the chairman of this
4 committee with outrageously false accusations. Now he
5 sent one of his lackeys over here to try to disrupt it.

6 MR. KAUFFMAN: Do you want to step
7 outside and call me a lackey? Step outside and call me
8 a lackey.

9 MR. ANDRING: The man is now threatening
10 me, sir.

11 MR. KAUFFMAN: No, I'm threatening you
12 with a lawsuit.

13 CAPITOL POLICEMAN: I'll have to remove
14 you, sir.

15 MR. ANDRING: Remove the man from this
16 hearing now.

17 (Whereupon, the Capitol Police officers
18 escorted Mr. Kauffman to the door.)

19 MR. KAUFFMAN: This is still the United
20 States of America and I demand to make a statement on
21 behalf of the Attorney General of Pennsylvania and this
22 kangaroo court is throwing me out. The police with
23 their hands on me. A former Justice of the Supreme
24 Court of Pennsylvania with the police throwing me out
25 of the hearing room with his hands all over me.

1 MR. ANDRING: Remove the man and we'll
2 talk about filing criminal charges.

3 Thank you.

4 MR. KAUFFMAN: You're going to file
5 criminal charges?

6 CHAIRMAN CALTAGIRONE: We will probably
7 have to consider doing that, sir.

8 (Whereupon, Mr. Kauffman was escorted out
9 the door by the Capitol Police officers.)

10 CHAIRMAN CALTAGIRONE: I apologize to the
11 public and those that are to testify here. I will
12 continue with my statement. I think this was done with
13 intent, direct intent to take away the emphasis of what
14 we're here for today.

15 MR. ANDRING: Mr. Chairman, excuse me,
16 but I think the intent was to get all the press outside
17 so that they couldn't hear the testimony, so perhaps we
18 should take a short recess until they can return,
19 because it's very important that the public hear what's
20 being said here today.

21 CHAIRMAN CALTAGIRONE: Good advice.
22 We'll wait. We'll take a recess until the press comes
23 back.

24 (Whereupon, a recess was taken at 1:10
25 p.m., and the hearing was reconvened at 1:20 p.m.)

1 CHAIRMAN CALTAGIRONE: I would like to
2 recognize Chief Counsel Bill Andring.

3 MR. ANDRING: Just a brief comment on a
4 question about quorum that was raised by Mr. Kauffman.
5 You folks should be aware that the rules of the House
6 of Representatives require that every hearing conducted
7 by a legislative committee must be approved by a vote
8 of that committee. At the beginning of this Session,
9 the Judiciary Committee of the Pennsylvania House of
10 Representatives, in a move that I think shows their
11 extreme confidence in the integrity of Chairman
12 Caltagirone, authorized him to call hearings on
13 subjects and on dates and times as he deemed
14 appropriate. This hearing has been called like dozens
15 and dozens of other hearings which I know many of you
16 have attended of this committee over the years.
17 There's absolutely nothing out of the ordinary about
18 the convening or conduct of this hearing. There's
19 nothing out of the ordinary about the chairman of the
20 committee calling it into order and receiving
21 testimony, and any representations to the contrary are
22 absolutely nonsense by Mr. Kauffman, but at this point
23 it's clear they'll do anything to try and stop the
24 hearing.

25 CHAIRMAN CALTAGIRONE: Again for the

1 record, I do want to apologize to the public and those
2 present that are going to testify. I'd like to
3 continue on with my statement.

4 The second matter that I wish to address
5 briefly in a statement which appeared in a newspaper
6 article yesterday in the Pittsburgh Post-Gazette.
7 While that newspaper article contained numerous false
8 statements, perhaps the most outrageously false and
9 troubling statement to me was the headline which
10 appeared on that story identifying me as, I quote, "a
11 Preate accuser." The facts are that I have never
12 accused Ernie Preate of illegal or improper activity in
13 regard to the matters which had been raised by the
14 Crime Commission, or any other allegations of improper
15 conduct which surrounds his office. What I have done
16 is insisted that these matters be dealt with in an
17 open, straightforward, nonpartisan and honest manner,
18 and in exactly the same way that this committee has
19 addressed the situation when Justice Larsen made
20 allegations of improper conduct directed towards other
21 members of the Pennsylvania Supreme Court, and when
22 subsequent investigations led to allegations of
23 improper conduct against Justice Larsen.

24 As I publicly stated on May 6, 1994, I
25 believe the allegations contained in the Crime

1 Commission report concerning Attorney General Preate to
2 be at least as serious as the matters which this
3 committee is presently dealing with Justice Larsen. I
4 assure you that they will receive the full attention of
5 this committee and will be addressed in a totally
6 appropriate manner.

7 I would now like to ask the members and
8 staff of the Pennsylvania Crime Commission to come
9 forward, identify themselves for the record and begin
10 their testimony.

11 Oh, excuse me, and for the record,
12 Representative Harold James of the Crimes and
13 Corrections Subcommittee is on the panel.

14 Galia, do you want to recognize yourself?

15 MS. MILAHOV: Galina Milahov, Research
16 Analyst.

17 MS. TRICARICO: Margaret Tricarico,
18 Committee Secretary.

19 COMMISSIONER WALP: Honorable chairman
20 and honorable members of the House Judiciary Committee,
21 at your request, the Pennsylvania Crime Commission
22 appears before you today to discuss the report
23 entitled, "An Investigation into the Conduct of
24 Lackawanna County District Attorney/Attorney General
25 Ernest D. Preate, Jr."

1 Present at this hearing are, and I would
2 ask that as I introduce the participants they rise in
3 order to be identified:

4 The Honorable Arlin M. Adams, Special
5 Counsel.

6 MR. ADAMS: Pleasure to be here, sir.

7 COMMISSSTONER WALP: The Honorable Charles
8 H. Rogovin, Vice Chairman.

9 MR. ROGOVIN: Good to see you, Mr.
10 Chairman, Mr. James.

11 COMMISSIONER WALP: The Honorable Arthur
12 L. Coccodrilli, Commissioner.

13 The Honorable James H. Manning,
14 Commissioner.

15 The Honorable Michael J. Reilly,
16 Commissioner.

17 Mr. Frederick T. Martens, Executive
18 Director.

19 Mr. John V. Ryan, Deputy Executive
20 Director and Chief Counsel.

21 Mr. Willie C. Byrd, Director of
22 Investigations.

23 Mr. Richard Kedzior, Director of
24 Intelligence.

25 Mr. Wasyl Polischuk, Assistant Director

1 for Administration.

2 Mr. James Kanavy, Northeast/Central
3 Special Agent in Charge.

4 Mr. Paul Spear, Northeast Resident Agent
5 in Charge.

6 Ms. Maura Casey, Intelligence Analyst II.

7 Mr. Steven Roosa, Intelligence Analyst.

8 Mr. Russell Millhouse, Interagency
9 Liaison Officer.

10 Lt. Col. Robert C. Hickey, Deputy
11 Commissioner of Operations, Pennsylvania State Police,
12 Transition Coordinator.

13 Capt. John J. McGechan, Director,
14 Organized Crime Division, Pennsylvania State Police,
15 Assistant Transition Coordinator.

16 At this time, I extend a special thanks
17 on behalf of the commissioners of the Pennsylvania
18 Crime Commission to all staff personnel of the
19 Pennsylvania Crime Commission for their dedicated
20 commitment to duty. I respectfully ask if there is a
21 general question of the commission that you refer that
22 question to the chairman of the commission and I will
23 then direct that question to the appropriate person
24 that is represented here today.

25 To begin, Commissioner Rogovin will give

1 a brief overview of the report, after which we will
2 respond to any questions that you may have.

3 Thank you.

4 MR. ROGOVIN: With your permission, Mr.
5 Chairman, in the interest of expediting what may be a
6 complex and lengthy hearing, let me summarize from the
7 report for members of the committee and staff the
8 background, the allegations which led the commission to
9 undertake this inquiry and the production of the final
10 report.

11 Let me say very quickly one word. There
12 are as, I believe you may be aware, two versions of the
13 report. That may be a matter you want to inquire into,
14 but I merely point out for the record initially that
15 one of them contains material, what is called grand
16 jury information. It was the second of the versions
17 submitted, and that's a function of the timing of the
18 authorization by the supervising judge permitting us to
19 include that material in the second version.

20 With that by way of preface, this matter
21 commenced in mid-1991, at which time allegations of
22 misconduct directed at Mr. Preate, the former
23 Lackawanna County District Attorney and then, and now,
24 Attorney General of Pennsylvania, came to the attention
25 of the Crime Commission. I will try to summarize as

1 briefly as possible the nature of those allegations and
2 the findings, again in the interest of expeditious
3 disposition.

4 One of those allegations was that Mr.
5 Preate entered into an arrangement with video poker
6 machine operators in northeast Pennsylvania, as a
7 consequence of which arrangement he would not enforce
8 the law against illegal video poker gambling in
9 exchange for contributions to his district attorney and
10 Attorney General campaigns. It was alleged that Mr.
11 Preate sought to replicate this arrangement statewide
12 with other video poker operators when he sought the
13 office of Attorney General in 1988.

14 As district attorney, it was alleged that
15 Mr. Preate sought to frustrate a video poker gambling
16 investigation conducted by the Pennsylvania State
17 Police in the northeast region of the State. It was
18 also alleged that local video poker operators had been
19 forewarned of a large State Police raid intended to
20 seize hundreds of illegal video poker machines. It was
21 further alleged that this forwarning had originated in
22 the Office of the District Attorney of Lackawanna
23 County.

24 It was further alleged that Mr. Preate,
25 as Attorney General, failed to recuse himself from the

1 video poker investigation subsequently conducted by the
2 Sixth Statewide Grand Jury. Mr. Preate allegedly
3 directed aides within his office, as Attorney General,
4 to remove references to the Lackawanna County District
5 Attorney's Office as the source of the forewarning to
6 which I just invited your attention.

7 Mr. Preate's involvement in the
8 investigation allegedly extended to monitoring
9 negotiations between his top aides as Attorney General
10 and several attorneys for video poker operators. Mr.
11 Preate allegedly was threatened with public exposure in
12 that he would have received questionable political
13 contributions if he did not provide favorable plea
14 negotiations for the video poker operators.

15 To investigate these allegations, the
16 commission obtained testimony from 71 witnesses,
17 including current and former law enforcement personnel
18 employed by the Office of Attorney General and the
19 Pennsylvania State Police. Numerous other sources were
20 interviewed in addition, and the commission obtained
21 bank and court documents, some by subpoena, all of
22 which were analyzed.

23 The commission determined that there was
24 evidence to support four of the five allegations of
25 misconduct that it had received against Mr. Preate.

1 Four of five we believe were sustained by clear and
2 convincing evidence, in our view.

3 The commission determined that Mr. Preate
4 had sought the help of Scranton video poker operator
5 Elmo Baldassari for his political campaigns. Mr.
6 Baldassari referred Mr. Preate to Joseph Kovach, who
7 died in 1991, but who had been Elmo Baldassari's friend
8 and business partner. Kovach owned a company called
9 Active Amusement Machines Company of Scranton, a music
10 machine distributorship, and was a vendor and
11 distributor of video poker machines. Mr. Kovach
12 solicited donations, political campaign donations, from
13 video poker operators on behalf of Mr. Preate. It was
14 represented to these operators that then District
15 Attorney Preate would not interfere with their video
16 poker gambling businesses through enforcement action.

17 The commission received testimony
18 confirming the allegation that Mr. Preate and persons
19 working with his political campaign committees received
20 cash contributions which were not reported. These were
21 in addition to unreported questionable contributions
22 which the commission independently identified through
23 its analysis of the campaign committee's records. A
24 detailed exposition of that is part of the report
25 before you and your committee, Mr. Chairman.

1 With regard to the allegation that Mr.
2 Preate replicated the contributions arrangement
3 statewide involving other video poker operators, the
4 commission determined Mr. Preate did make such an
5 attempt. However, before any substantial contributions
6 could be collected from video poker operators, the
7 Pennsylvania State Police raided video poker operators'
8 locations in northeastern Pennsylvania. After this
9 raid, Mr. Kovach dissuaded some operators from
10 continuing their contribution collection efforts.

11 During the original video poker
12 investigation by the Office of Attorney General, this
13 is the investigation which followed the lengthy
14 Pennsylvania State Police inquiry in northeastern
15 Pennsylvania, testimony was received by the Sixth
16 Statewide Grand Jury that Mr. Kovach had solicited
17 campaign contributions on behalf of then District
18 Attorney Preate. Testimony was also received by this
19 grand jury concerning the possible disclosure by a
20 source within the office of then Lackawanna County D.A.
21 Preate regarding the impending video poker raid by the
22 State Police. Although that testimony identified
23 specific individuals and their relationship to the
24 contributions arrangement, it was never followed up by
25 the Office of the Attorney General.

1 The commission determined that Mr. Preate
2 was apprised of negotiations between his top aides and
3 defense attorneys representing video poker machine
4 operators who were accused of crimes by the Sixth
5 Statewide Grand Jury. There is evidence supporting the
6 allegation that these negotiations, which were underway
7 before the grand jury issued its presentment, followed
8 a threat from Joseph Kovach to expose the contributions
9 arrangement if he and the video poker operators were
10 prosecuted.

11 The commission also determined that the
12 final dispositions of the charges recommended by the
13 grand jury--the final disposition of those charges
14 recommended by the grand jury--were significantly less
15 serious than the charges originally proposed. Felony
16 charges against all individuals were dropped. One
17 operator pled guilty to misdemeanor gambling charges,
18 and one operator was placed on accelerated
19 rehabilitative disposition - a nontrial disposition
20 assuming good behavior.

21 The remaining video poker operators were
22 permitted to have their corporations plead no contest.
23 That's a plea, as they say in Latin, nolo contendere,
24 to gaming charges and pay small fines, relative to the
25 moneys generated by the gambling machines.

1 For the record, Mr. Chairman, in the
2 1980s, illegal video poker machines had been estimated
3 to generate between \$500 and \$1,000 per week per
4 machine in gambling revenues. Four of the corporations
5 which the Attorney General permitted to plead no
6 contest had not been in existence--had not been in
7 existence--at the time the original violations had been
8 committed. Plea bargaining permitted individual
9 defendants to create, after the crimes, corporate
10 shells to plead the charges. A rationale for the plea
11 agreements which was offered by members of the Attorney
12 General's staff was that the machine owners were going
13 to assist in investigation of video poker machine
14 manufacturers.

15 The record is clear, Mr. Chairman, that
16 no prosecutions of machine manufacturers were ever
17 initiated by the Pennsylvania Attorney General Ernest
18 Preate.

19 I say two things further, if I may, Mr.
20 Chairman. The evidentiary standard on which the Crime
21 Commission has operated is the standard known as clear
22 and convincing evidence. It is a significantly higher
23 burden of proof than merely more probable than not. It
24 is just below beyond a reasonable doubt, which, as you
25 of course are aware, is the criminal law standard. We

1 make these findings persuaded that the standard has
2 clearly been met and that additional inquiry is not
3 only desirable but is essential, and we have so
4 recommended to you in the course of this report.

5 I've done as quickly as I could, Mr.
6 Chairman, a summary of our findings. Thank you.

7 CHAIRMAN CALTAGIRONE: Commissioner Walp,

8 I would like to start off with questions.

9 I've been accused of making political
10 attacks against the Attorney General because the House
11 Judiciary Committee accepted a supplemental report from
12 the Pennsylvania Crime Commission on May 6, 1994.
13 Could you explain the circumstances which led to the
14 preparation of this revised report by the commission
15 and its release to the public?

16 COMMISSIONER WALP: Yes. It's my
17 understanding, Mr. Chairman, that approximately a week
18 prior to the primary election the Attorney General's
19 Office approached the Honorable Judge Gates in an
20 attempt to release certain aspects of grand jury
21 information, and it is my understanding that in fact
22 the judge agreed to that; however, apparently in his
23 analysis of that request decided to release all
24 information. And therefore, Mr. John Ryan, Chief
25 Counsel for the Crime Commission, received a call from

1 the Honorable Judge Gates advising him of his position,
2 and that information was then faxed to Mr. Ryan.

3 At that point, with conversations with
4 the counsel for myself, the Honorable Judge Adams, and
5 based upon our position when we released the first
6 report, it was our position to do things with full
7 integrity and with professionalism, as soon -- and I'll
8 drop back a bit, as soon as the original report was
9 completed, we then advised the Senate Appropriations
10 Committee--they were the group that desired to see that
11 report--we contacted them and of course, they asked to
12 see that report. The position of the commission, it
13 was not our concern if, when, whenever or whatever,
14 just that that report was completed. We used the same
15 process when it dealt with the release of the grand
16 jury information. Mr. John Ryan then contacted Senator
17 Tilghman, representing the Senate Appropriations
18 Committee, and also the decision was made at that time
19 also to contact the House Judiciary Committee, simply
20 because at that time they had requested this type of
21 meeting. They were not in the mix of the request at
22 the time of the original report. However, the
23 committee was then placed in that position at that
24 time. And therefore, both contacts were made. Again,
25 our position was it was not the concern of the position

1 of the commission if, when, whenever, whatever. We
2 then received an official request from this committee
3 to present the report as it dealt with the grand jury,
4 and I did that.

5 CHAIRMAN CALTAGIRONE: There's a
6 follow-up by Counsel Andring.

7 MR. ANDRING: Just one point then to
8 make. If it had not been for the fact that the
9 Attorney General's Office requested the release of
10 grand jury information, there would have been no
11 subsequent release of the second version of the report
12 by the Crime Commission either, because it could not be
13 released, is that correct?

14 COMMISSIONER WALP: That would be
15 correct, assuming that Judge Gates would not make a
16 decision somewhere else down the line, but really it
17 was that action that caused it to come to fruition at
18 that time, yes, that's correct.

19 MR. ANDRING: Thank you.

20 CHAIRMAN CALTAGIRONE: Do you feel that
21 there were any potential improprieties on the behest of
22 the Attorney General with any ex parte conversations
23 that may have taken place with sitting Judge Gates?
24 Would you care to comment on that for the record?

25 COMMISSIONER WALP: I would defer that to

1 Chief Counsel Ryan.

2 MR. RYAN: We had originally, when first
3 seeking the grand jury information, had notified the
4 Attorney General's Office that we would be making such
5 a request before even making the request to Judge
6 Gates. They assisted us initially in obtaining orders
7 that allowed us to review the grand jury testimony.
8 This past year, as we were getting ready to release the
9 report, we went back to Judge Gates, with the knowledge
10 of the Attorney General's Office, requesting that we be
11 allowed to publicly use the information and the
12 derivative testimony from former and current employees
13 of the Attorney General's Office concerning the
14 investigation before the grand jury. The Attorney
15 General's Office generally objected to that release and
16 opposed the release of that information. We had a
17 number of conferences that were private conferences
18 before Judge Gates. It culminated finally in an
19 evidentiary hearing on March 31 of this year. After
20 that the commissioners had met to release and voted on
21 releasing the initial report on April 8.

22 On April 15, I was advised that Judge
23 Gates had, in fact, signed an order indicating that the
24 Crime Commission could not publicly disclose or use the
25 grand jury material that it had previously seen and

1 obtained. We debated on whether we should take any
2 further action concerning an appeal of that order,
3 requesting the judge to reconsider that order or some
4 other action. We had not, prior to the beginning of
5 May, taken any action along those lines.

6 On May 3, I received a telephone call
7 from Judge Gates. At that time he indicated to me that
8 he was signing orders releasing certain aspects of the
9 grand jury testimony, specifically the testimony of
10 certain witnesses before the Sixth Statewide
11 Investigating Grand Jury, and that it had been at the
12 request of the Attorney General's Office. We had not
13 been notified, nor were we aware that there had been
14 somehow another petition filed by the Attorney
15 General's Office asking for the same relief that we had
16 previously been litigating, now asking for the
17 information to be released.

18 The judge informed me since he was now
19 going to allow them access to and the public release of
20 certain grand jury information, that he would also be
21 signing an additional order that would allow the Crime
22 Commission to, in fact, release its secondary report,
23 which contained the information about some of the grand
24 jury goings on. But up until that time we had no
25 notice that the matter was under consideration, nor had

1 we taken any action to try and reverse the judge's
2 order of April 15.

3 CHAIRMAN CALTAGIRONE: Who was the
4 representative from the Attorney General's Office that
5 was dealing with Judge Gates?

6 MR. RYAN: I believe the person who I've
7 talked to and met with about this matter and who we
8 subsequently had a meeting with Judge Gates, I believe
9 it was Mr. Robert Graci, who was the head of the
10 Appeals Section, and also I believe supervises the
11 overall administration of grand jury matters.

12 CHAIRMAN CALTAGIRONE: Do you feel that
13 his actions were appropriate, or at any time was he
14 acting in a manner unfit for his profession, legal
15 profession?

16 MR. RYAN: I wouldn't wish to express --
17 I know he has an opinion that he felt that this
18 represented a new matter in trying now to obtain the
19 release of the grand jury. I certainly indicated to
20 him at least that I thought it was not a new matter,
21 that it was purely a continuation of our previous
22 litigation, and I at least had expected the same
23 courtesies I extended to him previously by notifying
24 him any time that I was going to contact the
25 supervising judge on the grand jury matters and that I

1 would be requesting any type of relief.

2 CHAIRMAN CALTAGIRONE: In a press release
3 dated April 19, 1994, from Robert Gentzel, press
4 secretary for the Office of Attorney General, a charge
5 is made that the Crime Commission report "...conceals
6 the fact that the commission refused to permit the
7 Attorney General to present testimony for inclusion in
8 the report." Could you comment on the accuracy of the
9 allegation?

10 COMMISSIONER WALP: First, I would say
11 that I received that information, and it was not in any
12 official context. I just received the information, so
13 it was never presented to the commission in any
14 official capacity. However, upon receiving it I then
15 directed it two different areas, because I read what
16 was entitled facts and comments, et cetera, quite a
17 lengthy document, and sent it to the official office
18 down at Conshohocken of the Pennsylvania Crime
19 Commission and directed that Mr. John Ryan, Mr. Martens
20 and the staff review all of the issues that were on
21 there to evaluate them based upon the report and their
22 understanding of the investigation, et cetera.

23 Number two, also I referred it to our
24 Organized Crime Division, to Captain McGechan, who is
25 present today, to evaluate it on a few of the issues

1 that dealt with Pennsylvania State Police enforcement
2 of video poker to evaluate the position of Mr. Gentzel
3 in line with the facts that we have within the
4 Pennsylvania State Police.

5 At this time, however, I would like to
6 defer to the Honorable Judge Adams to clarify the
7 commission's position from that juncture.

8 HON. JUDGE ADAMS: With Your Honor's
9 permission, I think the point of the question was
10 whether we had afforded the Attorney General an
11 opportunity to appear to be heard. The answer to that
12 question is an unequivocal "yes." We strongly urged
13 that the Attorney General appear before the commission
14 because using the feeling of fairness as our guide, we
15 thought that this committee and the Senate committee
16 should have both sides of the story, if it were
17 possible to present it to you.

18 We attempted on several occasions to
19 invite him and to persuade him to appear. We were not
20 able to persuade him. I can't tell you why he didn't
21 appear. I think it would have been helpful both to us
22 and to your committee had he appeared and in the
23 regular course of events presented testimony, hopefully
24 sworn testimony, so that you would have had a complete
25 picture of his side or his response, but unfortunately,

1 he did not.

2 Now, if you want to know the precise
3 details of when he was invited, I think John Ryan
4 probably has that immediately at his command.

5 MR. RYAN: Yes. There were an exchange
6 of letters. After we completed our interviews and
7 private hearings with our final witnesses in this
8 investigation towards the end of January of 1994, the
9 commissioners met in a meeting February 15, were
10 advised of the status of the investigation, and at that
11 time it was their determination that we should issue an
12 invitation to Mr. Preate, that we should ask him to
13 appear to respond to these allegations. On that basis,
14 a letter was drafted on February 16, 1994, and signed
15 by our executive director that requested Mr. Preate to
16 appear before the commission on March 2, 1994. We
17 indicated in that letter that if that was not a
18 convenient time, to please contact us and we could
19 perhaps arrange a mutually convenient time. We have
20 never received a written response to that letter.

21 We made preparations for that hearing and
22 we eventually contacted Mr. Cohen of the Attorney
23 General's Office I believe one or two days prior to the
24 March 2 hearing date, and he informed us at that point
25 that Mr. Preate would not appear. He indicated, if my

1 recollection is correct, since it was a telephone
2 conversation, that Mr. Preate did not wish to address
3 these matters while the litigation concerning the grand
4 jury was, in fact, still going on.

5 After that, on March 14, 1994, we sent
6 him another invitation to appear April 4, 1994,
7 specifically indicating that we would not ask any
8 questions concerning grand jury matters. We did not
9 receive a written response at that time to that
10 invitation. I saw Mr. Cohen on March 31 at the hearing
11 I previously mentioned concerning the grand jury
12 matters and I asked him at that point, I think that was
13 the day before Good Friday, and we were scheduled for
14 Mr. Preate to appear that following Monday or Tuesday,
15 I said, we still had not received a response, could you
16 advise me if Mr. Preate would be appearing? He
17 indicated at that point -- I think he should address
18 those issues about what his representations were, but
19 basically since we were involved in litigation and had
20 shown what we had up to that point as our completed
21 investigation to Judge Gates that Mr. Preate may not
22 have seen any purpose, since we had completed our
23 investigation. I tried to verbally advise him that we
24 certainly, the commissioners, would take into
25 consideration anything that he might have to say.

1 I subsequently, on Good Friday, sent him
2 a confirming letter of our conversation, and there was
3 an exchange on April 1 of numerous letters between the
4 commission and Mr. Preate's office, none of which were
5 able to establish that he would appear on the 4th.

6 Subsequently, I sent a letter on April 5
7 again asking him to appear. The commissioners met on
8 April 8. We had not received a response from them.
9 That April 8 meeting was to determine whether the
10 commissioners would, in fact, adopt the reports. There
11 again was an exchange of letters. We said, well, they
12 would delay it that weekend if he would appear that
13 Saturday morning, on April 9, and testify. The basic
14 response was that he was not available then but that
15 perhaps he could make it the 15th of the following
16 week. Well, at that particular point I believe the
17 commissioners had indicated to us, or at least to Mr.
18 Preate or to his representatives, that there had been a
19 number of different opportunities to obtain his
20 appearance, that they were there and previously
21 announced that they were going to be dealing with the
22 report and that if they could resolve it with his
23 appearance within that weekend, that they would be glad
24 to have him appear, but if not, they were going to go
25 ahead with the vote on the issuance of the reports.

1 CHAIRMAN CALTAGIRONE: So, in fact, he
2 never did appear?

3 MR. RYAN: Under our rules and
4 regulations also we have a specific provision that
5 allows any witness that is named within one of our
6 reports to request to appear before the Crime
7 Commission and make any statement that they wish within
8 10 days from the date that that report is, in fact,
9 issued. That is not a regulation that he has taken
10 advantage of to this date either.

11 MR. ROGOVIN: Just for the record, Mr.
12 Chairman, that we should, so there's a record response
13 to the chairman's question, the answer is he has never
14 appeared.

15 CHAIRMAN CALTAGIRONE: Thank you.
16 The next question may be a little bit
17 unnerving, but I think it needs to be put on the record
18 for the public. Are you aware of whether General
19 Preate or persons with whom he is affiliated have made
20 an effort to investigate members of the Pennsylvania
21 Crime Commission?

22 COMMISSIONER WALP: I would defer to Mr.
23 Ryan. Are you aware of any?

24 MR. RYAN: We became aware that at least
25 in one instance a previous employee was contacted by a

1 private investigator who indicated that they were
2 employed by Mr. Preate's brother, Robert Preate, the
3 attorney, and more recently one of our investigators
4 brought back to me a similar story where one of the
5 witnesses before the Crime Commission, one of the video
6 poker operators, was approached by a private
7 investigator and asked questions concerning our conduct
8 and the nature of the proceedings that he was before
9 the Crime Commission.

10 CHAIRMAN CALTAGIRONE: Specifically, were
11 members of the Crime Commission being investigated by
12 detectives hired directly or indirectly through the
13 Attorney General, to the best of your knowledge?

14 MR. RYAN: It would have been "yes" in
15 reference to our conduct, comments or things that were
16 said concerning this particular investigation into Mr.
17 Preate. So--

18 CHAIRMAN CALTAGIRONE: What's your
19 conclusion as far as why that was possibly taking
20 place?

21 MR. RYAN: Well, at the time I would have
22 assumed that the Attorney General at least had some
23 knowledge that we were conducting an investigation and
24 it was an attempt to find out what we may have been
25 doing and who in fact was doing it.

1 CHAIRMAN CALTAGIRONE: Do you think this
2 was kind of irregular for the Attorney General of this
3 Commonwealth to be doing such a thing?

4 MR. RYAN: (Pause.) It's not a procedure
5 I would have, myself, followed in a similar situation.
6 I'm assuming that, and basically, basically, Mr. Preate
7 had become aware to other circumstances even before the
8 election in November of 1992 that the investigation was
9 taking place, so he was at least aware of that. I
10 don't know that these procedures are something that
11 were necessary.

12 CHAIRMAN CALTAGIRONE: Would Mr. Rogovin
13 or anybody else care to comment about this line of
14 questioning?

15 MR. ROGOVIN: Mr. Reilly reminds me --
16 Commissioner Reilly, that is, Mr. Chairman, reminds me
17 that in prior years information has come to us that
18 we've been the subject of investigative interest by
19 certain targets of earlier inquiries that the
20 commission has undertaken.

21 I think a second point, though, should be
22 made for the record. This kind of activity, when it is
23 reported to investigators that they may be the subjects
24 themselves of investigation, lends itself at least to
25 an inference, I'm saying an inference, that there may

1 be an effort to intimidate the investigators. I'm not
2 making that statement flatly here. I am saying that
3 that inference does arise, and I think it's a
4 reasonable inference.

5 CHAIRMAN CALTAGIRONE: Commissioner,
6 don't you think that kind of activity is reprehensible,
7 at the least? Would you care to comment?

8 COMMISSIONER WALP: The only comment I'd
9 have, Mr. Chairman, I had no knowledge, until you asked
10 the question and I heard the comment here today, so I
11 had no knowledge whatsoever regarding the situation
12 that they commented on, so I think it would be
13 inappropriate for me to make a comment on that since I
14 had no knowledge whatsoever of what they're talking
15 about.

16 CHAIRMAN CALTAGIRONE: The next question,
17 the initial allegations in your report focuses upon
18 efforts by Joseph Kovach to solicit campaign
19 contributions for the purpose of retiring a campaign
20 debt incurred in connection with Ernie Preate's
21 district attorney's race. Could you specifically
22 identify any reasons you have for believing that this
23 fundraising activity was in any way out of the ordinary
24 or improper, or that then District Attorney Preate
25 should have been aware that such activities were, in

1 fact, occurring?

2 COMMISSSTONER WALP: At this time, Mr.
3 Chairman, I'd like to call to testify Mr. Millhouse,
4 who is the Crime Commission expert as its deals with
5 these issues, and then after he makes comments any
6 other commissioners may make comments in conjunction
7 with that.

8 Mr. Millhouse, please.

9 MR. MILLHOUSE: Mr. Chairman, would you
10 please repeat the question?

11 CHAIRMAN CALTAGIRONE: Certainly. The
12 initial allegations in the report focus upon efforts by
13 Joseph Kovach to solicit campaign contributions for the
14 purpose of retiring a campaign debt incurred in
15 connection with Ernie Preate's district attorney race.
16 Could you specifically identify any reasons that you
17 have for believing that this fundraising activity was
18 in any way out of the ordinary or improper, or that the
19 then District Attorney Preate should have been aware
20 that any such activities were, in fact, occurring?

21 MR. MILLHOUSE: First of all--

22 COMMISSIONER WALP: Mr. Chairman, I'd
23 like to -- I had a misinterpretation of your original
24 question, and so I would defer to John Ryan, but please
25 stay here because I believe it will evolve into where

1 we need his expertise on that. My apologies.

2 MR. RYAN: The fundraising itself the
3 commission did not find was unusual. The basic
4 allegation, though, had been around the fact that some
5 of the fundraising may have, in fact, been in exchange
6 for the district attorney not conducting raids on video
7 poker operators. So when we examined the 1987 records
8 and we clearly -- and it clearly indicated from the
9 1987 records, from April and the beginning of June of
10 1987, that there were a large number of contributions
11 from people who are, in fact, in the video poker
12 business, a large number of the people who eventually
13 were raided in April of 1988, a little less than a year
14 later. Some of them also we knew had been involved in
15 the video poker business for a very substantial period
16 of time prior to that. And some of them also, and I'll
17 pick an example, Mr. Joseph, or "Jo Jo," Baldassari had
18 twice previously been convicted of gambling offenses.
19 So when the allegations were brought to us, I think we
20 found, one, that as an industry, there was a large
21 group of individuals who retired a substantial amount
22 of this debt. The contributions themselves were almost
23 all made by these people on the same day, on 5-28 of
24 1987, as indicated on the chart on page 36 of our
25 report. Each and every one of those contributions from

1 all of the people involved in the video poker business
2 were made on that day.

3 It is also clear from the entries on the
4 listed occupations and listed businesses that there was
5 no effort to indicate what their specific businesses or
6 type of business was, and in some of them I believe
7 they might even have been misleading. One of them
8 indicated a contribution by an Mary Mancuso, who was a
9 housewife, but that particular check, one of the checks
10 for that contribution was made on Mancuso Vending
11 Company checks. So another individual was identified
12 as a physician. He was video poker operator. He has a
13 son who is a physician, but he certainly was not a
14 physician. Mr. Gabriel Horvath, who up until recently
15 has continued to operate video poker, is identified as
16 retired. So the entries themselves were not consistent
17 with what these people's, a number of these people's
18 occupation were, and nowhere was it indicated any of
19 them were involved in the vending business, let alone
20 video poker.

21 CHAIRMAN CALTAGIRONE: Would Mr.
22 Millhouse like to follow up?

23 COMMISSIONER WALP: I believe his
24 comments would deal more with the report itself as it
25 deals with the appendix in the report and the actual

1 contributions, the money flow, et cetera. If you get
2 into that area, then he would be--

3 CHAIRMAN CALTAGIRONE: I'd like to turn
4 to that now and I'd like you to walk through, Mr.
5 Millhouse, if you wouldn't mind. Give us the exact
6 page and the reference item, because I think a
7 tremendous amount of work has gone into this. I think
8 it's only fair to let the public know exactly what you
9 found.

10 MR. MILLHOUSE: First of all, Mr.
11 Chairman, I would like to indicate that there were two
12 other special agents that worked with me on this phase
13 of the investigation. They were Special Agent Schultz
14 and Special Agent Connor.

15 Basically, I was assigned to work with
16 them and to coordinate their efforts, but I think it's
17 only fair that I highlight each of these because it
18 bears upon what we were able to find, what the
19 condition of the records were, including those records
20 that were officially filed with the Bureau of
21 Elections.

22 Page 146 is where I'm going to begin,
23 sir. As you well know, individuals that are running
24 for public office are required to file campaign expense
25 reports, and in this instance we were dealing with

1 campaign expense reports that were filed by the Friends
2 of Ernie Preate Committee for the year 1988. And I
3 refer to 1988, the original ones and not the amended
4 ones, because there are two sets that were filed with
5 the Election Bureau.

6 I must first lay out the ground work in
7 terms of the type of records we dealt with so that we
8 can build up to what we have here in our findings. We
9 had two sets of records that came from the committee.
10 We received the first group of records that covered the
11 approximate period of April through September 1988
12 neatly compiled, and if you want, I can show you a
13 sample of those. I mean, I don't know that it's
14 important right now, but neatly compiled, put together
15 with Acco fasteners. Such things that were contained
16 in those folders were, for example, copies of canceled
17 checks or copies of checks prior to the time they were
18 deposited to the account, correspondence, copies of
19 deposit tickets that itemized all of the contributions
20 that were going to be deposited. That was the first
21 group of records.

22 We then received a second group of
23 records covering the latter part of 1988 running from
24 approximately October through December. These were
25 received in legal size white manila folders in which

1 they were almost -- the best way to describe them,
2 based on my experience, is that they were haphazardly
3 placed in the folders with a specific date. The
4 interesting thing was that there were at least four
5 folders that contained no documents whatsoever, and we
6 had to make an effort to try and get the documents in
7 their proper order. We never did find documents that
8 were related to those four folders that were blank.

9 So I'm trying to draw a comparison of the
10 way the records were at one point neatly compiled, and
11 these again are copies that they had given us, and the
12 second set of records.

13 Now, we also, during the course of the
14 investigation, issued several subpoenas for bank
15 records from Northeastern Bank, which is now known as
16 PNC Bank. We were looking to obtain all of the
17 documentation that relates to deposits, all checks that
18 were drawn on the account, any type of wire transfers
19 that may have been charged against the checking
20 account, any checks that bounced, meaning checks of
21 contributors that would have bounced. So we were
22 working with that as a third set of records.

23 In addition to that, we had copies from
24 the Bureau of Elections of all of the filings of the
25 committee for the seven periods. Now, what we did, in

1 the beginning for the first period, we started with
2 April, May, June and July of 1988. At that time we had
3 a group of records which were furnished to us by the
4 bank. Now, we also had the original records that were
5 provided to the commission covering the same period of
6 time, plus an extra period of time. What we did was we
7 began to take the documentation that came from the
8 bank, which was those contribution checks and/or cash
9 that were physically deposited and credited to the
10 account. We had copies of each of those checks. What
11 we did, in a sense, is to take those canceled checks
12 and compare them to the actual campaign expense reports
13 for contributions and for also the expenses of the
14 committee.

15 Now, what we found in the preliminary
16 phase, the first four months, we began to see there was
17 a substantial number of items that were being deposited
18 but were not being reported on the campaign expense
19 report contribution schedule. At that point in time,
20 after we had completed the four months, I conferred
21 with Mr. Ryan and indicated to him what our preliminary
22 findings were in this stage for the four months. It
23 wasn't only a case of finding documents that were and
24 checks being deposited, we also had some questionable
25 ones where we tried to draw a comparison of a canceled

1 check to another item listed in the contribution
2 report, and we were having problems there because we
3 couldn't get the amounts to tie in, which is sometimes
4 that's acceptable, but there were substantial ones that
5 we could not tie in.

6 I advised Mr. Ryan of our preliminary
7 findings indicating that we had approximately \$50,000
8 that were in question, of which about \$47,000 or so was
9 not reported on the committee reports. Now, it's
10 important, I guess, to relate to you that Mr. Ryan was
11 then in touch with counsel for the committee and
12 advised him and tried to resolve the discrepancies that
13 we preliminarily found. As a result of our attempting
14 to get additional records, in approximately August of
15 1993, the Friends of Ernie Preate Committee filed a
16 second set of or what is referred to as amended
17 campaign expense reports for the year 1988. At that
18 point in time he had basically picked up almost
19 all--when I say "he," meaning, I would like to refer
20 not to he but to the committee. The committee
21 indicated that they had found approximately \$144,000,
22 give or take a few hundred, of additional contributions
23 that they had not reported on the original contribution
24 campaign expense reports.

25 Now--

1 CHAIRMAN CALTAGIRONE: I'd like to just
2 stop you there just for a second. That's, I think, a
3 very important point. That's a tremendous amount of
4 money for a campaign, wouldn't you suggest, that was
5 not reported, \$144,000?

6 MR. MILLHOUSE: Yes, sir.

7 CHAIRMAN CALTAGIRONE: Didn't that stick
8 out immediately when you saw that they had come up with
9 an amended report to cover that?

10 MR. MILLHOUSE: Yes, and as I said, this
11 was approximately August of 1993, almost five years
12 after the original campaign expense reports were filed.

13 I think perhaps I'll touch upon then for
14 the moment, because it bears on the second item under
15 summary of our major findings on page 146, and that is
16 that the campaign expense reports that were filed in
17 1993 indicated about \$124,000 of additional expenses.
18 Now, when you equate \$144,000 against \$124,000, when
19 you say that's not bad, they overlooked some expenses;
20 however, our analysis went a little bit beyond that,
21 and I think we can refer also to the supporting
22 exhibits that are part of the report that was released
23 publicly.

24 Before the amended returns were ever
25 filed, sir, we were aware of certain things that had

1 occurred in the campaign expense reports that were
2 filed. We knew that there were unreported expenses
3 before they ever filed amended returns. The
4 interesting thing, I believe, that comes out of those
5 unreported expenses is that the amended returns are
6 very, very misleading, because if you look at them at
7 the face, it's what I said. Here's \$124,000 of
8 unreported expenses, but that's not an accurate
9 statement, given what we found. And what I'd like you
10 to do is now refer to the supporting exhibits which
11 begin on, they're not numbered, but they follow the
12 narrative of the appendix at the very end of the
13 report.

14 It actually follows, it's 189, and
15 there's an exhibit page, and then begin the exhibits.

16 CHAIRMAN CALTAGIRONE: Do you want to
17 start with the Exhibit 1?

18 MR. MILLHOUSE: Yes. Now, let me
19 explain, because we've got to refer to several
20 documents at the same time. This particular document,
21 which is a copy of what we received from the bank,
22 represents a wire transfer that is in the amount of
23 \$225,000 and 10 cents (sic). Let me say up front that
24 the 10 cents (sic) is the charge for the service of the
25 wire transfer against the account. So it's \$225,010.

1 Taking the \$225,000, when they filed
2 their amended returns, they, in addition to other
3 expenses, picked up additional expenses which amounted
4 to \$100,000. Okay. Now, if you will, I want you to
5 refer, please, to the following page, which is a copy
6 of the actual document that was filed with the
7 Elections Bureau, and I specifically would like you to
8 refer to the fourth item from the bottom.

9 CHAIRMAN CALTAGIRONE: That would be
10 Exhibit 2?

11 MR. MILLHOUSE: This is Exhibit 2, and
12 it's the fourth item from the bottom. Keeping in mind
13 that the original money wire transfer is for \$225,000.
14 When you look at this particular entry, again, I want
15 it understood that this particular copy is one of page
16 61 for the reporting period covering 9-20 of '88
17 through 10-24 of '88, originally filed in 1988, not
18 amended. If you will look at it, and I am not certain
19 if the copy that you have, what we were able to
20 ascertain in looking at this transaction, long before
21 the amended returns were filed, that in fact the amount
22 was not \$125,000, but with my assistance from
23 eyeglasses, and probably for most people with the naked
24 eye can see that there was another number underneath
25 the figure.

1 CHAIRMAN CALTAGIRONE: It's altered.

2 MR. MILLHOUSE: What it appears to be is
3 was \$225,000, which was originally the face of the wire
4 transfer amount, \$225,000 minus the \$10, the \$10 being
5 the service charge.

6 The very next item, two items below, I
7 might mention, takes care of the cost of the expense
8 for the fee for the wire transfer of \$10. First
9 Eastern Bank on 9-20 of '88. Same Exhibit 2, second
10 line from the bottom. That would account for the other
11 \$10 on the wire transfer.

12 MR. ANDRING: Excuse me, sir. Do you
13 know whose handwriting it is on these reports on those
14 particular lines?

15 MR. MILLHOUSE: No. We were not able to
16 ascertain that, sir.

17 MR. RYAN: Just in the way of
18 explanation, we questioned the witnesses that appeared
19 before us concerning this particular document and we
20 were not able to get any of the campaign workers to
21 identify that it was their writing or anybody's who
22 they recognized. So we did attempt, for this type of
23 handwriting, to ask the number of different witnesses
24 from the campaign committee that worked on this whether
25 it was, in fact, their handwriting. That is one of the

1 things we feel that would need further investigation,
2 identification of that handwriting, and also analysis
3 of that entry, because in the original, this is all in
4 pencil, and it's much clearer on the original that
5 under that "1" it appears to originally clearly have
6 been written in number "2." I think that would require
7 further scientific analysis to be absolutely certain of
8 that.

9 MR. MILLHOUSE: And I'm also going to
10 incorporate Exhibit 3 before I explain what it was the
11 reasoning at least that I believe in, and my associates
12 that worked on this, for why the expenses were altered
13 to read less than what they actually were, and I would
14 like to refer you to Exhibit 3, which is right after
15 the schedule.

16 Here again we have a wire transfer which
17 this time is drawn on Northeastern Bank, and it's in
18 the amount of \$125,006, and it's -- I'm looking for the
19 date on it, because this one's a little bit more
20 deceptive than the other one. I'm not certain, but I
21 believe that at the lower part of the document there's
22 an indication that there's a 10-21. It's almost at the
23 margin, which indicates the date of 10-21. This
24 document, again, was received from Northeastern Bank,
25 and it's in the amount of, as I said, \$125,006.

1 Now, if you will, referring back to
2 Exhibit 2, and again, in this particular case we're
3 referring to the fourth listed item on that page, and
4 it's in the name of Garth Group, as was the other one
5 Garth Group. That particular entry, 10-21, to the
6 Garth Group, it's described as an advertising expense,
7 and the amount that appears there is \$105,000.
8 However, here again there's an indication that there is
9 a number that was previously written underneath the
10 "0." I'm not sure if it's as visible on the documents
11 that you have. However, when we examine them, there is
12 a "2" appearing underneath that "0."

13 Now, if you combine the two amounts that
14 we talked that are understated, I originally said there
15 is, what I believe, a purpose behind this. We're
16 dealing with an understatement of an expense of
17 \$100,000 for the first item, and here we're dealing
18 with an understatement, because of the alterations, for
19 \$20,000. Now, here we have the total of approximately
20 \$125,000.

21 Now, if you will, please, on page 150 we
22 have prepared a table, and keeping in mind that we're
23 dealing with the reporting period that would end on
24 October 24, 1988, if you would look at the table that's
25 set out there, for October 24, period September 20 to

1 October 24, the unreported contributions just for that
2 period alone were approximately \$65,000. However, the
3 accumulative amount from the prior five -- excuse me,
4 four periods was \$119,406. Now, \$119,000. These were
5 unreported contributions up to that point, part of the
6 total amount of \$144,000 that we ultimately determined.
7 When you compare the \$119,00--\$119,000 and the odd
8 \$406--to the unreported, understated campaign expenses,
9 it equals approximately \$120,000, almost to the penny.

10 Now, that in itself doesn't explain the
11 whole situation, because we know that the campaign
12 expense reports did not lay out and report all of the
13 contributions. On page 1 of the campaign expense
14 report, there is a summary section which basically asks
15 the committees to account for their receipts, their
16 opening cash balance or account balance, what the
17 expenses were for the period, and what the ending cash
18 balance would be. When it was originally prepared,
19 this is the problem that we feel the committee ran
20 into. That summary schedule, keeping in mind that they
21 did not have 119,000-plus-dollars in the campaign
22 expense reports on contributions, they were now faced
23 with a situation that if they filed that campaign
24 expense report when it was due, they were going to have
25 an ending cash balance on October 24 which was

1 approximately a negative cash balance of \$120,000.
2 What happens is if they do that, then they've got to
3 account for spending more money than they had received.
4 If they reported that expense of \$120,000 by not doing
5 an audit of the records and trying to determine why are
6 we running negative cash dollars, they would have to
7 explain to the Elections Bureau, well, how did we
8 operate our campaign when we didn't have the money but
9 yet we spent more money than we took in.

10 That also occurs in the following period,
11 but it is not quite as significant because if you will,
12 and in this case I'd like you to refer to, and it's a
13 combination of exhibits, it's Exhibits 4, 5, and 6.
14 And I'll also be relating it to Exhibit No. 7. Those
15 three exhibits are all wire transfers, again payable to
16 the account of the Garth Group in New York City. The
17 first one which is an exhibit is for \$17,000, and the
18 odd amount is \$6, which is the fee. Exhibit 5 is in
19 the amount of \$40,006, \$6 being the fee. And the third
20 one, which is Exhibit 6, which is \$45,006, the \$6 being
21 the fee. If you combine those three wire transfer
22 amounts, it equals \$102,000.

23 Now, if you will refer now to Exhibit 7,
24 and it is the fourth entry, expense entry, from the
25 bottom, again under the entry of Garth Group, and it's

1 dated November 4, 1988, for advertising. As you see
2 there, the document is for \$99,000 for the expense
3 item. When we originally looked at this, of course
4 what jumped out to us was the fact that when you look
5 at the total writing on the page and then look at that
6 one, it's darker, for one thing, and it jumps out at
7 you. It's sort of written with a slant to it, a
8 backhand, as opposed to the rest of them, which are
9 pretty straight up and down type figures. We knew in
10 advance that they had understated expenses by \$3,000,
11 because that's the difference between \$99,000 and
12 \$102,000. So we're talking about a \$3,000
13 understatement. Insignificant in amount when compared
14 to \$120,000; however, in that reporting period for the
15 period beginning 10-28 and ending 11-28, they were
16 faced with the same situation that if they prepared the
17 summary schedule that appears on page 1 again they
18 would be faced with a negative cash balance. Here
19 again they would have to explain why they were spending
20 more money than they had received.

21 Now referring back now again to page 150,
22 as we indicated the first six periods was where we
23 found that \$144,106 in unreported contributions for the
24 year. And as I said, the amended reports that were
25 filed, particularly with respect to the expenses, were

1 on the surface they're very misleading because to the
2 average person you would believe that where we failed
3 to report roughly the same amount, and this is what
4 expenses almost equal that, so our cash balance really
5 didn't have that much impact, but that's not the way
6 the transaction occurred, because we know from based on
7 our knowledge and based on what we were able to
8 ascertain from looking at campaign expense reports that
9 there was a purpose behind understating those expenses,
10 and it was very simple. As I said, I want to repeat
11 it, it's simply they could not put down the expenses
12 the way they had listed them out originally because if
13 they did, in both periods they were running what would
14 be a negative ending cash balance.

15 MR. RYAN: Mr. Chairman, we found this
16 was significant because the suggestion in the amended
17 returns that were filed was that there were a
18 tremendous amount of errors on the expense standpoint.
19 If you remove the three errors concerning these wire
20 transfers of \$123,000, there's really not another
21 \$2,000 worth of errors on the expense side. The fact
22 that these three items are as the result of specific
23 alterations of correct amounts to incorrect amounts led
24 us to believe that they were done intentionally so that
25 any deficit or failure to report the other

1 contributions would not be noticed from a review of the
2 campaign expense reports at that particular time.

3 The other items that had, in fact, been
4 filed by the campaign committee in their supplemental
5 filing some, I guess, five years later were mostly
6 minutia. They were very small amounts, and for the
7 year 1988 they really represented rather insignificant
8 things. They accounted for a penny, or 16 cents, or 2
9 dollars. I believe that that was done to specifically
10 try not to call attention to these three large errors
11 of \$123,000, that when you examined them with the means
12 for insuring that they did not have to explain how they
13 had spent more money than they had actually reported
14 receiving at the time they were conducting the
15 campaign.

16 CHAIRMAN CALTAGIRONE: Counsel has a
17 question.

18 MR. ANDRING: If I can just follow up and
19 try to get this straight, what you're saying, as I
20 understand it, is that this campaign committee spent
21 approximately \$140,000 more than what they claim to
22 have received. In order to conceal that fact, they
23 deliberately altered their reporting statements to
24 decrease the amount they claim to have spent.

25 MR. RYAN: \$123,000 of the \$124,000 in

1 unreported contributions are represented by those three
2 items, leaving less than \$1,500 in other expense items.

3 MR. ANDRING: Okay, now, the impression
4 has been given that the campaign committee filed
5 amended returns that somehow have accounted for all of
6 these discrepancies and that everything is now fine.
7 Is that correct, or what exactly is the status of the
8 most recent reports that have been filed with the
9 Election Bureau?

10 MR. RYAN: Well, they corrected the
11 largest things and now among numerous other smaller
12 changes included the fact that the original amount for
13 the Garth Group should have been \$225,000, as it
14 originally was put on there before it was altered, and
15 the other items, the \$125,000 was, in fact, reported on
16 the amended returns. And the additional \$3,000 were
17 included in that among these other items over a
18 five-year period.

19 MR. ANDRING: But have they identified
20 where this additional \$125,000 came from?

21 MR. RYAN: Well, they, in fact, now have
22 reported having received another \$144,000 that they
23 previously hadn't reported, so, I mean, now they're
24 saying, oops, we forgot this \$144,000 for the year and
25 we can explain where it went because we have these

1 errors over here on the expense reporting side.

2 MR. ANDRING: Have they been able to
3 explain where it came from though?

4 MR. RYAN: Well, the checks and the money
5 are a majority of them that they reported. It's still
6 not completely accurate, but a majority of it are
7 contained in checks or moneys or items that were
8 deposited into the campaign account.

9 MR. ANDRING: Have they identified
10 specific contributors of those amounts?

11 MR. RYAN: Yes. Yes.

12 HON. JUDGE ADAMS: I wish you would say a
13 word to the chairman and the committee about your
14 checks on the various contributions and the
15 identification, following up to the last question, as
16 to where the moneys came from and what your check, your
17 investigation shows as to who the actual contributors
18 were as distinguished from who they were represented
19 originally to be.

20 MR. RYAN: Well, in going through them,
21 there were close to 300 individual items that original
22 people who were contributors who were not reported.
23 When we began to examine a large number of those
24 particular items, the -- a number of the instruments
25 turned out to be money orders and other items, postal

1 money orders and bank money orders, so we began to
2 examine some of the individuals in question, some of
3 the individuals who, in fact, who it was indicated on
4 those instruments were the contributors, and we began
5 to find a number of discrepancies, as we've reported
6 here, for individuals who said they had not contributed
7 or given money, nor had they purchased money orders,
8 nor had they purchased U.S. postal money orders. And
9 that would seem to have indicated some inconsistency
10 between who was reported as a contributor and where the
11 money may have actually come from in a number of those
12 instances. That is one area where we had not completed
13 or been able to do every particular transaction, but we
14 did a sampling of these particular items that we did
15 see.

16 HON. JUDGE ADAMS: Were there any items
17 which indicated that they were in the form of cash
18 contributions but were covered up by postal money
19 orders, et cetera?

20 MR. RYAN: Well, as we progressed through
21 this, the initial testimony from a number of campaign
22 workers were that they were not instructed to receive
23 cash contributions over \$100. They were not supposed
24 to take them. They were supposed to tell the person to
25 go out, if they wanted to, and return with a check or

1 get a money order themselves. As the testimony
2 progressed and we began to show a number of the
3 different campaign workers money orders that had not
4 been properly accounted for or people who had denied
5 purchasing themselves or making, the position of the
6 campaign committee apparently became that, well, we
7 would go out and purchase a money order for those
8 people on their behalf, because they had requested us
9 to do it. But we also found out that in a number of
10 situations that those individuals knew nothing about
11 the purchases of these particular money orders, and
12 they had never been to places where the money orders
13 were purchased and they had never requested anybody to
14 purchase a money order.

15 In one instance that involved two
16 contributions even of \$1,000, \$500 a piece, the
17 individual indicated he hadn't even given any cash to
18 the campaign and had never authorized anyone to, in
19 fact, purchase money orders. He was a person from
20 Pittsburgh, and the money orders were purchased at a
21 bank, two banks in Scranton down the street from where
22 the campaign headquarters were. And on both of them I
23 believe they were instances of one of the campaign
24 coordinators, Patricia Zangardi's handwriting on the
25 checks that she acknowledged but could not explain to

1 us an explanation of why she would have purchased those
2 money orders in that person's name, other than she had
3 been directed by one of Mr. Preate's brothers who was
4 an assistant treasurer, and he was not able to provide
5 us with any information on why those particular checks
6 were purchased of those particular bank money orders.

7 HON. JUDGE ADAMS: Did your investigation
8 show any in-kind contributions that were not reflected
9 at all?

10 MR. RYAN: Well, we gave them a few
11 examples in the report here, and one of the most
12 interesting ones is I know there was an issue
13 concerning where Mrs. Zangardi was, in fact, employed.
14 I think there was a suggestion that we had
15 misidentified where she was employed in January through
16 perhaps June of 1988. One of our witnesses, Mr. "Jo
17 Jo" Baldassari testified that he believed that Patricia
18 Zangardi was employed in the district attorney's
19 office, Mr. Preate's personal secretary. During that
20 period of time he was inaccurate, and we pointed that
21 out in the report that she had, in fact, left the
22 office in January of 1989. But what we had found was
23 that in another circumstance another person who was
24 somewhat of a fundraiser, Mr. Jack Kalins had, in fact,
25 sent correspondence to Mrs. Zangardi at the district

1 attorney's office with checks and postal money orders
2 to her for contributions. Those were received and
3 they, in fact, were reported. He also indicated that
4 he sent his bill for the function that was held at a
5 resort that he is part owner of to the same address to
6 Mrs. Zangardi's attention and that that bill was never
7 paid. And our examination of the campaign records and
8 our bringing that to Mr. Kalins' attention, he then
9 sent out, somewhat five years later, last October
10 another bill, which then was paid by the campaign
11 committee.

12 But besides that one, we identified a
13 number of other situations where campaign functions
14 were held and there is no indication of payment to
15 those locations. And besides the ones that we have
16 identified, there are other ones that we did not
17 investigate but could make other investigators aware
18 of.

19 MR. ANDRING: Could you tell us
20 approximately how much you were able to identify in
21 contributions that came in through cash or these money
22 orders or those types of things and whether you made an
23 exhaustive effort to identify all of those, or I think
24 you mentioned a sampling. They don't quite understand
25 that.

1 MR. RYAN: Our original purpose in trying
2 to get these campaign records was to see if we could
3 identify specific cash that was going into the campaign
4 from these video poker operators. I think as we
5 explained one time previously, one of the things that
6 we had was a representation by a Mrs. Warner that she
7 had contributed a \$500 check, which it turns out was
8 not reported, one of the items that we eventually
9 discovered as not reported. And we had not started to
10 do this as a complete audit of all of the campaign
11 records or all of the discrepancies in it. We followed
12 it as far as we could to see if we could track or find
13 specific amounts of cash coming in to the campaign bank
14 records and we would follow through on a number of
15 these transactions to try and explain them. Like we
16 said, we found some cash that apparently went in under
17 certain people's names, but we certainly could not do
18 any complete exhaustive audit of that.

19 HON. JUDGE ADAMS: Were there appropriate
20 vouchers for all the expenses set forth in the reports?

21 MR. RYAN: The only way from what we had,
22 and I know in conversations with the campaign
23 committee, they are only required to keep specific
24 transactions for a period of time. The only way we
25 were able to compare the actual expenses were again

1 through the checking account, and we used that means
2 for checking the campaign expenses. We were not able
3 to do it from the records that we had.

4 Mr. Millhouse, not to mislead you, but
5 Mr. Millhouse indicated that we received certain
6 records after our initial request, but we received very
7 few records, I think, for the beginning of the year,
8 January, February and March. We almost received no
9 records for that. So all of our reconstruction during
10 that period and for the most part the latter part of
11 1988 really had to be done from the checking account
12 and bank records, because the campaign committee
13 records were just incomplete and not adequate.

14 MR. ANDRING: Now, as I understand it,
15 these were the records from the campaign committee for
16 the first time the Attorney General ran for that
17 office, is that correct?

18 MR. RYAN: Yes, and that was our -- the
19 total area that we looked at was the year 1988.

20 MR. ANDRING: Okay. My question was
21 going to be then did you find these kinds of
22 discrepancies in the previous campaign committee for
23 his last run for Lackawanna County district attorney?

24 MR. RYAN: We had not subpoenaed his bank
25 records for that or done that type of analysis. The

1 only thing we had confirmed there were the contributors
2 concerning the video poker operators, because when we
3 were talking to them they talked about 1987 in helping
4 him run for Attorney General, and they did not really
5 distinguish in a number of their minds concerning, you
6 know, contributing to retire his campaign debt in the
7 district attorney or whether they were contributing to
8 the Attorney General's Office. So we had not gone back
9 and really conducted a complete audit of the 1987
10 campaign expense reports, other than to confirm that
11 those contributions were, in fact, made by those
12 individuals and received. And in one instance Henry
13 Baldassari, who indicated that he gave cash on a number
14 of occasions, indicated that I think it was a money
15 order in his name was not a contribution that he had
16 made. So we found a couple of similar items that we
17 did not conduct in the exhaustive audit of the 1987
18 campaign expenses.

19 MR. ANDRING: To go back for a minute to
20 that previous campaign, and I think this was the
21 chairman's original question, again, the allegation has
22 been made that Mr. Kovach was soliciting campaign
23 contributions in order to retire a debt from that
24 campaign from various video poker operators and that he
25 did, in fact, collect certain contributions and turn

1 them over to the campaign. And I think maybe the heart
2 of the question on this issue is why would that have
3 been improper, why should the Attorney General or
4 anyone else in his campaign been concerned about that,
5 why was it simply not part of the normal course of
6 fundraising in a political campaign?

7 MR. RYAN: Well, the amounts, first of
8 all, that we were talking about were beyond the normal
9 amount that's allowed to be contributed or done by a
10 contributor in excess of \$100. You know, we were
11 talking about \$500, \$1,000, and that type of thing that
12 these people were giving cash. And in addition, the
13 basic allegation had been out there that Mr. Kovach's
14 representation was to these people that it was that
15 they would be taken care of, they would not be
16 bothered, they would not be raided. The situation
17 developed that after they were raided in April of 1988,
18 we're aware that Mr. Kovach made a telephone call at
19 least to one other vendor who was then helping raise
20 money statewide and told him, give the money back, and
21 also vendors in the northeast after the raids took
22 place, the vendors indicated to us that they had just
23 given cash and that they got that cash back from Mr.
24 Kovach. So there was a correlation between Mr.
25 Kovach's fundraising ending when the State Police

1 raided the video poker operators in the northeast in
2 April of 1988.

3 MR. ANDRING: Okay. But to follow up
4 again a little bit more, obviously, Mr. Kovach could
5 have gone around and told anybody anything he wanted
6 to, and I think at some point you have to make a
7 connection or at least describe for us the reason you
8 have made a connection between his activities and the
9 campaign committee or the Attorney General.

10 MR. RYAN: Well, the two most direct
11 connections that I think have been aligned are I guess
12 Mr. Elmo Baldassari, who initially indicated this to us
13 that there was a specific relationship there and that
14 he had referred Mr. Kovach to Mr. Preate with the idea
15 of putting this together, and the only other direct
16 evidence that we had was the specific conversation of
17 Mr. "Jo Jo" Baldassari, another member of the
18 Baldassari family, that he had a conversation with Mr.
19 Preate. There may be other investigative matters out
20 there that we're not aware of within the controls of
21 the Federal government, but I can't comment on those.

22 The rest of it were the circumstances of
23 this. Another individual who was subsequently
24 prosecuted was Mr. Eisenberg, who indicated that he at
25 least had had some conversation then with Mr. Preate at

1 a cocktail party out in Johnstown concerning that the
2 investigation would move towards the manufacturers and
3 everything would be okay with Mr. Kovach, because he
4 had expressed some concern about that.

5 I mean, those are some of the direct
6 pieces of evidence that indicated a knowledge on Mr.
7 Preate's part, or some relationship.

8 MR. ANDRING: In looking at the campaign
9 reports from the district attorney campaign account, it
10 would appear that a large number of the contributions
11 from the video poker operators were either received or
12 reported on the same day. Do you know how those were
13 actually conveyed to the committee, if one person took
14 them in or how that operated?

15 MR. RYAN: Well, just that generally all
16 of the people who did testify before us, the number of
17 the different video poker operators had indicated that
18 they had, in fact, given their moneys directly to Mr.
19 Kovach for it to be transported to Mr. Preate. And in
20 situations where there are reported campaign
21 contributions for those people, I think I pointed out
22 earlier on the 1987 report almost, I think all of those
23 video poker operators the contribution shows up and is
24 reported on 5-28 of '87, the same day for all of them.
25 And I think there was similar circumstances surrounding

1 some of the contributions that were returned that were
2 made later in January of 1988, before the raid, some of
3 the contributions that were returned, some that
4 weren't.

5 HON. JUDGE ADAMS: In response to the
6 general counsel's question, didn't you have testimony
7 that one or two of these video operators directly
8 called Mr. Preate to make sure whether the cash that
9 they had contributed was, indeed, received?

10 MR. RYAN: That, again, was I what I
11 mentioned earlier was "Jo Jo" Baldassari's
12 conversation. He indicated that he had given cash to
13 Mr. Kovach, and having some of the same concerns that
14 you expressed as well as did Mr. Preate, in fact,
15 receive these funds and were they going to you? "Jo
16 Jo" Baldassari said he called the district attorney,
17 Mr. Preate, directly, talked to him, asked if he had
18 received the money from him, the cash from him, and
19 whether he had seen his -- and he was aware it was from
20 him, and Mr. Baldassari testified to the commission
21 that Mr. Preate acknowledged that he had gotten it and
22 that, in fact, he had seen his name on the list. And
23 that list was another item that was confirmed that Mr.
24 Kovach kept a list of all the individuals who were
25 contributing and noting whether the people did

1 contribute or didn't contribute.

2 MR. REILLY: Could I suggest an
3 additional response to the question that you asked.
4 This is not a situation where someone is running for a
5 legislative office. This is a situation where the
6 offices in question were district attorney and then
7 Attorney General of this Commonwealth. The individual
8 that holds that office has responsibility for the
9 enforcement of the laws. The people who were solicited
10 to make these contributions were not people who were in
11 a legitimate business that were to be regulated. They
12 were people involved in criminal activity. These were
13 video poker vendors, video poker operators. This is
14 all the difference in the world to the question of is
15 there anything wrong with the person who has
16 responsibility for the criminal investigation and
17 prosecution of those racketeers going to them and
18 soliciting from them contributions and money. This is
19 a very different situation than a situation of someone
20 who is on a regulatory agency for legitimate businesses
21 or in a legislative body that passes laws to regulate
22 legitimate businesses.

23 Let me make a second point, if I might.
24 I think that was very significant. I think what one of
25 the things that really reinforced or convinced me that

1 in fact there had been a quid pro quo representation,
2 that is to say that the video poker operators had told
3 us, some of them had told us that the reason they made
4 their contributions was because they had been told, led
5 to believe, represented that in exchange for their
6 contributions they would not be prosecuted,
7 investigated, raided. What gave that some substance to
8 me, up to that point it's their word against whose? We
9 never had testimony from the Attorney General, so I
10 can't contrast to his. But when I found out that in
11 the testimony of State Police Corporal Tonetti, who had
12 responsibility for video poker gambling enforcement in
13 that county and in that region, that he was, as you'll
14 find in our report, he was very aggressively approached
15 by then District Attorney Preate, who was very incensed
16 that the State Police would dare to attempt video poker
17 enforcement in his county, and there was an attempt
18 made to persuade him, through bullying, not to do that.
19 You picked the wrong man when you pick Corporal Tonetti
20 to attempt to bully.

21 I think there was, to my satisfaction,
22 ample support that the sitting district attorney, a man
23 who was seeking to be Attorney General, went to these
24 criminals and sought to have them contribute to his
25 campaign. I think that it's not even close in terms of

1 ethical impropriety.

2 MR. ANDRING: A few more follow-ups. You
3 said that he went to these criminals, and previously
4 you referred to these people as racketeers and being
5 engaged in an illegal industry. And again, this goes
6 to the heart of my questions. To what extent would the
7 Attorney General or the people associated with his
8 campaign have known that these people were affiliated
9 with illegal activities? I mean, did they have
10 criminal records? Were they the subject of previous
11 investigations? How would he have known this? How
12 would anybody have known this?

13 MR. REILLY: The answer to those two
14 questions is, yes, many of them had criminal records;
15 and yes, they had been the subject of other reports by
16 the Pennsylvania State Police and other agencies and
17 other agencies comparable to the Crime Commission about
18 their involvement in the activities. And again, this
19 was going on in the home county. You could make an
20 argument perhaps that you didn't know when you met
21 someone from a vending company in Erie that that person
22 may have been running video poker machines, but that's
23 a hard argument to make when you're the long-serving
24 district attorney in the county in which these people
25 are headquartered.

1 MR. RYAN: One example would be that in
2 1987, Gabriel Horvath, who is an individual who is
3 mentioned numerous times, had already been raided by
4 the State Police. He had video poker machines seized
5 while Mr. Preate was the district attorney in
6 Lackawanna County. Mr. Hank Baldassari and Mr. Horvath
7 himself have indicated to us that they met with the
8 district attorney for recommendations for counsel to
9 represent Mr. Horvath on this particular matter, and
10 that Mr. Kovach was the person who introduced him to
11 the district attorney. So he was recommending counsel,
12 in one instance, to Mr. Horvath. That we also have
13 confirmed at least through his counsel who represented
14 him, Mr. Guida, who indicated that Mr. Horvath had, in
15 fact, stated that he had been referred to him by Mr.
16 Preate. So it shows that he had knowledge of the
17 relationships of some of these people and the fact that
18 they were subject to criminal prosecutions.

19 As I indicated, Mr. "Jo Jo" Baldassari
20 had two prior gambling convictions, and at the time of
21 1987 and 1988 when he made these contributions, the
22 last of them was on a long-standing appeal where he was
23 pending a prison sentence for them.

24 MR. ANDRINO: Has the Attorney General
25 himself ever acknowledged that he was aware that this

1 fundraising was going on or that he knew any of the
2 people who were involved in this?

3 MR. REILLY: In the words of Will Rogers,
4 what I know is what I've read in the paper. The
5 Attorney General did not elect to come testify before
6 us in any of these matters. There have been statements
7 in the paper, you've read them, I've read them, and I
8 don't think it's appropriate for me to characterize
9 them.

10 CHAIRMAN CALTAGIRONE: Your report
11 addresses efforts by Mr. Kovach to solicit campaign
12 contributions from various persons connected with the
13 amusement machine industry for the purpose of
14 supporting Ernie Preate's first campaign for Attorney
15 General. Could you provide this committee with
16 specific reasons as to why you would consider these
17 contributions to be out of the ordinary or improper,
18 and any reasons why Ernie Preate should have been aware
19 of such improprieties?

20 MR. REILLY: I believe those are the two
21 questions I just answered, sir.

22 MR. ANDRING: I was just going to say,
23 this question, I believe we were focusing before on the
24 first set of fundraising. This question is directed
25 specifically to the second.

1 MR. REILLY: What we know there is when
2 the statewide scheme, the attempt to replicate this
3 statewide, the people who were invited to come to that
4 second, the meeting in Hershey, the dinner in Hershey,
5 were people who were invited because they were video
6 poker operators. A lot of the people who operate
7 amusement machines do not operate video poker machines.
8 I mean, there's a big distinction. We keep trying to
9 characterize these video poker machine operators and
10 others who have vending machines. The people who were
11 invited to this group were invited there because they
12 were video poker operators.

13 MR. RYAN: Also, the meeting was set up
14 by Mr. Kovach, and from what the operators told us, Mr.
15 Preate came into the meeting and was introduced to them
16 by Mr. Kovach, and again Mr. Horvath and the
17 individuals who were at that meeting, some of them had
18 already been the subject of either raids or charges
19 themselves for video poker operations. The most
20 obvious one, the one that we first went to was Mr.
21 Russell Warner, who was part of that large raid up in
22 the Erie area, out in the western part of the State,
23 that some of his machines were the result of what was
24 referred to as the Weber decision, which is a Federal
25 judge's opinion that the video poker machines, for

1 Federal purposes, were, in fact, per se gambling
2 machines. That raid had taken place in 1985. He
3 subsequently was charged and pled to IRS violations for
4 the operation of those video poker machines.

5 One of the the other individuals had
6 previously been arrested along with his father, William
7 Shay, Jr., had been arrested along with his father in
8 1987 or 1986. His father wound up pleading guilty and
9 the charges were dismissed against him. I think that
10 was a family situation where one of the the family
11 members pled and charges were dismissed against the
12 son. But he was one of the other attendees at that
13 particular meeting that we have, again, all of the
14 individuals that were there had, in fact, been
15 operators of video poker machines, and a couple had
16 already had scrapes with the law concerning the seizure
17 of those machines.

18 CHAIRMAN CALTAGIRONE: Your report
19 contains allegations that the Office of Attorney
20 General was engaged in plea bargain concessions with
21 persons who were under grand jury investigation prior
22 to any presentments that have actually been issued by
23 the grand jury. It also refers to the fact that
24 certain corporations formed after the date that the
25 illegal activities were alleged to have occurred were

1 allowed to enter guilty pleas to the alleged illegal
2 acts while the individuals responsible for those
3 particular acts were not convicted. Could you
4 specifically comment on whether these types of
5 activities are common law enforcement practice or
6 whether you are aware of any other cases of any
7 jurisdiction where this type of activity has ever
8 occurred?

9 MR. REILLY: We're aware of one other
10 case here, and by jurisdiction, Pennsylvania
11 jurisdiction, we're aware of one other case in Beaver
12 County, Pennsylvania, where a number of video poker
13 machines were seized about a year after this State
14 Police raid, and that this same practice was followed
15 by the county attorney general in that county. He or
16 she allowed them to later form a corporation and plead
17 guilty, let the corporation plead and agree to the
18 seizure of the machines. That's the only other
19 incident there.

20 I know the Colonel, the Commissioner, the
21 chairman--I can't remember which hat Glenn is
22 wearing--also had some inquiries made as to the
23 practice around the State and what has happened using
24 his Organized Crime Division. I think the
25 representations made in Mr. Holste's press release that

1 this is a State in which video poker vendors are not
2 prosecuted, and if prosecuted are not sentenced, and if
3 sentenced are not sentenced to time flies in the face
4 of the information that is readily available in the
5 organized crime files of the Pennsylvania State Police.

6 COMMISSIONER WALP: Mr. Chairman, I would
7 like to ask Captain McGeehan from our Organized Crime
8 Division to come forward, and John, if you would, and
9 he will clarify some aspects of your question.

10 CAPT. MCGEEHAN: Good afternoon,
11 gentlemen and ladies.

12 As a result of the editorial page packet
13 that was placed out by the Office of the Attorney
14 General, the Commissioner asked for specific fact
15 statements to be addressed that impacted upon State
16 Police operations or impacted upon areas that the State
17 Police would operate in. There were three specific
18 fact statements that we did take a look at. This
19 resulted in computer runs that we ran out from the
20 State Police which generally came from the extreme late
21 quarter of 1983 up through to the present time. We
22 tried to be specific into the areas that we placed
23 those time dates to be in and around the April 1988
24 raids and the impact areas of the sentencings that took
25 place later on in that particular case. I may end up

1 going a little further out than you may want. If you
2 want to try to localize this for me, I'll try to answer
3 your questions.

4 MR. ANDRING: Just why don't you go
5 ahead.

6 CAPT. MCGEEHAN: All right, sir.
7 What we did was we took two specific
8 areas in gambling that the Pennsylvania State Police,
9 the General Troop and Organized Crime Division,
10 gambling cases, which are criminal cases, and the
11 Bureau of Liquor Control Enforcement, which operates
12 under the Liquor Code and handled administrative cases
13 against licensed establishments in this State. We've
14 removed, although I have the figures for that, we have
15 removed the Bureau of Liquor Control Enforcement, since
16 as I stated they are administrative in nature as
17 opposed to criminal.

18 The fact statement number 3 on that
19 packet--

20 MR. REILLY: This is a reference to the
21 press package submitted by Mr. Holste to editorial
22 boards around the State. If you remember -- pardon me,
23 Mr. Gentzel to editorial boards around the State. And
24 you'll recall that the chairman referred part of it to
25 his Organized Crime Division for a response, part of it

1 to Mr. Ryan and the Crime Commission for a response.
2 We'd also be prepared to respond to those with Mr.
3 Ryan.

4 CAPT. MCGEEHAN: The area that you're
5 interested in would be the fact statement that appears
6 10th on the list, and in this particular case State
7 Police records involving video gambling machine
8 arrests, and I specify that these are State Police
9 records, not local department records, between 1984 and
10 1991 resulted in at least 63 prosecutions that we have
11 on record listed in our files. There is, in all
12 likelihood, many more, but due to the nature of how
13 dispositions are recorded in the counties, the material
14 wasn't available immediately to us.

15 The majority of these, if not all of
16 them, are at the county court level in which probation,
17 prison time, monetary fines, costs are assessed against
18 individual offenders. These particular cases resulted
19 in -- you'll have to excuse me because I have to go
20 back here to refer. There were minimum probationary
21 periods in these cases which ran from six months
22 through 1984 to 1987 to a period of five years. Two
23 individuals in these counties were sentenced to prison.
24 One for a 6- to 12-year sentence at SCIC Mercer with a
25 5-year probation. Now, there were other charges

1 involved in that as well, but the primary case was a
2 video gambling case.

3 The second was 24 months in the Clinton
4 County prison. Monetary fines ranged from a minimum of
5 \$100 to a maximum of \$10,000. At least four county
6 cases have fines of \$5,000, one at \$2,600, three at
7 \$2,500, one at \$1,500, three at \$1,000, and the
8 remainder falling into the \$100 to \$750 fine range.

9 MR. REILLY: Captain, I wonder if you
10 could read the allegations that you're responding to.
11 I think some of the people here don't have that
12 document before them. What was the allegation in the
13 press package?

14 CAPT. MCGEEHAN: The quote from the fact
15 statement is, "The sentences imposed in the case were
16 among the toughest ever received in Pennsylvania at
17 that time, a time when few video poker cases were even
18 being prosecuted. In 1990, in all of the 67 counties of
19 Pennsylvania, there were only 40 sentencings for
20 gambling devices, and 9 of those were video poker
21 prosecuted by this office," this office meaning the
22 Office of the Attorney General. In going into our
23 records, we found this statement to be inaccurate.
24 There were hundreds of prosecutions being done through
25 that 10-year period up until, I should say, let me

1 qualify that, from 1984 to 1988. Many of these cases
2 were handled informally within the district attorney's
3 office, but many did result in fines, probation, two
4 resulting in prison terms.

5 As I read to you from the prior
6 statement, there were minimum probationary periods up
7 to maximum probationary periods, and the State Police
8 computerized records from the period of 1984 through
9 1987, July of '87, indicated at least 740 State Police
10 investigations statewide, with 654 persons reaching an
11 accused level, which have an official tracking number
12 from a court system, was administered to that person.
13 After the official tracking numbers administered, of
14 course it goes into the court system itself and is
15 handled at a judicial level. We don't have what has
16 happened to all of these people, but these records
17 range anywhere from, as I say, the prison term down to
18 expungement of records.

19 MR. REILLY: Was there a second
20 allegation or statement that you inquired into?

21 CAPT. MCGEEHAN: There were three
22 allegations in total. The last fact statement that we
23 took a look at was number 11 on that packet which
24 stated at the time these offenses occurred, most
25 district attorneys did not bring criminal charges

1 against operators of illegal video poker machines but
2 rather simply obtained court orders to destroy and
3 seize machines. Again, through the computer records
4 and the official tracking numbers that are assigned in
5 the judicial system, we found that to be an inaccurate
6 statement. In many cases charges were brought against
7 these individuals. What happened within those specific
8 court systems after that is a matter of having to
9 contact those particular counties and find out what
10 occurred. We do have a minimum 63 cases which we were
11 able to pull out and which the records were there. Of
12 all those 63 cases that we checked, and we hand-
13 searched our files on those, they all had a fine or a
14 combination of fines, probation, and prison terms
15 assigned to them, to individuals.

16 As the gentleman stated before, the
17 chairman stated, we only have the one case in Beaver
18 County in which a corporation, prior to the 1988 case,
19 in which a corporation was charged after the fact.
20 That has never occurred in any other cases that we have
21 other than the April '88 in the Beaver County case, and
22 the State Police command personnel that were in charge
23 of the Organized Crime Division in the State Police at
24 the time took safeguards to attempt to prohibit that
25 from happening, at least within the State Police,

1 again. It's our posture not to go forward in that
2 manner.

3 MR. REILLY: There was another assertion
4 in that document that there were multiple video poker
5 machines seized through search warrants approved by
6 District Attorney Preate. Was that a truthful
7 statement?

8 CAPT. MCGEEHAN: Sir, that statement
9 reads: "As far as enforcement was concerned, Ernie
10 Preate approved the search warrants in conjunction with
11 the April 6, 1988, State Police raid during which State
12 Police seized some 400 video poker machines."

13 MR. REILLY: Now, would the inference be
14 that he signed -- I mean, you would think, the way that
15 document is crafted, you would think that as a result
16 of using the search warrants which he approved, that
17 those video poker machines were seized. That's just
18 simply not the case, is it, Captain?

19 CAPT. MCGEEHAN: The Attorney General, or
20 at that time the district attorney's input into that
21 case was the approval of nine search warrants for
22 vendors records only. All of the State, all of the
23 machines seized in that particular State Police case
24 had already been proven per se devices and would have
25 been seized in any case, with or without search

1 warrants and with or without the district attorney's
2 approval, in that they had already been seen to have
3 given off payoffs or had the necessary portions
4 attached to make them a per se. We asked for no search
5 warrants for those machines.

6 COMMISSIONER WALP: Mr. Chairman, I also
7 would like to ask Lt. Colonel Hickes to address two
8 aspects of this just to tie it all in, and although the
9 Captain commented on the Beaver case, Colonel, if you
10 would discuss the position of our department in the
11 Beaver County case and then where our movement began in
12 1988 on our thrust towards the vendors, if you would.

13 LT. COL. HICKES: Yes, Mr. Chairman.

14 As has been testified to previously, the
15 other case that we are aware that a corporation was
16 established and allowed to plead was the Beaver County
17 case. It was that case that the Pennsylvania State
18 Police recognized that an error had been made and it
19 was not preferable to allow criminal defendants to
20 plead to what, in essence, would be a civil remedy and
21 let individuals not be held accountable for their acts.
22 So based upon public criticism of that plea agreement,
23 the decision was made within the Pennsylvania State
24 Police that we would not prefer to have that happen
25 again, understanding that it's the prosecutor's duty

1 and obligation to arrive at a plea agreement.

2 When the video poker gambling case in
3 northeastern Pennsylvania was reaching the point of a
4 plea agreement, individual officers within the
5 Pennsylvania State Police objected to the same type of
6 a plea arrangement where the video poker operators
7 would form corporations and the individuals would not
8 be held accountable. Since that occurred a second time
9 then, it is the position of the Pennsylvania State
10 Police, and we have put this position in writing, that
11 individuals should be held accountable for their acts,
12 that within the ability of a prosecutor to enter into a
13 plea agreement, it's our preference that the
14 individuals would plead to the more serious crime which
15 the evidence would bear a conviction for within court,
16 and we have so advised prosecutors since the case in
17 the northeast.

18 The other item that the Commissioner
19 asked that I address is prior to 1987, the position of
20 the or the investigative procedure of the Pennsylvania
21 State Police was to prosecute the possessor of the
22 machine at the time of the investigation. So if an
23 investigation focussed on a bar or an establishment,
24 the operator or owner of that establishment would be
25 the individual prosecuted. And what we found we were

1 doing as an agency was building a lot of little cases
2 around the State and the true benefactor of the illegal
3 scheme, the video poker scheme, the operators who
4 distributed the machines and were reaping 50 percent of
5 all the profits, weren't being touched at all, other
6 than to lose their machine during any particular raid.
7 So in 1987, our focus changed to one of trying to make
8 corrupt organization prosecutions, and while we would
9 take the machine out of the individual store and
10 prosecute the individual operator of that store, our
11 focus was on the distributor, the guy who was making
12 the big money. And it was the Pennsylvania State
13 Police position beginning in 1987, and continues today,
14 that our focus is to get the guy who's making the big
15 money, the distributor of the illegal machines.

16 COMMISSIONER WALP: Questions?

17 MR. ANDRING: No, I don't believe I have
18 any.

19 The second part of the chairman's last
20 question was directed at the grand jury proceedings
21 involving the video poker operators and the way those
22 were eventually resolved with plea negotiations
23 occurring while the grand jury was still, as I
24 understand it, deliberating whether or not to issue
25 presentments. I'm certainly not a criminal attorney,

1 and I don't think anybody else up here is. Could you
2 people comment--

3 HON. JUDGE ADAMS: I think Mr. Ryan would
4 be the best person to address that inquiry.

5 MR. ROGOVIN: I'd like to note for the
6 record, Mr. Chairman, that we don't consider Mr. Ryan a
7 criminal attorney, considering he's an attorney
8 well-versed in criminal law.

9 MR. RYAN: Probably depends on who you're
10 talking to.

11 MR. ROGOVIN: I'm sure that's true.

12 MR. RYAN: Briefly, and in our
13 deliberations through this and most of my
14 recommendations, there's a great deal of difference
15 between style of how attorneys might want to deal with
16 or do plea negotiations on this, and we certainly kept
17 that in mind when we were reviewing this. But one of
18 the things that we found that was interesting that we
19 pointed out was that Mr. Taber, who had been the
20 primary investigating attorney and had conducted all
21 the grand jury or a majority of the grand jury
22 testimony, who eventually was responsible for preparing
23 the draft of the indictment that was presented before
24 the grand jury and did almost all the investigative
25 work, was not invited to attend a meeting that was held

1 between Mr. Sarcione and three of the defense counsel
2 who represented a number of these video poker
3 operators. This was a meeting that took place in
4 Wilkes-Barre before the grand jury presentment had been
5 voted on or brought out.

6 In his testimony to us, Mr. Sarcione
7 indicated that he did not, at that meeting, discuss in
8 any great detail possible negotiations, who the subject
9 of the eventual charges might be, or any details
10 concerning the status of the grand jury situation.
11 However, we had obtained some of the notes from one of
12 the defense attorneys who had attended that meeting,
13 and what they clearly showed was that it had been
14 outlined to these particular individuals, the
15 individuals who were being considered for charges. As
16 we pointed out in our report, the list contained on
17 these defense attorney's notes almost matches
18 completely the order in which certain individuals were
19 eventually charged in the final presentment by the
20 grand jury.

21 In addition, in his notes it indicated
22 that it was disclosed to these particular defense
23 attorneys that the grand jury that was then
24 investigating it had voted not to extend itself, which
25 meant they would not be receiving any further testimony

1 on these particular matters. And in addition, it
2 contained details of suggested plea positions by both
3 sides. The defense indicated that it wished
4 corporations and that it really did not wish any type
5 of criminal proceedings, it just wished to have some
6 type of civil agreement.

7 The position of Mr. Sarcione, as
8 indicated in the defense notes, was that they wished a
9 plea to some type of misdemeanor gambling charge, that
10 they wished large fines or fines in a certain amount.
11 So it was a clear indication that that was not a
12 general meeting but a rather detailed meeting of who
13 the potential defendants would be. And again, this is
14 before the grand jury had voted on that particular
15 presentment. And it's a notification to them that that
16 grand jury would not be continuing the investigation.
17 And it contained elements of the plea negotiation.

18 Now, that in itself might not be unusual,
19 except for when we talked to the other attorneys who
20 were eventually involved in these particular
21 negotiations, Mr. Taber never knew that this meeting
22 took place or that it was discussed, and that was
23 within a week from when the grand jury presentment was
24 voted on. In addition, that grand jury presentment was
25 put under seal for a period of over six months, until

1 January of 1990. During that time, the defense
2 attorneys apparently met at least on two different
3 occasions that we can see formally with staff of the
4 Attorney General's Office. Mr. Dennis Reinaker had, in
5 fact, taken over the case, and he recalled specifically
6 meeting with the defense attorneys and Mr. Sarcione in
7 an October meeting of 1988, and during that meeting Mr.
8 Reinaker indicated to us that he had no knowledge of
9 any previous negotiations between Mr. Sarcione and
10 these defense attorneys, so he was not made aware of
11 this previous meeting back in July that Mr. Taber was
12 not also made aware of, and Mr. Reinaker indicated to
13 us that Mr. Sarcione seemed to be surprised by the
14 suggestion that corporate defendants enter some type of
15 plea, and the notes that we have clearly indicated that
16 that had previously been discussed back in July between
17 Mr. Sarcione and these defense attorneys.

18 So we thought that the dealings
19 surrounding that meeting in July and the failure to
20 advise your other counsel who were directly involved in
21 handling the case certainly seemed to be irregular.
22 And it's also interesting that a couple of the
23 corporations were formed, three of the corporations
24 were formed right after or within a month or two after
25 that particular meeting with Mr. Sarcione.

1 MR. ANDRING: Were you able to question
2 Mr. Sarcione and obtain his explanation for the way
3 this matter was handled?

4 MR. RYAN: He didn't recall having a
5 specific memory of these details of this whole
6 negotiating process, notes from that particular July
7 meeting. So he did not recall that happening. He just
8 remembered it being, oh, some type of general meeting
9 where the defense attorneys tried to intimidate him
10 generally about the prosecution, and that was it.

11 MR. ANDRING: Did he indicate who
12 arranged for this meeting, whether the Attorney
13 General's Office arranged it or the defense attorneys
14 and whether anyone else in the Attorney General's
15 Office was involved?

16 MR. RYAN: He seemed to indicate -- not
17 in his attendance, no. He just seemed to indicate that
18 it was requested that he talk to these individuals. He
19 himself was in the Wilkes-Barre area around that time
20 because he was prosecuting a rather significant murder
21 case up in that area and that he arranged, while he was
22 up there at the police station, to meet three of the
23 defense attorneys.

24 MR. ANDRING: Did these three defense
25 attorneys represent all the potential defendants at

1 that point?

2 MR. RYAN: No, they did not. And some of
3 the individuals that are enumerated on these defense
4 attorney notes are not people that were represented by
5 any of the defense attorneys that were present, or all
6 of them.

7 MR. ANDRING: There have been reports
8 that after the first grand jury concluded its actions
9 there was a second grand jury which was to focus upon
10 the manufacturers. Are you familiar as to how
11 extensive the proceedings of this second grand jury
12 were and the extent to which an investigation was
13 conducted by that grand jury?

14 MR. RYAN: The second grand jury, almost
15 all, or a majority, I think, of the testimony during
16 that Seventh Grand Jury, that would be the seventh, was
17 conducted between, I think, January and June of 1990,
18 and it involved primarily appearances before it of
19 individual video poker vendors, a number of which were
20 part of this prosecution, had recently been prosecuted,
21 and other vendors throughout the State who are involved
22 in the video poker business, some of which were
23 individuals who had attended that meeting at Hershey
24 back in the beginning of 1988.

25 MR. ANDRING: Were any video poker

1 manufacturers ever called before that grand jury?

2 MR. RYAN: No. Most of the evidence
3 concerning the video poker manufacturers, and the Crime
4 Commission had been aware that there had been a
5 previous State Police raid going back in the Pittsburgh
6 area involving SMS, who is one of the the subjects of
7 this, that they were caught with a tractor trailer load
8 full of video poker machines in their original wrappers
9 that were fully equipped with counting devices, which
10 made those machines purely per se devices, and that had
11 previously been testified before another grand jury,
12 but I don't believe was introduced to the Seventh
13 Statewide Investigating Grand Jury.

14 And in addition, there had been testimony
15 from an individual who we received testimony from, Mr.
16 Kaye, who owned a moving and storage business in
17 Scranton, which was the main source of where many of
18 these video poker operators received their machines,
19 and he had complete records of the machines being
20 shipped in, and it indicated that sometimes they came
21 equipped with counters, and at other times the counters
22 would come in with the machines, an even number of
23 counters for the machines, and he would sell the
24 machine and the counter together, or deliver them to
25 the video poker operators.

1 So there was substantial amounts of
2 evidence that had been presented before I think the
3 Fifth and the Sixth that indicated certainly SMS was
4 shipping per se gambling machines into Pennsylvania.

5 MR. ANDRING: But this information wasn't
6 presented to the grand jury that was supposed to be
7 investigating the manufacturers?

8 MR. RYAN: One of the problems is that we
9 never were able to obtain full copies of it, but my
10 current recollection would be is that that information
11 from the Fifth and the Sixth Statewide Investigating
12 Grand Jury was never summarized for the Seventh, or
13 those witnesses certainly were not brought back in
14 before the Seventh Grand Jury to give their testimony
15 concerning the manufacturers and the information that
16 had previously been provided to the other two grand
17 juries.

18 MR. ANDRING: Since these machines were
19 obviously moving across State lines, do you know, was
20 there any effort by the Attorney General's Office to
21 involve the Federal government in an effort to
22 investigate the manufacturers?

23 MR. RYAN: One of the things that we
24 thought about was that especially the two instances
25 we're aware of and where we had a lot of information

1 was concerning SMS, which is a New Jersey company, and
2 at that time we were aware that New Jersey authorities
3 were, in fact, investigating and in the process of
4 prosecuting members of the hierarchy or owners of SMS,
5 and we thought that perhaps the Attorney General's
6 Office had maybe deferred to New Jersey in allowing
7 them to handle that particular matter. So we checked
8 with the New Jersey authorities to see if there had
9 even been any discussions or any information had been
10 given to them by the Attorney General's Office
11 concerning the SMS situation or there had been
12 discussions of potential prosecutions, and we found out
13 there had not been. The only thing the New Jersey
14 authorities were aware of, at least the ones we talked
15 to, was of the previous situation of the Pittsburgh
16 raid that was conducted by the State Police.

17 MR. ANDRING: Okay. There has been some
18 reference to the press release by Robert Gentzel on
19 April 19. Were there other areas that the commission
20 itself had reviewed and wished to comment upon?

21 MR. RYAN: There was one area, and I was
22 just looking for it, I don't know whether it was
23 commented on there. I notice Mr. Holste is present
24 today, but it indicated in there that we had used
25 selective testimony when we had asked Mr. Preate about

1 one bank account on one loan. One of the things we had
2 discovered was is that one wire transfer that Mr.
3 Millhouse had referred to came out of a bank account
4 where a checking account had been opened with a bank
5 loan of \$300,000, and one of the the first items out of
6 that, or one of the largest items out of that, was the
7 \$225,000 wire transfer to the Garth Group, one of the
8 ones that was misstated. When we examined that, we
9 found that that account and the loan had been signed
10 off on by Carlon and Robert Preate, and no one else
11 from the campaign committees, not Mr. Gleason or anyone
12 else. They were both designated as assistant
13 treasurers. That bank account was never registered,
14 and the checking account that was opened in association
15 with that loan was never registered as a campaign
16 checking account. We found it only because we saw a
17 check, I believe, to the campaign committee from this
18 checking account that was a transfer of the remainder
19 of the funds into the normal checking account that had
20 been registered and established, and in there we point
21 out to that, and in their rebuttal they indicate that
22 Mr. Holste spent a half hour explaining that particular
23 transaction to us in detail. I have Mr. Holste's
24 testimony, as I do of all the witnesses that we took,
25 and I can provide it to the Judiciary Committee, but

1 you'll find that in examination of all of Mr. Holste's
2 testimony, who appeared twice, he was never asked about
3 that particular transaction or bank loan because he
4 apparently had nothing to do with it and there was no
5 information concerning it. And he did certainly not
6 volunteer any information to us on that. So that
7 statement that he spent a half hour explaining that
8 bank loan to us is completely inaccurate and in direct
9 contradiction of what is in the sworn testimony that we
10 have.

11 MR. ANDRING: Are the records of your
12 proceedings available to the committee?

13 MR. RYAN: By the Commissioner's
14 authorization, all of the formal hearings and the
15 testimony we have, I think that they had previously
16 agreed we would provide to an appropriate committee of
17 the legislature if they wished it, which would be
18 copies of all the sworn testimony that we took in
19 formal proceedings, including the two of Mr. Holste
20 that I just mentioned, and any other investigative
21 reports or summary of investigative reports that we
22 have.

23 HON. JUDGE ADAMS: Mr. Rogovin would like
24 to make one very short comment, if he may.

25 MR. ROGOVIN: If I may, Mr. Chairman.

1 CHAIRMAN CALTAGIRONE: Sure.

2 MR. ROGOVIN: An issue that your Counsel,
3 Mr. Andring, raised flagged a matter for me.

4 I invite your attention to the fact that
5 the Sixth Statewide Grand Jury had received testimony
6 about the contributions scheme, as we describe it,
7 about making these contributions, many of these
8 operators, on the assumption that they would not be
9 troubled in the conduct of their illegal activity, and
10 that a key figure in that activity was Mr. Kovach. I
11 invite your attention to the fact that when the Seventh
12 Grand Jury was created, the Seventh Statewide Grand
13 Jury was created, Mr. Kovach was called as a witness
14 before that grand jury. He had been granted immunity.
15 He was never questioned about the campaign contribution
16 scheme which he had allegedly operated on behalf of the
17 video poker machine operators.

18 Now that, for us, is a major failing.
19 The man had already been given immunity, his testimony
20 could not be used against him, or anything derived from
21 it, and was never questioned. And needless to say, as
22 I made clear in my opening remarks, no action was ever
23 initiated from a prosecutive standpoint against the
24 manufacturers, which was the avowed purpose of the
25 Seventh Grand Jury.

1 reviewed the report and the conclusions of the Crime
2 Commission, I wish to direct this question specifically
3 to Commissioner Walp and Judge Adams.

4 Could each of you state in detail your
5 personal view of the nature of the allegations
6 contained in the Crime Commission report, specifically
7 could you tell us how serious you consider these
8 allegations to be, how substantial you consider the
9 evidence supporting these allegations to be, and
10 whether the nature of the allegations and the
11 substantiating evidence are such to warrant further
12 investigations by a criminal law enforcement agency to
13 determine if violations of the laws of the Commonwealth
14 have occurred.

15 COMMISSIONER WALP: I'll respond first
16 and let the judge then sum it up from his perspective.

17 As you know, Act 84 gave to the
18 Commissioner of the State Police, as Mr. Rogovin
19 indicated, two hats to wear - one as the Commissioner
20 of the Pennsylvania State Police, and the other the
21 chairman of the Pennsylvania Crime Commission. In my
22 28 years of law enforcement, the position of law
23 enforcement is to secure evidence to present before a
24 court of law that would deliver that evidence beyond a
25 reasonable doubt as it would deal with that individual.

1 As it deals with the Crime Commission, it was my
2 understanding, since their inception, and I spoke to
3 the commissioners, that their position falls short as
4 they go about their business in the gathering of
5 evidence of finding evidence that would find someone
6 guilty beyond a reasonable doubt. Perhaps by the
7 preponderance of the evidence, as I would classify it,
8 by the power of the evidence, the superiority of the
9 evidence that is there, shy of that available as I
10 would have as a police officer.

11 After a careful review of the report, and
12 I've spent many, many hours, many, many weekends, into
13 the night reviewing the report as it was presented to
14 me when I began in January, I reviewed certain grand
15 jury testimony. As indicated, over 71 witnesses, some
16 of them before a grand jury, some of them before a
17 hearing under oath before the commission, documentary
18 evidence as well as basic interviews. And it is my
19 belief that there is sufficient evidence under the
20 umbrella, the preponderance of the evidence, to the
21 point that I believe in all fairness to the Attorney
22 General of the Commonwealth of Pennsylvania as it deals
23 with him as an individual, deals with him as a person,
24 his character, his reputation, perhaps his career in
25 the future, for the law enforcement officers, for the

1 people giving testimony, to include perhaps even those
2 individuals who are part of the grand jury, the
3 commission itself, I believe most of all for the
4 citizens of this Commonwealth, I believe the air needs
5 to be cleared. I believe just listening to the
6 dialogue here today, which I had not much part of in
7 listening to the individuals here, that I believe there
8 is sufficient evidence there within again that
9 umbrella, that it's time it is cleared, it is
10 understood, and the truth, whatever that may be, is
11 ferreted out.

12 I personally believe the only way that
13 can be done is through, as indicated and which I voted
14 for, a special prosecutor that would have statewide
15 grand jury powers, would be able to subpoena, would be
16 able to grant immunity, and I believe from my review of
17 this report and all the evidence that is attached
18 thereto that I have at my disposal, there are very hard
19 questions that need to be asked of certain individuals.
20 I think they need to be put under oath and to be
21 pursued further, and I believe the Commonwealth of
22 Pennsylvania, the citizens, the Attorney General, the
23 commission, law enforcement, deserves that. And that
24 is my position.

25 HON. JUDGE ADAMS: When I was asked by

1 the Governor's Office if I would assume this
2 position--and I can say parenthetically I didn't seek
3 it, I'm pretty busy--I said that I would do it only on
4 the condition that there were no pre-conditions. That
5 I would be permitted to read the testimony and then to
6 concur with the head of the police and try to be as
7 even-handed as possible. And that condition was agreed
8 to.

9 The first thing we did was to obtain
10 permission to get the testimony before the grand
11 juries, and we had to go to Judge Gates for that
12 permission, and he granted it and we read it. Colonel
13 Walp is absolutely correct. What we did was to read
14 every page of a proposed report. He read them, I read
15 them, we discussed them. We then met with the
16 commission, and those people who are in the room on the
17 staff will recall exactly what I insisted to be done.
18 We went over each page of the report page by page.
19 Anyplace in the report that was based on some
20 information not squarely in the report, we asked the
21 staff to show us the basis of the charge, or the
22 suggested charge. If they could not show that to us,
23 it was deleted from the report. We tried very
24 assiduously to give every benefit to those persons
25 named in the report. If there was a doubt, we

1 suggested it be deleted.

2 My recollection is that we must have
3 spent, going over the page-by-page process, at least 20
4 hours. I strongly urged the members of the commission
5 to delete anything that I would regard as rhetoric or
6 emotion. I don't know that we succeeded completely.

7 I recall when I was here in Harrisburg in
8 the cabinet knowing Mr. Preate's father. I had a very
9 high respect for him. I did not know Mr. Preate very
10 well, but I have a respect, as I do for any individual
11 who is in a high governmental position or who may be
12 suspected of wrongdoing, and I felt that he was
13 entitled to every conceivable benefit of every doubt.
14 I hope we have given him that.

15 I tried very hard not to be judgmental
16 and I try today not to be judgmental. I am not here to
17 judge Mr. Preate. That's for a tribunal different from
18 the one that I sit on. I believe that there is
19 probable cause to believe that something amiss took
20 place, and I think it's terribly important that the
21 Attorney General be given an opportunity. We tried
22 very hard to give him that opportunity. The commission
23 members, and they're all here, know how hard I urged
24 them to give Mr. Preate every opportunity to come in
25 and testify, until the point was reached where it just

1 wasn't practical. We had to finish the report because
2 the commissioners were going to be out of business
3 under the statute.

4 I associate myself completely with the
5 Colonel in believing that an appropriate forum should
6 be established to once and for all clear the air. I
7 think your committee, the General Assembly, the people
8 of Pennsylvania, and Mr. Preate are all entitled to
9 have that done.

10 Thank you.

11 CHAIRMAN CALTAGIRONE: Thank you very
12 much, Judge.

13 Representative James.

14 REPRESENTATIVE JAMES: Thank you, Mr.
15 Chairman.

16 I just wanted to just make sure I
17 understood some of the things that happened. Is there
18 a time line for the Sixth Grand Jury, their time line?

19 MR. RYAN: You mean the period in which
20 they were in session?

21 REPRESENTATIVE JAMES: Right.

22 MR. RYAN: The initiation date, it might
23 be a little hard for me to recall right now, I believe
24 they began in the beginning of 1988. I know they ended
25 in July of 1989.

1 REPRESENTATIVE JAMES: And what about the
2 Seventh?

3 MR. RYAN: The Seventh I do not have its
4 ending date, but it began in the beginning of August,
5 I believe around the first of August, and continued, I
6 think, for a session of -- that would be August of
7 1989, and continued, I believe, through all of 1990. I
8 didn't check the end of that because the testimony
9 concerning the video poker operators ended before that
10 grand jury was over.

11 REPRESENTATIVE JAMES: Something that I
12 heard here that is alarming to me, and I guess this is
13 maybe what you call white collar crime. I'm used to
14 street crime. I heard something where people were
15 arrested, video poker dealers were arrested, charged,
16 and then when it came time for trial or prosecution,
17 they were allowed to set up another organization in
18 order to get a lesser sentence. Can someone explain
19 that to me?

20 MR. RYAN: Well, basically, of the group
21 of operators that were charged, there were four
22 corporations that were formed after the initial video
23 poker raids had taken place. The grand jury basically
24 recommended that individuals be charged. Eventually,
25 when charges were brought against these operators, the

1 individuals and their corporations were charged on the
2 criminal complaints. Eventually what happened was the
3 corporations were the ones that pled nolo, or guilty,
4 all except for in two circumstances, and the
5 individuals had the charges dismissed against them.
6 And from what we're able to determine, as part of those
7 plea negotiations, they seem to have had their
8 individual criminal arrest records expunged. We were
9 very hard-pressed to determine exactly what had
10 happened there from the official record because when
11 something is expunged, it's removed.

12 MR. ANDRING: Could you determine, was
13 that part of their--

14 MR. RYAN: Well, let me explain to you
15 Mr. Kovach's situation. Mr. Kovach and his son were
16 initially charged individually and criminally, along
17 with their corporation. The one thing I was able to
18 find and when we first determined what had happened was
19 I was reviewing the notes of testimony where Mr.
20 Kovach's daughter, a Mrs. Merlino, appeared on behalf
21 of his corporation and entered a nolo plea for the
22 corporation to plead guilty. When they finished that
23 plea, they closed the record on that case and moved on
24 to matters concerning Mr. Kovach and his son, Mr.
25 Merlino. And right after the plea was entered, the

1 defense attorney moved that Mr. Merlino's and Mr.
2 Kovach's arrest records be expunged, and they were,
3 pursuant to an agreement with the representative of the
4 Attorney General's Office. So the corporation pled in
5 one moment, and as soon as that was finished, the two
6 individuals, by agreement of the Attorney General's
7 Office, had their criminal arrest records expunged.

8 REPRESENTATIVE JAMES: And the Attorney
9 General at that time--

10 MR. RYAN: At that time of the pleas,
11 that was in 1991, Mr. Preate had been Attorney General
12 then for a substantial period of time.

13 REPRESENTATIVE JAMES: Okay.

14 MR. RYAN: I'm sorry, that was 1990.

15 REPRESENTATIVE JAMES: Okay. In
16 reviewing the summary, I notice in there one of the
17 allegations was that Mr. Preate entered into
18 arrangements with video poker machine operators. Was
19 that substantiated through grand jury filings?

20 MR. RYAN: There are -- there is grand
21 jury information, again testified to, where Mr. "Jo Jo"
22 Baldassari testified before the Sixth which indicated
23 the basic arrangement, indicated he had a conversation
24 with Mr. Preate, and also indicated that he had
25 received information of the upcoming raids from his

1 uncle, whose first name was also Joe, but he is known
2 as Joe C., and that his uncle had indicated to this
3 other Joe Baldassari that the information had come from
4 the Zangardis. The other thing that we noticed was
5 that Joseph C. Baldassari was never brought in and
6 questioned concerning that aspect of that information.

7 I'd like to make it clear, and one of the
8 things that's been brought up, the Crime Commission has
9 never suggested, I don't think any of the commissioners
10 have ever suggested that there was sufficient evidence
11 before the Sixth Statewide Investigating Grand Jury to
12 at that point return or make charges against Mr.
13 Preate. What there were were substantial leads,
14 investigative leads, and individuals who had been
15 identified who could, in fact, provide answers to
16 whether, in fact, there had been this type of
17 arrangement, specifically Elmo Baldassari, Joseph
18 Kovach, and other members of the Baldassari family.
19 And the point basically was is that those were good,
20 solid investigative leads that needed to be followed
21 up. And that at a later time when Mr. Preate was the
22 Attorney General, a determination was made not to
23 further investigate those allegations. There was no
24 notice ever submitted to another grand jury that would
25 allow those allegations to be further investigated, and

1 that important witnesses, as the Commissioner has
2 already referred to, Mr. Kovach and Mr. Henry
3 Baldassari, Joseph Gustin, all appeared before the
4 Seventh Statewide Investigating Grand Jury under grants
5 of immunity that were never asked about this area.

6 And one of the other things that we found
7 odd about that is that Mr. Taber, although it's stated
8 that he was free to pursue and question anybody he
9 wanted, was not able to obtain grants of immunity while
10 he was still conducting his investigation of the Sixth
11 Statewide Investigating Grand Jury. So a number of
12 witnesses that he had who appeared and testified and at
13 least confirm some aspect of the political
14 contributions was done through the cooperation of one
15 defense attorney, Mr. Balgate, on the promise of
16 hopefully, hopefully lighter treatment, but not through
17 the grants of immunity that were used before Mr. Preate
18 became Attorney General and were used later, while he
19 was Attorney General in the Seventh Statewide
20 Investigating Grand Jury.

21 REPRESENTATIVE JAMES: In regards to the
22 forewarning that came from the Lackawanna County
23 district attorney's office and the subsequent State --
24 were there State Police raids conducted, even though
25 there was forewarning? And if so, what was their

1 success?

2 MR. RYAN: What happened, they were
3 raids, and I think the figures that I heard this
4 morning was they had, in the four-county area besides
5 Lackawanna, Wayne, and a few of the other counties,
6 they had identified just over 500 specific locations
7 and machines that they wanted to seize. They
8 eventually wound up seizing, I think, roughly 380, not
9 quite 400. What had happened was a couple of the State
10 Police officers who were hanging around these locations
11 just prior to the raid began to pick up the same rumor
12 that was out on the street. So when the raids began,
13 some of the State Police began to follow the machines
14 being picked up back to the warehouses where they were
15 being trucked to. So when they executed the search
16 warrants for the business records, they were able to
17 find a number of these machines and seize them because
18 they were per se machines. But yes, the forewarning
19 did have, I think, an effect perhaps on the total
20 number of machines that were seized.

21 REPRESENTATIVE JAMES: Because they had
22 good undercover work, they were able to track them, I
23 guess.

24 MR. RYAN: Yes. They heard the rumor
25 about the same time that some of the video poker

1 operators were hearing.

2 REPRESENTATIVE JAMES: Okay. There was
3 also some indication that there was contributions, a
4 number of contributions that was received, and what I
5 wanted to try to determine, was there ever a total
6 amount of contributions that you thought that wasn't
7 recorded? Can you come up with one specific amount?

8 MR. RYAN: That really would be
9 speculation. We do not feel that we ever had enough
10 sufficient documented evidence. I mean, different
11 witnesses talk about different amounts. Mr.
12 Baldassari's former live-in girlfriend indicated that
13 they would come in and get thousands of dollars. I
14 mean, thousands of dollars were talked about, but I
15 think the commission never felt that there was
16 sufficient cumulative evidence to give a dollar amount
17 to it that they would feel comfortable with.

18 REPRESENTATIVE JAMES: Okay. Do we know
19 what happened after the Corporal was approached by
20 someone? Whatever happened as a result of that? The
21 Corporal.

22 MR. RYAN: You mean in reference to
23 Corporal Tonetti?

24 REPRESENTATIVE JAMES: Right.

25 MR. RYAN: Well, that was a conversation

1 before the raids ever took place that Corporal Tonetti
2 had formed some type of meeting where he invited
3 different district attorney staffs from these four
4 counties to attend and to discuss the problem of video
5 poker. It was done before this investigation was even
6 begun. I believe that would have been very early in
7 '87. And apparently Mr. Preate, from what Corporal
8 Tonetti told us, did not send anybody to that meeting,
9 and later on he saw him in the street in Scranton, Mr.
10 Preate and Mr. Tonetti, and Mr. Preate came up to
11 Corporal Tonetti and brought up the subject and said, I
12 hear you're going around video poker. As is reported
13 more accurately in our report, the Corporal indicated
14 that Mr. Preate said he did not want any video poker
15 enforcement in his county. And we said to the
16 Corporal, could he have said it in a joking manner or
17 fooling around? And he said, no, he was perfectly
18 serious; I've known him for years.

19 REPRESENTATIVE JAMES: Were there ever
20 any raids conducted against video poker by the Attorney
21 General's Office on machines?

22 MR. RYAN: Before or after?

23 REPRESENTATIVE JAMES: After.

24 MR. RYAN: After, there have been, yes.
25 Well, not by the Attorney General's Office. See, I

1 really shouldn't say that because all of these raids,
2 and I guess the ironic part was that Mr. Preate had no
3 control in 1988 whether these raids took place, even
4 though it seems the video poker operators blamed him
5 for it. But it seemed the State Police are the ones
6 that conduct the raids. A number of the cases had, in
7 fact, been prosecuted by the Attorney General's Office.
8 Here was, this case represented the first time where I
9 think the State Police had come to the Attorney
10 General's Office and had wished to make or raise these
11 prosecutions to a higher level, to get at these people,
12 to charge them with RICO charges, not just petty ante
13 gambling charges. And that was the whole purpose for
14 bringing it and involving a grand jury investigation,
15 so you could raise it to a higher level. And
16 obviously, the results were not what was anticipated in
17 the beginning. But that grand jury investigation was
18 begun under Mr. Zimmerman's administration. Mr.
19 Horvath, again, was prosecuted by the Attorney
20 General's Office. His arrest and the raids were the
21 result of police raids conducted by the State Police,
22 and the prosecutions were originally brought under Mr.
23 Zimmerman's administration.

24 But there have been since then, there
25 have been video poker operators out in the Pittsburgh

1 area and the Johnstown area where the State Police have
2 made the raids and in fact the people have been
3 prosecuted, including some of the witnesses that we
4 cited in here, and that was another thing they said
5 that we can point out that in fact that the Attorney
6 General had been involved in the prosecution of these
7 cases, but we specifically do in the report. We
8 indicate that the raids were conducted on my Mr.
9 Eisenberg by the State Police, and that the prosecution
10 was subsequently conducted by the Attorney General's
11 Office. It's right there in a full explanatory
12 footnote. So yeah, there were some prosecutions by the
13 Attorney General's Office since then.

14 REPRESENTATIVE JAMES: Well, I guess that
15 because of the short-sighted pressures of the
16 legislature in terms of the life of the Crime
17 Commission, it seems as though that as you was winding
18 down you had to focus a lot of your work basically on
19 this as opposed to being able to continue to do things
20 that you had begun to investigate, try to finish up
21 investigating. Do you think that this all could have
22 been part of the pressures or intimidations that some
23 intimidations were trying to be on some investigators
24 to just let's get rid of the Crime Commission because
25 they're finding out too much?

1 MR. RYAN: Well, I really--

2 REPRESENTATIVE JAMES: Or is that
3 self-serving?

4 MR. RYAN: Yeah, that would be, and there
5 would be speculation on other people's motivations.
6 Besides this particular investigation, we did continue
7 along and our other agents conducted normal business,
8 and I think that we eventually had some involvement in
9 cases that have led to prosecutions. I think
10 Representative Callagirone is aware of a couple from a
11 grand jury investigation into political contributions.
12 I think we had a rather successful prosecution that was
13 conducted by the U.S. Attorney just before we were done
14 away with in December where two individuals were
15 convicted of extortion and some police corruption in
16 Philadelphia in the Chinatown area.

17 So no, we continued to conduct our
18 investigations in other areas even while this was going
19 on, although it became the main focus, I think, of the
20 hierarchy in trying to pay attention to it.

21 REPRESENTATIVE JAMES: Okay. And I would
22 imagine that all that information is turned over to the
23 State Police to continue the good work that you were
24 doing?

25 MR. RYAN: They will have everything that

1 we have.

2 REPRESENTATIVE JAMES: In terms of would
3 any investigators also be working with the State
4 Police, the Crime Commission investigators, as a result
5 of the transition?

6 COMMISSIONER WALP: Currently acting--

7 REPRESENTATIVE JAMES: Or commissioners.

8 COMMISSIONER WALP: The commissioners,
9 no. The commissioners, no. Legal counsel -- as you
10 know, Act 84 mandated to the Pennsylvania State Police
11 to absorb into our Bureau of Criminal Investigation
12 those functions that were operated previously by the
13 Crime Commission, and therefore that assignment was
14 given to the Bureau of Criminal Investigation, and
15 Major Evanko, in charge of the Bureau of Criminal
16 Investigation, working in conjunction with Captain
17 McGeehan, and also Lt. Colonel Hickett involved in the
18 transition, they came back to me with their assignment,
19 and they came back to me and indicated that in order to
20 fulfill the responsibilities that the Crime Commission
21 had been completing, it would take 40 individuals, and
22 this obviously would lob off the end commissioners and
23 general counsel and so forth, because we already have
24 -- well, there would be no need for commissioners, but
25 we already have people working in administrative

1 functions and chief counsel and so forth, so that would
2 be duplication of effort, so it boiled down to three
3 areas - investigators, analysts, and clerical help.

4 One of the first things I did prior to
5 hiring the Honorable Judge here was that I immediately
6 gave that Act 84 to my chief counsel, Mr. Joe Rengert,
7 to tear it apart to determine what I must do to ensure
8 that I fulfill the mandates of Act 84, my
9 responsibilities as Commissioner. One of the items
10 that he found immediately was that under the old law,
11 so to speak, the investigators would have law
12 enforcement powers. That was not in Act 84. The
13 problem with that as it deals with investigators and
14 analysts, according to our chief counsel, is this: that
15 without law enforcement powers, you would not be able
16 to do what the Crime Commission currently is doing.
17 For example, they can't carry weapons, they can't deal
18 with anything with wiretaps, and a lot of intelligence
19 gathering that we are going to do we're going to deal
20 with the actual wiretaps, we're going to be putting
21 people in very dangerous situations, and then the
22 analysts who must review that must have those powers or
23 it would be in violation of the law or contrary to
24 court decisions, according to our chief counsel.

25 Therefore, our position is that we cannot

1 accept, the law said this, that it was the decision of
2 the Commissioner to accept whomever he wanted based
3 upon whatever decision he would make, and of course
4 that would be by backgrounds and personnel evaluations,
5 et cetera, et cetera. So our position is, and we have
6 made that clear to the commission, I met with them
7 personally and explained it to everybody, and I
8 understand the General Assembly, at least numerous
9 members of the General Assembly understand that, I have
10 received numerous letters, and we will not be receiving
11 any investigators or analysts. The clerical, yes, we
12 will. We have nine vacancies and I think five have
13 applied.

14 Unless we get law enforcement powers --
15 now, I understand there may be some people within the
16 General Assembly may try to amend that law giving them
17 law enforcement powers. I don't know whether that is
18 going to go. That's a political issue. But at this
19 juncture, our plan is to bring in Pennsylvania State
20 Troopers from the field to perform those functions and
21 convert those positions to communication operators who
22 would then replace those positions in the field where a
23 Trooper would not have to sit on the desk, and that is
24 currently our plan and that's the direction we're
25 moving in in order to fulfill the mandates of Act 84 as

1 it was delivered to our doorstep and the wording of
2 that Act 84.

3 REPRESENTATIVE JAMES: Thank you.

4 Thank you, Mr. Chairman.

5 COMMISSIONER WALP: You're welcome.

6 CHAIRMAN CALTAGIRONE: I just want to
7 follow up on that. Representatives Voon and Piccola
8 have both indicated to me that they are, in fact,
9 working on legislation to address that problem, and I
10 think it's something very similar to what we did with
11 the LCB when their agents, in fact, were transferred
12 over to the wing of the State Police. I do anticipate
13 that there's a possibility that sometime within the
14 next week or two that legislation will surface, and
15 hopefully that will be dealt with in the General
16 Assembly.

17 Any other questions?

18 (No response.)

19 CHAIRMAN CALTAGIRONE: I do want to
20 extend this opportunity, because this is probably going
21 to be the last time, as far as we know, that the Crime
22 Commission is going to have an opportunity to address a
23 public hearing and an official body of the General
24 Assembly, are there any statements or comments that any
25 of the other commissioners would care to make?

1 MR. ROGOVIN: I don't mean to preempt my
2 colleagues, Mr. Chairman, but there's something about
3 which I speak personally now, although I know that my
4 views as I express them are shared by my colleagues who
5 have served on the commission prior to the enactment of
6 Act 84.

7 A number of us, those predecessor
8 commissioners--I exclude Colonel Walp not because I
9 think he disagrees, but he's had no opportunity to
10 express his views on this particular point. The
11 commissioners have been accused of an ethnic bias.
12 There are few things that bring my blood pressure up as
13 high as the suggestion that, A, I would harbor a bias,
14 whether it be ethnic, racial, or other. But
15 particularly in view of efforts I have personally made,
16 and this is self-serving, but you can tell from the
17 color of my face I believe how strongly I feel about
18 this. We have been accused repeatedly of an anti-
19 Italian-American bias, and there are very few things
20 that infuriate me to a greater degree. And
21 unfortunately, it was not some sort of quiet, in-the-
22 closet perspective that we held in terms of our views
23 of organized crime in this Commonwealth and in America
24 but rather something we went on the record repeatedly
25 to dispel, and that is the notion that organized crime

1 in America and in Pennsylvania is somehow a function of
2 males who happen to be of Italian heritage.

3 And I want to invite the committee's
4 attention, if I may, most respectfully, Mr. Chairman,
5 to only two of a number of declarations on this issue,
6 because I want to put the word "lie" to the suggestion
7 that our actions, whether in the matter of the Attorney
8 General or in any other context, were ever driven or
9 motivated by an anti-Italian bias.

10 In our annual report of 1993, we wrote in
11 our letter to you and the Governor, and I quote.

12 "Fueled by nearly 40 years of press, television and
13 movie stories about the Mafia and La Cosa Nostra,
14 American perception of organized crime is that it is
15 the activity of criminal organizations whose members
16 are exclusively Italian-Americans. This misperception
17 of ethnic monopoly has served to obscure the existence
18 and operations in Pennsylvania and elsewhere of local
19 racketeers of diverse ethnic and racial character.
20 While La Cosa Nostra represents a continuing threat to
21 the citizens of this Commonwealth, local racketeers and
22 syndicates are equally, if not more deleterious to its
23 economic, political and social life," end of quote for
24 my purposes.

25 And the second, and I'll dispose of it

1 quickly, but in the interest of making this point as
2 clearly as possible, because we commissioners refuse to
3 disappear with a taint that we are anti-Italian-
4 American. I will not stand for it personally, and I
5 can speak for my colleagues who resent it bitterly.
6 "The traditional," quote--from the 1990 report,
7 certainly before this investigation was ever
8 initiated--"The traditional view that organized crime
9 is unique to La Cosa Nostra is seriously challenged by
10 the events of the last decade. Today there exists in
11 the Commonwealth a collage of ethnic groups organized
12 for long-term criminal purposes. At times these groups
13 may establish powerful alliances. At times the groups
14 compete for the same economic turf, particularly in the
15 drug trade, and display unrestrained violence."

16 And if we had time, Mr. Chairman, with
17 your indulgence, we would have laid before you any
18 number of other times where we've individually,
19 collectively taken the time to dispel that outrageous
20 myth.

21 And last I want to say this: not a single
22 member of the Pennsylvania Crime Commission began this
23 inquiry with an animus toward Ernest Preate, Jr.
24 Absolutely not. And we did everything humanly possible
25 to protect the confidentiality of that inquiry until,

1 and I say this with all due respect, Mr. Chairman, we
2 were commanded to appear before the legislature of the
3 State of Pennsylvania and required to make public the
4 nature of our inquiry regarding Mr. Preate. We did
5 everything possible to maintain his confidentiality,
6 until Mr. Preate precipitated those disclosures. This
7 has not been, is not now, and in my view, and my
8 colleagues share it, ever been a vendetta against
9 Ernest Preate. It has been an inquiry into an
10 extremely unpleasant, extremely distressing question of
11 the legitimacy, legality or illegality of the behavior
12 of the highest law enforcement official in the
13 Commonwealth today who previously held the critical
14 position of district attorney of Lackawanna County, and
15 I, for one, will not leave the existence as a
16 commissioner with a tag of bias toward Mr. Preate or
17 toward Italian-Americans.

18 Thank you for your indulgence.

19 CHAIRMAN CALTAGIRONE: Thank you,
20 Commissioner, and just for the record, I also want to
21 let the public know, and for this last official record
22 with the Crime Commission, that I was the only
23 chairman, the only chairman of the Judiciary Committee,
24 and of course we have four, that voted not to have that
25 first report released to the public. I was outvoted 3

1 to 1, and of course at the insistence and through the
2 direct contact of the Attorney General to those
3 chairmen demanded that that report be released to the
4 public. And I think many of you know that I was very
5 insistent that this was not the way we ever operated in
6 the past, and I've spent 18 years up here, that I
7 thought it was going to do tremendous damage to the
8 investigation, to the Crime Commission, to the Attorney
9 General and everybody involved. Of course, I was
10 outvoted and it went public.

11 Any other comments from -- you're going
12 to have your last opportunity, if you care to do so.

13 REPRESENTATIVE JAMES: Can I ask a
14 question, Mr. Chairman?

15 CHAIRMAN CALTAGIRONE: Sure.

16 REPRESENTATIVE JAMES: In regard to the
17 public, we're talking about the combined hearing over
18 there in which you was on the TV cameras and all that
19 in regards to Ernie Preate over in the Senate that was
20 made public, is that what you're talking about?

21 CHAIRMAN CALTAGIRONE: Yes.

22 REPRESENTATIVE JAMES: Because I thought
23 that was, I just want to ask the commissioner a
24 question. Even though the legislature called you
25 before to make a public viewing, could you have refused

1 and asked that you have to be subpoenaed?

2 MR. ROGOVIN: Well, our view has, at
3 least in the period of service, and I think the longest
4 period of service is Mr. Reilly, throughout that time,
5 which is about 12 years, as I recall, and during our
6 tenure, we have always read the statute creating this
7 commission as making us responsible to the Pennsylvania
8 legislature, and that we had to report to you when
9 requested. We would not create an indignancy, if you
10 would, if I may, we would not create a situation where
11 we would have to come and demonstrate a lack of
12 willingness to cooperate with the legislature by
13 insisting on subpoenas. But we were, until the night,
14 as I recall, Mr. Reilly, until the very night before we
15 were appearing in public session, we were under the
16 impression that it was to be an executive session,
17 closed to the public. We were informed that evening
18 and then the next morning that it was to be public.
19 But we thought we were obliged to respond, Mr.
20 Chairman.

21 CHAIRMAN CALTAGIRONE: Okay, thank you.

22 For the record, it's a sad commentary for
23 the state of this Commonwealth for what I believe is a
24 tremendous loss of the service of the Pennsylvania
25 Crime Commission, its employees, and the work that

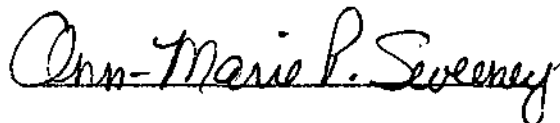
1 they've done over the years. I personally have felt
2 the wrath and I continue to pay for it with my family
3 because of standing up for truth and justice, and I
4 think the record eventually will show that we were
5 right. We did the right things.

6 I'll now adjourn the hearing.

7 (Whereupon, the proceedings were
8 concluded at 4:10 p.m.)

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1 I hereby certify that the proceedings
2 and evidence are contained fully and accurately in the
3 notes taken by me during the hearing of the within
4 cause, and that this is a true and correct transcript
5 of the same.

6
7 

8 ANN-MARIE P. SWEENEY
9

10
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