

VOLUME ONE

Stephen Branchflower
Report To The
Legislative Council

October 10, 2008

PUBLIC REPORT

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I Introductory Comments

Scope Of The Investigation

Pursuant to a unanimous bi-partisan vote of the Alaska Legislative Council taken on July 28, 2008, a contract for legal services was entered into between the Council and me to provide legal services. The contract provides that I, as the Consultant to the Council

“shall provide legal services to investigate the circumstances and events surrounding the termination of former Public Safety Commissioner Walt Monegan and potential abuses of power and/or improper actions by members of the executive branch. The Consultant shall conduct its investigation in a professional, unbiased, independent, objective manner, and conduct the investigation at arm’s length from the political process. The Consultant shall prepare a final report, including any recommendations for action by the Legislature, and submit it to the Agency in a timely manner. If the report includes confidential information, that information shall be set out in a separate attachment so that the main portion of the report consists solely of information that may be disclosed to the public.”

The contract was signed on July 31, 2008, and I commenced the investigation on August 11, 2008.

Persons Interviewed

1. Mayor Mark Begich- Mayor Begich provided a tape-recorded statement on August 18, 2008;
2. Kim Peterson – Former Special Assistant to Department of Public Safety Commissioner Walt Monegan. She provided a taped statement on August 20, 2008. Although not a sworn statement, she subsequently submitted an affidavit attesting to the truthfulness of her taped statement;
3. Robert Cockrell – Governor Palin Security Detail Officer – provided a deposition on August 29, 2008;
4. Lauren Rice - Former Special Assistant to Department of Public Safety Commissioner Walt Monegan. She provided a sworn statement on August 29, 2008;

5. Julia Grimes – Former Director of the Alaska State Troopers – provided a sworn statement on August 30, 2008;
6. Johanna Grasso – Former claims adjuster for Harbor Adjustment Service – provided a sworn statement on August 30, 2008;
7. John D. Glass – Acting Commissioner of Public Safety – provided a sworn statement on August 31, 2008;
8. Audie Holloway – Director of the Alaska State Troopers – provided a sworn statement on September 1, 2008;
9. Cassandra Byrne – Executive Secretary to former Commissioner of Public Safety Walt Monegan – provided a sworn statement on September 1, 2008;
10. Kevin Brooks – Deputy Commissioner Alaska Department of Administration – provided a sworn statement on September 2, 2008;
11. David Tyler – Fire Marshal for the State of Alaska – provided a sworn statement on September 2, 2008;
12. Trooper Rodney Dial – Deputy Commander, A Detachment, AST Ketchikan – provided a sworn statement on September 8, 2008;
13. Major Matt Leveque – Deputy Director, Alaska State Troopers – provided a sworn statement on September 9, 2008;
14. Walter Monegan – Former Commissioner of the Department of Public Safety – provided a deposition on September 10, 2008;
15. Gary Wheeler – Former Governor Palin Security Detail Officer – provided a sworn statement on September 11, 2008;
16. Talis Colberg – Attorney General, State of Alaska – provided a deposition on September 11, 2008;
17. Charles Kopp – Former Commissioner of the Department of Public Safety – provided a deposition on September 12, 2008;
18. John Bitney – Chief of Staff to the Speaker of the Alaska House of Representatives – provided a deposition on September 16, 2008;

19. Murleen Wilkes – Owner, Harbor Adjustment Service – provided a deposition on September 19, 2008.

Subpoenas Issued

A number of subpoenas were issued by the Senate Judiciary Committee on September 12 and 19, 2008. The subpoenas commanded those persons subpoenaed to appear a week later before the committee to give sworn testimony in this matter. The following individuals were properly served [either personally served by a process server or whose attorney accepted on their behalf], and the person failed to appear:

1. Dianne Kiesel – Director, Personnel and Labor Relations – State of Alaska Department of Administration;
2. Annette Kreitzer – Commissioner of Administration – State of Alaska Department of Administration;
3. Nicki Neal – Director of Personnel – State of Alaska Department of Administration;
4. Brad Thompson – Director, Division of Risk Management, State of Alaska Department of Administration;
5. Michael Nizich – Acting Chief of Staff to Governor Palin;
6. Ivy Frye – Special Assistant, Constituent/External Affairs for Governor Palin;
7. Kris Perry – Director of Governor Palin’s Anchorage Office;
8. Janice Mason – Governor Palin’s Scheduler and Executive Secretary
9. Todd Palin – The First Gentleman;
10. Randy Ruaro – Deputy Chief of Staff to Governor Palin.

Also subpoenaed was Frank Bailey, who complied with his subpoena by providing a copy of his sworn deposition, given in this matter to counsel for Governor Palin and Todd Palin Mr. Thomas Van Flein on August 26, 2008. His attorney was medically unavailable to accompany Mr. Bailey for his appearance before the Judiciary Committee on September 26, 2008.

A subpoena was issued and served on ACS Alaska for Mr. Bailey's cell phone records.

On October 6, 2008 Attorney General Talis Colberg announced that some of the above employees have decided they wish to honor their subpoenas and provide information about this case to the Legislative Council. Given that last minute decision and in view of the publication date of October 10, 2008 for this report, it has not been possible to include any such information herein. It is anticipated that the additional information will be submitted to the Legislative Council in a separate report prepared by the employees and/or the Attorney General. Their report is separate from and independent of my report.

Out of deference to her position, no subpoena was issued for Governor Sarah Palin. However, she was requested to cooperate with the investigation by providing a sworn statement. She has not done so. Governor Palin's sister Molly McCann was requested by me to give a deposition; she declined through her attorney.

Documents Reviewed And Assistance Provided

The Attorney General's Office cooperated and provided effective assistance to my investigation by making several hundred confidential documents available for review. Those documents will be returned to the Attorney General's office. The documents consisted of copies of police investigative and administrative investigation [internal affairs] records, medical records, other records, and notes of 14 interviews conducted by AAG Mike Barnhill and Susan Cox as part of the Attorney General's internal investigation. The exception was the Attorney General's failure to timely provide copies of emails and other electronic files requested some time ago. This matter is discussed in my findings section. The Governor's Office, through Acting Chief of Staff Michael Nizich, also provided effective assistance by authorizing Department of Public Safety employees to provide information and assistance to me to the same degree as that provided to AAG Mike Barnhill and Susan Cox.

Confidentiality Of Information

Alaska law provides that personnel records and related information is confidential and may be disclosed only under well defined and narrow circumstances. The following two statutes apply to this report.

Alaska Statute 39.25.080 is captioned "Personnel records confidential; exceptions" and provides in pertinent part

- (a) State personnel records, including employment applications and examination and other assessment materials, are confidential and are not open to public inspection except as provided in this section.

None of the listed exceptions applies to this report.

Alaska Statute 39.25.900. Penalties.

- (a) a person who wilfully violates a provision of this chapter or the personnel rules adopted under this chapter is guilty of a misdemeanor.

- (b) A state employee who is convicted of a misdemeanor under this chapter or the personnel rules adopted under this chapter immediately forfeits the employee's office or position.

Certain portions of this report contain highly confidential personnel information and may not be released or discussed with unauthorized persons by law. For that reason, and also because the specific terms of my contract with the Legislative Council require me to do so, I have divided the report into two volumes, which I have labeled "Volume One" and "Volume Two."

Volume One contains the public portion of the report. It is free of confidential information either because [1] the information is not confidential as a matter of law, or, if it was confidential at one time, [2] the confidential nature of the information has been waived by Trooper Michael Wooten when he released the information to the public, or, [3] the confidential nature of the information has been explicitly waived by Trooper Wooten in writing with the advice and consent of his attorney. Certain portions of Volume One have been redacted to exclude confidential information. Additionally, Volume One contains only excerpts of transcripts of the testimony of the witnesses. Neither the transcripts nor the exhibits/attachments referred to in the testimony have been included because they may contain discussions about confidential material. I have made an effort to balance the legal requirement to preserve confidentiality against the public's right to information about the functioning of government and have redacted as little as possible. Volume Two contains the entire report, and has been released only to the Legislative Council.

Trooper Michael Wooten's Written Waiver And Statement

At my request, and with the advice and consent of his lawyer, Trooper Michael Wooten has executed a written waiver which states in pertinent part:

I do, per your request, hereby authorize you to obtain from the state and release to the public only the circumstances surrounding information

reported by Todd Palin regarding my riding a snow machine with my son in April, 2007, which is contained in my state worker's compensation file. This release does not authorize release of any medical or treatment records or any other information from my worker's compensation file other than that specifically stated.

I also understand you are requesting my release to you of the contents of my Administrative Investigation file pertaining to the complaints and investigation conducted during Colonel Julia Grimes' administration. I hereby authorize you to obtain and release those records to the public.

I have had ample opportunity to consult with counsel. The provisions of AS 39.25.080 have been fully explained to me regarding making this statement to you and releasing records to you. I do so knowingly and voluntarily pursuant to AS 39.25.080(c).

A copy of the waiver has been placed in Volumes One and Two. Even though Trooper Wooten has executed the waivers, other portions of certain records remain confidential because they involve other persons and entities. The result is that some of Trooper Wooten's otherwise confidential information has been placed in Volume One, but not all of it. That explains the need for a public report and a confidential report. Trooper Wooten has also submitted a statement.

II Findings

Finding Number One

For the reasons explained in section IV of this report, I find that Governor Sarah Palin abused her power by violating Alaska Statute 39.52.110(a) of the Alaska Executive Branch Ethics Act. Alaska Statute 39.52.110(a) provides

“The legislature reaffirms that each public officer holds office as a public trust, and any effort to benefit a personal or financial interest through official action is a violation of that trust.”

Finding Number Two

I find that, although Walt Monegan’s refusal to fire Trooper Michael Wooten was not the sole reason he was fired by Governor Sarah Palin, it was likely a contributing factor to his termination as Commissioner of Public Safety. In spite of that, Governor Palin’s firing of Commissioner Monegan was a proper and lawful exercise of her constitutional and statutory authority to hire and fire executive branch department heads.

Finding Number Three

Harbor Adjustment Service of Anchorage, and its owner Ms. Murleen Wilkes, handled Trooper Michael Wooten’s workers’ compensation claim properly and in the normal course of business like any other claim processed by Harbor Adjustment Service and Ms. Wilkes. Further, Trooper Wooten received all the workers’ compensation benefits to which he was entitled.

Finding Number Four

The Attorney General’s office has failed to substantially comply with my August 6, 2008 written request to Governor Sarah Palin for information about the case in the form of emails.

III Case Summary

Former Alaska State Trooper Colonel Julia Grimes had oversight responsibility for the Administrative Investigation involving Trooper Mike Wooten that occurred in 2005. The investigation was the result of a complaint against Trooper Wooten filed by Chuck Heath, Sarah Palin's father, on April 11, 2005. In time, additional allegations were made. During the course of the investigation, Troopers interviewed Sarah Palin, several family members, and others who had information about the allegations. Some of the information that resulted in the totality of allegations came from a private investigator hired by Sarah Palin's husband Todd and Sarah Palin. Because personnel actions are confidential by law,¹ Department of Public Safety employees, including Colonel Grimes, were prohibited from telling those persons who had lodged allegations against Trooper Wooten, including Sarah and Todd Palin, the results of the Administrative Investigation.

Colonel Grimes received an email from Sarah Palin on August 10, 2005 about Trooper Michael Wooten.² Regarding Ms. Palin's email, Colonel Grimes testified:

MS. GRIMES: The summary of this email is concern on the part of Sarah Palin for the public's faith in our organization, the Alaska State Troopers, and that based on the alleged, you know, the complaints and the allegations that had been forwarded to us about Trooper Wooten. She also cites that she's concerned about the perception that there has been a lack of action in pursuing the allegations. She reviews -- goes over many incidences that had already been related to us in the initial complaint. I think we spoke earlier about the fact that one allegation in here was new and that was the shooting the illegal moose, shooting a moose without a permit. She reviews many other incidents and asks, you know, relates her concern and the concern of the community and other residents over the actions of Trooper Wooten.

MR. BRANCHFLOWER: It appears from this that her perception is that the troopers were not doing anything about the complaints?

¹ Alaska Statute 39.25.080 is captioned "Personnel records confidential; exceptions" and provides in pertinent part

- (a) State personnel records, including employment applications and examination and other assessment materials, are confidential and are not open to public inspection except as provided in this section.

None of the enumerated exceptions apply to this case.

² Grimes transcript page 33, line 11. The email is marked Exhibit 1 and appears at the end of the transcript of Ms. Grimes testimony in the confidential portion of my report.

MS. GRIMES: Yes.

MR. BRANCHFLOWER: Is that how you took it?

MS. GRIMES: Definitely. You know, I think that it's not unexpected that someone would be concerned about the length of time because this did get extended because our complaints were coming in at a staggered rate. We did -- it took some time to get this resolved. So, she was expressing that concern.

On October 10, 2005, Colonel Grimes received a letter from Mr. Heath that referred to Sara Palin's August 10, 2005 email to Colonel Grimes. Mr. Heath's letter expressed concern as well about the perceived lack of action, and frustration because he had been given no feedback about what the Troopers were doing about the case. During her testimony, Colonel Grimes again testified that no feedback was possible due to the confidentiality provisions of AS 39.25.080.

On December 28, 2005, as Colonel Grimes was reviewing the investigative findings and formulating a plan for the imposition of discipline on Trooper Wooten, she received a telephone call from Todd Palin who inquired about the status of the case. Colonel Grimes testified:

MS. GRIMES: Our conversation was quite cordial. I, of course, acknowledged that I understood why he was concerned, as I did. I reassured him that we have a process and that the process was underway, that we would deal with the employee. I understood why he was concerned, but that the process had to take its course. We talked about the policy and the State law that protects -- that makes the personnel information confidential and I actually gave him the statute number that refers to that. It's, for the record here, Statute -- it's AS 39.25.080. That is what prohibits any State employee from discussing personnel issues with anyone else.

MR. BRANCHFLOWER: You cited that statute to Mr. Palin, Alaska Statute 39.25.080, in this conversation?

MS. GRIMES: Yes, I did. We discussed the fact that the process was ongoing, that, you know, I take it seriously, that we need to give the employee due process, et cetera. And, I just described to him that it is a process that takes some time and tried to reassure him that we were dealing with it as best we could, you know, based on the procedure that we have.³

³ Grimes transcript page 20, line 10.

Colonel Grimes received a telephone call from Sarah Palin about the status of the Wooten investigation some time between October 29, 2005 and December 28, 2005, when she received the call from Todd Palin. Ms. Grimes testified:

MS. GRIMES: On that day that I made that phone call, I was traveling somewhere on State business. I was in the Alaska Airlines Boardroom when I returned a phone call to Sarah Palin. The call lasted about ten to 15 minutes, I would estimate, and a very cordial conversation. Sarah Palin wanted to know what the status of the -- she was concerned about the status of the complaints that had been filed. Her questions were how can a trooper that behaves this way still be working and was concerned that we were taking it seriously and that we cared. I mean, she wanted to know that we -- although those may not have been her specific words, she wanted to know that we cared about this as much as they did. In response to that, I told her that I absolutely take this stuff very seriously. I told her that the investigation had been ongoing and that, specifically, if the allegations that have been forwarded to us, if they were sustained by the investigation, that I did not tolerate that kind of behavior in a trooper, that it was as offensive to me as it was to her. But, I also explained that I could not get into a lot of detail about it because of the confidentiality of personnel information, that I couldn't discuss the details about where we were, what we were doing, etc. because it's all protected by law, that same statute that I had mentioned actually later on that I mentioned to Mr. Palin. During the conversation, I told Sarah Palin that -- or I asked her, I guess. I said, I asked her to please trust me, that because I can't tell her details, I would ask her to trust me that I would take the appropriate action if and when I knew what the Findings were. Well, not yet, but when I knew what the Findings were and that, once I made my decision about what to do about the Findings, I was not going to be able to tell her. You know, I couldn't have another conversation with her about it because, again, it's protected by law. And, we talked a little bit about the due process entitlements for, you know, all State Troopers, that we had to go through the procedure. We have a process, and we have to protect his rights under the bargaining agreement and that that was, you know, part of the whole procedure and why sometimes it seems to take a while. And, ultimately, she, I think, stated that she understood, that she felt reassured that we were working on it, and that we would take it seriously. And, that was really a summary of the conversation.⁴

The Administrative Investigation was concluded. On March 1, 2006 Trooper Wooten received written notice of the terms of his discipline. An appeal of the terms of

⁴ Grimes transcript page 37, line 19.

the discipline was undertaken by Trooper Wooten with the assistance of his union, the Public Safety Employees Union [PSEA]. The appeal was settled on September 5, 2006. Trooper Wooten continued his employment as a Trooper.

Todd Palin's call to John D. Glass about Trooper Wooten

Veteran Alaska law enforcement officer John D. Glass received a call from Todd Palin on November 8, 2006, four days after Sarah Palin was elected Governor of Alaska. Mr. Palin wanted to talk about Mike Wooten. At the time Glass was the Chief of Police for the Wasilla Police Department. He was appointed Deputy Commissioner of Public Safety by Walt Monegan a short while later. At the time he received the call from Palin, Chief Glass had two vacant police officer positions on his police force. Chief Glass testified:

MR. GLASS: Todd had basically told me that he did not want Wooten hired as a City police officer, that Wooten was a very bad trooper and needed to be fired from his job as a trooper, and that Wooten should not be considered at all as a City police officer.⁵

Frank Bailey offered Walt Monegan the job of Commissioner of Public Safety

Between the periods from around mid September 2006, to the time candidate Palin was elected in November 2006, Anchorage Police Department Chief of Police Walt Monegan received three phone calls from Frank Bailey. In the first two calls, Bailey asked Monegan whether he would agree to do a campaign ad with candidate Palin; Monegan declined. Following her election, Bailey called a third time to ask whether Monegan would be interested in the position of Commissioner of Public Safety, and he accepted the offer. Monegan testified:

MR. BRANCHFLOWER: Okay. Now, with respect to these three telephone calls, did Frank Bailey suggest to you directly that he was calling on behalf of Governor Palin?

MR. MONEGAN: That -- I believe he said something to that effect, yes.

MR. BRANCHFLOWER: For all three calls or just the --

MR. MONEGAN: Well, the first two, he wanted to know if I'd be willing to do an ad with him. And I would pretty much assume that that was in fact with her permission, obviously. The last one was -- it wouldn't be his call to make that selection of a commissioner.

⁵ Glass transcript page 8, line 3.

MR. BRANCHFLOWER: To offer you the job?

MR. MONEGAN: Correct. That would have to be from the governor.

MR. BRANCHFLOWER: Did he -- did he expressly state he was calling on behalf of Governor Palin?

MR. MONEGAN: Governor elect, yes.

MR. BRANCHFLOWER: Governor Elect Palin.

MR. MONEGAN: I recall something like that, yes.

MR. BRANCHFLOWER: In that third call?

MR. MONEGAN: Yes.⁶

Monegan's appointment as Commissioner of Public Safety

Around mid-November 2006, Walt Monegan received a call from Governor-elect Sarah Palin, who told him "I want you to be the -- my top cop. I want you to do this."⁷ The two met the following Monday at her transition office in Anchorage, a short while before she was sworn in. The meeting lasted about an hour. A short while later, Governor-elect Palin issued a press release announcing Monegan's appointment as her Commissioner of Public Safety. Two other Commissioners were also announced at the same time in the press release. They were Marty Rutherford, Department of Natural Resources (interim), and Joe Schmidt, Department of Corrections.

In her November 28, 2006 press release, Governor-elect Palin praised Monegan and said:

Walt Monegan is a familiar name to many in Southcentral and rural Alaska. Monegan recently retired after 32 years in law enforcement with the Anchorage Police Department -- the last five as the Chief of Police. Monegan oversaw a staff of 574 employees and an \$80 million budget. Starting as a patrol officer and rising steadily through the ranks, Monegan has experience in every facet of public safety, including internal affairs, crime prevention, communications, emergency operations, training, anti-gang efforts, school/youth liaison and Crime stoppers. Monegan is credited

⁶ Monegan transcript page 8, line 23.

⁷ Monegan transcript, page 10, line 22.

with enhancing police effectiveness by installing mobile computers in police vehicles; implementing advanced 911 service to Alaska's largest municipal population; writing plans to address gang and youth violence; supporting the establishment of professional standards for village public safety officers; establishing a Citizens Police Academy and resurrecting police traffic units to address drunken driving. Monegan has a bachelor's degree in Organizational Administration from Alaska Pacific University and an Associate's degree from the University of Alaska, Anchorage. His advanced professional education includes senior government executive training at Harvard University's John F. Kennedy School of Government, the FBI's National Executive Institute and the National Crime Prevention Institute. He and his wife, Terry, have four adult children and one grandchild. Monegan lives in Anchorage. "Chief Monegan will bring to the Department of Public Safety the perspective of a career professional peace officer and administrator with a proven record of using resources effectively to address the changing public safety needs of Alaskans," said Palin. "As an Alaska Native from the Lower Kuskokwim village of Nyac, he understands the special public safety on a statewide basis. We are fortunate to have such an experienced and well-rounded police professional heading the Department of Public Safety."

Commissioner Walt Monegan's first day on the job was December 6, 2006, the day after Governor Palin's inaugural. During that time, Monegan was deciding whom to appoint to his vacant DPS Deputy Commissioner position. The Governor had appointed a transition team to consider applicant's to DPS positions, and Chuck Kopp was the leader of the team. Soon, Monegan appointed John Glass, the then Chief of Police for the Wasilla Police Department, and a retired Alaska State Trooper. A short while later, Monegan appointed Audie Holloway to be the Director of the Alaska State Troopers after Governor Palin's then Chief of Staff, Mike Tibbles, approved Monegan's selection.

Commissioner Walt Monegan was summoned to a meeting with Todd Palin in Governor Palin's office on January 4, 2007

Commissioner Monegan's secretary Cassandra Byrne testified about a call she received in December 2006 from Governor Palin's office:

MR. BRANCHFLOWER: And can you just describe, in your own words, the telephone call: where it came from, who you spoke to, if you recall what happened? Then I'll have some follow up questions.

MS. BYRNE: Sure. I believe it was either Janice Mason or Sunny Cayce that called and said that the First Gentleman would like to have a meeting with Commissioner Walt Monegan. At that time I was not familiar with the

term "First Gentleman" or didn't hear her correctly, so I kept asking her "who?" and she eventually said "Todd Palin". I said, "Oh, okay" so we set the time and the place, which was the Governor's Office in Anchorage, and that was how the appointment was set was that phone call.

MR. BRANCHFLOWER: When was the appointment scheduled for?

MS. BYRNE: January 4.

MR. BRANCHFLOWER: So it sounds like you don't remember exactly who called you. It was Sunny Cayce?

MS. BYRNE: Cayce.

MR. BRANCHFLOWER: Cayce. Can you spell that for the record?

MS. BYRNE: C-a-y-c-e.

MR. BRANCHFLOWER: Or?

MS. BYRNE: Or Janice Mason. I believe the last name is spelled M-a-i-s-o-n. She is currently still the Governor's scheduler.

MR. BRANCHFLOWER: Can you just recreate how the conversation went, what was said, so forth and so on and what you did?

MS. BYRNE: She said that she would like to schedule an appointment with Commissioner Monegan, with the First Gentleman. When I asked her "excuse me?" I didn't know the terminology, and she eventually said "Todd Palin". We continued to set the appointment. She gave me the time, the location, and it was entered onto the calendar.

MR. BRANCHFLOWER: And what was that location?

MS. BYRNE: It was Anchorage. The Governor's Anchorage office.

MR. BRANCHFLOWER: And the time, or the date?

MS. BYRNE: The date was January 4. I don't remember the time.

MR. BRANCHFLOWER: It was January 4.

MS. BYRNE: It was in the afternoon.

MR. BRANCHFLOWER: Did she tell you that it was scheduled for the fourth, or did she ask you when Commissioner Monegan was available?

MS. BYRNE: I don't remember. Although at that time, I believe that she said the date because it was early on in this Administration and he did not have a lot of meetings scheduled.

MR. BRANCHFLOWER: Who? Monegan did not have a lot of meetings?

MS. BYRNE: Right, at that time. It was very early in his tenure.

MR. BRANCHFLOWER: So you think that the caller from the Governor's office was the one who suggested the fourth of January?

MS. BYRNE: Yes.⁸

Commissioner Monegan's meeting with Todd Palin

Commissioner Monegan arrived at the Governor's office at the appointed time and was directed into Governor Palin's office. Governor Palin was not present. Mr. Palin was sitting at a large conference table and invited Mr. Monegan to sit. Both men were wearing business attire. Mr. Monegan testified:

MR. MONEGAN: What I recollect was that Todd was sitting there. He had three stacks of paper in an array in front of him. The largest one was probably a quarter inch thick, and that was in the center. To his right, I believe what I recall was a stack of paper that looked like photos or copied photos on to typing paper, if you will. And on his left, I believe he had a smaller stack, as well, that had three or four pages in it. And it was -- it had the letterhead and logo of the Department of Public Safety.

MR. BRANCHFLOWER: Okay. So the one stack that had the Department of Public Safety logo on it, could you tell what kind of documents they were?

MR. MONEGAN: That one appeared to be correspondence. It was -- it looked like a letter that was sent, and presumably from the Alaska State Troopers. And it was text written -- I think the date was somewhere in '05 or '06, I believe. I don't remember looking at the date. But it was older; I know that.

⁸ Byrne transcript page 5, line 20.

MR. BRANCHFLOWER: Okay. Did he invite you to read the document to know exactly what it said?

MR. MONEGAN: I scanned it. But as I was scanning it, he was talking to me. So my attention was split, so to speak. Being a guy, I can't multitask that well.

MR. BRANCHFLOWER: I know the feeling.

MR. MONEGAN: And the -- but what I was reading -- what it appeared to be was the correspondence regarding a complaint that he and the governor who -- had made prior to the governor becoming the governor in regards to a Trooper Mike Wooten and -- who happened to be the former brother-in-law of the Palins. Apparently he had divorced one of the governor's sisters.

And while I'm trying to scan this, my impression of the letter, that it was -- that they were -- they -- the author, which I believe was Colonel Grimes, was trying to explain to them that they investigated the complaint, and they had sustained some of the issues that the complaint was involving, and that -- but not all of them.⁹

And at the same time, Todd was explaining about the character and the events of -- that surrounded Michael Wooten.

And my first impression, as I'm listening to this and reading it, that the investigation had been complete -- already completed. I mean, I surmised that a little bit from the -- what I think was in that letter, and that the impression was that Todd was not happy with the outcome of the investigation.

⁹ On September 20, 2008, following Mr. Monegan's deposition on September 10, I sent former Colonel Grimes an email where I asked, "I have a quick follow-up question to your testimony. Did you ever write any correspondence [or memos, emails, etc.] to either Todd or Sarah Palin about the Wooten Administrative Investigation, re the status of the investigation, findings, etc.?" Ms. Grimes responded on September 24, 2008 and said, "I have no specific recollection of writing any correspondence to Sarah or Todd Palin about the Wooten AI. Any document of that nature would have been copied, filed and ultimately archived within the AST Director's Office. Current AST staff has not located any correspondence from me to the Palin's in any Director's Office files or any files that I reviewed to refresh my recollection of events prior to my sworn statement to you."

So when he informed me that -- he also had the larger stack. The one that was in the center was a report from a private investigator that they, whoever "they" is, had hired to look into some of the issues and allegations or -- surrounding Trooper Wooten.

And then the smaller stack that looked like photos were just something that -- what appeared to be, like, individuals, who either copied it from a computer or basically took photos of -- in fact, I think they were transferred through a computer and color photos were printed out on that.

MR. BRANCHFLOWER: What were they pictures of?

MR. MONEGAN: What I recall, one looked like a moose and -- that had been shot. There may have been others, but I just glanced through them while I'm, again, trying to pay attention to Todd talking to me about Trooper Wooten.

MR. BRANCHFLOWER: Well, what -- what did he tell you about Trooper Wooten?

MR. MONEGAN: Well, he told me that this particular trooper had -- had gone through a divorce with Molly, which is one of the sisters of the governor, and that it was -- this particular individual wasn't and shouldn't have been a trooper, that he didn't model himself well as a trooper, that they had filed complaints.

They had worked with Colonel Grimes, and actually went to her office and talked to them about Trooper Wooten. And the allegations included the taking of a moose illegally, tasing an 11-year-old stepson of Wooten's, drinking while driving in the patrol car, having a beer while he was driving his patrol car. And there may have been a couple of others, but the details on that, I don't recall.

MR. BRANCHFLOWER: And did he say that he and the governor had met with the folks who handled that matter in the prior administration?

MR. MONEGAN: I believe he kept using the term "we." We went to go talk to, we, we. And so I assumed it was he and Sarah, of course.

MR. BRANCHFLOWER: And did he tell you what the outcome of that investigation was, and specifically whether or not he was satisfied with it?

MR. MONEGAN: He told me that he just got a few days off, and he didn't think that was enough. And this guy shouldn't be a trooper.

The characterization of how that meeting occurred, on his part more specifically, was I saw somebody who was somewhat animated. Not certainly out of control, but he was passionate about how he was addressing this issue.

And my impression initially was that he's venting. I mean, there was a complaint, the troopers investigated it and they came up with a conclusion, and that he was not happy with the conclusion.

And often, having been a cop for a long time, that actually happens a lot in divorce cases.

MR. BRANCHFLOWER: In what?

MR. MONEGAN: In cases of divorce, where it pegs the emotion for individuals involved, or those who are supporting them sometimes.

MR. BRANCHFLOWER: Did he seem frustrated with the trooper investigation that had already taken place?

MR. MONEGAN: He did. And that he thought that maybe perhaps there were things that were missed or overlooked, and that -- and so what he was -- basically what he was asking and brought me there for was if I could look into this file and review it. So I told him I could and I would, and that I would have it reviewed.

MR. BRANCHFLOWER: Did he characterize the discipline that had been imposed on Trooper Wooten?

MR. MONEGAN: He didn't think it was enough. It was more of a slap on the hand or slap on the wrist. And I know that -- because I heard that same expression a little later on by the governor.

MR. BRANCHFLOWER: We'll get to that in a minute. But I'm focusing on the words that Todd Palin used during this January meeting. Did he use the term, quote, "slap on the wrist"?

MR. MONEGAN: I believe he had.

MR. BRANCHFLOWER: And was there any -- did he express any opinion about whether or not Mr. Wooten should have been prosecuted?

MR. MONEGAN: He thought that certainly the taking of a moose was a criminal act and that it should have been investigated and handled properly. Again, there was the overall tone of frustration on his part.

And I told him I would look into it and -- which I did. I had it -- I gave the file to Major Matt Leveque and asked him very specifically, page-by-page review of the file that Todd had compared to the investigation that was done.

MR. BRANCHFLOWER: Okay. It sounds to me as if Mr. Palin gave you something. You said you just gave some material to Matt Leveque?

MR. MONEGAN: Yeah. I'm sorry.

MR. BRANCHFLOWER: Did he -- did Todd Palin give you something? Did he ask you to do something?

MR. MONEGAN: Yes, he did. Actually, there was -- those three stacks of paper, we combined. You know, the photos, the documentation, and the private investigator's report, he gave it to me as a packet and asked me to review it, so I told him I would.

MR. BRANCHFLOWER: Did he give you any specific request about those materials?

MR. MONEGAN: Just basically to look it over to see if we missed anything. Because he didn't think what transpired -- they didn't take the complaint seriously or something to that effect.

MR. BRANCHFLOWER: Okay. And what did you do with the stack of materials that he gave you?

MR. MONEGAN: I told him I'd have -- I told Todd that I would have the -- compare it to the investigation.

So I took the stack with me at the end of the meeting, returned back to DPS, and I gave it to Major Matt Leveque and asked him do a page-by-page comparison, did we miss anything on this. And he said he would.

MR. BRANCHFLOWER: Did you make any promises to Todd Palin?

MR. MONEGAN: The only promise I made to him, or the only statement I made, is I would look into it.

MR. BRANCHFLOWER: And what was his reaction when he heard you say that you would look into it?

MR. MONEGAN: He said, that's good, thanks.

MR. BRANCHFLOWER: And what did you see as your job at that point with respect to these materials?

MR. MONEGAN: That -- was trying to resolve in this case a citizen's issue with a complaint and how it was investigated and handled.

And in part, again, being a cop for a long time, I was watching a person what I thought was venting about some frustration that he didn't think that the complaint was handled either properly or that the discipline wasn't severe enough.

MR. BRANCHFLOWER: Was there anything mentioned during the course of this meeting with Todd Palin about concerns -- security concerns or fear that either he or Governor Palin may have had with respect to Trooper Wooten?

MR. MONEGAN: He did say that there was -- Trooper Wooten had supposedly made a statement that had threatened the governor's father, and that that was part of the allegation, part of the package that was done in there.

But to an ongoing situation, ongoing threats to the governor or to her family, I didn't perceive it that way, no.

MR. BRANCHFLOWER: Did he ask you for any kind of security detail assigned to him or extra security, anything like that?

MR. MONEGAN: No, he did not.

MR. BRANCHFLOWER: Did he leave you with any impression of whether the troopers would be better served if Mr. Wooten was not -- was no longer in the employ of the Department of Public Safety?

MR. MONEGAN: That was the impression I got. Basically my impression is that he didn't think Wooten should be a trooper, and said that -- about said as much.

MR. BRANCHFLOWER: Did he ever say something -- words to the effect, look what kind of guy you have on your force, or something along those lines?

MR. MONEGAN: It was something to that effect, yeah. And also, during the entire conversation, there wasn't any other issues of other people. I mean, the sole meeting -- the sole topic at the meeting between Todd and I was strictly about Wooten.¹⁰

Mr. Monegan testified about his thoughts on the drive back to his office following his meeting with Mr. Palin:

MR. MONEGAN: Well, on the drive back, as I was reflecting on the meeting -- drive back to the office, I was thinking that in essence, they certainly didn't like the idea that Wooten was still employed. And they wanted severe discipline, probably termination, and that -- and if this was going to build, I had this kind of ominous feeling that I may not be long for this job if I -- if I didn't somehow respond accordingly.

MR. BRANCHFLOWER: So your career you thought might be in jeopardy unless you took some decisive action that might result in Trooper Wooten's dismissal from the force; is that your testimony?

MR. MONEGAN: Yes. And -- but the flip side of it, I also got to augment with that that having been a police officer, I certainly believe in rules and regulations and laws and whatnot. And there is a certain part that you will not step over. So I was -- I felt that if there is a term where you start to feel pressure, you are between laws and self-preservation, so to speak.¹¹

Mr. Monegan left his meeting with the materials given to him by Todd Palin. He

¹⁰ Monegan transcript page 24, line 9.

¹¹ Monegan transcript page 32, line 23.

immediately gave them to Major Matt Leveque to do a page-by-page comparison with the materials gathered by DPS in connection with the now closed administrative investigation to see if investigators had missed anything or whether there was some new evidence. A couple of days later, Major Leveque reported to Monegan that the review had been done, and that there was nothing new. Monegan testified "That every issue that was brought up by the material that Todd Palin had provided me had already been addressed and covered in the investigation."¹²

Commissioner Monegan called Mr. Palin a couple of days after their meeting. He related that the page-by-page comparison between the materials Palin had given him had been done with the documents in the original Administrative Investigation, and that there was nothing new. Monegan testified:

MR. BRANCHFLOWER: And so did you do that? Did you call him back?

MR. MONEGAN: I did. I called him back, and I advised him that we had made the comparison. There is nothing new, the case is closed, and that -- and honestly, he responded with more frustration.

I think he was upset that -- that there wasn't anything new or we couldn't act on anything different.

And I tried to explain to him -- I even gave him some -- more examples. Pertaining to the moose, I said that in the moose kill, for example, if you wanted criminal charges brought against Wooten for actually pulling the trigger on a technicality, his wife did have a permit, and she was with him.

If she was standing with him and he's the only one that just pulled the trigger, did that violate the letter of the law? Probably. Did it violate the spirit of the law? I don't think anybody's going to charge it. But if they did, if there was a criminal act there, there would be more people that would be culpable of being charged than just Wooten.

MR. BRANCHFLOWER: How so?

MR. MONEGAN: Well, the wife, it was her permit. She willingly allowed somebody else to use it.

¹² Monegan transcript page 34, line 1.

It also -- once the moose had been shot, it had been drug, according to Todd, by Wooten in the back -- from the back of a truck to the location where it was butchered by the governor's father. And so I pointed out that there are people also involved in this incident that theoretically could also be charged.

And he said, I didn't want that. I only want Wooten charged. Well, we're not that way. If there's somebody who's guilty, we have to hold everybody accountable for their actions and their decisions.¹³

Governor Palin's call to Walt Monegan

A couple of days after Mr. Monegan told Todd Palin the materials he had provided failed to disclose any new evidence regarding the closed Wooten administrative investigation, he received a call from Governor Palin, to discuss the Wooten disciplinary matter.

MR. BRANCHFLOWER: And in fact, did you receive a call from Sarah Palin shortly thereafter?

MR. MONEGAN: About a day or two after that. It was late in the evening. I think I was talking to Matt Leveque at the time, and my cell rang. I answered it, and she goes, Walt, this is Sarah. Well, hello, Governor.

And Matt, hearing that, hopped up out of his chair, waved at me, and left. And I think that's pretty much protocol. People -- if the governor calls, everybody kind of vacates the office, because they don't want to compromise confidentiality, or any perceived of it.

MR. BRANCHFLOWER: So what was she calling about?

MR. MONEGAN: She was echoing some of the frustration that I had already heard from Todd, and the same kind of issues about Trooper Wooten and the moose kill, the investigation, how the -- the investigation and the outcome of the investigation, just it didn't seem right.

MR. BRANCHFLOWER: That's what she said?

MR. MONEGAN: Yeah.

¹³ Monegan transcript page 34, line 6.

MR. BRANCHFLOWER: Now, was this a call that -- during which you discussed other business, police business, or was the sole topic Michael Wooten?

MR. MONEGAN: The sole topic was Michael Wooten.

MR. BRANCHFLOWER: Okay. Did you echo everything that you had told Todd a couple of days before?

MR. MONEGAN: I did, to include examples.

MR. BRANCHFLOWER: The examples about --

MR. MONEGAN: That there would be more than one person charged in a moose hunt. For example, there would be other people that could be charged if a charge was levied.

MR. BRANCHFLOWER: Including her father, for having assisted?

MR. MONEGAN: Correct.

MR. BRANCHFLOWER: You mentioned that to her?

MR. MONEGAN: Yes.

MR. BRANCHFLOWER: And what was her reaction at hearing all of that?

MR. MONEGAN: Well, again, I think she kind of said the same things that Todd did, in regards to that this is just not right. Michael Wooten is -- isn't a trooper that should be wearing a badge, or isn't a trooper that should be examples of what Alaska State Troopers should be. She was frustrated.

MR. BRANCHFLOWER: Did the topic come up -- or did you mention that the discipline had already been imposed on Mr. Wooten during the previous administration following an administrative investigation and that the matter was closed?

MR. MONEGAN: I did. And I think that's when she said something about he only just got a slap on the wrist.

MR. BRANCHFLOWER: I'm sorry. Say that again.

MR. MONEGAN: I did say that the case was closed, and that this is when she responded that Trooper Wooten only got a slap on the wrist.

MR. BRANCHFLOWER: And were you able to gauge her -- her level of -- you used the word passion earlier, I think.

MR. MONEGAN: Passion and frustration.

MR. BRANCHFLOWER: Passion and frustration?

MR. MONEGAN: Yes.

MR. BRANCHFLOWER: Was that what you sensed in the conversation?

MR. MONEGAN: Yes.

MR. BRANCHFLOWER: Did she -- did she appear -- or did she say anything that would lead you to believe that she was emotionally involved in the affairs of her sister or perhaps the divorce or the -- or any child custody disputes that might have been ongoing at the time?

MR. MONEGAN: I didn't know anything about the child custody issues. But yes --

MR. BRANCHFLOWER: I'm not suggesting that there were. I'm just asking because I just frankly don't know. But did that topic come up?

MR. MONEGAN: About child custody? No, it did not.

But the topic of her being frustrated and emotionally involved in this, yes. She was. Again, being a cop for a long time, this is not the first time I've ever heard it, not the first time I've ever recognized it. It just -- sometimes people deal with things that way.

MR. BRANCHFLOWER: And I think you did say -- if not, I'll ask you. Did you tell her that there was no new evidence, and that there was really nothing you could do?

MR. MONEGAN: That's correct, I did.

MR. BRANCHFLOWER: And was she accepting of that? And if so, how did she indicate that?

MR. MONEGAN: She was disappointed. She -- I don't know if she said the word "I'm disappointed," but she certainly sounded that way, and that she was hoping for some other outcome. That was what I was intuitively looking at. She was looking for some other outcome other than what already happened.

MR. BRANCHFLOWER: Did she express, as Todd had expressed in his early meeting with you, that this was not the kind of a person that should be a trooper, or words to that effect?

MR. MONEGAN: Something to that effect, yes.

MR. BRANCHFLOWER: Now, you described the telephone -- excuse me. You described a meeting on January the 4th with Mr. Todd Palin, and you've just described the call from Governor Palin, and you've described the telephone conversation that you had with Todd Palin, all three of which were specifically about Todd Wooten -- Todd -- excuse me, about Michael Wooten?

MR. MONEGAN: That's correct.

MR. BRANCHFLOWER: Now, at the end of this conversation with Governor Palin, who obviously is I think the chief executive of the state and your boss, what did you think your future held with respect to your job as commissioner of public safety?

MR. MONEGAN: Well, I believe that with as much emotion and passion as I heard in both Todd and Sarah on this, that especially since the divorce had, in my mind, occurred like a year or two prior, that if I keep telling them things that are going to frustrate them, I may not be long for the job. I think I may have made a comment like that to my wife.¹⁴

Monegan's conversation with Governor Palin on February 13, 2007

Monegan testified that on February 13, 2007, he was in Juneau during the first legislative session greeting various legislators because he was up for confirmation as Commissioner of Public Safety. He stopped at Governor Palin's office to suggest she

¹⁴ Monegan transcript page 37, line 2.

accompany him to wish Senator Lyman Hoffman birthday greetings. He explained what happened on the way to Senator Hoffman's office:

MR. MONEGAN: ...So as we were walking down the stairs, the governor mentioned to me, she says, I'd like to talk to you about Wooten.

And I said, ma'am, I need you to keep an arm's length at this -- on this issue. And if you have further complaints on him, I can deal with Todd on it.

And she goes, that's a better idea.

MR. BRANCHFLOWER: And what date was this?

MR. MONEGAN: It was Lyman Hoffman's birthday.

MR. BRANCHFLOWER: Do you know the date, though?

MR. MONEGAN: I think it's the 13th of February.

MR. BRANCHFLOWER: Thirteenth of February. So that conversation occurred the 13th of February, of '07 it would have been, correct?

MR. MONEGAN: Yes.

MR. BRANCHFLOWER: Did you discuss it with the governor any further --

MR. MONEGAN: No.

MR. BRANCHFLOWER: -- that day?

MR. MONEGAN: No. that was it.¹⁵

Monegan was summoned to Mike Tibbles' office to discuss Mike Wooten

Approximately one or two weeks after his conversation with Governor Palin while on their way to visit Senator Hoffman's office, Monegan received a call from Mike Tibbles, the Governor's Chief of Staff. Monegan testified about that call:

¹⁵ Monegan transcript page 45, line 11.

MR. BRANCHFLOWER: Now, did there come a time around this time, this time being in February of '07, that you received a call from Mike Tibbles about Trooper Wooten?

MR. MONEGAN: Yeah. It was an impromptu meeting. Mike called. I happened to be in Juneau. And in fact, he asked me that. So he said, if you've got a few minutes, why don't you come up to my office. So I did. I walked into his office. It was just him and I. We were alone.

He closed the doors, and he brought up -- he says, I understand you have -- you have a Trooper Mike Wooten on the force.

And I started to explain to him that the investigation on Wooten was completed. It had been done by the last administration. It is all done; there is no issues. We had the case reviewed at the request of Todd, and that this is an issue that is closed.

And then I went to say that it is my understanding that should there be any litigation brought on by Trooper Wooten, this conversation is discoverable, and that -- and the way I understand state law, having been sued a couple of times, is that we are certainly liable, certainly as state employees, but also could be as individuals if we intentionally break this law. So we shouldn't be talking about this. You don't want Wooten to own your house, do you?

He goes no, I don't. Then we shouldn't talk about this. So that's how the conversation ended.¹⁶

Todd Palin's call to Commissioner Monegan about Trooper Michael Wooten snow machining while on workers' compensation

During the winter of 2007, Trooper Wooten sustained an injury in the course of his employment. He had submitted a workers' compensation claim with the Department of Public Safety, and was on light duty while recovering from his injuries. Mr. Monegan testified that Todd Palin told him that he [Palin] had observed Mr. Wooten riding a snow machine 100 miles off the road. Palin told Monegan he had taken pictures of Wooten and wanted to give them to Troopers to investigate because Palin believed Wooten may have been committing workers' compensation fraud. Commissioner Monegan caused the matter to be investigated. It was determined that at the time of the snow machine incident, trooper Wooten had discussed the planned trip beforehand with his doctor who had given Wooten his permission to make the trip.

¹⁶ Monegan transcript page 47, line 12.

Monegan received a call from Department of Administration Commissioner Annette Kreitzer about Mike Wooten

MR. MONEGAN: I did. I was in my office -- my Anchorage office. I got a phone call. And I can't remember the date or time. I didn't keep a log. And it was from Annette. She wanted to know about Trooper Wooten.

And so what I did is I kind of did much like I did with Mike Tibbles. I kind of cautioned her that our conversations were discoverable, that we are liable, we shouldn't be talking about this stuff, and that -- and I closed by saying, I will handle it. I can handle this.

MR. BRANCHFLOWER: Did she have any -- was she in possession of any of the specifics about some of this?

MR. MONEGAN: She had mentioned that she had heard that Trooper Wooten had killed a moose, had tased a kid, and had drunk driven, maybe even some -- I don't recall if there was other instances, like the workman's comp issue. But she was aware of some of the old complaints, too.

MR. BRANCHFLOWER: Did you point out to her that the case had already been investigated and resolved and the matter was closed?

MR. MONEGAN: Yes, I did.

MR. BRANCHFLOWER: Earlier, you talked about, in the context of your conversation with Mike Tibbles, how these kinds of conversations might be discoverable. In other words, how lawyers for Mr. Wooten might just find out about these goings on.

Did that topic -- did you discuss that topic with Ms. Kreitzer?

MR. MONEGAN: I did.

MR. BRANCHFLOWER: What did you tell her?

MR. MONEGAN: I told her that this conversation, in fact, could be discoverable, that -- and it puts the State and us personally at risk for - liability-wise and in litigation.

MR. BRANCHFLOWER: Did she ever tell you why she was calling?

MR. MONEGAN: No. Nor did I ask.

MR. BRANCHFLOWER: And what was your feeling at the time in shutting her -- shutting her out of this complication -- this matter, I should say?

MR. MONEGAN: That I too thought she should know better than this. If she's going to -- part of her department basically deals with personnel and all the personnel rules, regulations. They emanate from her shop, and that she should know that there are things like double jeopardy, that there are liability issues on this.

But I perceived it much like I did with the Tibbles call or contact, as well as Kreitzer. It was -- he keeps popping up.

MR. BRANCHFLOWER: Do you know whether Ms. Kreitzer called other people within the Palin administration about Trooper Wooten?

MR. MONEGAN: I found out later that she had, yes.

MR. BRANCHFLOWER: Who did Ms. Kreitzer contact about Trooper Wooten?

MR. MONEGAN: Kim Peterson, who is my special assistant and handled the HR issues.

MR. BRANCHFLOWER: Anyone else?

MR. MONEGAN: That Annette had called?

MR. BRANCHFLOWER: Yeah.

MR. MONEGAN: I -- no, I don't believe anybody else.

MR. BRANCHFLOWER: I think when we spoke about this earlier, you said that Dianne --

MR. MONEGAN: Oh --

MR. BRANCHFLOWER: -- Kiesel had been called by Ms. Kreitzer.

MR. MONEGAN: I believe that -- that's correct.

MR. BRANCHFLOWER: (Indiscernible) that?

MR. MONEGAN: No. That was what Kim told me. Kim basically told me that she was contacted by Annette Kreitzer, Dianne Kiesel, who is the Division of Personnel director who works for Annette, and that Kim also had been contacted by Todd Palin directly twice, all about Wooten.¹⁷

Todd Palin's call to AST Colonel Audie Holloway during the fall of 2007 about Mike Wooten's dropping off his children at school in a patrol car

Todd Palin called Colonel Audie Holloway during the Fall of 2007 to say that Trooper Wooten was seen dropping off one of his children at school at 8:01. The complaint was investigated and it was determined that Wooten had obtained his supervisor's permission to do so.

Todd Palin's call to Colonel Holloway in October 2007

Todd Palin called Colonel Holloway in October 2007 following a news event about a lawsuit involving another trooper. He wanted to know what AST was doing about the lawsuit. According to an email Holloway sent to Commissioner Monegan [who was out of state at the time], Holloway said that Mr. Palin claimed Trooper Wooten was a friend of the other trooper.

Walt Monegan's testimony about his call from Attorney General Talis Colberg

Walt Monegan testified that he received a call from Attorney General Talis Colberg in the fall of 2007 about Trooper Michael Wooten:

MR. BRANCHFLOWER: And during this period of time, in the fall of 2007, did you receive a telephone call from the attorney general about Mr. Wooten?

MR. MONEGAN: I did. It began pretty much like the contacts that I had with Mike Tibbles, as well as Annette Kreitzer.

He started the conversation, hi, Walt. Tell me about this Mike Wooten.

¹⁷ Monegan transcript page 55, line 19.

And so what I did is I addressed the issue like I had with Annette, like I had with Mike, basically saying this was an issue, that there was a complaint, it was investigated, it was -- it's done, it's complete. There is other complaints that come in, but you know, we address them as they come in. But more importantly, the conversations -- and I said, you're the civil attorney. You understand all this, and you can correct me if I'm wrong. But this conversation that's taking place at this moment is discoverable should he ever litigate against the state. Because it seems like you're asking about him.

And in that case, if he does bring the lawsuit against the State, not only does he affect our -- us as employees, but us as individuals, as well. So we're all on the hook for it. He goes, that's correct.

Well, then would you tell the boss -- it's only going to spill out. The more people get involved in this, the more people are going to -- the more the chance this is going to come on out in the public.

And he said, okay, I'll talk to them.

MR. BRANCHFLOWER: I'll talk to "them," plural?

MR. MONEGAN: Yeah.

MR. BRANCHFLOWER: Did he tell you who he had been talking to earlier before calling you?

MR. MONEGAN: No. Nor did I ask.

MR. BRANCHFLOWER: And because he used the word "them," you assumed that he had been spoken to by both the governor and Mr. Palin?

MR. MONEGAN: I -- I would find it kind of incredulous that individually, you'd have a chief of staff and two commissioners just acting on their own and just asking about an employee.

MR. BRANCHFLOWER: Well, let me ask you about that. At this point in the chronology of events, as you've testified, you have had one meeting with Todd Palin in the governor's office -- I sort of lost track of the number of telephone conversations, but multiple conversations with Todd Palin, conversations with the governor, a conversation with Annette Kreitzer, a conversation with Mr. Tibbles,

a conversation with Ms. Perry, and now with the attorney general. Did I leave anybody out?

MR. MONEGAN: No. I think you captured them.

MR. BRANCHFLOWER: Okay. Now, the light bulb's got to start coming on, or perhaps it's been on for a while for you. What did you make of all these inquiries about the governor's former brother-in-law?

MR. MONEGAN: That this was an issue that apparently wasn't going to go away, that there was certainly frustration -- continuing frustration, not only in the conversations with complaints, but in the references that were related to other issues involving the troopers that I would get back from the governor.

And to say that she was focused on this I think would be accurate.¹⁸

John Bitney

Mr. John Bitney is the Chief of Staff to John L. Harris, the Speaker of the House of Representatives in the Alaska Legislature. He was formerly employed as Governor Palin's Legislative Director, and held that position from December 2006, when she was elected, to July 2007. Prior to that, he was candidate Palin's Policy Director for her campaign for Governor, and served on her transition team following her election. Mr. Bitney knows Sarah and Todd Palin well; they attended junior high and high school together in Wasilla, Alaska and have been friends for many years.

John Bitney testified that he had numerous conversations with Todd Palin about Trooper Michael Wooten. With regard to one of the earlier conversations Bitney testified that he would "check it out":

MR. BRANCHFLOWER: And did you, what opinion did you form about -- did you form any opinion about what he [Todd Palin] wanted you to do, if anything? Why was he saying all these things to you, in your mind?

MR. BITNEY: Well, he was clearly upset, and...

MR. BRANCHFLOWER: Did he ask you to do anything specific? Take any action, or?

¹⁸ Monegan transcript page 63, line 23.

MR. BITNEY: I don't recall him saying. I don't recall him saying, you know, I want somebody fired. I don't want you to take an action. He never said anything like that. Again, it was sort of an adamant expression of his frustration about this trooper and what this trooper had done to their family and that he was, you know, still out there driving around after, you know, doing all these sorts of egregious things, and nothing was being done about it.

MR. BRANCHFLOWER: How did the conversation end? Did you say you would look into it, or...?

MR. BITNEY: I seem to recall that I said "I'll check it out," or "let me see what I can do." I mean, you know, that was, you know. My recollection of my own sense was, you know, "here's a friend and" if you will "the Governor's husband", who's got into office who's got a problem, you know, and someone that seems to be a serious problem for him, from my perspective. You know, when the First Gentleman comes into your office and says you got a problem, you sort of feel compelled to look into it and see if something can be done.¹⁹

Frank Bailey's call to Trooper Rodney Dial about Trooper Wooten

John Bitney also knows Frank Bailey well, having worked with him during the early part of Governor Palin's administration. Mr. Bitney testified that Bailey was one of the Governor's earliest full-time campaign volunteers.

John Bitney characterized Bailey as "very loyal" towards Todd and Sarah Palin and was their "go-to guy" to handle "anything they needed done."²⁰

On February 29, 2008, Frank Bailey made his now infamous call to Trooper Rodney Dial about Trooper Wooten. Bailey was unaware he had called the Ketchikan AST office on a recorded line. During the conversation, Bailey, one of Governor Palin's closest aides, can be heard apparently attempting to persuade Dial to take action to get Trooper Wooten fired. Bailey told Dial:

1. "But you know, Todd and Sarah are scratching their heads. You know, why on Earth hasn't -- why is this guy still representing the department? He's a horrible recruiting tool, you know."²¹

¹⁹ Bitney transcript page 10, line 10.

²⁰ Bitney transcript page 25, line 4.

²¹ Bailey transcript page 9, line 1.

2. "So just -- I mean, from their perspective, everybody's protecting him." ²²
3. And I'm telling you honestly, I mean, she -- you know, she really likes Walt a lot. But on this issue, she feels like it's -- she doesn't know why there is absolutely no action for -- for a year on this issue. It's very, very troubling to her and the family, you know. I can -- I can definitely relay that. ²³

This recording was discovered after the Legislative Council voted unanimously to investigate the circumstances surrounding Commissioner Monegan's firing, and the Attorney General's office announced an internal investigation. It was unearthed from Ketchikan's AST electronic dispatch record, and disclosed by Governor Palin at her press conference on August 13, 2008. During that press conference she said "...My belief is that this CD [of Bailey's recorded call to Dial] evidently, will be the smoking gun..."²⁴

Referring to some two dozen contacts with state employees that had been made about Trooper Wooten and also discovered at that time by Attorney General investigators, Governor Palin said at her press conference "...the serial nature of the contacts understandably could be perceived as some kind of pressure presumably at my direction..."²⁵

Frank Bailey's call to Deputy Commissioner John Glass about Trooper Wooten

On March 6, 2008 about a week after calling Trooper Rodney Dial about Trooper Wooten, Frank Bailey called Deputy Commissioner of Public Safety John Glass about Trooper Wooten. Mr. Glass testified:

MR. GLASS: I was in Memphis, Tennessee with my wife who was having major back surgery and I received a phone call on March 6th, which was the day she was having surgery. It was concerning Michael Wooten, that he had been observed driving around the Good Shepherd Church early in the morning at 9:10 dropping off one of his kids in a marked patrol vehicle. I was told by Mr. Bailey that Wooten was, apparently, working the 2:00 a.m. to 10:00 a.m. shift and that during the same time frame, time period, he had also been observed sitting outside the Cottonwood Creek School where, apparently, some of his kids may go to school in a marked patrol vehicle. There was another trooper in the vehicle with him at the time. I could only surmise, since we don't have two person units, that it would have been a

²² Bailey transcript page 9, line 6.

²³ Bailey transcript page 18, line 9.

²⁴ Palin press conference transcript page 12, line 15.

²⁵ Palin press conference transcript page 3, line 22.

recruit trooper where he was in the field training status with a recruit trooper.

MR. BRANCHFLOWER: So, what did you tell Bailey you would do?

MR. GLASS: I told him I would -- that I was in Memphis, Tennessee and that I would have it looked into. I subsequently sent an email to Colonel Holloway advising him to look into it. I did advise Bailey that it was not a firing offense for him to do that, but that he could receive -- I mean, that single event in and of itself was not something that he could be fired for.

MR. BRANCHFLOWER: You told this to Bailey?

MR. GLASS: Yes.

MR. BRANCHFLOWER: What was his reaction?

MR. GLASS: He, again, just went back into he's had all these other problems, you guys are protecting him, why aren't you doing something about it. That was primarily what he....

MR. BRANCHFLOWER: The event that he was talking about was Wooten being around the Good Shepherd Church on what day?

MR. GLASS: I don't recall that there was -- about March 4th, so it would have been two days prior to his phone call to me.

MR. BRANCHFLOWER: That would have been in the morning sometime?

MR. GLASS: 9:10 a.m., is what I have.

MR. BRANCHFLOWER: I guess what I was leading up is he called you two days after the event. Did it come out, or did you perhaps ask him, what the source of his information was? Did he see this first-hand or did he get it from someone else, or what?

MR. GLASS: I believe he told me at the time it was coming from Todd Palin, or it may have been from Molly, but one or the other. It was one of the family members.

MR. BRANCHFLOWER: Molly being?

MR. GLASS: It would be Trooper Wooten's ex-wife, Governor Palin's sister.²⁶

The matter was investigated and it was again determined that Trooper Wooten, who had been working swing shifts, had obtained the permission of his supervisor to transport the children.

Testimony of Deputy Commissioner John D. Glass regarding a conversation in the spring of 2008 with Todd Palin about Trooper Mike Wooten

While in Juneau working and talking to legislators about the state's proposed new crime lab, Deputy Commissioner Glass ran into Todd Palin at the top of the stairs on the third floor of the state capitol building near the Governor's office. This time it was Glass who raised the Wooten issue with Mr. Palin.

Glass testified:

"We started talking about Michael Wooten and that Todd was adamant that Wooten was a very poor example for a trooper and needed to be fired, that he shouldn't be a trooper, and I went through the same exact conversation basically that I had had with Mr. Bailey, in that Wooten had already been penalized for his actions that he had taken. It was two and a half/three years ago, we could not fire him. I had the wrongful discharge. I had the binding arbitration discussion with him, and I also warned him that it was going to cause some extreme amount of discomfort and embarrassment for the Governor if they continued to pursue this and it should have never become public. That it would just be not good for the Governor if it continued, and that they needed to cease and desist. He persisted in telling me that Wooten needed to be fired, he should not be a trooper."²⁷

The 2008 Police Memorial Day-photograph event

Shortly before the annual celebration of Police Memorial Day on May 15, 2008, Commissioner Monegan had dropped off a color photograph at Governor Palin's Anchorage office with a request that she sign and present it at the ceremony. The photograph was of an Alaska State Trooper who was dressed in a formal uniform, saluting. He was standing in front of the police memorial located in front of the crime lab at AST headquarters in Anchorage, partially obscured by a

²⁶ Glass transcript page 17, line 18.

²⁷ Glass transcript page 20, line 12.

flagpole. The picture to be signed by the Governor was to be used as a poster to be displayed in various Trooper Detachments around the state.

Shortly after he returned to his office from dropping off the photograph, he received a call from Kris Perry, Governor Palin's Director of her Anchorage office who asked [according to Walt Monegan's testimony] "Why did you send a poster over here that has a picture of Mike Wooten on it?"²⁸ Until that moment, Commissioner Monegan never realized it was indeed a photograph of Trooper Wooten. Governor Palin cancelled her appearance and sent Lieutenant Governor Parnell in her place.

The hiring of Charles Kopp

Mr. Kopp testified that in mid-June 2008 he received a call from Frank Bailey who said that "...the Governor's office would like to make a change at some point in the future of the leadership in the Department of public Safety," and commented that "...Todd is really upset with Monegan."²⁹ When I asked him if the comment "Todd is really upset with Monegan" were the actual words spoken by Bailey, Kopp testified "That is exactly what he told me."³⁰ Mr. Kopp testified:

MR. BRANCHFLOWER: All right. Now, did Frank Bailey call you again a short while later?

MR. KOPP: Yes. Wednesday, July 9th. I'm pretty sure of the day. I may be a day off, but I believe it was Wednesday, July 9th.

He did call me on my work phone and said the governor was looking to make a change in the leadership of DPS and asked if I would be interested in the public safety commissioner position.

MR. BRANCHFLOWER: Okay. And what did you say?

MR. KOPP: Well, I told him I'd applied for it in November 2006, that I was still interested.³¹

Mr. Kopp testified what occurred next:

²⁸ Monegan transcript page 79, line 11.

²⁹ Kopp transcript page 4, line 7.

³⁰ Kopp transcript page 4, line 21.

³¹ Kopp transcript page 10, line 10.

MR. BRANCHFLOWER: All right. And so what happened after that telephone call?

MR. KOPP: Well, we -- I continued that -- you know, that conversation with Bailey continued.

And he said the governor wanted to know how much notice I would need to give work, which is the City of Kenai, if I did go to work for the Department of Public Safety.

I told him I would need to give a minimum two weeks' notice. That is my municipal code, unless the city manager approved a shorter period notice.

I -- after he said that, I realized they were -- it seemed to me like they were talking very, very soon.

So I said, you know, are we looking at a sudden leadership change or one within a couple of years?

And he said that they wanted to make a change right away. And I asked him what the reasons were for the desired leadership change, and whether they had communicated the issues to Walt Monegan and what Walt's responses had been to their attempts to resolve the matter with him.

MR. BRANCHFLOWER: What did he say?

MR. KOPP: He said that they had a number of reasons.

He said that they were concerned that Monegan was unresponsive to direction from the office of the governor and was letting Audie -- he was referring to the AST colonel, Audie Holloway, he was letting Audie run the entire Department of Public Safety.

He specifically mentioned that Monegan was a poor leader of the Department of Public Safety and that he was absent from duties he should be attending to or was delegating duties that he should have been handling as the commissioner.

He said the governor was extremely upset over a recent issue involving Trooper Wooten. Bailey said that a police memorial day

photograph featuring Trooper Wooten had been presented to the governor by the AST.

And I can't remember if it was -- if it was the PSEA that advanced the photo -- and of course, you know, troopers are all members of -- if you're a sergeant or below, you are a member of the PSEA.

And I can't remember which term he used, Mr. Branchflower. But I just remember that the photo ended up on the governor's desk and was asked for the governor's signature and --

MR. BRANCHFLOWER: And it turned out to be Trooper Wooten?

MR. KOPP: And it turned out to be Trooper Wooten. And Bailey said that -- you know, he just remarked to me that this was the trooper that had been threatening to kill members of the governor's family, you know, and now they're wanting the governor to sign the picture.

I asked him if he had talked to Walt Monegan about it, and -- and he said that -- that they had, and that -- that Walt had told him he had no idea what Trooper Wooten looked like, and that it was not an intentional act to upset the governor.

Bailey commented that it was incredible that the leadership of DPS would not know the appearance of an employee who had threatened the lives of the governor's family.

MR. BRANCHFLOWER: Now, did -- now, you used the term that Bailey said the governor was extremely upset.

MR. KOPP: Uh-huh.

MR. BRANCHFLOWER: Are you -- are you repeating his words or is that your interpretation of the governor's reaction based on your conversation with Bailey? Did he say --

MR. KOPP: No.

MR. BRANCHFLOWER: -- the governor was --

MR. KOPP: Yes.

MR. BRANCHFLOWER: -- extremely upset or --

MR. KOPP: Yes, Mr. Branchflower. Yeah. I'm just telling you what he told me about the governor's emotions, yeah.

MR. BRANCHFLOWER: And so he is the one who said the governor was extremely upset?

MR. KOPP: Yes.

MR. BRANCHFLOWER: Now, did he mention anything else during this conversation regarding Mr. Wooten?

MR. KOPP: Well, he said that the governor had lost confidence in AST and DPS's ability to protect her and her family from Wooten, and that Wooten had violated many state laws and agency policies in the past several years and that AST had never taken appropriate action to terminate his employment.

MR. BRANCHFLOWER: Okay. And did you ask Mr. Bailey, how do you know any of this, and what is the source of your information, where did you get all this stuff, anything along those lines?

MR. KOPP: You know, I was -- I was mostly listening to him.

And I didn't -- I didn't get into all of the -- you know, his sources of information or why he knew what he knew.
I -- my suppositions were that being attached to the office of the governor, he was hearing things from many different sources.

I was not familiar with the Wooten, you know, Molly McCann divorce saga that was going on, and I was not familiar with the Wooten issues. I just assumed that as being attached to the office of the governor, he had access to information that I didn't.

MR. BRANCHFLOWER: And you're still recounting this telephone call of July the 9th, right? This is the same --

MR. KOPP: Right, right.

MR. BRANCHFLOWER: So this would have been two days before Mr. Monegan was fired, assuming --

MR. KOPP: About, yes.

MR. BRANCHFLOWER: -- the record -- we've had evidence that he was fired July 11th.

MR. KOPP: Right. That is my understanding, too.

MR. BRANCHFLOWER: Which would be Friday.

MR. KOPP: Right, right.

MR. BRANCHFLOWER: So this must have been Wednesday, July the 9th?

MR. KOPP: Yes.

MR. BRANCHFLOWER: Okay. And during this conversation with Mr. Bailey, did you get the impression or did he say that this decision was a long time coming, or did it sound as if it was something that the decision had been made just within recent months?

MR. KOPP: I got the impression that there was a multitude of things that had finally come to a head, and they felt they needed to make a change. That there was no one thing that was driving it, that there were several issues that were driving it, and they finally decided it was time to make a change.³²

Mr. Kopp received a call from Acting Chief of Staff Mike Nizich on July 10, 2008 who confirmed that Governor Palin wanted to make a change very soon in the leadership in the Department of Public Safety. Mr. Nizich asked Mr. Kopp to travel to Anchorage to meet with him the next day, and it was agreed. Mr. Kopp met with Mr. Nizich, and Frank Bailey at 10:30 a.m. on July 11, 2008, in Governor Palin's Anchorage office. Mr. Kopp was tentatively offered the job of Commissioner of Public Safety at the conclusion of his 30 minute interview pending approval of Governor Palin.

Frank Bailey called Mr. Kopp later that afternoon, and said that Governor Palin had approved his appointment. Further, that Commissioner Monegan had been removed as Commissioner, and had been offered the post of Executive Director of the ABC Board. Governor Palin did not speak to Mr. Kopp before he was appointed to his new job. Mr. Monegan was fired the same day Mr. Kopp was hired. Mr. Kopp resigned the Commissioner's job 15 days later, on July 25, when it became known that a letter of

³² Kopp transcript page 10, line 2.

reprimand concerning an allegation of sexual harassment of a fellow employee by Mr. Kopp, had been placed in his personnel file by his former employer, the City of Kenai where he was the Chief of Police for a little over six years. Apparently, that was a fact that the Governor's office did not know about when Mr. Kopp was offered the Commissioner's job.

Testimony of Gary Wheeler

Gary Wheeler received a commission with the Alaska State Troopers in 1981. He worked on Governor Murkowski's protection detail, and later on the security detail for Governor Palin. He met with Governor-elect Palin and Todd Palin during mid-November or early December 2006 to outline his duties and the functions of their security detail. The meeting lasted 15 or 20 minutes and occurred in their Anchorage campaign headquarters. Part of the reason for the meeting was to obtain from them any information on individuals or things that the security detail should be concerned about as far as threats or physical or health issues they needed to be apprised of.

When I asked Wheeler, "And did you specifically inquire of them whether they perceived any threats from any individual or were afraid of any individual?" Mr. Wheeler responded "I did. And I got a negative response, meaning that there - - they basically said no."³³ A second meeting about security issues occurred in the Governor's Anchorage office after Governor Palin was sworn in on December 5, 2006. He testified Governor Palin and Todd Palin entered his office located within the Governor's suite of offices and said he needed to be aware of a possible threat from Trooper Michael Wooten, a name Wheeler had never heard previously.

Following that second meeting, there were between three to five additional times Mr. Palin spoke to Wheeler about Wooten, and that it was always Mr. Palin that did the talking. He said there were a number of times when he was with the Governor, but she never spoke about Mr. Wooten. Trooper Wheeler testified:

MR. BRANCHFLOWER: Did there come a time after Governor Palin was in office that she indicated that she no longer wished to have the security detail involved in her day-to-day events?

MR. WHEELER: Well, there did. Basically, it really started after she got into office with the reduction of -- of the travels -- the transportation to and from her house.

But specifically, we noticed it through the reduction of not attending formal functions or activities where the governor

³³ Wheeler transcript page 5, line 9.

usually showed up and security normally was there. We just were not -- we were told not to be there or that she didn't need us there.

And in -- it would have been the early part of -- of '08 that the -
- the largest part of the detail was -- basically started to go
away.³⁴

Originally, Governor Palin's security detail was composed of six individuals, but she gradually reduced it to three officers, two full-time and one part-time positions.

Officer Wheeler testified that Todd Palin spent at least 50 percent of his time in Governor Palin's office. Although he did not have his own office, he would routinely use the governor's office, sitting at the conference table that had a phone on it. I asked Officer Wheeler whether he had an opinion about Todd Palin's level of involvement in the day-to-day affairs of the Governor's office:

MR. BRANCHFLOWER: Do you have an opinion about his level of involvement in the day-to-day affairs of the working of the governor's office?

MR. WHEELER: I -- I think that he -- that he had a significant influence, in that he was always interacting with the -- the employees there. That any time I needed to get information to the governor, I would always go through Todd, because he was the only one I could -- could talk with, either via the cell phone or in person.

He -- I know that he got e-mails and stuff that he was in the loop on -- on activities. Because if -- if the governor was required to leave and go to Juneau or something, that Todd was always the one that would call me and let me know where they were and that they'd be five or ten minutes out.

So he -- yes, he was -- he knew a lot of the stuff that was going on.

MR. BRANCHFLOWER: How would you compare his level of involvement with the level of involvement in the day-to-day

³⁴ Wheeler transcript page 15, line 4.

affairs of the governor's office by the spouse of former governor Tony Knowles or Frank Murkowski? You worked for them as well, correct?

MR. WHEELER: I did. I would say that the first ladies from the two previous administrations, while they were involved in state business, it was primarily in functions and non -- or -- I can't think of the word right now. Private -- things like breast cancer awareness and, you know, representing the state in these -- in these nonprofit organizations. They all had an organization that they took to heart.

And I never saw that from Mr. Palin. You know, I basically saw where he was involved more with the day-to-day things than -- than going out and attending these specific things, or specific organizations.³⁵

Additional State of Alaska employees contacted by Todd Palin about Trooper Michael Wooten [from notes taken by Attorney General investigators Mike Barnhill and Susan Cox]

1. Acting Chief of Staff Michael Nizich
2. Former Chief of Staff Mike Tibbles [per AAG Mike Barnhill's interview notes: Todd Palin spoke to Tibbles about Wooten "usually a topic in their discussions," spoke "10-20 x," "T. Palin asked for Wooten's file," "wanted Grimes report," "refused to give it him" "Todd was talking to Annette's staff," [page one of four of Barnhill notes]. Tibbles "talked to Monegan 'a number of times'," "told Todd we can't fire him-prog discipline," [page two of four], "nothing more we can do," [page four of four].
3. Present Deputy Chief of Staff Randy Ruaro

Harbor Adjustment Service Co

Harbor Adjustment Service Co. is an Anchorage business that has a contract with the State of Alaska to handle workers' compensation claims made by state employees. It was the entity that processed the workers' compensation claim made by Trooper Michael Wooten.

³⁵ Wheeler transcript page 28, line 4.

During the course of my investigation, Johanna Grasso, a former employee who was the workers' compensation adjuster who had handled Mr. Wooten's claim, contacted me and said that Murleen Wilkes, the owner of Harbor Adjustment Service Co., told her that a Director within the Department of Administration Risk Management division had contacted Ms. Wilkes during the spring of 2007 about Wooten's claim. In a sworn statement to me given on August 30, 2008, Grasso testified that "Well, I remember at one - - at some point in the conversation, she [Wilkes] had mentioned or said something to the effect that either the Governor or the Governor's office wanted this claim denied..."³⁶ As explained more fully in the sectioned captioned Explanation Of Findings, I investigated this matter and find that Mr. Wooten's claim was handled properly, and in the normal course of business like any other claim by Harbor Adjustment Service Co. and Ms. Wilkes. Further, that he received all the workers' compensation benefits he was entitled to.

³⁶ Grasso transcript page 6, line 11.

IV Explanation Of Findings

EXPLANATION FOR FINDING NUMBER ONE

Finding Number One

For the reasons explained below, I find that Governor Sarah Palin abused her power by violating Alaska Statute 39.52.110(a) of the Alaska Executive Branch Ethics Act. Alaska Statute 39.52.110(a) provides

“The legislature reaffirms that each public officer holds office as a public trust, and any effort to benefit a personal or financial interest through official action is a violation of that trust.”

The Law applicable to the facts of the case

In order to understand the rationale I have employed to arrive at my findings with respect to the conduct of Governor Sarah Palin, it is first necessary to consider the applicable laws, which in this case are embodied in the Alaska Executive Branch Ethics Act.

Overview of the Alaska Executive Branch Ethics Act

Alaska Statute 39.52.010 – 39.52.965 codifies a body of well defined law known as the “Alaska Executive Branch Ethics Act” that regulates the conduct of executive branch employees such as Governor Sarah Palin. It has no application to those who are not State of Alaska employees such as Todd Palin.

It is very similar to the laws that define and regulate conduct by legislative employees that is found in AS 24.60.010, 24.60.995, known as the Legislative Ethics Act. Standards governing conduct by judicial officers in Alaska are found in the Code of Judicial Conduct.

The public policy underlying Alaska’s Ethics Act

In promulgating Alaska’s Ethics Act, the legislature established a very high bar for executive branch employees. The “Declaration of policy” found in AS 39.52.010 states in part:

- (a) It is declared that
 - (1) high moral and ethical standards among public officers in the executive branch are essential to assure the trust, respect, and confidence of the people of this state;

- (2) a code of ethics for the guidance of public officers will
 - (A) discourage those officers from acting upon personal or financial interests in the performance of their public responsibilities;
 - (B) improve standards of public service; and
 - (C) promote and strengthen the faith and confidence of the people of this state in their public officers;
- (3) holding public office or employment is a public trust and that as one safeguard of that trust, the people require public officers to adhere to a code of ethics;
- (4) a fair and open government requires that executive branch public officers conduct the public's business in a manner that preserves the integrity of the governmental process and avoids conflicts of interest;

The Act makes clear that compliance with the code of ethics creates a burden on each executive branch employee that is personal in nature:

- (7) compliance with a code of ethics is an individual responsibility; thus all who serve the state have a solemn responsibility to avoid improper conduct and prevent improper behavior by colleagues and subordinates.

Prohibition against unethical conduct by executive branch employees

A key provision of this body of law is AS 39.52.110 which is captioned "Scope of code; prohibition of unethical conduct." It defines the kind of behavior by executive branch employees like Governor Palin that is prohibited. In pertinent part it says:

- (a) The legislature reaffirms that each public officer holds office as a public trust, and any effort to benefit a personal or financial interest through official action is a violation of that trust.

The terms "public officer," "benefit," "personal interest," and "official action" and related definitions as used in AS 39.52.110 (a) above are clearly defined in the Ethics Act as follows:

1. The term "public officer" means a person who is "a public employee." AS 39.52.960(21);
2. The term "public employee" "means a permanent, probationary, seasonal, temporary, provisional, or nonpermanent employee of an agency, whether in the classified, partially exempt, or exempt service." AS 39.52.960 (20);
3. The term "benefit" "means anything that is to a person's advantage or self-interest, or from which a person profits, regardless of the financial gain, including any dividend, pension, salary, acquisition, agreement to purchase, transfer of money, deposit, loan or loan guarantee, promise to pay, grant,

- contract, lease, money, goods, service, privilege, exemption, patronage, advantage, advancement, or anything of value;" AS 39.52.960(3);
4. The term "gain" "includes actual or anticipated gain, benefit, profit, or compensation;" AS 39.52.960(10);
 5. The term "personal interest" "means an interest held or involvement by a public officer, or the officer's immediate family member or parent, including membership, in any organization, whether fraternal, nonprofit, for profit, charitable, or political, from which, or as a result of which, a person or organization receives a benefit;" AS 39.52.960(18);
 6. The term "immediate family member" "means
 - (A) the spouse of the person;
 - (B) another person cohabiting with the person in a conjugal relationship that is not a legal marriage;
 - (C) a child, including a stepchild and an adoptive child, of the person;
 - (D) a parent, sibling, grandparent, aunt, or uncle of the person; and
 - (E) a parent or sibling of the person's spouse;" AS 39.52.960 (11).

Finally, perhaps the most important term to the analysis of the facts of the present case is the term "official action." The definition of "official action" includes those situations where an executive branch employee such as Governor Palin fails to take corrective action required by the Ethics Act. Thus, the Ethics Act covers both acts of commission as well as omission. The term "official action" is defined in AS 39.52.960 (14), as follows:

(14) "official action" means advice, participation, or assistance, including, for example, a recommendation, decision, approval, disapproval, vote, or other similar action, including inaction, by a public officer;

The Ethics Act contains a provision that authorized the Attorney General to adopt Regulations under the Administrative Procedure Act necessary to interpret and implement the Ethics Act. There are two regulations that are relevant to this case.

The first regulation is 9 Alaska Administrative Code 52.020 which is captioned "Improper motivation." It states "A public officer may not take or withhold official action on a matter if the action is based on an improper motivation."

The second regulation is 9 Alaska Administrative Code 52.990(4), which defines the term "improper motivation" as follows:

- (4) "improper motivation" means a motivation not related to the best interests of the state, and includes giving primary consideration to a person's
- (A) kinship or relationship with a public officer;
 - (B) financial association with a public officer;
 - (C) potential for conferring a future benefit on a public officer; or
 - (D) political affiliation;

Mental state required for there to be a violation of the Ethics Act

The mental state required of an executive branch employee like Governor Palin in order to violate a provision of the Ethics Act is "knowingly." AS 39.52.350(a). This means that an executive branch employee cannot be found to be in violation of the ethics laws when he or she does not at least know that his or her conduct is in violation of the Act, e.g. one cannot negligently or accidentally violate the Act. Although the Ethics Act does not define the term "knowingly," that term is defined under other Alaska statutes that provide guidance to the present case.

AS 39.25.990 of the State Personnel Act defines the term "knowingly" as follows:

- (2) "knowingly" means for a person to be aware with respect to conduct or to a circumstance described by a provision of law that the person's conduct is of that nature or that the circumstance exists; when knowledge of the existence of a particular fact is required, that knowledge is established if a person is aware of a substantial probability of its existence, unless the person actually believes it does not exist;

This definition is very similar to the definition of the term "knowingly" found in AS 11.81.900(a)(2) in Alaska's Criminal Code. In pertinent part it defines the term "knowingly" as follows:

- (2) a person acts "knowingly" with respect to conduct or to a circumstance described by a provision of law defining an offense when the person is aware that the conduct is of that nature or that the circumstance exists; when knowledge of the existence of a particular fact is an element of an offense, that knowledge is established if a person is aware of a substantial probability of its existence, unless the person actually believes it does not exist;

The final provision of the Act relevant to an analysis of Governor Palin's conduct in this case is AS 39.52.940, which is captioned "Construction." It provides:

Sec. 39.52.940. Construction.

This chapter shall be construed to promote high standards of ethical conduct in state government.

The conduct of Governor Sarah and Todd Palin

The evidence upon which I have based my finding has been gathered during the course of this investigation from the sworn testimony of many witnesses and from the public record. The following events demonstrate that Governor Palin and Todd Palin and her family have, over an extended period of time, endeavored to get Trooper Michael Wooten fired from his job as an Alaska State Trooper.

Event 1

It is well known that Governor Palin's sister Molly Palin and Trooper Michael Wooten went through a bitter divorce and child custody battle.

Former Alaska State Trooper Colonel Julia Grimes testified that the Administrative Investigation involving Trooper Mike Wooten that commenced in 2005 was the result of a complaint filed against him by Chuck Heath, Sarah Palin's father, on April 11, 2005. That was the same day his daughter Molly, Governor Palin's sister, filed her divorce complaint against Trooper Wooten in case 3 AAN-05-0683CI.

On August 8, 2005, Sarah Palin sent Colonel Grimes an email about Trooper Wooten. Colonel Grimes testified as follows about that email:

MS. GRIMES: The summary of this email is concern on the part of Sarah Palin for the public's faith in our organization, the Alaska State Troopers, and that based on the alleged, you know, the complaints and the allegations that had been forwarded to us about Trooper Wooten. She also cites that she's concerned about the perception that there has been a lack of action in pursuing the allegations. She reviews -- goes over many incidences that had already been related to us in the initial complaint. I think we spoke earlier about the fact that one allegation in here was new and that was the shooting the illegal moose, shooting a moose without a permit. She reviews many other incidents and asks, you know, relates her concern and the concern of the community and other residents over the actions of Trooper Wooten.

A few weeks later, on October 10, 2005, Colonel Grimes received a letter from Mr. Heath that referred to Sara Palin's August 8 email to Colonel Grimes. Mr. Heath's letter expressed concern as well about the perceived lack of action.

On October 27, 2005, following the divorce trial between Molly McCann and Trooper Michael Wooten, Judge Suddock addressed the litigants and their lawyers as he discussed how he was going to handle the question of spousal support. Judge Suddock was mindful of the evidence presented at trial, about efforts made by Ms. McCann and her family to get Mr. Wooten fired from his job with the Troopers:

JUDGE SUDDOCK: Okay. Then, division -- Ms. McCann contends for a 55/45. Mr. Wooten contends for a 50/50. The issue is: is there is a significant income disparity such that it becomes unjust to do a 50/50?

On the one hand, Ms. McCann is, at the moment, underemployed. Her objections to working more are somewhat theoretical. I might get carpal tunnel syndrome in the future, or my back might hurt. I think more likely what's really going on is she's a single mother of children that she cares desperately about and she wants to spend as much time with them as she can. That's understandable, but at the end of the day to a certain extent, that's a life choice. It trivializes it to say a lifestyle choice, but it's a life direction choice that Mr. Wooten shouldn't necessarily have to subsidize. Otherwise, to be fair in every case where a custodial spouse comes in and says I'd really rather not work and my children would be enriched by my presence, the Court should automatically say well, yahoo. That's not really the rule. I think it's more a factor impinging upon her income earning capacity. She's underemployed now. She reasonably can make more money, but she is the mom with the children and that also impinges upon her earning capacity. She's naturally going to want to stay home with them. That tends to make me say well, I never thought she was in \$80,000 because I doubt there's a dental hygienist in Alaska working a 40 hour week. Nobody has really showed me that. It wouldn't surprise me that a 32 hour week is more the norm. Then, for single mothers, you know, I doubt people really in that situation are routinely pulling down that \$60,000 income.

On the other hand, Mr. Wooten is now challenged in his income earning ability. He's making in that \$60,000 range, but he may be headed south to more like a \$50,000 guy, and that's, at least in part, because it appears for the world that Ms. McCann and her family have decided to take off with the guy's livelihood, that the bitterness of whatever who did what to whom has overridden good judgment. Aesop told us not to slay the goose who lays the golden egg. For whatever reason, people are trying to slay the goose here and it tends to diminish his earning capacity.

At the end of the day, as Ms. McCann comes up and Mr. Wooten goes down, you tend to get into the zone where a 50/50 for a four year long

marriage is a reasonable split. So, that's where I'm going to leave you. I think it's tragic that -- you know, if I thought Mr. Wooten was in-like-Flynn with the Alaska State Troopers from now until the cows come home, you might have a different outcome here. But, the Plaintiff's table has created a situation where that is a very fragile outcome. So, I'm not going to assume it. Because of that, I'm going to order -- and I think in general that's fair, I'm going to order a 50/50. Okay, so that's your split.

(End of requested portion) (Emphasis added)

Event 2

On December 28, 2005, as Colonel Grimes was reviewing the investigative findings and formulating a plan for the imposition of discipline on Trooper Wooten, she received a telephone call from Todd Palin who inquired about the status of the case. Colonel Grimes testified:

MS. GRIMES: Our conversation was quite cordial. I, of course, acknowledged that I understood why he was concerned, as I did. I reassured him that we have a process and that the process was underway, that we would deal with the employee. I understood why he was concerned, but that the process had to take its course. We talked about the policy and the State law that protects -- that makes the personnel information confidential and I actually gave him the statute number that refers to that. It's, for the record here, Statute -- it's AS 39.25.080. That is what prohibits any State employee from discussing personnel issues with anyone else.

Event 3

Colonel Grimes received a telephone call from Sarah Palin about the status of the Wooten investigation some time between October 29, 2005 and December 28, 2005, when she received the call from Todd Palin. Ms. Grimes testified:

MS. GRIMES: On that day that I made that phone call, I was traveling somewhere on State business. I was in the Alaska Airlines Boardroom when I returned a phone call to Sarah Palin. The call lasted about ten to 15 minutes, I would estimate, and a very cordial conversation. Sarah Palin wanted to know what the status of the -- she was concerned about the status of the complaints that had been filed. Her questions were how can a trooper that behaves this way still be working and was concerned that we were taking it seriously and that we cared. I mean, she wanted to know that we -- although those may not have been her specific words, she wanted to know that we cared about this as much as they did. In response to that, I

told her that I absolutely take this stuff very seriously. I told her that the investigation had been ongoing and that, specifically, if the allegations that have been forwarded to us, if they were sustained by the investigation, that I did not tolerate that kind of behavior in a trooper, that it was as offensive to me as it was to her. But, I also explained that I could not get into a lot of detail about it because of the confidentiality of personnel information, that I couldn't discuss the details about where we were, what we were doing, etc. because it's all protected by law, that same statute that I had mentioned actually later on that I mentioned to Mr. Palin. During the conversation, I told Sarah Palin that -- or I asked her, I guess. I said, I asked her to please trust me, that because I can't tell her details, I would ask her to trust me that I would take the appropriate action if and when I knew what the Findings were. Well, not yet, but when I knew what the Findings were and that, once I made my decision about what to do about the Findings, I was not going to be able to tell her. You know, I couldn't have another conversation with her about it because, again, it's protected by law. And, we talked a little bit about the due process entitlements for, you know, all State Troopers, that we had to go through the procedure. We have a process, and we have to protect his rights under the bargaining agreement and that that was, you know, part of the whole procedure and why sometimes it seems to take a while. And, ultimately, she, I think, stated that she understood, that she felt reassured that we were working on it, and that we would take it seriously. And, that was really a summary of the conversation.

The Administrative Investigation was concluded. On March 1, 2006 Trooper Wooten received written notice of the terms of his discipline. An appeal of the terms of the discipline was undertaken by Trooper Wooten with the assistance of his union, the Public Safety Employees Union [PSEA]. The appeal was settled on September 5, 2006. Trooper Wooten continued his employment as a Trooper.

Event 4

On November 8, 2006, four days after Sarah Palin was elected Governor of Alaska, Mr. Palin called Wasilla Chief of Police John D. Glass and wanted to talk about Mike Wooten. At the time he received the call from Palin, Chief Glass had two vacant police officer positions on his police force. Chief Glass testified:

MR. GLASS: Todd had basically told me that he did not want Wooten hired as a City police officer, that Wooten was a very bad trooper and needed to be fired from his job as a trooper, and that Wooten should not be considered at all as a City police officer.

Event 5

On January 4, 2007, Todd Palin met with Commissioner of Public Safety Walt Monegan in Governor Palin's office at Mr. Palin's direction. The meeting was about Trooper Wooten.

Walt Monegan testified:

MR. MONEGAN: Well, he told me that this particular trooper had -- had gone through a divorce with Molly, which is one of the sisters of the governor, and that it was -- this particular individual wasn't and shouldn't have been a trooper, that he didn't model himself well as a trooper, that they had filed complaints.

They had worked with Colonel Grimes, and actually went to her office and talked to them about Trooper Wooten. And the allegations included the taking of a moose illegally, tasing an 11-year-old stepson of Wooten's, drinking while driving in the patrol car, having a beer while he was driving his patrol car. And there may have been a couple of others, but the details on that, I don't recall.

Mr. Monegan also testified:

MR. MONEGAN: He told me that he [Wooten] just got a few days off, and he didn't think that was enough. And this guy shouldn't be a trooper.

...

MR. MONEGAN: I believe he kept using the term "we." We went to go talk to, we, we. And so I assumed it was he and Sarah, of course.

Mr. Palin gave Mr. Monegan a report prepared by a private investigator about Trooper Wooten and asked him if anything could be done to reopen the now closed Administrative Investigation against Wooten. Mr. Monegan called Mr. Palin back a couple of days later to inform him that a page by page comparison had been done between the materials provided by Mr. Palin and the facts ascertained during Wooten's Administrative Investigation.

Mr. Monegan testified;

MR. BRANCHFLOWER: And so did you do that? Did you call him back?

MR. MONEGAN: I did. I called him back, and I advised him that we had made the comparison. There is nothing new, the case is closed, and that -- and honestly, he responded with more frustration.

I think he was upset that -- that there wasn't anything new or we couldn't act on anything different.

Event 6

A couple of days after Mr. Monegan told Todd Palin the materials he had provided failed to disclose any new evidence regarding the closed Wooten administrative investigation, he received a call from Governor Palin, to discuss the Wooten disciplinary matter. When I asked Mr. Monegan what Governor Palin's reaction was to the news that the information provided by her husband contained nothing new, Mr. Monegan testified:

MR. MONEGAN: Well, again, I think she kind of said the same things that Todd did, in regards to that this is just not right. Michael Wooten is -- isn't a trooper that should be wearing a badge, or isn't a trooper that should be examples of what Alaska State Troopers should be. She was frustrated.

MR. BRANCHFLOWER: Did the topic come up -- or did you mention that the discipline had already been imposed on Mr. Wooten during the previous administration following an administrative investigation and that the matter was closed?

MR. MONEGAN: I did. And I think that's when she said something about he only just got a slap on the wrist.

Event 7

During his testimony, Mr. Monegan identified an email he received from Governor Palin on February 7, 2007. It is plain that she is very unhappy that Trooper Wooten has not been fired. In pertinent part her email states:

In sharing a few personal examples with you including the trooper who used to be related to me-the one who illegally killed the cow moose out of season, without a tag -- he's still bragging about it in my hometown and after another cop confessed to witnessing the kill, this trooper was "investigated" for over a year and merely given a slap on the wrist...though he's out there arresting people today for the same crime!. This is the same trooper who shot his 11 -yr-old stepson with a taser gun, was seen drinking

in his patrol car, was pulled over for drunk driving but let off by a co-worker & brags about this incident to this day...he threatened to kill his estranged wife's parent, refused to be transferred to rural Alaska and continued to disparage natives in words and tone, he continues to harass and intimidate his ex. – even after being slapped with a restraining order that was lifted when his supervisors intervened...he threatens to always be able to come out on top because he's 'got the badge', etc. etc. etc.) This trooper is still out on the street, in fact he's been promoted. It was a joke, the whole year long "investigation" of him – in fact those who passed along the serious information about him to Julia Grimes and Tandesky were threatened with legal action from the trooper's union for speaking about it. (This is the same trooper who's out there today telling people the new administration is going to destroy the trooper organization, and that he'd "never work for that b****, Palin".)

Anyway – just a personal example of what I've personally seen out there and had to live with for two years – and this is what people in the Valley are putting up with (those many residents who know of this trooper time-bomb who's supposed to be "protecting" them).

Event 8

Monegan testified that a few days later, on February 13, 2007, he was in Juneau during the first legislative session greeting various legislators because he was up for confirmation as Commissioner of Public Safety. He stopped at Governor Palin's office to suggest she accompany him to wish Senator Lyman Hoffman birthday greetings. He explained what happened on the way to Senator Hoffman's office:

MR. MONEGAN: ...So as we were walking down the stairs, the governor mentioned to me, she says, I'd like to talk to you about Wooten.

And I said, ma'am, I need you to keep an arm's length at this -- on this issue. And if you have further complaints on him, I can deal with Todd on it.

And she goes, that's a better idea.

Event 9

That was the last time she directly questioned Commissioner Monegan about Trooper Wooten. But Mr. Palin's inquires continued. Approximately one or two weeks after his conversation with Governor Palin while on their way to visit Senator

Hoffman's office, Monegan received a call from Mike Tibbles, the Governor's Chief of Staff who wanted to talk about Trooper Wooten. Mr. Monegan testified:

He closed the doors, and he brought up -- he says, I understand you have -- you have a Trooper Mike Wooten on the force.

And I started to explain to him that the investigation on Wooten was completed. It had been done by the last administration. It is all done; there is no issues. We had the case reviewed at the request of Todd, and that this is an issue that is closed.

And then I went to say that it is my understanding that should there be any litigation brought on by Trooper Wooten, this conversation is discoverable, and that -- and the way I understand state law, having been sued a couple of times, is that we are certainly liable, certainly as state employees, but also could be as individuals if we intentionally break this law. So we shouldn't be talking about this. You don't want Wooten to own your house, do you?

He goes no, I don't. Then we shouldn't talk about this. So that's how the conversation ended.

Event 10

During the spring of 2007, Todd Palin called Commissioner Monegan to report that he had observed Trooper Wooten some 100 miles out of Wasilla riding a snow machine, and that he had taken pictures of Wooten. Mr. Palin knew Wooten had injured himself on the job and was out on light duty. He said he thought that there might be some workers' compensation fraud issues.

Walt Monegan testified that he received a call about Trooper Mike Wooten from Commissioner of Administration Annette Kreitzer but that he refused to discuss Wooten with her:

MR. MONEGAN: She wanted to know about Trooper Wooten.

And so what I did is I kind of did much like I did with Mike Tibbles. I kind of cautioned her that our conversations were discoverable, that we are liable, we shouldn't be talking about this stuff, and that -- and I closed by saying, I will handle it. I can handle this.

MR. BRANCHFLOWER: Did she have any -- was she in possession of any of the specifics about some of this?

MR. MONEGAN: She had mentioned that she had heard that Trooper Wooten had killed a moose, had tased a kid, and had drunk driven, maybe even some -- I don't recall if there was other instances, like the workman's comp issue. But she was aware of some of the old complaints, too.

MR. BRANCHFLOWER: Did you point out to her that the case had already been investigated and resolved and the matter was closed?

MR. MONEGAN: Yes, I did.

MR. BRANCHFLOWER: Earlier, you talked about, in the context of your conversation with Mike Tibbles, how these kinds of conversations might be discoverable. In other words, how lawyers for Mr. Wooten might just find out about these goings on.

Did that topic -- did you discuss that topic with Ms. Kreitzer?

MR. MONEGAN: I did.

MR. BRANCHFLOWER: What did you tell her?

MR. MONEGAN: I told her that this conversation, in fact, could be discoverable, that -- and it puts the State and us personally at risk for - - liability-wise and in litigation.

MR. BRANCHFLOWER: Did she ever tell you why she was calling?

MR. MONEGAN: No. Nor did I ask.

...

MR. BRANCHFLOWER: Do you know whether Ms. Kreitzer called other people within the Palin administration about Trooper Wooten?

MR. MONEGAN: I found out later that she had, yes.

MR. BRANCHFLOWER: Who did Ms. Kreitzer contact about Trooper Wooten?

MR. MONEGAN: Kim Peterson, who is my special assistant and handled the HR issues.

Event 11

Later in his testimony, Mr. Monegan spoke of another call from Todd Palin in the fall of 2007:

MR. MONEGAN: Because Audie briefed me on it. And he said that Todd had called basically to say that Trooper Wooten was seen dropping off one of the kids -- or one of his kids at a school in a patrol car and the time -- and the date, and the time was 8:01, which I thought was unusual, because most people wouldn't note the exact minute of something that they're watching. Which kind of either told me it was somebody who was used to it, like a PI, or --

MR. BRANCHFLOWER: A person -- a --

MR. MONEGAN: A private investigator.

MR. BRANCHFLOWER: -- private investigator?

MR. MONEGAN: Or somebody who just wanted to try to document things as tightly as possible.

Event 12

Todd Palin called Colonel Holloway about Trooper Wooten in the fall of 2007 when it became known in the media that the Department of Public Safety was settling a lawsuit involving use of force by another trooper. Monegan testified that Mr. Palin said that the other Trooper was a friend of Wooten's.

Event 13

In the fall of 2007, Mr. Monegan received a telephone call from Attorney General Talis Colberg about Mr. Wooten. Walt Monegan testified:

MR. MONEGAN: I did. It began pretty much like the contacts that I had with Mike Tibbles, as well as Annette Kreitzer.

He started the conversation, hi, Walt. Tell me about this Mike Wooten.

And so what I did is I addressed the issue like I had with Annette, like I had with Mike, basically saying this was an issue, that there was a complaint, it was investigated, it was -- it's done, it's complete. There

is other complaints that come in, but you know, we address them as they come in. But more importantly, the conversations -- and I said, you're the civil attorney. You understand all this, and you can correct me if I'm wrong. But this conversation that's taking place at this moment is discoverable should he ever litigate against the state. Because it seems like you're asking about him.

And in that case, if he does bring the lawsuit against the State, not only does he affect our -- us as employees, but us as individuals, as well. So we're all on the hook for it. He goes, that's correct.

Well, then would you tell the boss -- it's only going to spill out. The more people get involved in this, the more people are going to -- the more the chance this is going to come on out in the public.

And he said, okay, I'll talk to them.

MR. BRANCHFLOWER: I'll talk to "them," plural?

MR. MONEGAN: Yeah.

Event 14

On February 29, 2008, Frank Bailey made his now infamous call to Trooper Rodney Dial about Trooper Wooten. Bailey was unaware he had called the Ketchikan AST office on a recorded line. During the conversation, Bailey, one of Gov. Palin's closest aides, can be heard apparently attempting to persuade Dial to take action to get Trooper Wooten fired. Bailey told Dial:

"But you know, Todd and Sarah are scratching their heads. You know, why on Earth hasn't -- why is this guy still representing the department? He's a horrible recruiting tool, you know."

"So just -- I mean, from their perspective, everybody's protecting him."

And I'm telling you honestly, I mean, she -- you know, she really likes Walt a lot.

But on this issue, she feels like it's -- she doesn't know why there is absolutely no action for -- for a year on this issue. It's very, very troubling to her and the family, you know. I can -- I can definitely relay that.

Event 15

On March 6, 2008 about a week after calling Trooper Rodney Dial about Trooper Wooten, Frank Bailey called Deputy Commissioner of Public Safety John Glass about Trooper Wooten. Mr. Glass testified:

It was concerning Michael Wooten, that he had been observed driving around the Good Shepherd Church early in the morning at 9:10 dropping off one of his kids in a marked patrol vehicle. I was told by Mr. Bailey that Wooten was, apparently, working the 2:00 a.m. to 10:00 a.m. shift and that during the same time frame, time period, he had also been observed sitting outside the Cottonwood Creek School where, apparently, some of his kids may go to school in a marked patrol vehicle. There was another trooper in the vehicle with him at the time. I could only surmise, since we don't have two person units, that it would have been a recruit trooper where he was in the field training status with a recruit trooper.

MR. BRANCHFLOWER: So, what did you tell Bailey you would do?

MR. GLASS: I told him I would -- that I was in Memphis, Tennessee and that I would have it looked into. I subsequently sent an email to Colonel Holloway advising him to look into it.

Event 16

While in Juneau working and talking to legislators about the state's proposed new crime lab, Deputy Chief Glass ran into Todd Palin at the top of the stairs on the third floor of the state capitol building near the Governor's office. This time it was Glass who raised the Wooten issue with Mr. Palin.

Glass testified:

We started talking about Michael Wooten and that Todd was adamant that Wooten was a very poor example for a trooper and needed to be fired, that he shouldn't be a trooper, and I went through the same exact conversation basically that I had had with Mr. Bailey, in that Wooten had already been penalized for his actions that he had taken. It was two and a half/three years ago, we could not fire him. I had the wrongful discharge. I had the binding arbitration discussion with him, and I also warned him that it was going to cause some extreme amount of discomfort and embarrassment for the Governor if they continued to pursue this and it should have never become public. That it would just be not good for the Governor if it continued, and that they needed to cease and desist. He persisted in telling

me that Wooten needed to be fired, he should not be a trooper.

Event 17

Mr. Kopp testified that in mid-June 2008 he received a call from Frank Bailey who said that "...the Governor's office would like to make a change at some point in the future of the leadership in the Department of public Safety," and commented that "...Todd is really upset with Monegan."³⁷ When I asked him if the comment "Todd is really upset with Monegan" were the actual words spoken by Bailey, Kopp testified "That is exactly what he told me."

Event 18

Mr. Bitney is the present Chief of Staff to John L. Harris, the Speaker of the House of Representatives in the Alaska Legislature. He was formerly employed as Governor Palin's Legislative Director, and held that position from December 2006, when she was elected, to July 2007. Prior to that, he was candidate Palin's Policy Director for her campaign for governor, and served on her transition team following her election. Mr. Bitney knows Sarah and Todd Palin well; they attended junior high and high school together in Wasilla, Alaska and have been friends for many years.

In October 2006, prior to the time Ms. Palin was elected, Todd Palin had his first conversation about Trooper Mike Wooten with Mr. Bitney. It occurred in the Palin campaign headquarters in midtown Anchorage. In the months that followed, Mr. Palin had numerous conversations with Mr. Bitney about Trooper Wooten in an apparent effort to induce Bitney to find some way to get Wooten fired from his job. As a result, Bitney repeatedly discussed Trooper Wooten with Governor Palin's Chief of Staff Mike Tibbles, who in turn spoke to yet other high level state employees about Wooten. In his sworn statement to me Mr. Bitney testified:

MR. BITNEY: I seem to recall that I said "I'll check it out," or "let me see what I can do." I mean, you know, that was, you know. My recollection of my own sense was, you know, "here's a friend and" if you will "the Governor's husband", who's got into office who's got a problem, you know, and someone that seems to be a serious problem for him, from my perspective. You know, when the First Gentleman comes into your office and says you got a problem, you sort of feel compelled to look into it and see if something can be done.

Additional State of Alaska employees contacted by Todd Palin about Trooper Michael Wooten [from notes taken by Attorney General investigators Mike Barnhill and Susan Cox]

- Acting Chief of Staff Michael Nizich
- Former Chief of Staff Mike Tibbles [per AAG Mike Barnhill's interview notes: Todd Palin spoke to Tibbles about Wooten "usually a topic in their discussions," spoke "10-20 x," "T. Palin asked for Wooten's file," "wanted Grimes report," "refused to give it him" "Todd was talking to Annette's staff," [page one of four of Barnhill notes]. Tibbles "talked to Monegan 'a number of times'," "told Todd we can't fire him-prog discipline," [page two of four], "nothing more we can do," [page four of four].
- Present Deputy Chief of Staff Randy Ruaro

CONCLUSION

Governor Sarah Palin

The policy underlying Alaska's Ethics Act is to discourage executive branch employees from acting upon personal interests in the performance of their public responsibilities and to avoid conflicts of interest in the performance of duty. The Act makes clear that compliance with the code of ethics creates a burden on each executive branch employee that is personal in nature.

Compliance with the code of ethics is not optional. It is an individual responsibility imposed by law, and any effort to benefit a personal interest through official action is a violation of that trust. As explained above, the term "benefit" is very broadly defined, and includes anything that is to the person's advantage or personal self-interest. The term "personal interest" as used in the Ethics Act means any interest held by the public officer or the public officer's immediate family, including a sibling such as Governor Palin's sister Molly, Molly's children, her father Mr. Heath or any other family member. AS 39.52.960(11).

As defined in AS 39.52.960(14), the term "official action" means "advice, participation, or assistance, including, for example, a recommendation, decision, approval, disapproval, vote, or other similar action, including inaction, by a public officer."

The evidence supports the conclusion that Governor Palin, at the least, engaged in "official action" by her inaction if not her active participation or assistance to her husband in attempting to get Trooper Wooten fired [and there is

evidence of her active participation]. She knowingly, as that term is defined in the above cited statutes, permitted Todd Palin to use the Governor's office and the resources of the Governor's office, including access to state employees, to continue to contact subordinate state employees in an effort to find some way to get Trooper Wooten fired. Her conduct violated AS 39.52.110(a) of the Ethics Act. That statute provides that:

“The legislature reaffirms that each public officer holds office as a public trust, and any effort to benefit a personal or financial interest through official action is a violation of that trust.”

Governor Palin knowingly permitted a situation to continue where impermissible pressure was placed on several subordinates in order to advance a personal agenda, to wit: to get Trooper Michael Wooten fired. She had the authority and power to require Mr. Palin to cease contacting subordinates, but she failed to act.

Such impermissible and repeated contacts create conflicts of interests for subordinate employees who must choose to either please a superior or run the risk of facing that superior's displeasure and the possible consequences of such displeasure. This was one of the very reasons the Ethics Act was promulgated by the Legislature. That such a conflict of interest arises in such circumstances was best summarized by John Bitney, who summed it up when he testified:

MR. BITNEY: I seem to recall that I said “I’ll check it out,” or “let me see what I can do.” I mean, you know, that was, you know. My recollection of my own sense was, you know, “here’s a friend and” if you will “the Governor’s husband”, who’s got into office who’s got a problem, you know, and someone that seems to be a serious problem for him, from my perspective. You know, when the First Gentleman comes into your office and says you got a problem, you sort of feel compelled to look into it and see if something can be done.

In this case, Governor Palin has declined to provide an interview. An interview would have assisted everyone to better understand her motives and perhaps help explain why she was so apparently intent upon getting Trooper Wooten fired in spite of the fact she knew he had been disciplined following the Administrative Investigation. She also knew that he had been permitted to keep his job, and that the disciplinary investigation was closed and could not be reopened. Yet she allowed the pressure from her husband, to try to get Trooper Wooten fired, to continue unabated over a several month-period of time.

Governor Palin has stated publicly that she and her family feared Trooper Wooten. Yet the evidence presented has been inconsistent with such claims of fear. The testimony from Trooper Wheeler, who was part of her security detail from the start, was that shortly after elected to office, she ordered a substantial reduction in manpower in her personal protection detail in both Anchorage and Juneau, an act that is inconsistent with a desire to avoid harm from Trooper Wooten or others. Moreover, assuming that Trooper Wooten was ever inclined to attack Governor Palin or a family member, logic dictates that getting him fired would accomplish nothing to eliminate the potential for harm to her or her family. On the contrary, it might just precipitate some retaliatory conduct on his part. Causing Wooten to lose his job would not have de-escalated the situation, or provided her or her family with greater security.

Finally, it is noteworthy that in almost every contact with subordinate employees, Mr. Palin's comments were couched in terms of his desire to see Trooper Wooten fired for reasons that had nothing to do with fear. His comments were always couched in terms that he was a bad Trooper, that he was not a good recruiting image for AST, that his discipline amounted to nothing more than a slap on the wrist, that nothing had happened to him following the administrative investigation, and so forth. According to interview notes from the Attorney General who interviewed former Chief of Staff Mike Tibbles, Mr. Palin even sought to obtain information about Trooper Wooten that was confidential by law ["T. Palin asked for Wooten's file," "wanted Grimes report," "refused to give it him"]. The words selected by Mr. Palin, and his actions, give insight into his motivation and that of his wife, Governor Palin.

I conclude that such claims of fear were not bona fide and were offered to provide cover for the Palins' real motivation: to get Trooper Wooten fired for personal family related reasons.

While it is true that in the absence of an interview with either Governor Palin or Todd Palin, the specific answers to questions such as these are left unanswered, it is likewise true that their apparent motives can be inferred from the circumstances, their actions and their comments.

For all the above reasons, I find that Governor Sarah Palin abused her power as Governor in that her conduct violated AS 39.52.110(a) of the Ethics Act.

Todd Palin

The terms of my contract with the Legislative Council establish the framework within which I have been required to conduct my investigation and make my findings. Specifically, the "Statement of Work" provision required me to

“...investigate the circumstances and events surrounding the termination of former Public Safety Commissioner Walt Monegan and potential abuses of power and/or improper actions by members of the executive branch.” Todd Palin is not an employee of the executive branch, so his conduct is not a violation of AS 39.52.010 – 39.52.965. Given the terms of the contract, I make no finding as to Mr. Palin’s conduct.

EXPLANATION FOR FINDING NUMBER TWO

Finding Number Two

I find that, although Walt Monegan's refusal to fire Trooper Michael Wooten was not the sole reason he was fired by Governor Sarah Palin, it was likely a contributing factor to his termination as Commissioner of Public Safety. In spite of that, Governor Palin's firing of Commissioner Monegan was a proper and lawful exercise of her constitutional and statutory authority to hire and fire executive branch department heads.

Legal Discussion

The Alaska Constitution gives the governor broad authority to appoint the head of each department, subject to legislative confirmation. Alaska Constitution, Article III, section 25. That constitutional authority also permits a governor the right to dismiss department heads because "[t]he right to hire implies the right to fire." *Fairbanks Publ'g Co. v. Pitka*, 445 P2d 685, 689 (Alaska 1968); *see also Underwood v. Waddell*, 743 F. Supp. 1291, 1298 (S.D. Ind. 1960) ("the general rule throughout this country is that the power to hire necessarily and implicitly carries with it the power to fire").

The governor may discharge department heads without cause. The constitution provides that department heads "serve at the pleasure of the governor." Alaska Constitution Article III, section 25; *see also* AS 39.05.030. Those who serve at the pleasure of their employers are subject to discharge at will. *See Witt v. State, Department of Corrections*, 75 P.3d 1030, 1033 (Alaska 2003).

In light of this constitutional and statutory authority, it is clear that Governor Palin could fire Commissioner Walt Monegan at will, for almost any reason, or no reason at all.

While that is true, my charge has not been to question her authority, but to "...investigate the circumstances and events surrounding the termination of former Public Safety Commissioner Walt Monegan and potential abuses of power and/or improper actions by members of the executive branch."

The evidence gathered during my investigation clearly establishes that Public Safety Commissioner Walt Monegan was pressured directly by Todd Palin to fire Trooper Michael Wooten. Other high level state employees also questioned Mr. Monegan about Trooper Wooten as a result of inquires by and/or requests to do so by Mr. Palin. Many examples of that pressure have been enumerated in my discussion regarding Finding Number One above, and I incorporate that discussion in this section. However, while Mr. Monegan's failure to fire Trooper Wooten was a substantial factor in his own firing, the evidence suggests it was not the sole reason.

The interview notes submitted to me by Attorney General Investigator Susan Cox establish that there was dissatisfaction with Commissioner Monegan's leadership of the Department of Public Safety regarding matters that did not involve trooper Wooten. For example, the notes from OMB Director Karen Rehfeld say "Very nice guy-pleasant interaction w/him & his staff-he wasn't a good listener-wanted to do what he wanted to do- chafed at the constraints or process of state government." Also, "last fall DPS posted a trooper plan on its website-good to do-no vetting-not part of gov's overall plan or vision," DPS added \$ in budget-soon after that Monegan came up w/another idea-"vertical prosecution" plan for sex.assault cases-he'd never talked to OMB about getting that into a federal request, but he'd gone to DC-e-mails-RR." "crime lab-continues to be an issue b/c DPS doesn't listen very well," "Dec 10 budget rolled out-4 days later Walt calls a mtg. to talk about his new idea-the sexual assault initiative-extra \$20M. that hadn't been req'd during budget process-."

The notes from the interview with Commissioner of Administration Annette Kreitzer say "Walt complained to Tibbles that Annette wasn't going to get a K [contract] -too hard nosed in mtgs-deal would be eluded b/c of 1/4%," "Mon. working behind the scenes on union K-direct contact w John Cyr [Business Manager for PSEA Union], Cyr talking about pushing for more \$ for pub. Safety," "legis. Hearing on rural justice-Monegan + Cyr testified together-trying to neg. the PSEA K @ the hearing-Walt had his own agenda-more troopers +more \$," "Annette was a brick wall-Walt didn't have authority to make the union K," "Monegan mentioned wanting more troopers @ cabinet megs.-she wondered why he didn't get vacancies filled."

Additionally, comments in the press linked to Governor Palin have claimed that there were work-related reasons that had nothing to do with Trooper Wooten to explain why Commissioner Monegan was fired. For example, in an Anchorage Daily News article published on September 16, 2008, captioned "Palin accuses Monegan of insubordination" it was said:

Walt Monegan lost his job as public safety director because he resisted Gov. Sarah Palin's budget policies and showed "outright insubordination," say papers the governor's lawyer filed Monday with the state Personnel Board.

It was Palin's strongest effort yet to snuff allegations she sacked Monegan because he refused to fire a state trooper involved in an ugly divorce with the governor's sister.

Along with the papers filed Monday were a slew of e-mails from the governor's office purporting to show Monegan's "rogue mentality" as a member of Palin's Cabinet.

In one message, the governor's budget director, Karen Rehfeld, wrote that she was "stunned and amazed" that Monegan appeared to be working with a powerful state legislator, Anchorage Republican Rep. Kevin Meyer, to seek funding for a project Palin previously had vetoed.

Finally, the record contains evidence that Governor Palin lost confidence in Commissioner Monegan when, on the eve of the 2008 annual Police Memorial Day ceremony, he sent her a photograph to sign and present at that event, but failed to realize it was actually a photograph of Trooper Michael Wooten.

Conclusion

The framers of Alaska's Constitution vested the office of the governor with very broad discretion to fire the head of any department, for virtually any reason, without pre-approval or review by the legislative branch of government.

Governor Palin has not submitted to an interview with me, or provided any written explanation of the reasons she fired Commissioner Monegan. There are indications in the record that there was not universal support for Commissioner Monegan among other department heads. Comments in the press linked to the governor suggest there was a feeling within the governor's office that he was not a team player, and there is evidence that Governor Palin had lost confidence in Mr. Monegan.

Given the entire record, I find that although Walt Monegan's refusal to fire Trooper Michael Wooten was not the sole reason he was fired by Governor Sarah Palin, it was likely a contributing factor to his termination as Commissioner of Public Safety. In spite of that, Governor Palin's firing of Commissioner Monegan was a proper and lawful exercise of her constitutional and statutory authority to hire and fire executive branch department heads.

EXPLANATION FOR FINDING NUMBER THREE

Finding Number Three

Harbor Adjustment Service of Anchorage, and its owner Ms. Murleen Wilkes, handled Trooper Michael Wooten's workers' compensation claim properly and in the normal course of business like any other claim processed by Harbor Adjustment Service and Ms. Wilkes. Further, that he received all the workers' compensation benefits to which he was entitled.

Discussion

Harbor Adjustment Service Co

Harbor Adjustment Service Co. is an Anchorage business that has a contract with the State of Alaska to handle workers' compensation claims made by state employees. It was the entity that processed the workers' compensation claim made by Trooper Michael Wooten.

During the course of my investigation, Johanna Grasso, a former employee who was the workers' compensation adjuster who handled Mr. Wooten's claim, contacted me. Ms. Grasso said that Murleen Wilkes, the owner of Harbor Adjustment Service Co., told her that a Director within the Department of Administration Risk Management division had contacted Ms. Wilkes during the spring of 2007 about Wooten's claim. In a sworn statement to me given on August 30, 2008, Grasso testified that "Well, I remember at one - - at some point in the conversation, she [Wilkes] had mentioned or said something to the effect that either the Governor or the Governor's office wanted this claim denied..."

I took Ms. Wilkes' deposition on September 19, 2008. Essentially, she said that she did receive a telephone call from the person indicated by Ms. Grasso in the spring of 2007 about Trooper Wooten. She testified that the call was in the nature of a routine inquiry from a person within the Department of Administration with whom she frequently communicated about state employee workers' compensation cases. She further testified there was nothing improper about the call, and she was not requested or directed to handle Trooper Wooten's claim any differently than any other claim, nor did she. Finally, she testified that Trooper Wooten received his workers' compensation benefits.

Mr. Joe Cooper

Former AAG Joe Cooper was the attorney who represented the State of Alaska in Trooper Wooten's workers' compensation case. I interviewed him on August 19, 2008

about his handling of the case. In a written statement to me the next day Mr. Cooper said in pertinent part:

I received no pressure from the Governor's office concerning the handling of the claim. I am not aware of anyone receiving pressure from the Governor's office about how the claim should be handled.

Ms. Gail Voigtlander

On August 29, 2008, I received a letter from Mr. Cooper's former supervisor, Chief Assistant Attorney General Gail Voigtlander, the statewide supervising attorney for the Torts and Workers' Compensation section in the Civil Division of the Office of the Attorney General. Her letter was in response to my request for a written statement regarding the handling of Mr. Wooten's workers' compensation case by her office. Her letter established to my satisfaction that the person who called Ms. Wilkes was acting in the normal course of business, and that there was nothing unusual or improper about the call.

Mr. Chancy Croft

Anchorage attorney Chancy Croft represented Trooper Mike Wooten in connection with Wooten's workers' compensation case against the state. In a recent conversation with him, I asked Mr. Croft to provide a statement addressing his view of the way the case was handled. In a letter to me dated September 25, 2008, Mr. Croft said:

I was Trooper Michael Wooten's workers' compensation attorney. I represented him from July of 2007 through May of 2008. Ultimately we obtained substantial compensation for Trooper Wooten and settled the portion of his claim that was in dispute at that time. I have been handling workers' compensation claims for more than a quarter of a century. Trooper Wooten's case was handled in the normal way of most workers' compensation cases.

If I had sensed anything was improper I would have taken immediate action to correct it. I have no reason to believe that there was any improper action by the Governor's office. I am not disputing anything Johanna Grasso might have said to the contrary and I have never spoken to her about this case.

EXPLANATION FOR FINDING NUMBER FOUR

Finding Number Four

The Attorney General's office failed to substantially comply with my August 6, 2008 written request to Governor Sarah Palin for information about the case in the form of emails.

On August 6, 2008, I sent a letter to Acting Chief of Staff Michael A. Nizich. In pertinent part the letter said:

In order to help the public, the Legislative Council, and me understand the circumstances surrounding Governor Palin's recent dismissal of Mr. Monegan, I request that Governor Palin promptly disclose, and make available to me for inspection and copying, the following information and documents:

2. Any papers, documents, e-mails, phone messages and/or logs, or other physical evidence, regarding Mr. Monegan's firing.

The handling of my request with respect to the emails was assigned to a senior Assistant Attorney General [AAG] with whom I have dealt since my entry in the case on August 11. He provided the following information.

When the Attorney General decided to conduct an internal investigation into the circumstances surrounding the firing of former Commissioner of Public Safety Walt Monegan, one of the first things done was to seize images of a large amount of electronic evidence. The imaging was handled by Enterprise Technology Services [ETS] and the Department of Public Safety IT staff. They began their work at the beginning of August. They imaged hard drives, lap top drives, network drives, tape backup drives, external USB drives, blackberries and e-mail accounts for 14 individuals. Those 14 individuals were:

Gov. Palin
Mike Nizich
Frank Bailey
Ivy Frye
Randy Ruaro
Mike Tibbles
John Bitney
Russ Kelly
Karen Rehfeld

Annette Kreitzer
Dianne Kiesel
John Glass
Audie Holloway
Walt Monegan

On August 19, I met with the assigned AAG, ETS and DPS IT staff. At that meeting, I requested the preservation of e-mail accounts for an additional 11 persons, and further requested that the e-mails for all 25 persons be preserved through August 19. The 11 additional persons I requested were:

Bob Cockrell
Kris Perry
Jeff Turner
Brad Thompson
Rodney Dial
Lauren Rice
Kim Peterson
Michael Wooten
David B. Jones
Cheri Cadiente
Talis Colberg

On September 8, ETS advised that there were approximately 1.3 million emails that had been preserved across 23 accounts. The AAG later informed me this information was incorrect, that there were not 1.3 million emails preserved but that for some reason, the space occupied by the 23 accounts amounted to the equivalent of 1.3 million emails.

Emails received to date

As of 2 p.m. Tuesday, October 6, 2008 I have received 29 PDF files that contain within them a total of 814 pages of a mixture of press releases, news articles, and approximately 270 emails relating to Trooper Michael Wooten. The 270 emails have been determined to be of limited probative value to my investigation. This is because the emails either relate to information already in my possession, or relate to news accounts or press releases about the case.

Four days ago, shortly before 2:00 p.m. Monday October 6, 2008, as I was finalizing this report to the Legislative Council, I received an email from the AAG to inform me that the previous day, October 5, ETS had completed the e-mail searches I requested for the following employees of Governor Palin's office.

Mike Nizich
Frank Bailey
Ivy Frye
Randy Ruaro
Mike Tibbles
Russ Kelly
Karen Rehfeld
Bob Cockrell
Kris Perry

The search produced 209 emails. The emails were not provided. The assigned AAG informed me that they have been delivered to Governor Palin's office for review. Shortly after 5:00 p.m. that Monday afternoon I was advised that the Attorney General has asserted a privilege as to all those emails.

Discussion

Although I do not assert any bad faith on the part of the Attorney General's office or the AAG I have been working with, it does seem there has been an unusual delay in material that was requested by me in writing two months ago. No satisfactory reason or explanation has been given, other than the following comments from the AAG to me in an email dated October 2, 2008:

We recognize your concern regarding apparent delay. We ask that you recognize in return the extraordinary situation under which Law and the Executive Branch have been operating. The executive branch has literally been inundated with records requests. ETS has worked non-stop to gather electronic data in response to your requests as well as other requests.

I cannot provide you a date certain on which this project will be completed, but I can provide you assurance that we are working on it and that it will be completed soon.

V Trooper Michael Wooten's Statement And Waiver

Trooper Michael Wooten has submitted the written statement and waiver that appear on the following page.

VI Recommendations For Action By The Legislature

THE FIRST RECOMMENDATION

The legislature should consider amending AS 23.30.107(b)(1) to require that a “governmental agency” that seeks to acquire medical or rehabilitation records of an employee first establish a reasonable relationship between the request for the records and the purpose for obtaining the records. Additionally, the term “governmental agency” should be defined in AS 23.30.395.

Discussion

Title 23.20 is Alaska’s Employment Security Act. Chapter 30 of Title 23 is Alaska’s Workers’ Compensation Act. AS 23.30.107 addresses the release of confidential medical information of state employees. That statute provides:

AS 23.30.107. Release of information.

(a) Upon written request, an employee shall provide written authority to the employer, carrier, rehabilitation specialist, or reemployment benefits administrator to obtain medical and rehabilitation information relative to the employee's injury. The request must include notice of the employee's right to file a petition for a protective order with the division and must be served by certified mail to the employee's address on the notice of injury or by hand delivery to the employee. This subsection may not be construed to authorize an employer, carrier, rehabilitation specialist, or reemployment benefits administrator to request medical or other information that is not applicable to the employee's injury.

(b) Medical or rehabilitation records in an employee's file maintained by the division or held by the board are not public records subject to public inspection and copying under AS 40.25. This subsection does not prohibit

(1) the reemployment benefits administrator, the division, the board, or the department from releasing medical or rehabilitation records in an employee's file, without the employee's consent, to a physician providing medical services under AS 23.30.095(k) or 23.30.110(g), a party to a claim filed by the employee, or a governmental agency; or

(2) the quoting or discussing of medical or rehabilitation records contained in an employee's file during a hearing on a claim for compensation or in a decision and order of the board.

(c) The division may not assemble, or provide information respecting, individual records for commercial purposes that are outside the scope of this chapter. [Emphasis added].

It appears that this statute is inartfully drafted because it does not require a “governmental agency” that wishes to obtain an employee’s medical records to establish any showing of necessity for the records. This issue arose in the present case when it was thought that someone in Governor Palin’s office may have obtained copies of Trooper Michael Wooten’s workers’ compensation file. As drafted, any state governmental agency may obtain medical records of an injured employee by simply making the request. No showing of necessity is required. The problem is compounded because AS 23.30.395, the statute that defines terms of use for Chapter 30, does not define the term “governmental agency.”

For this reason, the legislature should consider amending AS 23.30.107 (b)(1) to require that a “governmental agency” that seeks to acquire medical or rehabilitation records of an employee first establish a reasonable relationship between the request for the records and the purpose for obtaining the records.

THE SECOND RECOMMENDATION

The legislature should consider amending AS 39.25.080 to permit those who file complaints against peace officers to receive some feedback about the status and outcome of their complaint.

Sec. 39.25.080 Personnel records confidential; exceptions.

(a) State personnel records, including employment applications and examination and other assessment materials, are confidential and are not open to public inspection except as provided in this section.

(b) The following information is available for public inspection, subject to reasonable regulations on the time and manner of inspection:

- (1) the names and position titles of all state employees;
- (2) the position held by a state employee;
- (3) prior positions held by a state employee;
- (4) whether a state employee is in the classified, partially exempt, or exempt service;
- (5) the dates of appointment and separation of a state employee;
- (6) the compensation authorized for a state employee; and
- (7) whether a state employee has been dismissed or disciplined for a violation of AS 39.25.160(1) (interference or failure to cooperate with the Legislative Budget and Audit Committee).

(c) A state employee has the right to examine the employee's own personnel files and may authorize others to examine those files.

(d) An applicant for state employment who appeals an examination score may review written examination questions relating to the examination unless the questions are to be used in future examinations.

(e) In addition to any access to state personnel records authorized under (b) of this section, state personnel records shall promptly be made available to the child support services agency created in AS 25.27.010 or the child support enforcement agency of another state. If the record is prepared or maintained in an electronic data base, it may be supplied by providing the requesting agency with access to the data base or a copy of the information in the data base and a statement certifying its contents. The agency receiving information under this subsection may use the information only for child support purposes authorized under law.

AS 39.25.900. is captioned "Penalties" and provides as follows:

(a) A person who wilfully violates a provision of this chapter or of the personnel rules adopted under this chapter is guilty of a misdemeanor.

(b) A state employee who is convicted of a misdemeanor under this chapter or the personnel rules adopted under this chapter immediately forfeits the employee's office or position.

Discussion

In this case, there has been much said about the level of frustration that existed on the part of Sarah Palin's father Chuck Heath who filed the original complaint against Trooper Michael Wooten, and on the part of Sarah and Todd Palin, who attempted to learn the status of the investigation only to be told by Colonel Grimes that the matter was confidential by reason of AS 39.25.080. I believe their frustration was real as was their skepticism about whether their complaints were being zealously investigated. The irony is that the complaints were taken very seriously, and a thorough investigation was underway. However, the law prevented the Troopers from giving them any feedback whatsoever.

When a citizen files a complaint against a peace officer, there should be a balance in our law that on the one hand seeks to protect the confidentiality of the investigative process, but on the other recognizes that someone may have been aggrieved. At the very least, the law should provide for the release of some information to the complainant regarding the status of the case. When citizens are told no information can be released, it has the potential of engendering skepticism about whether the complaint

was taken seriously. There is likewise a great potential that the confidence we need to have in our law enforcement agencies will be undermined, and respect for those institutions will be eroded. This is especially so because in most instances, as was the case here, the officer is an employee of the very same agency that was conducts the investigation.

In sum, AS 39.25.080 should be studied to determine whether some relaxation of the law is possible to allow some feedback to a person who files a complaint against a law enforcement officer.

VII In Depth Discussion Of Case Materials And Evidence

THE HIRING AND FIRING OF WALT MONEGAN

Testimony of John Glass regarding a call from Todd Palin about Mike Wooten four days after Governor Palin was elected

Veteran Alaska law enforcement officer John D. Glass received a call from Todd Palin four days after Sarah Palin was elected Governor of Alaska. Palin wanted to talk about Mike Wooten. At the time Glass was the Chief of Police for the Wasilla Police Department. He was appointed Deputy Commissioner of Public Safety by Walt Monegan a short while later. I took Mr. Glass's sworn statement on August 31, 2008:

MR. BRANCHFLOWER: ...I want to turn now to an incident that occurred on November 8th of 2006. What was your occupation at that time?

MR. GLASS: I was the Police Chief in the City of Wasilla.

MR. BRANCHFLOWER: I believe you were telling me earlier, excuse me, that you had some contact with Todd Palin.

MR. GLASS: That is correct. I received a phone call mid-afternoon from Todd inquiring if Mike Wooten had applied for the police officer's job in Wasilla and that we should not even consider Wooten as a police officer in the City of Wasilla because of how poorly of a trooper and some of the things that he had done while he was a trooper.

MR. BRANCHFLOWER: I'll get into that a little bit more but a couple of preliminary things. Do you know Todd Palin from earlier days?

MR. GLASS: Yes, I do. I know Todd Palin from being involved in the Iron Dog, which is the snow-machine race from Big Lake to Nome and back.

MR. BRANCHFLOWER: Do you participate in that sport as well?

MR. GLASS: I have, yes, on two different occasions.

MR. BRANCHFLOWER: The date we are talking about is November 8, 2006. Is that the date that you were called by Todd Palin?

MR. GLASS: Yes, it was.

MR. BRANCHFLOWER: Now, if I'm not mistaken, November 8th is the day immediately following November 7th, the day that Sarah Palin was elected Governor of the State of Alaska, is that correct?

MR. GLASS: That is correct.

MR. BRANCHFLOWER: Did you check the calendar on that?

MR. GLASS: Yes, I did. I reviewed the calendar to look at that. There's two significant events. Of course, there's the day of the election, but November 8th was also my sister's birthday.

MR. BRANCHFLOWER: Now, I want to return to what you were saying about Todd Palin talking to you about Mike Wooten. Why don't you go ahead and tell us what the conversation -- how it went?

MR. GLASS: Todd had basically told me that he did not want Wooten hired as a City police officer, that Wooten was a very bad trooper and needed to be fired from his job as a trooper, and that Wooten should not be considered at all as a City police officer.

MR. BRANCHFLOWER: Did you have some openings in your Department at that time?

MR. GLASS: Yes, we actually had open recruitment for two positions at that time, and my Deputy Chief, who was Angela Long, I had tasked her with doing and being in charge of that recruitment process.

MR. BRANCHFLOWER: Now, did you know Wooten at the time?

MR. GLASS: No, sir, I did not.

MR. BRANCHFLOWER: Were you able to determine whether Wooten had, in fact, submitted his application?

MR. GLASS: He had submitted an application for the job. He was not going to be considered and was not called for the interview because of the fact that Deputy Chief Long and others within the police department with Wasilla was aware of some of the problems that Trooper Wooten was having as far as discipline and personal issues while he was a trooper.

MR. BRANCHFLOWER: Would those issues be the Taser incident, the moose shooting incident, and so forth?

MR. GLASS: Yes, the shooting of the moose, the alleged drunk driving, the Tasing of his 11 year old stepson, and there were some incidents where he possibly had been stopped for speeding.

MR. BRANCHFLOWER: So, he had submitted an application but was not being considered for the opening; is that right?

MR. GLASS: That's correct. I spoke with Deputy Chief Long about it, and we both agreed that as long as there had been discipline going on and there was potential, until that would have been resolved, we would not consider him as an applicant for the Wasilla Police Department.

MR. BRANCHFLOWER: He was not interviewed, I think you mentioned?

MR. GLASS: No, he was not even called for an interview because of that.

MR. BRANCHFLOWER: So, can you sort of give us an idea of how the conversation went, how long it lasted, and what action you took?

MR. GLASS: It probably didn't last more than five to seven minutes as my recollection goes. I did not record it in my notebook for some reason and it -- I talked to Deputy Chief Long afterwards and learned that she was not even going to call him for an interview.

MR. BRANCHFLOWER: Now, did the question ever come up about how Todd Palin even knew that Mike Wooten had applied for a position with the Wasilla Police Department?

MR. GLASS: I did not ask him that.

MR. BRANCHFLOWER: Do you have any knowledge about how he knew that?

MR. GLASS: I do not know. I have no personal knowledge of that.

MR. BRANCHFLOWER: What was your reaction to having received this call by Todd Palin the day after his wife, Sarah Palin, was elected to be Governor of Alaska?

MR. GLASS: Well, I thought there was probably three reasons why Todd was making that call to me that day. Number one was because he knew me from previous contacts through the Iron Dog. Number two, he was a

citizen of the City of Wasilla of which I was the Police Chief and I would accept any call from a citizen within it. And, the third, of course, was the fact that his wife had been elected Governor. In fact, we had some conversation about that, congratulating him and how life was going to change for him. I also had contact when I was working at Kuparuk with Todd on a couple of occasions where I had helped him out getting moved from Kuparuk when they over flew Prudhoe Bay and I was able to give him a bus ride back over to his work station.³⁸

Walt Monegan

Following a thirty-two year career that began in 1974 when he was hired as a patrol officer with the Anchorage Police Department, Walt Monegan retired as Chief of Police in September 2006. He testified in this matter on September 10, 2008 regarding the circumstances surrounding his firing by Governor Palin on July 11, 2008.

As his testimony got under way, he described being approached by Chuck Kopp on September 29, 2006 at Monegan's retirement barbecue, several weeks prior to the time Governor Palin was elected. Kopp signaled that he wanted to talk to Monegan in private, so the two stepped away from everyone else. Monegan testified:

MR. MONEGAN: Chuck approached me while I was dishing up some food, and he wanted to talk to me away from everybody else. So as we stepped away from the crowd, he informed me that he had it on pretty good authority that he was going to be the next Commissioner of Public Safety. I congratulated him on that position. And he said, well, the reason I'm telling you this is I would like to know if you'd like to get back into uniform and be my colonel of the Alaska State Troopers. I told him that personally -- I thanked him for the offer, but I believe that that position probably should be filled from within. But I wished him the best of luck.³⁹

Approximately a week before this conversation with Kopp, Monegan had received a call from Frank Bailey, who asked him to appear in a television campaign ad for candidate Sarah Palin. Monegan declined.⁴⁰ After Monegan retired, but before Sarah Palin was elected, Frank Bailey called Monegan again to ask whether he would now consider doing a campaign ad with Ms. Palin. Bailey told him, "...now that you're retired, you are no longer the police chief. Would

³⁸ Glass transcript page 6, line 22.

³⁹ Monegan transcript page 4, line 3.

⁴⁰ Monegan transcript page 5, line 11-page 6, line 19.

you consider doing one of those campaign ads with Sarah?”⁴¹ Monegan again declined. Bailey called Monegan a third time after Sarah Palin was elected, this time to ask if Monegan would be interested in the position of Commissioner of Public Safety. Monegan said he would. Bailey told him he would have to provide a resume, execute a waiver to permit a background check, and that he would soon be in touch with Gary Wheeler, a former trooper who was part of the governor’s protection detail.⁴²

During the course of his testimony, I asked Monegan about his opinion regarding whether Bailey appeared to be calling with the knowledge and consent of Governor Palin:

MR. BRANCHFLOWER: Okay. Now, with respect to these three telephone calls, did Frank Bailey suggest to you directly that he was calling on behalf of Governor Palin?

MR. MONEGAN: That -- I believe he said something to that effect, yes.

MR. BRANCHFLOWER: For all three calls or just the --

MR. MONEGAN: Well, the first two, he wanted to know if I'd be willing to do an ad with him. And I would pretty much assume that that was in fact with her permission, obviously. The last one was -- it wouldn't be his call to make that selection of a commissioner.

MR. BRANCHFLOWER: To offer you the job?

MR. MONEGAN: Correct. That would have to be from the governor.

MR. BRANCHFLOWER: Did he -- did he expressly state he was calling on behalf of Governor Palin?

MR. MONEGAN: Governor elect, yes.

MR. BRANCHFLOWER: Governor Elect Palin.

MR. MONEGAN: I recall something like that, yes.

MR. BRANCHFLOWER: In that third call?

⁴¹ Monegan transcript page 6, line 24.

⁴² Monegan transcript page 7, line 4- page 7, line 14.

MR. MONEGAN: Yes.⁴³

As promised, Gary Wheeler contacted Monegan in connection with a background investigation, and he signed the waiver required of all candidates for the commissioner's job.

Monegan's appointment as Commissioner of Public Safety

Around mid-November 2006, Walt Monegan received a call from Governor-elect Sarah Palin, who told him "I want you to be the – my top cop. I want you to do this."⁴⁴ The two met the following Monday at her transition office in Anchorage, a short while before she was sworn in.⁴⁵ The meeting lasted about an hour. A short while later, Governor-elect Palin issued a press release announcing Monegan's appointment as her Commissioner of Public Safety.⁴⁶ Two other Commissioners were also announced at the same time in the press release. They were Marty Rutherford, Department of Natural Resources (interim), and Joe Schmidt, Department of Corrections.⁴⁷

In her November 28, 2006 press release, Governor-Elect Palin praised Monegan and said:

Walt Monegan is a familiar name to many in Southcentral and rural Alaska. Monegan recently retired after 32 years in law enforcement with the Anchorage Police Department – the last five as the Chief of Police. Monegan oversaw a staff of 574 employees and an \$80 million budget. Starting as a patrol officer and rising steadily through the ranks, Monegan has experience in every facet of public safety, including internal affairs, crime prevention, communications, emergency operations, training, anti-gang efforts, school/youth liaison and Crimestoppers. Monegan is credited with enhancing police effectiveness by installing mobile computers in police vehicles; implementing advanced 911 service to Alaska's largest municipal population; writing plans to address gang and youth violence; supporting the establishment of professional standards for village public safety officers; establishing a Citizens Police Academy and resurrecting police traffic units to address drunken driving. Monegan has a bachelor's

⁴³ Monegan transcript, page 8, line 3.

⁴⁴ Monegan transcript, page 10, line 22.

⁴⁵ Monegan transcript, page 11, line 7.

⁴⁶ Monegan transcript, page 12, line 4.

⁴⁷ The press release, labeled Attachment 8, appears at the end of Mr. Monegan's transcript.

degree in Organizational Administration from Alaska Pacific University and an Associate's degree from the University of Alaska, Anchorage. His advanced professional education includes senior government executive training at Harvard University's John F. Kennedy School of Government, the FBI's National Executive Institute and the National Crime Prevention Institute. He and his wife, Terry, have four adult children and one grandchild. Monegan lives in Anchorage. "Chief Monegan will bring to the Department of Public Safety the perspective of a career professional peace officer and administrator with a proven record of using resources effectively to address the changing public safety needs of Alaskans," said Palin. "As an Alaska Native from the Lower Kuskokwim village of Nyac, he understands the special public safety on a statewide basis. We are fortunate to have such an experienced and well-rounded police professional heading the Department of Public Safety."

Monegan's first day on the job as DPS Commissioner was the day after Governor Palin's inaugural [December 5, 2006].⁴⁸

During that time, Monegan was deciding whom to appoint to his vacant DPS Deputy Commissioner position. The Governor had appointed a transition team to consider applicant's to DPS positions, and Chuck Kopp was the leader of the team.⁴⁹ Soon, Monegan appointed John Glass, the then Chief of Police for the Wasilla Police Department, and a retired Alaska State Trooper.⁵⁰ A short while later, Monegan appointed Audie Holloway to be the Director of the Alaska State Troopers after Governor Palin's then Chief of Staff approved Monegan's selection.⁵¹

Governor Palin's office scheduled an appointment between Commissioner Monegan and the First Gentleman in Governor Palin's office to discuss Michael Wooten

Cassandra Byrne is a ten-year employee of the DPS, having served as the executive secretary to former DPS Commissioner William Tandeske, and the director of the Fire Marshal's office. She was retained as Commissioner Monegan's executive secretary after he was appointed. She testified on September 1, 2008, about an unusual call she received from the Governor's office in Anchorage shortly after Sarah Palin was sworn in. She related the following:

MR. BRANCHFLOWER: Can you state for the record what your duties

⁴⁸ Monegan transcript page 12, line 22.

⁴⁹ Monegan transcript page 14, line 4 to page 15, line 1.

⁵⁰ Monegan transcript page 14, line 16, and page 17, line 17.

⁵¹ Monegan transcript page 19, line 2.

are with the Department of Public Safety, specifically with respect to the Commissioner's Office, and specifically with respect to former Commissioner Monegan?

MS. BYRNE: I tracked the email correspondence with former Commissioner Monegan. I also kept his calendar for him. I also coordinated meetings that the Commissioner had wanted to set up with his senior management group. Various other correspondences, which I drafted for his signature.

MR. BRANCHFLOWER: Were you involved in screening calls?

MS. BYRNE: I was.

MR. BRANCHFLOWER: Tracking correspondence, perhaps preparing correspondence, that sort of thing.

MS. BYRNE: Yes.

MR. BRANCHFLOWER: And specifically, you also scheduled his appointments. You kept his calendar, then?

MS. BYRNE: Yes, I did.

MR. BRANCHFLOWER: All right.

MS. BYRNE: I'd like to add, also, that I and another secretary down in Juneau kept his calendar, depending on where his location was at the time.

MR. BRANCHFLOWER: Now, the calendar that we're talking about – is it the old fashioned paper kind of calendar, or

MS. BYRNE: It is not. It's the Microsoft Outlook calendar that's available online.

MR. BRANCHFLOWER: All right. Now, I want to call your attention to a time in December of 2006 and ask you to testify about a telephone call you got from the Governor's Office. Just to put it in perspective, do you recall when Governor Palin was elected to office?

MS. BYRNE: I believe she was elected in November of 2006.

MR. BRANCHFLOWER: All right. And so the conversation that I'm

referring to now would have occurred the following month, December of 2006. Do you remember when she was sworn in, approximately?

MS. BYRNE: It was December 5, 2006 in Fairbanks.

MR. BRANCHFLOWER: Good memory. So December 5, 2006 in Fairbanks, she was sworn in. The conversation that I'm going to refer to and ask you about is the one that involved your scheduling of a meeting with Mr. Todd Palin. Do you recall that conversation?

MS. BYRNE: I do.

MR. BRANCHFLOWER: When did it take place in December?

MS. BYRNE: I believe it was close to either the third or fourth week in December because usually appointments are scheduled in advance. So, I believe that it was towards the last week, or the third or last week, of December.

MR. BRANCHFLOWER: Of '06.

MS. BYRNE: '06.

MR. BRANCHFLOWER: And can you just describe, in your own words, the telephone call: where it came from, who you spoke to, if you recall what happened? Then I'll have some follow up questions.

MS. BYRNE: Sure. I believe it was either Janice Mason or Sunny Cayce that called and said that the First Gentleman would like to have a meeting with Commissioner Walt Monegan. At that time I was not familiar with the term "First Gentleman" or didn't hear her correctly, so I kept asking her "who?" and she eventually said "Todd Palin." I said, "Oh, okay" so we set the time and the place, which was the Governor's Office in Anchorage, and that was how the appointment was set was that phone call.

MR. BRANCHFLOWER: When was the appointment scheduled for?

MS. BYRNE: January 4.

MR. BRANCHFLOWER: So it sounds like you don't remember exactly who called you. It was Sunny Cayce?

MS. BYRNE: Cayce.

MR. BRANCHFLOWER: Cayce. Can you spell that for the record?

MS. BYRNE: C-a-y-c-e.

MR. BRANCHFLOWER: Or?

MS. BYRNE: Or Janice Mason. I believe the last name is spelled M-a-i-s-o-n. She is currently still the Governor's scheduler.

MR. BRANCHFLOWER: Can you just recreate how the conversation went, what was said, so forth and so on and what you did?

MS. BYRNE: She said that she would like to schedule an appointment with Commissioner Monegan, with the First Gentleman. When I asked her "excuse me?" I didn't know the terminology, and she eventually said "Todd Palin." We continued to set the appointment. She gave me the time, the location, and it was entered onto the calendar.

MR. BRANCHFLOWER: And what was that location?

MS. BYRNE: It was Anchorage. The Governor's Anchorage office.

MR. BRANCHFLOWER: And the time, or the date?

MS. BYRNE: The date was January 4. I don't remember the time.

MR. BRANCHFLOWER: It was January 4.

MS. BYRNE: It was in the afternoon.

MR. BRANCHFLOWER: Did she tell you that it was scheduled for the fourth, or did she ask you when Commissioner Monegan was available?

MS. BYRNE: I don't remember. Although at that time, I believe that she said the date because it was early on in this Administration and he did not have a lot of meetings scheduled.

MR. BRANCHFLOWER: Who? Monegan did not have a lot of meetings?

MS. BYRNE: Right, at that time. It was very early in his tenure.

MR. BRANCHFLOWER: So you think that the caller from the Governor's office was the one who suggested the fourth of January?

MS. BYRNE: Yes.

MR. BRANCHFLOWER: You were telling me earlier before I went on record that you received a call just recently, in July of '08, from someone about his calendar. Can you tell us about that?

MS. BYRNE: Yes. I received a call. I believe it's Janice Mason that asked me for a copy of Commissioner Monegan's calendar, and I said that it would not be available for me to print it out because the Commissioner's email account was terminated. Then she said, "oh." Then she said that they can get it from the server and thanked me. That was the end of the conversation.⁵²

Ms. Byrne's testimony about other calls to Commissioner Monegan

During her testimony, I inquired about whether she had any knowledge about calls to Monegan about Trooper Wooten:

MR. BRANCHFLOWER: Is your office located physically close to where Commissioner Monegan had his office?

MS. BYRNE: My office is right outside his office. It's adjacent to his office.

MR. BRANCHFLOWER: So, is it fair to say that you have daily contact with him?

MS. BYRNE: Yes.

MR. BRANCHFLOWER: You work closely with him?

MS. BYRNE: Yes.

MR. BRANCHFLOWER: Speak to him every day?

MS. BYRNE: Yes.

MR. BRANCHFLOWER: So, maybe you can explain when someone calls, or called, Commissioner Monegan, would you be the person to answer?

⁵² Byrne transcript, page 3 line 22 to page 8, line 2.

MS. BYRNE: If they called on the land line, yes.

MR. BRANCHFLOWER: So, he could receive calls on the land line or on his cell phone. Is that what you're saying?

MS. BYRNE: Yes. He can receive calls on his cell phone which I would not know who was calling, and also on his direct line which I would not know who was calling.

MR. BRANCHFLOWER: But if someone called on the land line, the call would come to you and then you would –

MS. BYRNE: Well, with the general Commissioner's Office number. Yes.

MR. BRANCHFLOWER: Right, and then you would screen it and then either pass it through or take a message, or whatever.

MS. BYRNE: Yes. Correct.

MR. BRANCHFLOWER: Now, did it happen from time to time that after Commissioner Monegan spoke to someone on the phone that he would step out of his office and sort of talk to you about the conversation that he just had?

MS. BYRNE: Occasionally.

MR. BRANCHFLOWER: All right. You told me about three times when that happened, and I want to go through those calls right now.

MS. BYRNE: Yes.

MR. BRANCHFLOWER: The first of which, I think, you told me was in January of 07 which, again, would have been just a few weeks after Governor Palin was sworn in, in Fairbanks, on December 5. Do you have in mind the call that I'm talking about?

MS. BYRNE: Yes.

MR. BRANCHFLOWER: Do you remember when in January of 07 that was? Early, middle, or late?

MS. BYRNE: I believe it's early because it was tied into Todd's meeting, Todd Palin's meeting.

MR. BRANCHFLOWER: And that was the one that was scheduled for the fourth of January?

MS. BYRNE: Yes. There was a phone call. We were talking in his office and the phone call came in, and I left. Whenever he had a call that came in on his Blackberry, I left his office to go back to my office. When I went back, I said "Was that Todd Palin calling about the appointment?" He said, "no. It was the Governor."

MR. BRANCHFLOWER: What did the Governor say to him, according to what Walter told you?

MS. BYRNE: That she wanted him to fire Wooten.

MR. BRANCHFLOWER: That she, the Governor, wanted Walt to fire Mike Wooten?

MS. BYRNE: Yes.

MR. BRANCHFLOWER: The second conversation I want to talk to you about, I think, is dated in March of 2008 – one that involves a call between former Chief of Staff Mike Tibbles and Walter Monegan. Do you have the conversation in mind?

MS. BYRNE: I recall that I was in his office. Again, the call came to his Blackberry and I left, and after the phone call I went back and asked him and he said it was Mike Tibbles and it was about Wooten.

MR. BRANCHFLOWER: So Mike Tibbles called him about Wooten. Did Commissioner Monegan elaborate on what Tibbles wanted?

MS. BYRNE: No.

MR. BRANCHFLOWER: And the last call is the

MS. BYRNE: Yes, he did.

MR. BRANCHFLOWER: Oh, he did?

MS. BYRNE: Right.

MR. BRANCHFLOWER: What did he say?

MS. BYRNE: That he – that again it was about Wooten, wanting us to get rid of Wooten.

MR. BRANCHFLOWER: Tibbles wanted Monegan to get rid of Wooten?

MS. BYRNE: Yes.

MR. BRANCHFLOWER: And that was in March of 2008?

MS. BYRNE: Yes.

MR. BRANCHFLOWER: And then the last call was in April of 2008. I think you told me earlier that he had just gotten back from a legislative session in Juneau, or something. Tell about that, if you would.

MS. BYRNE: I think that he was disappointed with the legislative decision about budgeting for public safety, and when he came back I asked him how the meetings went, the hearings, et cetera. He said that it was basically very disheartening at the direction that the legislative session had gone because we were not going to receive the funding that we would need.

MR. BRANCHFLOWER: And was there mention made of Michael Wooten in the context of this conversation?

MS. BYRNE: Yes.

MR. BRANCHFLOWER: What did he tell you?

MS. BYRNE: That because of the fact that we still had Wooten in our employee, that we would continue to have the problems with budgeting.

MR. BRANCHFLOWER: That was his feeling?

MS. BYRNE: Yes.

MR. BRANCHFLOWER: Did he say that he had been told that, or did you get the feeling that that was just his feeling?

MS. BYRNE: No. He was – I don't know who, whether someone told him directly, but it has always been my feeling that our administration has

always been pressured and everything that we've done as far as goals and projects, that it weighed very heavily upon that issue.

MR. BRANCHFLOWER: The issue being Mike Wooten being fired?

MS. BYRNE: Yes.

MR. BRANCHFLOWER: And the pressure that you're referring to, would that be coming from the Governor or Governor's office?

MS. BYRNE: It was her Administration – not only from the Governor, but other members.⁵³

Monegan's meeting with Todd Palin on January 4, 2007

Walt Monegan testified as follows about his January 4, 2007 meeting with Todd Palin that took place in Governor Palin's Anchorage office:

MR. MONEGAN: When I arrived into the governor's office, I advised them that I had an appointment with the first gentleman. And I was directed back into the governor's office itself. It's a corner office. There was no -- the governor wasn't in the office. The only other person that was there was Todd, Todd Palin. And he was seated at the conference table that was located in the governor's office. This conference table is about -- it's on the east side of the office itself. It's about four feet wide and somewhere, I would have to guess, between 10 and 12 feet long. And he was seated on the west end of it, but not on the end of the table, but across, much like we are sitting at the moment, on the west end of the table. His back was to the windows, mine was to the wall. And that's how I remember noting it was still dark outside.

MR. BRANCHFLOWER: And so it's just you and he in this room?

MR. MONEGAN: That's correct.

MR. BRANCHFLOWER: Was the governor present?

MR. MONEGAN: No.

MR. BRANCHFLOWER: Was anyone else present?

⁵³ Byrne transcript page 8, line 3 to page 12, line 12.

MR. MONEGAN: No one else. Just Todd and I.

MR. BRANCHFLOWER: Was a recording made of the meeting between you and Mr. Palin?

MR. MONEGAN: Not by me. And I wasn't -- I'm not sure if there was any recording of it at all.

MR. BRANCHFLOWER: And how were you dressed?

MR. MONEGAN: I was in a business suit.

MR. BRANCHFLOWER: And Mr. Palin, how was he dressed?

MR. MONEGAN: I believe he also was wearing business attire.

MR. BRANCHFLOWER: Now, why don't you just describe for the record how the interview progressed. I assume you were invited to sit at the table?

MR. MONEGAN: Uh-huh.

MR. BRANCHFLOWER: You were sitting across from each other. So just recreate for us, first of all, what you saw on the table, and then we'll have some questions about how things progressed.

MR. MONEGAN: What I recollect was that Todd was sitting there. He had three stacks of paper in an array in front of him. The largest one was probably a quarter inch thick, and that was in the center. To his right, I believe what I recall was a stack of paper that looked like photos or copied photos on to typing paper, if you will. And on his left, I believe he had a smaller stack, as well, that had three or four pages in it. And it was -- it had the letterhead and logo of the Department of Public Safety.

MR. BRANCHFLOWER: Okay. So the one stack that had the Department of Public Safety logo on it, could you tell what kind of documents they were?

MR. MONEGAN: That one appeared to be correspondence. It was -- it looked like a letter that was sent, and presumably from the Alaska State Troopers. And it was text written -- I think the date was

somewhere in '05 or '06, I believe. I don't remember looking at the date. But it was older; I know that.

MR. BRANCHFLOWER: Okay. Did he invite you to read the document to know exactly what it said?

MR. MONEGAN: I scanned it. But as I was scanning it, he was talking to me. So my attention was split, so to speak. Being a guy, I can't multitask that well.

MR. BRANCHFLOWER: I know the feeling.

MR. MONEGAN: And the -- but what I was reading -- what it appeared to be was the correspondence regarding a complaint that he and the governor who -- had made prior to the governor becoming the governor in regards to a Trooper Mike Wooten and -- who happened to be the former brother-in-law of the Palins. Apparently he had divorced one of the governor's sisters.

And while I'm trying to scan this, my impression of the letter, that it was -- that they were -- they -- the author, which I believe was Colonel Grimes, was trying to explain to them that they investigated the complaint, and they had sustained some of the issues that the complaint was involving, and that -- but not all of them.⁵⁴

And at the same time, Todd was explaining about the character and the events of -- that surrounded Michael Wooten.

And my first impression, as I'm listening to this and reading it, that the investigation had been complete -- already completed. I mean, I surmised that a little bit from the -- what I think was in that letter, and

⁵⁴ On September 20, 2008, following Mr. Monegan's deposition on September 10, I sent former Colonel Grimes an email where I asked, "I have a quick follow-up question to your testimony. Did you ever write any correspondence [or memos, emails, etc.] to either Todd or Sarah Palin about the Wooten Administrative Investigation, re the status of the investigation, findings, etc.?" Ms. Grimes responded on September 24, 2008 and said, "I have no specific recollection of writing any correspondence to Sarah or Todd Palin about the Wooten AI. Any document of that nature would have been copied, filed and ultimately archived within the AST Director's Office. Current AST staff has not located any correspondence from me to the Palin's in any Director's Office files or any files that I reviewed to refresh my recollection of events prior to my sworn statement to you."

that the impression was that Todd was not happy with the outcome of the investigation.

So when he informed me that -- he also had the larger stack. The one that was in the center was a report from a private investigator that they, whoever "they" is, had hired to look into some of the issues and allegations or -- surrounding Trooper Wooten.

And then the smaller stack that looked like photos were just something that -- what appeared to be, like, individuals, who either copied it from a computer or basically took photos of -- in fact, I think they were transferred through a computer and color photos were printed out on that.

MR. BRANCHFLOWER: What were they pictures of?

MR. MONEGAN: What I recall, one looked like a moose and -- that had been shot. There may have been others, but I just glanced through them while I'm, again, trying to pay attention to Todd talking to me about Trooper Wooten.

MR. BRANCHFLOWER: Well, what -- what did he tell you about Trooper Wooten?

MR. MONEGAN: Well, he told me that this particular trooper had -- had gone through a divorce with Molly, which is one of the sisters of the governor, and that it was -- this particular individual wasn't and shouldn't have been a trooper, that he didn't model himself well as a trooper, that they had filed complaints.

They had worked with Colonel Grimes, and actually went to her office and talked to them about Trooper Wooten. And the allegations included the taking of a moose illegally, tasing an 11-year-old stepson of Wooten's, drinking while driving in the patrol car, having a beer while he was driving his patrol car. And there may have been a couple of others, but the details on that, I don't recall.

MR. BRANCHFLOWER: And did he say that he and the governor had met with the folks who handled that matter in the prior administration?

MR. MONEGAN: I believe he kept using the term "we." We went to go talk to, we, we. And so I assumed it was he and Sarah, of course.

MR. BRANCHFLOWER: And did he tell you what the outcome of that investigation was, and specifically whether or not he was satisfied with it?

MR. MONEGAN: He told me that he just got a few days off, and he didn't think that was enough. And this guy shouldn't be a trooper.

The characterization of how that meeting occurred, on his part more specifically, was I saw somebody who was somewhat animated. Not certainly out of control, but he was passionate about how he was addressing this issue.

And my impression initially was that he's venting. I mean, there was a complaint, the troopers investigated it and they came up with a conclusion, and that he was not happy with the conclusion.

And often, having been a cop for a long time, that actually happens a lot in divorce cases.

MR. BRANCHFLOWER: In what?

MR. MONEGAN: In cases of divorce, where it pegs the emotion for individuals involved, or those who are supporting them sometimes.

MR. BRANCHFLOWER: Did he seem frustrated with the trooper investigation that had already taken place?

MR. MONEGAN: He did. And that he thought that maybe perhaps there were things that were missed or overlooked, and that -- and so what he was -- basically what he was asking and brought me there for was if I could look into this file and review it. So I told him I could and I would, and that I would have it reviewed.

MR. BRANCHFLOWER: Did he characterize the discipline that had been imposed on Trooper Wooten?

MR. MONEGAN: He didn't think it was enough. It was more of a slap on the hand or slap on the wrist. And I know that -- because I heard that same expression a little later on by the governor.

MR. BRANCHFLOWER: We'll get to that in a minute. But I'm focusing on the words that Todd Palin used during this January meeting. Did he use the term, quote, "slap on the wrist"?

MR. MONEGAN: I believe he had.

MR. BRANCHFLOWER: And was there any -- did he express any opinion about whether or not Mr. Wooten should have been prosecuted?

MR. MONEGAN: He thought that certainly the taking of a moose was a criminal act and that it should have been investigated and handled properly. Again, there was the overall tone of frustration on his part.

And I told him I would look into it and -- which I did. I had it -- I gave the file to Major Matt Leveque and asked him very specifically, page-by-page review of the file that Todd had compared to the investigation that was done.

MR. BRANCHFLOWER: Okay. It sounds to me as if Mr. Palin gave you something. You said you just gave some material to Matt Leveque?

MR. MONEGAN: Yeah. I'm sorry.

MR. BRANCHFLOWER: Did he -- did Todd Palin give you something? Did he ask you to do something?

MR. MONEGAN: Yes, he did. Actually, there was -- those three stacks of paper, we combined. You know, the photos, the documentation, and the private investigator's report, he gave it to me as a packet and asked me to review it, so I told him I would.

MR. BRANCHFLOWER: Did he give you any specific request about those materials?

MR. MONEGAN: Just basically to look it over to see if we missed anything. Because he didn't think what transpired -- they didn't take the complaint seriously or something to that effect.

MR. BRANCHFLOWER: Okay. And what did you do with the stack of materials that he gave you?

MR. MONEGAN: I told him I'd have -- I told Todd that I would have the -- compare it to the investigation.

So I took the stack with me at the end of the meeting, returned back to DPS, and I gave it to Major Matt Leveque and asked him do a page-by-page comparison, did we miss anything on this. And he said he would.

MR. BRANCHFLOWER: Did you make any promises to Todd Palin?

MR. MONEGAN: The only promise I made to him, or the only statement I made, is I would look into it.

MR. BRANCHFLOWER: And what was his reaction when he heard you say that you would look into it?

MR. MONEGAN: He said, that's good, thanks.

MR. BRANCHFLOWER: And what did you see as your job at that point with respect to these materials?

MR. MONEGAN: That -- was trying to resolve in this case a citizen's issue with a complaint and how it was investigated and handled.

And in part, again, being a cop for a long time, I was watching a person what I thought was venting about some frustration that he didn't think that the complaint was handled either properly or that the discipline wasn't severe enough.

MR. BRANCHFLOWER: Was there anything mentioned during the course of this meeting with Todd Palin about concerns -- security concerns or fear that either he or Governor Palin may have had with respect to Trooper Wooten?

MR. MONEGAN: He did say that there was -- Trooper Wooten had supposedly made a statement that had threatened the governor's father, and that that was part of the allegation, part of the package that was done in there.

But to an ongoing situation, ongoing threats to the governor or to her family, I didn't perceive it that way, no.

MR. BRANCHFLOWER: Did he ask you for any kind of security detail assigned to him or extra security, anything like that?

MR. MONEGAN: No, he did not.

MR. BRANCHFLOWER: Did he leave you with any impression of whether the troopers would be better served if Mr. Wooten was not -- was no longer in the employ of the Department of Public Safety?

MR. MONEGAN: That was the impression I got. Basically my impression is that he didn't think Wooten should be a trooper, and said that -- about said as much.

MR. BRANCHFLOWER: Did he ever say something -- words to the effect, look what kind of guy you have on your force, or something along those lines?

MR. MONEGAN: It was something to that effect, yeah. And also, during the entire conversation, there wasn't any other issues of other people. I mean, the sole meeting -- the sole topic at the meeting between Todd and I was strictly about Wooten.

MR. BRANCHFLOWER: Now, prior to this meeting, I think your testimony has been that you never really had any knowledge about Mr. Wooten -- Trooper Wooten.

MR. MONEGAN: I had never even heard of Trooper Wooten before.

MR. BRANCHFLOWER: Okay. And did it occur to you that there was anything unusual or peculiar about the fact that, within a month or so of Governor Palin having been appointed to office, that you got a call to go down to the governor's office to meet not with the governor but with her husband to discuss a personal matter, the matter involving the governor's sister and her former husband? Did that strike you as unusual?

MR. MONEGAN: It does.

MR. BRANCHFLOWER: And why don't you explain what your thinking was at the time.

MR. MONEGAN: Well, my impression when I first walked in was -- responding to the meeting request was that this was going to be an issue of protocol, something of -- something -- some kind of protocol.

And when the topic of Wooten came up and the past investigation and the dissatisfaction with either how it progressed or how the discipline was handled, my impression was that certainly he's got issue over this.

And again, initially, I kind of -- I've seen enough of it over the years that people do vent. But to have it in the governor's office itself, the trappings of the office, this could have readily happened in my office or at a coffee shop or someplace. It didn't have to be inside the auspices of the office itself.

MR. BRANCHFLOWER: Now, as an experienced police officer -- you've described your career. I want to ask you about something that's called police radar. It's sort of a sixth sense that police develop about things that go on about them. And whether it be -- whether they might be working a case or interviewing people, they have a sense of what is really going on. Have you developed that so-called sixth sense?

MR. MONEGAN: I think I have, yeah.

MR. BRANCHFLOWER: You've been a police officer for how long?

MR. MONEGAN: Almost 35 years.

MR. BRANCHFLOWER: And so what did your police radar tell you about what was going on and what the purpose of that meeting was?

MR. MONEGAN: Well, on the drive back, as I was reflecting on the meeting -- drive back to the office, I was thinking that in essence, they certainly didn't like the idea that Wooten was still employed. And they wanted severe discipline, probably termination, and that -- and if this was going to build, I had this kind of ominous feeling that I may not be long for this job if I -- if I didn't somehow respond accordingly.

MR. BRANCHFLOWER: So your career you thought might be in jeopardy unless you took some decisive action that might result in Trooper Wooten's dismissal from the force; is that your testimony?

MR. MONEGAN: Yes. And -- but the flip side of it, I also got to augment with that that having been a police officer, I certainly believe in rules and regulations and laws and whatnot. And there is a certain part that you will not step over. So I was -- I felt that if there is a term where you start to feel pressure, you are between laws and self-preservation, so to speak.⁵⁵

Mr. Monegan left his meeting with the materials given to him by Todd Palin. He immediately gave them to Major Matt Leveque to do a page-by-page comparison with the materials gathered by DPS in connection with the now closed administrative investigation to see if investigators had missed anything or whether there was some new evidence. A couple of days later, Major Leveque reported to Monegan that the review had been done, and that there was nothing new. Monegan testified "That every issue that was brought up by the material that Todd Palin had provided me had already been addressed and covered in the investigation."⁵⁶

MR. BRANCHFLOWER: Okay. So now it was your duty, I take it, to get back to Todd Palin to give him the news; is that so?

MR. MONEGAN: It was.

MR. BRANCHFLOWER: And so did you do that? Did you call him back?

MR. MONEGAN: I did. I called him back, and I advised him that we had made the comparison. There is nothing new, the case is closed, and that -- and honestly, he responded with more frustration.

I think he was upset that -- that there wasn't anything new or we couldn't act on anything different.

And I tried to explain to him -- I even gave him some -- more examples. Pertaining to the moose, I said that in the moose kill, for example, if you wanted criminal charges brought against Wooten for actually pulling the trigger on a technicality, his wife did have a permit, and she was with him.

If she was standing with him and he's the only one that just pulled the trigger, did that violate the letter of the law? Probably. Did it violate the spirit of the law? I don't think anybody's going to charge it.

⁵⁵ Monegan transcript page 22, line 24.

⁵⁶ Monegan transcript page 34, line 1.

But if they did, if there was a criminal act there, there would be more people that would be culpable of being charged than just Wooten.

MR. BRANCHFLOWER: How so?

MR. MONEGAN: Well, the wife, it was her permit. She willingly allowed somebody else to use it.

It also -- once the moose had been shot, it had been drug, according to Todd, by Wooten in the back -- from the back of a truck to the location where it was butchered by the governor's father. And so I pointed out that there are people also involved in this incident that theoretically could also be charged.

And he said, I didn't want that. I only want Wooten charged. Well, we're not that way. If there's somebody who's guilty, we have to hold everybody accountable for their actions and their decisions.

MR. BRANCHFLOWER: And was this the telephone conversation you were having with him?

MR. MONEGAN: Yes.

MR. BRANCHFLOWER: And when did that occur?

MR. MONEGAN: It was just a couple of days after I had had my meeting with him.

MR. BRANCHFLOWER: So that would have been January the 6th, or perhaps the 7th?

MR. MONEGAN: Something like that, yes.

MR. BRANCHFLOWER: And about how long did this conversation last?

MR. MONEGAN: Oh, probably, I don't know, maybe five, ten minutes. I was trying to give him examples. And I even pointed out to him that if any of these acts were so heinous, then perhaps they should have been reported at the time they actually occurred and not be delayed for about a year or so, until such time as they were going through a divorce, and then these issues were brought up.

MR. BRANCHFLOWER: And did he have an answer for that question?

MR. MONEGAN: Not really. I mean, except that he had more frustration and -- but I tried to assure him that all complaints, no matter what and who they're from, will be investigated and should be investigated. And I wasn't trying to dodge a complaint, but I got to let him know that that was my perception.⁵⁷

Governor Palin's call to Walt Monegan

A couple of days after Mr. Monegan told Todd Palin the materials he had provided failed to disclose any new evidence regarding the closed Wooten administrative investigation, he received a call from Governor Palin, to discuss the Wooten disciplinary matter.

MR. BRANCHFLOWER: And in fact, did you receive a call from Sarah Palin shortly thereafter?

MR. MONEGAN: About a day or two after that. It was late in the evening. I think I was talking to Matt Leveque at the time, and my cell rang. I answered it, and she goes, Walt, this is Sarah. Well, hello, Governor.

And Matt, hearing that, hopped up out of his chair, waved at me, and left. And I think that's pretty much protocol. People -- if the governor calls, everybody kind of vacates the office, because they don't want to compromise confidentiality, or any perceived of it.

MR. BRANCHFLOWER: So what was she calling about?

MR. MONEGAN: She was echoing some of the frustration that I had already heard from Todd, and the same kind of issues about Trooper Wooten and the moose kill, the investigation, how the -- the investigation and the outcome of the investigation, just it didn't seem right.

MR. BRANCHFLOWER: That's what she said?

MR. MONEGAN: Yeah.

⁵⁷ Monegan transcript page 34, line 3.

MR. BRANCHFLOWER: Now, was this a call that -- during which you discussed other business, police business, or was the sole topic Michael Wooten?

MR. MONEGAN: The sole topic was Michael Wooten.

MR. BRANCHFLOWER: Okay. Did you echo everything that you had told Todd a couple of days before?

MR. MONEGAN: I did, to include examples.

MR. BRANCHFLOWER: The examples about --

MR. MONEGAN: That there would be more than one person charged in a moose hunt. For example, there would be other people that could be charged if a charge was levied.

MR. BRANCHFLOWER: Including her father, for having assisted?

MR. MONEGAN: Correct.

MR. BRANCHFLOWER: You mentioned that to her?

MR. MONEGAN: Yes.

MR. BRANCHFLOWER: And what was her reaction at hearing all of that?

MR. MONEGAN: Well, again, I think she kind of said the same things that Todd did, in regards to that this is just not right. Michael Wooten is -- isn't a trooper that should be wearing a badge, or isn't a trooper that should be examples of what Alaska State Troopers should be. She was frustrated.

MR. BRANCHFLOWER: Did the topic come up -- or did you mention that the discipline had already been imposed on Mr. Wooten during the previous administration following an administrative investigation and that the matter was closed?

MR. MONEGAN: I did. And I think that's when she said something about he only just got a slap on the wrist.

MR. BRANCHFLOWER: I'm sorry. Say that again.

MR. MONEGAN: I did say that the case was closed, and that this is when she responded that Trooper Wooten only got a slap on the wrist.

MR. BRANCHFLOWER: And were you able to gauge her -- her level of -- you used the word passion earlier, I think.

MR. MONEGAN: Passion and frustration.

MR. BRANCHFLOWER: Passion and frustration?

MR. MONEGAN: Yes.

MR. BRANCHFLOWER: Was that what you sensed in the conversation?

MR. MONEGAN: Yes.

MR. BRANCHFLOWER: Did she -- did she appear -- or did she say anything that would lead you to believe that she was emotionally involved in the affairs of her sister or perhaps the divorce or the -- or any child custody disputes that might have been ongoing at the time?

MR. MONEGAN: I didn't know anything about the child custody issues. But yes --

MR. BRANCHFLOWER: I'm not suggesting that there were. I'm just asking because I just frankly don't know. But did that topic come up?

MR. MONEGAN: About child custody? No, it did not.

But the topic of her being frustrated and emotionally involved in this, yes. She was. Again, being a cop for a long time, this is not the first time I've ever heard it, not the first time I've ever recognized it. It just -- sometimes people deal with things that way.

MR. BRANCHFLOWER: And I think you did say -- if not, I'll ask you. Did you tell her that there was no new evidence, and that there was really nothing you could do?

MR. MONEGAN: That's correct, I did.

MR. BRANCHFLOWER: And was she accepting of that? And if so, how did she indicate that?

MR. MONEGAN: She was disappointed. She -- I don't know if she said the word "I'm disappointed," but she certainly sounded that way, and that she was hoping for some other outcome. That was what I was intuitively looking at. She was looking for some other outcome other than what already happened.

MR. BRANCHFLOWER: Did she express, as Todd had expressed in his early meeting with you, that this was not the kind of a person that should be a trooper, or words to that effect?

MR. MONEGAN: Something to that effect, yes.

MR. BRANCHFLOWER: Now, you described the telephone -- excuse me. You described a meeting on January the 4th with Mr. Todd Palin, and you've just described the call from Governor Palin, and you've described the telephone conversation that you had with Todd Palin, all three of which were specifically about Todd Wooten -- Todd -- excuse me, about Michael Wooten?

MR. MONEGAN: That's correct.

MR. BRANCHFLOWER: Now, at the end of this conversation with Governor Palin, who obviously is I think the chief executive of the state and your boss, what did you think your future held with respect to your job as commissioner of public safety?

MR. MONEGAN: Well, I believe that with as much emotion and passion as I heard in both Todd and Sarah on this, that especially since the divorce had, in my mind, occurred like a year or two prior, that if I keep telling them things that are going to frustrate them, I may not be long for the job. I think I may have made a comment like that to my wife.⁵⁸

Monegan's testimony regarding propriety of Wooten inquiries

Walt Monegan testified he felt that both Todd and Sarah Palin "should have known better" than to discuss the Wooten matter with him:

⁵⁸ Monegan transcript page 37, line 2.

MR. BRANCHFLOWER: Now, in your dealings with Todd Palin, are you aware of his occupation and whether he was involved with the union or is a union member?

MR. MONEGAN: I believe someone once told me that Todd Palin was a shop steward in his union.

MR. BRANCHFLOWER: And Michael Wooten is a member, and at all times that are material to our deposition this afternoon, he was a member of the Public Safety Employees Association, correct?

MR. MONEGAN: Yes. That's the union.

MR. BRANCHFLOWER: Now, did it ever occur to you to wonder -- when you told Mr. Palin that the matter had been investigated, that discipline had been imposed and the matter was imposed, did it ever occur to you to ask him, or did you consider asking him something along the lines: Look, you're a union person. You know what the union procedures are, generally speaking, that once the discipline has been imposed, the matter is closed. Did that topic ever come up in your conversation with Todd Palin?

MR. MONEGAN: No. I thought it, but I didn't discuss it. I thought that he should have known better. And I certainly thought the governor should have known better, as the mayor of Wasilla, handling personnel issues, as well.

MR. BRANCHFLOWER: Did you think it was improper -- when you say I think that he should have known better and the governor should have known better, are you saying that it is your opinion that it was an improper thing for them to ask you about, given the relationship that existed -- the employment relationship that existed between -- well, I guess there's no relationship between you and Todd, but certainly between the governor and you.

MR. MONEGAN: I thought it was kind of a -- something that you wouldn't normally put on your official duties. Because they were -- to me, I interpreted this as they were asking me officially to look at and take some action or do something that would involve a personal issue that they were involved in, or their family was anyway.

MR. BRANCHFLOWER: You used the term "frustration." How about angry? Did you sense any anger?

MR. MONEGAN: I sensed it more from Todd, I think. I think he's a little bit more passionate and vocal, and that -- and perhaps that's understandable.⁵⁹

Monegan's testimony regarding the impact of the above conversations with Todd Palin and Governor Palin

MR. BRANCHFLOWER: Now, you had been on the job for about how long?

MR. MONEGAN: About that time, probably about a month.

MR. BRANCHFLOWER: And how would you characterize this incident involving your meeting with the governor and Todd Palin, in terms of impact on you and your ability to manage the day-to-day affairs of the Department of Public Safety?

MR. MONEGAN: Well, I thought that I might be using up some of my good will by telling them bad news.

But in essence, part of me was hoping that basically this was just kind of a venting process and informative of me, so that I could be sensitive to something that they had, and that the issue, I was hoping, would soon go away and fall back in the perspective that it needs to be.

MR. BRANCHFLOWER: Did you see it as a crisis of some sort?

MR. MONEGAN: Initially, the idea that I'm being caught in the middle with something that involved an employee who was divorced from the family of my boss, and that they were not happy with the punishment and outcome that came of it. And they were -- basically said as much, that they weren't happy with it, which implied to me that there was a lot more that they would have liked to have seen done to it, or that maybe I could do something about it.

⁵⁹ Monegan transcript page 41, line 2.

Monegan's testimony regarding a call from Mike Tibbles regarding Chuck Kopp during January 2007

After Governor Palin was inaugurated, she appointed Mike Tibbles as her Chief of Staff. Tibbles called Monegan during January 2007 to discuss hiring Chuck Kopp:

MR. MONEGAN: I had gotten a phone call from Mike Tibbles, who asked is there a spot on my team for Chuck Kopp. And I told him my team was pretty well selected. And he said, well, could you talk to him anyway? Okay. I can talk to him. I had known Chuck for a couple of years in his capacity as the Kenai police chief, as well as our functioning together on a couple of boards. And so when I met with him, I basically I asked, look, I know you somewhat. What is it about you that I don't know that I should know?

And so Chuck disclosed to me that -- he says, well, there is a sexual harassment complaint against me, but it's bogus. It was a result of me disciplining -- disciplining a female employee who then filed a harassment charge against me.

That's as much as we talked about it. I didn't go into detail, anything else beyond that. And then when Mike Tibbles called me back a day or so later, he said, by the way, did you talk to Chuck?

And I said yes. And I disclosed what Chuck had told me.

And he goes -- I remember Mike's response was something to the effect that, oh, well, then we'd better steer clear from him for a while. So that was the end of the issue, as far as I knew.

MR. BRANCHFLOWER: And that conversation occurred in January of '07?

MR. MONEGAN: I believe so, yes.⁶⁰

Governor Sarah Palin's February 7, 2007 email to Walt Monegan

During his testimony, I showed Walt Monegan an email authored by Governor Palin to him dated February 7, 2007, which I marked as Exhibit number 1 to his

⁶⁰ Monegan transcript page 43, line 20. Chuck Kopp was appointed Commissioner of Public Safety by Governor Palin on July 14, 2008, two days after she fired Walt Monegan.

deposition.⁶¹ It was sent to him approximately one month after she called him to discuss Mike Wooten following Todd Palin's meeting with Monegan in her Anchorage office. The email relates to a sentencing bill that was making its way through the legislature that would require a mandatory sentence of 99 years for any police officer convicted of murder. Governor Palin's message was sent through her private Yahoo account and states:

Walt- you mentioned wanting to testify on a bill re: police officers killing someone, then facing 99 yrs.

You are absolutely free to speak your mind on this.

When asked about it, just to let you know, I'm also going to speak my mind on it. For police officers to violate the public trust is a grave, grave violation-in my opinion. We have too many examples lately of cops and troopers who violate the public trust and DPS has come across as merely turning a blind eye or protecting that officer, seemingly "for the good of the brotherhood." The murder and rapes in rural AK by officers are still fresh in Alaska's mind.

In sharing a few personal examples with you including the trooper who used to be related to me-the one who illegally killed the cow moose out of season, without a tag – he's still bragging about it in my hometown and after another cop confessed to witnessing the kill, this trooper was "investigated" for over a year and merely given a slap on the wrist...though he's out there arresting people today for the same crime!. This is the same trooper who shot his 11 -yr-old stepson with a taser gun, was seen drinking in his patrol car, was pulled over for drunk driving but let off by a co-worker & brags about this incident to this day...he threatened to kill his estranged wife's parent, refused to be transferred to rural Alaska and continued to disparage natives in words and tone, he continues to harass and intimidate his ex. – even after being slapped with a restraining order that was lifted when his supervisors intervened...he threatens to always be able to come out on top because he's 'got the badge', etc. etc. etc.) This trooper is still out on the street, in fact he's been promoted. It was a joke, the whole year long "investigation" of him – in fact those who passed along the serious information about him to Julia Grimes and Tandesky were threatened with legal action from the trooper's union for speaking about it. (This is the same trooper who's out there today telling people the new administration is going to destroy the trooper organization, and that he'd "never work for that b****, Palin".)

⁶¹ Exhibit number 1 may be found at the end of the Monegan transcript.

Anyway – just a personal example of what I’ve personally seen out there and had to live with for two years – and this is what people in the Valley are putting up with (those many residents who know of this trooper time-bomb who’s supposed to be “protecting” them). I’ve heard too many stories from others across this state who believe DPS has been overly protective of their own, to the detriment of DPS, to the chagrin of the public, and it all leads to the erosion of faith Alaskans should have in their law enforcement officials.

Just my opinion – I know you know I’ve experienced a lot of frustration with this issue. I know Todd’s even expressed to you a lot of concern about our family’s safety after this trooper threatened to kill a family member – so you need to know that if I am a supporter of whatever we can do to build trust back into DPS. Then there are many other Alaskans in the same boat we are and may look on this new cop bill as a good thing.

Thanks for letting me share my concerns with you, Sarah

During his deposition, Walt Monegan was asked to identify the above email:

MR. MONEGAN: This is a confidential e-mail that the governor had sent to me in response to a question that I had of her.

Now, what I had asked is that there was a bill called the Sonia Ivanoff Bill that was proposing that police officers killing somebody in the line of duty with criminal intent would face a mandatory 99 years, and that I was going to testify on that, and since I was brand new and didn't know whether we needed protocol, to ask that or not.

So she responded back to me in a one-page e-mail. And it says that -- mentioned that you're absolutely free to speak your mind on this.

And then the rest of this e-mail, she's talking about, in essence, Trooper Wooten. She responded by -- I don't know if you want me to read this or not.

MR. BRANCHFLOWER: No. Because I'm going to be marking it as an exhibit. What I'm interested in is what your take on -- what is said in that e-mail, what your take was on it, or is on it.

MR. MONEGAN: Well, she's describing again the frustration I think that she was feeling that Trooper Wooten had seemingly gotten away with the killing of the moose out of season, that he had been bragging

about it in her home town, the tasing, that -- and then she kind of says that this trooper is still out on the street. In fact, he's been promoted. It's a joke the whole year long. The investigation of it in fact was passed along with serious information about him, and he got a slap on the wrist.

She went on to think that many residents think that this trooper is a time bomb. And she concludes by saying, just my opinion. I know -- I know you know I've experienced a lot of frustration on this issue.

MR. BRANCHFLOWER: So are you saying that this signifies a continuing preoccupation with Trooper Wooten, as expressed by the governor?

MR. MONEGAN: It certainly does, yes.⁶²

Monegan's conversation with Governor Palin on February 13, 2007

Monegan testified that on February 13, 2007, he was in Juneau during the first legislative session greeting various legislators because he was up for confirmation as Commissioner of Public Safety. He stopped at Governor Palin's office to suggest she accompany him to wish Senator Lyman Hoffman birthday greetings. He explained what happened on the way to Senator Hoffman's office:

MR. MONEGAN: ...So as we were walking down the stairs, the governor mentioned to me, she says, I'd like to talk to you about Wooten.

And I said, ma'am, I need you to keep an arm's length at this -- on this issue. And if you have further complaints on him, I can deal with Todd on it.

And she goes, that's a better idea.

⁶² Monegan transcript page 46, line 8. During his testimony, Mr. Monegan identified two additional emails from Governor Palin. The first is dated May 7, 2007, which he described as "...another venting of insinuating of Wooten." See Monegan transcript page 48, line 19, page 49, line 18. The second is an email dated July 17, 2007 to Monegan with a Cc to attorney general Talis Colberg, and her husband, Todd Palin, at his private Yahoo email account. That email discussed a gun control bill that was being debated in the legislature. Regarding the July 17 email, Monegan testified that it again demonstrated "...her sensitivity about Trooper Wooten." Monegan transcript page 54, line 4, page 55, line 12. Exhibits number two and three are located at the end of the Monegan transcript.

MR. BRANCHFLOWER: And what date was this?

MR. MONEGAN: It was Lyman Hoffman's birthday.

MR. BRANCHFLOWER: Do you know the date, though?

MR. MONEGAN: I think it's the 13th of February.

MR. BRANCHFLOWER: Thirteenth of February. So that conversation occurred the 13th of February, of '07 it would have been, correct?

MR. MONEGAN: Yes.

MR. BRANCHFLOWER: Did you discuss it with the governor any further --

MR. MONEGAN: No.

MR. BRANCHFLOWER: -- that day?

MR. MONEGAN: No. that was it.⁶³

Monegan's testimony about being summoned to Mike Tibbles' office to discuss Mike Wooten

Approximately one or two weeks after his conversation with Governor Palin while on their way to visit Senator Hoffman's office, Monegan received a call from Mike Tibbles, the Governor's Chief of Staff. Monegan testified about that call:

MR. BRANCHFLOWER: Now, did there come a time around this time, this time being in February of '07, that you received a call from Mike Tibbles about Trooper Wooten?

MR. MONEGAN: Yeah. It was an impromptu meeting. Mike called. I happened to be in Juneau. And in fact, he asked me that. So he said, if you've got a few minutes, why don't you come up to my office. So I did. I walked into his office. It was just him and I. We were alone.

He closed the doors, and he brought up -- he says, I understand you have -- you have a Trooper Mike Wooten on the force.

⁶³ Monegan transcript page 45, line 11.

And I started to explain to him that the investigation on Wooten was completed. It had been done by the last administration. It is all done; there is no issues. We had the case reviewed at the request of Todd, and that this is an issue that is closed.

And then I went to say that it is my understanding that should there be any litigation brought on by Trooper Wooten, this conversation is discoverable, and that -- and the way I understand state law, having been sued a couple of times, is that we are certainly liable, certainly as state employees, but also could be as individuals if we intentionally break this law. So we shouldn't be talking about this. You don't want Wooten to own your house, do you?

He goes no, I don't. Then we shouldn't talk about this. So that's how the conversation ended.

MR. BRANCHFLOWER: Now, was this before or after your conversation with Governor Palin on February the 13th, when you went to visit Senator Hoffman's office?

MR. MONEGAN: I believe it was after. But I don't have the date.

MR. BRANCHFLOWER: Do you recall approximately how long after the conversation with Governor Palin this conversation occurred with Mr. Tibbles?

MR. MONEGAN: It was within a week or two I want to say -- I want to guesstimate.⁶⁴

Monegan's testimony about Todd Palin's Photographs of Michael Wooten snow machining while out on workers' compensation

During the winter of 2007, Trooper Wooten sustained [*an injury*] [specifics deleted as required by the confidentiality provisions of AS 39.25.080] in the course of his employment. He had submitted a workers' compensation claim with the Department of Public Safety, and was on light duty while recovering from his injuries. Monegan testified about a meeting he had with Todd Palin during that time about Wooten:

MR. BRANCHFLOWER: Now, did there come a time in the winter of '07 that you learned that Michael Wooten had injured himself and had been placed on light duty?

⁶⁴ Monegan transcript page 47, line 12.

MR. MONEGAN: I did. I was informed.

He was kind of notorious at the moment, Michael Wooten's name, and so that's why it was brought to my attention by Colonel Holloway that Mike had responded to an accident out in Wasilla that involved -- a motor accident that had injuries involved. And he was dragging a 200-pound man that had been injured in the crash to safety. And in the process [*injured himself*]. [specifics deleted as required by the confidentiality provisions of AS 39.25.080]

MR. BRANCHFLOWER: And that he had filed a workman's compensation claim?

MR. MONEGAN: He did.

MR. BRANCHFLOWER: Now, did you get another call from Todd Palin about Mr. Wooten at or about this time?

MR. MONEGAN: I did. Shortly -- I'm not sure the space of time between the accident that Wooten was injured and when the phone call came in. But at some time thereafter, when it was still wintertime. It was still snowing.

MR. BRANCHFLOWER: This is winter of '07?

MR. MONEGAN: Correct. There was -- Todd wanted to tell me that he was out snow machining, and he was 100 miles out of Wasilla and he encountered Trooper Mike Wooten, who he knew was out on light duty. And he thought that there might be some workman's comp fraud issues.

If a guy's -- he's out riding a snow machine 100 miles, shouldn't -- if he's that healthy, shouldn't he be at work, kind of thing.

MR. BRANCHFLOWER: That's what he was saying?

MR. MONEGAN: Something to that effect, yeah.

MR. BRANCHFLOWER: Did he have some evidence in support of this?

MR. MONEGAN: He did. He had taken a picture of a man in a snowsuit wearing a helmet sitting on a snow machine. And I couldn't have recognized who the individual was, but he swore that it was Mike Wooten.

And so I took the information. And he said he'd be dropping a picture off. So I said, I'm going to have Colonel Holloway look into this. And I know eventually they did hook up. I was informed that Wooten was contacted, and he acknowledged that was him in the picture.

MR. BRANCHFLOWER: And I'm going to go back to this photograph. Did Mr. Palin tell you that this was sort of a chance meeting out in the wilderness somewhere, or what?

MR. MONEGAN: You know, he just told me that he saw him out there. I didn't -- I didn't get the why he was out there, why out of all the directions or all the trails that they could have gone, why they were on the same one. I didn't --

MR. BRANCHFLOWER: And the location of where this meeting occurred, did you get an impression from Mr. Palin where it occurred? Was it close to town or out (indiscernible) somewhere?

MR. MONEGAN: No. He said about 100 miles out of town. So it's a long trip, a long snowmobile ride.

MR. BRANCHFLOWER: And did the question come up about how it was that he had a camera and just happened to run into Mike Wooten?

MR. MONEGAN: Not by --

MR. BRANCHFLOWER: Did any of that come up?

MR. MONEGAN: No. Not with me.

MR. BRANCHFLOWER: And with respect to the snow machine incident, did you look into this? Did you speak with anybody about it? What did you find out?

MR. MONEGAN: I did. I talked to Colonel Holloway, and he was going to check into it. How come, if he was on light duty, was he out so far on a snow-go.

And in essence, he checked with our HR person, DPS's human resource person, which is a Kim Peterson. And I happened to be in Juneau a day or two later, and that's where Kim is based at.

[Specifics deleted as required by the confidentiality provisions of AS 39.25.080]

Mr. BRANCHFLOWER: Now, I want to ask you kind of a blunt question having to do with your investigation into this matter.

It seems to me that as the commissioner of public safety, you are responsible for a substantial number of employees. You have a huge budget. You have no doubt many cases that are far more worthy of your time. And yet you seem to have taken steps, not only in the context of this incident involving the snow machine, but earlier.

Why are you -- why didn't you just designate this to one of your subordinates to look into?

MR. MONEGAN: Well, in part because of what I had told the governor back on Lyman Hoffman's birthday. The idea that -- where she wanted to bring them up, I said, ma'am, I need to keep you at arm's length on this. If there are other complaints, then I'll work with Todd. So I am sure that that was taken very, very literally.

MR. BRANCHFLOWER: Now, did -- did Audie Holloway -- did he look into this matter involving the snow machine? And if so, did he report back to you?

MR. MONEGAN: He did. [Specifics deleted as required by the confidentiality provisions of AS 39.25.080]

MR. BRANCHFLOWER: So at this point in the chronology of events, we -- I want to focus your attention to January of '07, sometime during perhaps the third week in January to April of '07, during which time the legislature is in session.

What was going on with Trooper Wooten at that time?

MR. MONEGAN: He was on light duty.

MR. BRANCHFLOWER: And his workman's comp case was being processed?

MR. MONEGAN: That's correct.

MR. BRANCHFLOWER: And did you hear any more from Governor Palin or Todd Palin while that was going on?

MR. MONEGAN: With the exception of the initial taking of the complaint. I think that there may have been something earlier in May, but I don't think there was anything in April.⁶⁵

Monegan's testimony regarding a call from Department of Administration Commissioner Annette Kreitzer about Mike Wooten

Walt Monegan testified that he received a call about Trooper Mike Wooten from Commissioner of Administration Annette Kreitzer but that he refused to discuss Wooten with her:

MR. BRANCHFLOWER: Now, do you know who Annette Kreitzer is?

MR. MONEGAN: Annette Kreitzer is the commissioner of the Department of Administration.

MR. BRANCHFLOWER: And did there come a time that you received a telephone call from Annette Kreitzer about Michael Wooten?

MR. MONEGAN: I did. I was in my office -- my Anchorage office. I got a phone call. And I can't remember the date or time. I didn't keep a log. And it was from Annette. She wanted to know about Trooper Wooten.

And so what I did is I kind of did much like I did with Mike Tibbles. I kind of cautioned her that our conversations were discoverable, that we are liable, we shouldn't be talking about this stuff, and that -- and I closed by saying, I will handle it. I can handle this.

MR. BRANCHFLOWER: Did she have any -- was she in possession of any of the specifics about some of this?

MR. MONEGAN: She had mentioned that she had heard that Trooper Wooten had killed a moose, had tased a kid, and had drunk driven, maybe even some -- I don't recall if there was other instances, like the

⁶⁵ Monegan transcript page 49, line 19.

workman's comp issue. But she was aware of some of the old complaints, too.

MR. BRANCHFLOWER: Did you point out to her that the case had already been investigated and resolved and the matter was closed?

MR. MONEGAN: Yes, I did.

MR. BRANCHFLOWER: Earlier, you talked about, in the context of your conversation with Mike Tibbles, how these kinds of conversations might be discoverable. In other words, how lawyers for Mr. Wooten might just find out about these goings on.

Did that topic -- did you discuss that topic with Ms. Kreitzer?

MR. MONEGAN: I did.

MR. BRANCHFLOWER: What did you tell her?

MR. MONEGAN: I told her that this conversation, in fact, could be discoverable, that -- and it puts the State and us personally at risk for -- liability-wise and in litigation.

MR. BRANCHFLOWER: Did she ever tell you why she was calling?

MR. MONEGAN: No. Nor did I ask.

MR. BRANCHFLOWER: And what was your feeling at the time in shutting her -- shutting her out of this complication -- this matter, I should say?

MR. MONEGAN: That I too thought she should know better than this. If she's going to -- part of her department basically deals with personnel and all the personnel rules, regulations. They emanate from her shop, and that she should know that there are things like double jeopardy, that there are liability issues on this.

But I perceived it much like I did with the Tibbles call or contact, as well as Kreitzer. It was -- he keeps popping up.

MR. BRANCHFLOWER: Do you know whether Ms. Kreitzer called other people within the Palin administration about Trooper Wooten?

MR. MONEGAN: I found out later that she had, yes.

MR. BRANCHFLOWER: Who did Ms. Kreitzer contact about Trooper Wooten?

MR. MONEGAN: Kim Peterson, who is my special assistant and handled the HR issues.

MR. BRANCHFLOWER: Anyone else?

MR. MONEGAN: That Annette had called?

MR. BRANCHFLOWER: Yeah.

MR. MONEGAN: I -- no, I don't believe anybody else.

MR. BRANCHFLOWER: I think when we spoke about this earlier, you said that Dianne --

MR. MONEGAN: Oh --

MR. BRANCHFLOWER: -- Kiesel had been called by Ms. Kreitzer.

MR. MONEGAN: I believe that -- that's correct.

MR. BRANCHFLOWER: (Indiscernible) that?

MR. MONEGAN: No. That was what Kim told me. Kim basically told me that she was contacted by Annette Kreitzer, Dianne Kiesel, who is the Division of Personnel director who works for Annette, and that Kim also had been contacted by Todd Palin directly twice, all about Wooten.⁶⁶

Monegan's testimony about Trooper Wooten and the AST Safety Bear at the 2007 Alaska State Fair

Walt Monegan testified about a call he received in August 2007 from Kris Perry, the Director of the Governor's Anchorage Office, about Trooper Mike Wooten:

⁶⁶ Monegan transcript page 55, line 13.

MR. BRANCHFLOWER: Okay. Now, I want to call your attention to August of '07 and the state fair that was going on at that time. Were you aware that the governor had plans to go to the state fair?

MR. MONEGAN: I believe that she was planning to attend it on the opening day.

MR. BRANCHFLOWER: Okay. And did you get a call from Kris Perry regarding something that she found out about what was going to go on at the state fair?

MR. MONEGAN: Yes. Kris Perry gave me a call to tell me that the governor was going to be there -- planned to be there at the opening day, and had learned that Trooper Wooten, who was still on light duty, was going to be at the state trooper booth at the state fair at the same time.

MR. BRANCHFLOWER: Now, why don't we pause for a moment and tell the reader who Kris Perry is.

MR. MONEGAN: Kris Perry is the director for the governor's office here in Anchorage.

MR. BRANCHFLOWER: So she has the daily oversight of the governor's schedule, the governor's -- who she's going to see that day, and supervises all the employees of the office?

MR. MONEGAN: That's correct.

MR. BRANCHFLOWER: And so why was she calling you? What was her concern?

MR. MONEGAN: In essence, to convey the fact that the governor was going to be at the fair. She did not want Trooper Wooten to be anywhere near her. And they had found out he was going to be at the fair, so --

MR. BRANCHFLOWER: They found out he was going to be at the fair?

MR. MONEGAN: Yes.

MR. BRANCHFLOWER: Maybe you need to explain that.

MR. MONEGAN: Well, Trooper Wooten, on light duty, had signed up for an overtime detail to work at the state fair in the costume of Safety Bear. And it's a -- it's a costume, much like a mascot kind of thing. He was going to be escorted around, walk the fair grounds, but mostly around the area of the trooper recruiting booth, and meeting kids, talking to them, that kind of stuff. And so he wouldn't have been recognizable inside a costume. But obviously the governor's office was aware that he was going to be there, and they were -- they did not want Wooten to be there.

MR. BRANCHFLOWER: And did you learn from Kris Perry, or anyone for that matter, how they knew that --

MR. MONEGAN: No. I --

MR. BRANCHFLOWER: -- Trooper Wooten was going to be there?

MR. MONEGAN: I figured they had spies, honestly.

But what I did was I said, I didn't know that. Let me call, let me confirm, let me check.

And so I checked. And I believe it was Holloway that told me that, yes, Trooper Wooten had signed up for this detail. He was going to be in this costume. It wasn't going to be sitting in uniform because he was in light-duty status.

And I said, you know, if he's going to be on light duty -- or if he's still on light duty, I don't know how wise it would be for him to walk around in a restrictive costume that restricts both his ability to move and his vision. And so for that reason, he shouldn't be working there.

But clearly what was happening was that the governor basically did not want Wooten there. So Audie said he would take care of it.

I'm not sure exactly how it was done. Maybe -- probably he was told that he can't be there but was paid. And that's an assumption on my part. I didn't follow up on that.

MR. BRANCHFLOWER: So are you saying that you caused his departure from the fair grounds because you were concerned about his

health, because he had to be confined in this suit, or are you saying that there was some other reason?

MR. MONEGAN: I think that the main reason obviously was that I was worried more about my health at this juncture.

MR. BRANCHFLOWER: Your employment health?

MR. MONEGAN: Yes. And that -- but it made a good ready excuse for him not to be there. So --

MR. BRANCHFLOWER: And did there come a time shortly after that that Trooper Wooten returned to full duty?

MR. MONEGAN: He did, soon thereafter.

MR. BRANCHFLOWER: And can you give us an idea of when that occurred?

MR. MONEGAN: It was sometime after the fair. So it was shortly thereafter. I think just prior to school starting.

MR. BRANCHFLOWER: So that would have been the fall of '07?

MR. MONEGAN: That would be correct.⁶⁷

Monegan's testimony regarding Todd Palin's call to AST Colonel Audie Holloway during the Fall of 2007 about Mike Wooten's dropping off his children at school in a patrol car

Walt Monegan testified about a call from Todd Palin to Colonel Audie Holloway about Trooper Mike Wooten, his patrol car, and his children:

MR. BRANCHFLOWER: Okay. Now, did there come a time after the kids returned to school that you received yet another call from Todd Palin?

MR. MONEGAN: Yeah. I believe this one was directly to Audie Holloway.

MR. BRANCHFLOWER: Okay. Tell us about that.

⁶⁷ Monegan transcript page 58, line 7.

MR. MONEGAN: Because Audie briefed me on it. And he said that Todd had called basically to say that Trooper Wooten was seen dropping off one of the kids -- or one of his kids at a school in a patrol car and the time -- and the date, and the time was 8:01, which I thought was unusual, because most people wouldn't note the exact minute of something that they're watching. Which kind of either told me it was somebody who was used to it, like a PI, or --

MR. BRANCHFLOWER: A person -- a --

MR. MONEGAN: A private investigator.

MR. BRANCHFLOWER: -- private investigator?

MR. MONEGAN: Or somebody who just wanted to try to document things as tightly as possible.

So I inquired what happened of it. And Holloway returned and advised me that they had checked, and that Trooper Wooten had asked his supervisor, his sergeant, if he could do exactly that. And his sergeant said, yes, you can.

So if we have an issue with a trooper dropping his kid off in school, in this case it wouldn't be with the trooper; it would be with the sergeant.

MR. BRANCHFLOWER: And just so people understand, under DPS regulations, is it true or is it correct that under certain circumstances, especially in some of the outposts, that troopers are permitted to transport their children or pick them up if there's some exigent circumstance?

MR. MONEGAN: Sure.

MR. BRANCHFLOWER: And that was looked into, and on this particular case, Wooten was in compliance?

MR. MONEGAN: Yes. There was no violations on this one. He -- he had taken the step of actually asking for permission first.

MR. BRANCHFLOWER: And he obtained the permission?

MR. MONEGAN: That's correct.⁶⁸

Monegan's testimony regarding Todd Palin's call in October 2007 about Mike Wooten following a news event about a lawsuit involving another trooper

At that point in Walt Monegan's deposition, he testified about a call made by Todd Palin during October 2007 about Mike Wooten. Todd Palin's call was handled by Holloway because Monegan was in China in connection with his work with the Special Olympics organization. Holloway sent Monegan an email to let him know that Mr. Palin had called. Monegan testified:

MR. BRANCHFLOWER: Now, I'm going to call your attention to Exhibit No. 4, which as you can see is a -- an e-mail that's dated October the 3rd of 2007, which I think is right in the ballpark with where we are in the chronology of events.

You said that the kids were back to school, so that would place it around the fall of 2007?

MR. MONEGAN: Yes.

MR. BRANCHFLOWER: Okay. What is this -- what's the significance of this particular exhibit?

MR. MONEGAN: This is an e-mail that was sent to me from Colonel Holloway. It's dated October 3rd of '07. And the subject is: Todd Palin message.

At the time, I was attending the Special Olympics event, my wife and I, because I'm a board member. And we were in China.

And what he -- what Audie wanted to relate to me was that he had gotten a call from Todd Palin after the lawsuit that was out in [location] [specifics deleted as required by the confidentiality provisions of AS 39.25.080] on Trooper [name of another Trooper]. [Specifics deleted as required by the confidentiality provisions of AS 39.25.080]

And he wanted -- Todd apparently wanted to let know -- wanted to know what we were doing about it, and felt that [name of another Trooper] [specifics deleted as required by the confidentiality provisions of AS 39.25.080] was a friend of Wooten, and why were we keeping an

⁶⁸ Monegan transcript page 61, line 9.

employee that's costing the State money. So I think that that was the thrust of the conversation of the first paragraph.

The second paragraph -- oh, in fact, Audie correctly informed Todd at the time, told him that candidly, it was none of his business, because this was a personnel matter. And Todd Palin was not in his chain of command. He said, I said it professionally, but I left no room for doubt.

And then he also -- Todd said the main reason he called is the packet that I had first been given back in January of '07 in the governor's office, he had never got it back, so he asked me if I could find it.⁶⁹

The subject line of the October 3, 2007 email from Colonel Holloway referred to by Mr. Monegan reads, "Todd Palin Message," and the message reads as follows:⁷⁰

Sir,

I hope you and Terry are well and have not fallen off the big wall.

I had a call from Todd Palin last Thursday. We were dealing with a news event about settling a lawsuit, the *[name of other Trooper]* [specifics deleted as required by the confidentiality provisions of AS 39.25.080] case. He wanted to know what we were doing about it and that he felt that *[name of other Trooper]* [specifics deleted as required by the confidentiality provisions of AS 39.25.080] was a friend of Wooten's and why were we keeping an employee that was costing the state money. I told him that was none of his business because it was a personnel matter and he was not in my chain of command. I said it professionally, but left no room for doubt.

The main reason he called was that he wanted me to return the information about Wooten that had been obtained by a private investigator to his (Palin's) lawyer. I do not know anything about this information. I asked John Glass. He had no idea either. I asked Cassandra. She thought you probably had it. I talked to Matt. He remembers reviewing it for you and returning it to you. I am just giving you a head's up on this. Do you want C to find it and me to return it to the lawyer (who I do not know) or do you want to deal with it when you return?

⁶⁹ Monegan transcript page 62, line 19.

⁷⁰ Colonel Holloway's email is labeled Exhibit Four, and is located at the end of the Monegan transcript.

Audie

Walt Monegan's testimony about his call from Attorney General Talis Colberg

Talis Colberg, Alaska's Attorney General, called Commissioner Monegan in the fall of 2007 to talk about Michael Wooten. Monegan testified as follows about that call:

MR. BRANCHFLOWER: Now, who is Talis Colberg?

MR. MONEGAN: Talis Colberg is the state's attorney general.

MR. BRANCHFLOWER: And during this period of time, in the fall of 2007, did you receive a telephone call from the attorney general about Mr. Wooten?

MR. MONEGAN: I did. It began pretty much like the contacts that I had with Mike Tibbles, as well as Annette Kreitzer.

He started the conversation, hi, Walt. Tell me about this Mike Wooten.

And so what I did is I addressed the issue like I had with Annette, like I had with Mike, basically saying this was an issue, that there was a complaint, it was investigated, it was -- it's done, it's complete. There is other complaints that come in, but you know, we address them as they come in. But more importantly, the conversations -- and I said, you're the civil attorney. You understand all this, and you can correct me if I'm wrong. But this conversation that's taking place at this moment is discoverable should he ever litigate against the state. Because it seems like you're asking about him.

And in that case, if he does bring the lawsuit against the State, not only does he affect our -- us as employees, but us as individuals, as well. So we're all on the hook for it. He goes, that's correct.

Well, then would you tell the boss -- it's only going to spill out. The more people get involved in this, the more people are going to -- the more the chance this is going to come on out in the public.

And he said, okay, I'll talk to them.

MR. BRANCHFLOWER: I'll talk to "them," plural?

MR. MONEGAN: Yeah.

MR. BRANCHFLOWER: Did he tell you who he had been talking to earlier before calling you?

MR. MONEGAN: No. Nor did I ask.

MR. BRANCHFLOWER: And because he used the word "them," you assumed that he had been spoken to by both the governor and Mr. Palin?

MR. MONEGAN: I-- I would find it kind of incredulous that individually, you'd have a chief of staff and two commissioners just acting on their own and just asking about an employee.

MR. BRANCHFLOWER: Well, let me ask you about that. At this point in the chronology of events, as you've testified, you have had one meeting with Todd Palin in the governor's office -- I sort of lost track of the number of telephone conversations, but multiple conversations with Todd Palin, conversations with the governor, a conversation with Annette Kreitzer, a conversation with Mr. Tibbles, a conversation with Ms. Perry, and now with the attorney general. Did I leave anybody out?

MR. MONEGAN: No. I think you captured them.

MR. BRANCHFLOWER: Okay. Now, the light bulb's got to start coming on, or perhaps it's been on for a while for you. What did you make of all these inquiries about the governor's former brother-in-law?

MR. MONEGAN: That this was an issue that apparently wasn't going to go away, that there was certainly frustration -- continuing frustration, not only in the conversations with complaints, but in the references that were related to other issues involving the troopers that I would get back from the governor. And to say that she was focused on this I think would be accurate.⁷¹

⁷¹ Monegan transcript page 63, line 21.

Walt Monegan's testimony regarding his email exchange with Chief of Staff Mike Tibbles

Lauren Rice was Commissioner Walt Monegan's legislative liaison.⁷² Her name came up during Monegan's testimony in the context of an email to him that discussed a 1992 Alaska Supreme Court case called *Walt's Sheet Metal v. Debler*.⁷³ The case deals with the situation where a worker who was on workers' compensation re-injured himself through no fault of his employer. The Alaska Supreme Court held that the injured worker's employer was financially responsible for the second injury unless the employer could establish that the worker willfully intended to re-injure himself. The case was a topic of discussion by DPS officials in the context of Michael Wooten as a result of Todd Palin's report, supported by photographs, that he had observed Wooten riding on a snow machine while on workers' compensation.

In the context of Walt Monegan's testimony, the relevance of this email relates to the message he added to Ms. Rice's message and forwarded to Chief of Staff Mike Tibbles and Attorney General Talis Colberg. The message added by Monegan was an oblique reference to Mike Wooten. The added message said "Mike -- This is was a Fairbanks case and the problem ("willfully intend") illuminated in this statute still exists. More immediate, it also has relevance in an oft spoke personnel issue regarding one of the men that works in this department. A statute we need to fix.....-Walt." Mike Tibbles answered "Sounds like it. I will look into the potential statutory change a little more. Thanks. Mike."

Here's what Mr. Monegan testified to about Exhibit five⁷⁴

MR. BRANCHFLOWER: Let me hand you Exhibit No. 5 -- what I've marked as Exhibit No. 5, and have you just identify what that is.

MR. MONEGAN: This is an e-mail that I copied a section that Lauren Rice, who was my legislative liaison, special assistant, had talked about a workman's comp case. It's called *Walt's Sheet Metal versus Debler*. It apparently happened back in '92.

And what I did is I sent that to Mike in -- Mike Tibbles, and I cc'd the attorney general on it. And I said something to the effect that -- that - - describing that this is a Fairbanks case, illuminating a statute that exists. More immediate, it also has relevance in an oft spoke

⁷² I took a sworn statement from AST Colonel Audie Holloway that discusses this further.

⁷³ *Walt's Sheet Metal v. Debler*, 826 P2d 333. See Exhibit number one located at the end of the transcript of Colonel Audie Holloway's testimony.

⁷⁴ Exhibit 5 has been placed behind the transcript of Mr. Monegan's testimony.

personnel issue regarding one of the men that works in this department, a statute we need to fix.

MR. BRANCHFLOWER: All right. So the purpose of this e-mail then was to describe --, correct me if I'm wrong -- but was to describe a case that was pertinent in the resolution of the pending workman's compensation case that had been filed by Michael Wooten, on the question of whether or not his riding on the snow machine would have disqualified him for continuing to receive workman's comp benefits; is that correct? Does that represent the --

MR. MONEGAN: That's the -- yeah. That's the danger that we saw in that, if he's injured on duty and he went out snowmobiling.

Because this particular case cites a guy who was injured on duty and went bowling and further aggravated his injury. And the courts found that he's still part and parcel -- or it's a continuing event from the workman's comp injury. So we wanted to try to address that.

MR. BRANCHFLOWER: And Colonel Holloway addressed that in his testimony. But I am focusing in your testimony about the center portion of this e-mail.

MR. MONEGAN: About the oft spoke personnel issue?

MR. BRANCHFLOWER: Right. It says: Mike, addressing to Mike Tibbles. This was -- this is/was a Fairbanks case, and the problem willfully (indiscernible) illuminated in this statute still exists. More immediate, it also has relevance in an oft spoke personnel issue regarding one of the men that works in this department. Now, who were you referring to?

MR. MONEGAN: Wooten.

MR. BRANCHFLOWER: And this oft spoke personnel issue is reference to specifically what?

MR. MONEGAN: Mike Wooten.

MR. BRANCHFLOWER: It sounds like you're talking in code there a little bit, because you didn't say Mike Wooten.

And yet his response says, sounds like it. I will look into the potential statutory change a little more. Thanks.

He never asked you who you were talking about, correct?

MR. MONEGAN: No, he did not.

MR. BRANCHFLOWER: So in your mind, what is the significance of this exchange?

MR. MONEGAN: That he knew exactly who I was talking about.

MR. BRANCHFLOWER: Because of the earlier conversation?

MR. MONEGAN: Correct.⁷⁵

John Glass's testimony regarding Frank Bailey's telephone call to Trooper Rodney Dial on February 29, 2008

Deputy Commissioner John D. Glass testified about his conversation with Frank Bailey following Bailey's call to Trooper Rodney Dial on February 29, 2008:

MR. BRANCHFLOWER: Now, I want to turn your attention to the matter that you had referred to earlier involving the call by Frank Bailey to Trooper Rodney Dial of the Ketchikan AST Department. What was your first awareness that Mr. Bailey had made the call to Trooper Dial?

MR. GLASS: When Lieutenant Dial called me on that morning of the 29th of February.

MR. BRANCHFLOWER: What did he tell you?

MR. GLASS: He told me that Frank Bailey had called and was complaining about Trooper Wooten, how bad of a Trooper he was, he shouldn't be working, that he was a very poor example of us, that he had lied on his original application, that he had Tasered the young boy, had driven drunk, just basically the same litany of conversation of Trooper Wooten's misdeeds.

MR. BRANCHFLOWER: That had been related to you by Todd Palin in your earlier conversation?

⁷⁵ Monegan transcript page 70, line 15.

MR. GLASS: Yes, with Todd Palin, but with others after that, too, up until prior to February 29th. I mean, it was quite well-known of Wooten's situation.

MR. BRANCHFLOWER: What was your reaction upon hearing this report from Trooper Dial?

MR. GLASS: I was livid. I was very upset. I thought that Frank Bailey was totally out of bounds by calling a Lieutenant in Ketchikan of the Alaska State Troopers. We have a chain of command which we follow and I did not feel it was appropriate, nor proper, for Frank Bailey to be calling anybody outside of that chain.

MR. BRANCHFLOWER: Did you know Bailey?

MR. GLASS: I had worked and talked with Bailey prior to this. He is the Director or was and still is, I guess of Boards and Commissions. We had had conversations concerning people that had applied for different Boards and he would call and ask me to do research on them; whether or not it was a misdemeanor or not on some of the offenses of some of the Board Members that were applying for jobs. We were in the process of getting ready to do the Alcoholic Beverage Control Board Director because that position works for me. I believe the previous Director had already indicated that he was going to retire and we were starting to talk about a replacement for that position.

MR. BRANCHFLOWER: So, you knew then that he worked in the Governor's office here in Anchorage?

MR. GLASS: He worked in the Governor's office in Anchorage and the Governor's office in Juneau.

MR. BRANCHFLOWER: So, did you speak with Mr. Bailey about his call to Lieutenant Dial?

MR. GLASS: I did later that evening as I was driving home in my vehicle.

MR. BRANCHFLOWER: Why don't you just relate in your own words what was said and what he said and so forth?

MR. GLASS: He called me on my way home, and it was about a 20 minute conversation. That's the phone record that I have in front of me.

MR. BRANCHFLOWER: Let me interrupt you for a minute. You said he called you. Had you earlier called him?

MR. GLASS: I had called and left a message for him to call me.

MR. BRANCHFLOWER: So, he was returning your....

MR. GLASS: He was returning my call to him, yes.

MR. BRANCHFLOWER: Go ahead.

MR. GLASS: It was on my cell phone. I had provided him both my cell phone and my desk number. It was a little after 5:00, as the record will reflect, and he told me that he had felt very comfortable in calling Lieutenant Dial and I asked him why. I mean, how did you feel so comfortable in calling Lieutenant Dial in Ketchikan, and he stated to me that the Governor had gone to church with Lieutenant Dial when Lieutenant Dial was stationed out in the Valley and that the Governor was comfortable and felt good about Lieutenant Dial. I kind of lit into him and told him that it was just improper for him to do that. I then went in and discussed the Wooten situation, that he just could not continue to do this, that Wooten had been already suspended for this action, that disciplinary action had been taken, that we have to follow the progressive discipline, that it was two and a half, three years ago that all these events had occurred, and you can't be going back and firing somebody for that.

If we did go back and fire him for that, it would be probably viewed upon by, you know, the courts and stuff that it would be a wrongful discharge. When you do fire somebody wrongfully like that and you do so outside the scope of your employment, you then become personally liable for that. It's not the State that doesn't stand for that, it's you, and that could create problems for not only him but myself.

I also reiterated to him that if Trooper Wooten did something so heinous that he deserved to be fired, we would not hesitate to fire the man. We do fire troopers for misdeeds. But, also in my personal experience and one of the things that I've always maintained is that I have seen troopers that were caught shoplifting in downtown Anchorage for small items that an arbitrator put him back to work. I've seen troopers that were driving drunk involved in car accidents, that the arbitrator put back to work because, under the troopers' Union, they are Class I employees. Class I employees do not have the right to strike. In lieu of that, they are given binding arbitration. It's a State law.

So, if we fire somebody, they have a grievance procedure to go through. Part of that grievance procedure is the bottom line, if we can't agree on the discipline that is applied, then it goes to an arbitrator. The arbitrator generally will rule in the favor of the employee, or they try to split the baby sometimes. But, a lot of times when it happens, we end up also paying for the arbitration and one of those arbitrations can be very expensive; anywhere from \$60,000 to \$100,000 for an arbitration. I did not want that to happen. And the other thing that I told Mr. Bailey is, if they persist, they had to stop trying to interfere in what the Department of Public Safety was going to do because it would create just an unbelievable amount of embarrassment for the Governor and everybody else and I did not want that.

MR. BRANCHFLOWER: Now, did you get a sense from what he was saying and the give and take of the conversation that the Governor had directed Bailey to make that call to Trooper Dial?

MR. GLASS: I felt that phone call was as a result of a conversation that the Governor had had with him, yes. I felt that it was just as if the Governor had been talking to me.

MR. BRANCHFLOWER: Was there some discussion -- I think you told me earlier about his response about progressive discipline and how it worked and something about his previous employment working in the airlines?

MR. GLASS: Yeah (affirmative), he told me that he had worked in the airline industry and that he had hired hundreds of people. When they found that they had falsified an application, that they fired them for that.

MR. BRANCHFLOWER: Did you reiterate to him that he should just leave the matter alone since Wooten disciplinary proceeding had already taken and that discipline had already been imposed and the matter was closed?

MR. GLASS: We couldn't go back and redo something that had happened two and a half/three years ago; absolutely.

MR. BRANCHFLOWER: Is that what you told him?

MR. GLASS: Yes. I mean, he'd already been suspended. He'd served the suspension and that we just needed to move on and see what happened.

MR. BRANCHFLOWER: In that interview -- I should say, in that telephone call that Bailey made to Lieutenant Dial, there's mention made or at least a reference made to lying on some application for employment with the State Troopers. Do you have in mind the passage that I'm referring to?

MR. GLASS: I do. He had indicated that on his original application that.....

MR. BRANCHFLOWER: Now, you're talking about Wooten?

MR. GLASS: [specifics deleted as required by the confidentiality provisions of AS 39.25.080.] That was concerning that; lying on the original application.

MR. BRANCHFLOWER: That's what this lie on the application was about?

MR. GLASS: That's correct.

MR. BRANCHFLOWER: Now, when Trooper Dial spoke to Mr. Bailey, there's a passage there about halfway through where reference is made to lying on the application, and Trooper Dial sort of asks him; he says, well, wait a minute. How did you get that information, it's confidential and so forth and so on. Do you have in mind the passage that I'm referring to?

MR. GLASS: I do, sir.

MR. BRANCHFLOWER: Now, when you were talking to Bailey on the 29th of February, did you ask Bailey where he got his information?

MR. GLASS: I did not.

MR. BRANCHFLOWER: Now, you brought today with you an exhibit, actually a one page document. I'm going to label it Exhibit No. 1. You've marked two particular items on it. First of all, what is Exhibit No. 1?

MR. GLASS: It is a copy, a record of my cell phone usage during late April/early March, and that's provided by AT&T which was Cellular One, I believe, at that time. They've subsequently gone over to AT&T.

MR. BRANCHFLOWER: Do you believe it to be an accurate summary of the telephone calls you made during the periods of time indicated?

MR. GLASS: It's a computer-generated record, so I assume that that would be very accurate. Yes, sir.

MR. BRANCHFLOWER: Now, I'll call your attention to the two markings you made and that you initialed. The first marking is for a call. It's actually call number 36 that, according to this document, was made on February 29 on your cell phone with the number indicated, starting at 5:01 p.m. and lasting for 19 minutes. Is that the call that you are just testifying to now?

MR. GLASS: That is correct.

MR. BRANCHFLOWER: This is your signature here at the top?

MR. GLASS: That's.....

MR. BRANCHFLOWER: Your initials?

MR. GLASS: That's my initials. I've been using those initials for years in that manner.⁷⁶

John Glass's testimony regarding a call from Frank Bailey on March 6, 2008, regarding Mike Wooten's dropping off children in his patrol car.

Mr. Glass testified about another cell phone call he received from Frank Bailey about Trooper Mike Wooten:

MR. BRANCHFLOWER: Let me call your attention next to March 6, 2008, again concerning Frank Bailey. Did there come a time that day that you spoke with him on your cell phone again?

MR. GLASS: Yes, there was.

MR. BRANCHFLOWER: Can you explain for the record how that came about and what was said?

MR. GLASS: I was in Memphis, Tennessee with my wife who was having major back surgery and I received a phone call on March 6th, which was the

⁷⁶ Glass transcript page 10, line 15. Exhibit 1 is located at the end of the transcript of Mr. Glass's testimony.

day she was having surgery. It was concerning Michael Wooten, that he had been observed driving around the Good Shepherd Church early in the morning at 9:10 dropping off one of his kids in a marked patrol vehicle. I was told by Mr. Bailey that Wooten was, apparently, working the 2:00 a.m. to 10:00 a.m. shift and that during the same time frame, time period, he had also been observed sitting outside the Cottonwood Creek School where, apparently, some of his kids may go to school in a marked patrol vehicle. There was another trooper in the vehicle with him at the time. I could only surmise, since we don't have two person units, that it would have been a recruit trooper where he was in the field training status with a recruit trooper.

MR. BRANCHFLOWER: So, what did you tell Bailey you would do?

MR. GLASS: I told him I would -- that I was in Memphis, Tennessee and that I would have it looked into. I subsequently sent an email to Colonel Holloway advising him to look into it. I did advise Bailey that it was not a firing offense for him to do that, but that he could receive -- I mean, that single event in and of itself was not something that he could be fired for.

MR. BRANCHFLOWER: You told this to Bailey?

MR. GLASS: Yes.

MR. BRANCHFLOWER: What was his reaction?

MR. GLASS: He, again, just went back into he's had all these other problems, you guys are protecting him, why aren't you doing something about it. That was primarily what he....

MR. BRANCHFLOWER: The event that he was talking about was Wooten being around the Good Shepherd Church on what day?

MR. GLASS: I don't recall that there was -- about March 4th, so it would have been two days prior to his phone call to me.

MR. BRANCHFLOWER: That would have been in the morning sometime?

MR. GLASS: 9:10 a.m., is what I have.

MR. BRANCHFLOWER: I guess what I was leading up is he called you two days after the event. Did it come out, or did you perhaps ask him, what

the source of his information was? Did he see this first-hand or did he get it from someone else, or what?

MR. GLASS: I believe he told me at the time it was coming from Todd Palin, or it may have been from Molly, but one or the other. It was one of the family members.

MR. BRANCHFLOWER: Molly being?

MR. GLASS: It would be Trooper Wooten's ex-wife, Governor Palin's sister.

MR. BRANCHFLOWER: Again, you were in Memphis, Tennessee. So, let me, again, refer you to Exhibit No. 1, which is the phone record, and specifically to call number 54. What is call number 54?

MR. GLASS: Call 54 is the call from Frank Bailey, and the way I know that is the telephone number on both these calls is area code 907-748-5816, which I know to be Frank Bailey's cell phone number. I have a record of that in my computer in my contacts list.⁷⁷

MR. BRANCHFLOWER: Did the matter subsequently get investigated, this business about Wooten being outside the Cottonwood Creek School and so forth?

MR. GLASS: I believe it did. I don't know what the results were.⁷⁸ You'll

⁷⁷ This is the same cell phone number Mr. Bailey gave to Trooper Rodney Dial on February 29, 2008. The audio of Mr. Bailey's call to Trooper Dial was released by Governor Palin at her press conference on August 13, 2008.

⁷⁸ With regard to this matter, Colonel Holloway testified as follows on September 1, 2008:

MR. BRANCHFLOWER: Now, I want to ask you because other witnesses have mentioned some complaints that were received by your office about Trooper Wooten using his patrol car to take his kids to school. Are you familiar with those complaints?

MR. HOLLOWAY: Yes, I am.

MR. BRANCHFLOWER: Can you give us a little summary of what your knowledge about that is?

MR. HOLLOWAY: Those complaints came in the spring of this year, 2008, and

have to ask Colonel Holloway because what I did was I had sent an email to Colonel Holloway with a copy to Commissioner Monegan advising that I had been contacted by Frank Bailey outlining the issues that had been addressed to me by Mr. Bailey and please take care of it.⁷⁹

they were regarding the fact that Trooper Wooten had transported his children, including his and Molly McCann's children, to school using his patrol car. In the Alaska State Troopers, we issue what are called home cars or duty cars to our troopers that they are to keep with them 24 hours a day. However, they are only supposed to be used for work-related duties and they are not supposed to be used to transport family or to transport friends, unless there is some kind of work nexus, or unless it's some type of an emergency, or unless it's something that can be explained, you know, in the light of circumstances that it was necessary to do, or if you had received permission from a supervisor to be able to do that due to some kind of circumstances. In this case, when we looked into those, and I got direction to look into those from Deputy Commissioner Glass, we found out that Trooper Wooten had talked to his supervisor, his sergeant, and his sergeant had given him permission to carry the kids to school using his patrol car because Trooper Wooten who worked a swing-shift at that time, which is evening shift, was required to be in court or had some other function, you know, in a professional, in an official capacity that he had to be at within a short period of time and it wouldn't have been possible for him to drop off the kids, go back and pick up the car, and make his appointment. So, there was nothing done in those two instances because he wasn't violating the procedures which are in our operating procedures manual. See Holloway transcript page 27, line 12.

⁷⁹ Glass transcript page 17, line 12. Exhibit 1 is located at the end of the transcript of Mr. Glass's testimony.

Testimony of Deputy Commissioner John D. Glass regarding a conversation in the spring of 2008 with Todd Palin about Trooper Mike Wooten

Deputy Commissioner Glass testified as follows about another conversation he had with Todd Palin about Trooper Mike Wooten:

MR. BRANCHFLOWER: Did there come a time in the spring of 2008 when you spoke to Todd Palin again about Mr. Wooten?

MR. GLASS: Yes, there was.

MR. BRANCHFLOWER: Can you explain what the circumstances were?

MR. GLASS: I was in Juneau working and talking with the Legislature concerning the proposed new State crime lab. As I was going up to or coming out of the third floor, I'm not sure which, but right at the top of the stairway, I ran into Todd Palin. I know the date was after the Iron Dog because I asked him about his injuries that he had received on the Iron Dog and he told me what that was. We started talking about Michael Wooten and that Todd was adamant that Wooten was a very poor example for a trooper and needed to be fired, that he shouldn't be a trooper, and I went through the same exact conversation basically that I had had with Mr. Bailey, in that Wooten had already been penalized for his actions that he had taken. It was two and a half/three years ago, we could not fire him. I had the wrongful discharge. I had the binding arbitration discussion with him, and I also warned him that it was going to cause some extreme amount of discomfort and embarrassment for the Governor if they continued to pursue this and it should have never become public. That it would just be not good for the Governor if it continued, and that they needed to cease and desist. He persisted in telling me that Wooten needed to be fired, he should not be a trooper.

MR. BRANCHFLOWER: The conduct for which Trooper Wooten had already been disciplined was, I think, perhaps it was mentioned in either this interview or maybe not, but are we talking about the Taser, the DWI, the moose hunting incident, and so forth?

MR. GLASS: The alleged DUI, the moose hunt poaching. Actually, it wasn't moose poaching, it was shooting his wife's moose on a permit that she had that she did not want to shoot the moose. His alleged drinking and driving, his Taser, of his 11 year old stepson, and the activity that had been earlier mentioned, yes.

MR. BRANCHFLOWER: When you saw him on the third floor of the Capitol Building, did it come out why he was there in the Capitol Building?

MR. GLASS: I mean, I was on the third floor, and that's where his wife's - that's where the Governor's office is, on the third floor. So, I assumed that that's what he was doing on the third floor.

MR. BRANCHFLOWER: Now, who raised the question of Wooten and Wooten's prior conduct?

MR. GLASS: It may have been me because I was concerned still because of the contacts that I had been receiving, the contacts that I knew that was going on with Colonel Holloway over Wooten, and it was just a concern to me.

MR. BRANCHFLOWER: I wonder if you could explain that? Had you heard that Todd Palin had been making inquiries elsewhere so you raised it up to him, or how did that go?

MR. GLASS: Yes. Yes, I knew that there had been an incident over a snow machine ride that Wooten was on, that Todd had taken pictures of that, and had brought that forth.

MR. BRANCHFLOWER: So, this was a warning to Todd Palin or at least advice to Todd Palin that he needed to cease and desist pursuing that, that that was something that had already taken place in terms of the application of the discipline?

MR. GLASS: Absolutely. I wanted nothing more than to let them let us proceed with whatever would happen down the road with Trooper Wooten. If Trooper Wooten stepped out of line, we would correct it in our own process that is outlined in a Union contract and personnel rules.⁸⁰

John D. Glass's testimony regarding a second conversation with Frank Bailey, around April 24 or 25, 2008, regarding Trooper Wooten's transporting children to school in marked patrol car

Deputy Commissioner Glass testified about a second call he received from Frank Bailey regarding information supplied by Todd Palin about Mike Wooten's transporting children to school in his marked patrol car:

⁸⁰ Glass transcript page 20, line 2.

MR. BRANCHFLOWER: Now, did there come a time shortly after that that you received yet another phone call from Frank Bailey?

MR. GLASS: Yes, I did.

MR. BRANCHFLOWER: Tell us about that.

MR. GLASS: I, again received a phone call from Frank Bailey, and it was about the 24th or 25th of April, and he told me that Todd Palin had contacted him and that Todd Palin had observed Trooper Wooten transporting kids to school in a marked patrol car.

MR. BRANCHFLOWER: Supposedly, when did that happen?

MR. GLASS: That would have occurred the previous Tuesday, I believe he told me, which would have been on the 22nd of April, is when that is alleged to have occurred.

MR. BRANCHFLOWER: Now, I'm going to ask you some of the details about that, but I'm looking at some dates here. You had your contact with Todd Palin in the Capitol Building in March or April. You told him that he should cease and desist and, basically, to get over it. This telephone call that you are referring to now from Frank Bailey was subsequent to the time that you saw Todd Palin in the Capitol Building, correct?

MR. GLASS: Correct.

MR. BRANCHFLOWER: So, apparently, he didn't heed your advice to leave it alone?

MR. GLASS: No.

MR. BRANCHFLOWER: You were about to give some specifics about this incident involving Wasilla High School and kids being driven in a marked patrol car.

MR. GLASS: Yeah (affirmative), and I, again, told Frank that I would look into it, and Frank told me that Officer Dave Eller (sp), who was the School Resource Officer at Wasilla High School, had witnessed that and that Dave, Officer Eller, would have some further information on it as to when it occurred.

MR. BRANCHFLOWER: Let me see if I understand this. You told Frank

Bailey that you would look into it because you didn't have any knowledge about it; is that correct?

MR. GLASS: That's correct.

MR. BRANCHFLOWER: But, his response was to give you the information that he already had?

MR. GLASS: He told me that Todd had told him that he had -- that Dave Eller had witnessed it. So, I told him that I would go talk to Dave Eller.

MR. BRANCHFLOWER: So, what did you do?

MR. GLASS: I went and went over to the Wasilla Police Department on Saturday and stopped in there. I still have access to the Wasilla Police Department because of our contract with them for the dispatching that they do for us, and I went in and talked to some of the guys in there and got Dave Eller's personal phone number because he was not at work.

MR. BRANCHFLOWER: Then, what happened?

MR. GLASS: I called Dave at work -- or at home and asked him if he would meet me on Monday morning at the Wasilla Police Department because he goes to work fairly earlier because of his school duties over at the school, and he said that he would.

MR. BRANCHFLOWER: Then, what happened?

MR. GLASS: He called me back later that day because I did not tell him what I needed to talk to him about, and he says, oh, let me guess what this might be about. It's about Todd Palin calling me and telling me that Wooten was driving his patrol car into the school with kids in it.

MR. BRANCHFLOWER: So, he reported to you that Todd Palin had earlier called him?

MR. GLASS: Yes.

MR. BRANCHFLOWER: To inquire about this incident involving the kids?

MR. GLASS: I took it, from what Dave said, that Todd wanted him to be a witness that, in fact, it was occurring.

MR. BRANCHFLOWER: Now, did you ever check into this matter involving the driving of the children and whether or not that was authorized or had been authorized?

MR. GLASS: I did.

MR. BRANCHFLOWER: What about that?

MR. GLASS: I sent a mail out, or actually, I think I called Dennis Casanovas who is the Commander of B Detachment in Palmer where Wooten is working, and I asked Dennis to look into it for me because of the complaint from Frank Bailey concerning Wooten's driving the kids to school. Shortly thereafter, it wasn't too long afterwards Casanovas sent me an email back saying that Wooten had, in fact, driven the kids to school but that he had contacted his supervisor who was Sergeant Shuey, and since they were short-handed and were having a large amount of calls, that Sergeant Shuey did not want him to leave his patrol car at the house but that he wanted Sergeant Shuey, or I'm sorry, Trooper Wooten to drive the kids in the patrol car so that he would be available to respond to calls. If he did get a call, he would have to leave the kids wherever it was and respond to the calls. The Sergeant has the authority to authorize troopers to do that sort of activity when they aren't working.

MR. BRANCHFLOWER: Did you -- go ahead. I'm sorry.

MR. GLASS: That's exactly what happened with Sergeant Shuey; he had authorized that.

MR. BRANCHFLOWER: Now, did you get back to Mr. Bailey?

MR. GLASS: I did. I called him back and told him that that's exactly what had happened and that that was the end of it.

MR. BRANCHFLOWER: What was his response?

MR. GLASS: He just couldn't believe that we'd allow him to do that.⁸¹

⁸¹ Glass transcript page 22, line 10.

Walt Monegan's testimony regarding then ongoing union negotiations between the Department of Administration and the Public Safety Employees Association

Essentially, Mr. Monegan testified that during early 2008, the Department of Administration, headed up by Commissioner Annette Kreitzer, was in the process of negotiating several employee union contracts on behalf of the state. Commissioner Kreitzer had negotiated a settlement with the General Government Unit, and the Supervisory Unit, which granted them a 5.5 percent pay increase.

Alaska State Troopers are represented by the Public Safety Employees Association, which had also been in contract renewal negotiations with the Department of Administration. However, the department of administration had refused to agree to a 5.5 percent wage increase for the PSEA as had been agreed to with the General Government and Supervisors Units. Instead, the Department of Administration refused to offer more than a five percent increase, and eventually the negotiations failed. Monegan testified as follows about this and identified exhibit six, a letter he wrote to Commissioner Kreitzer:

MR. BRANCHFLOWER: Now, I'm going to hand you Exhibit No. 6 and ask you to identify what it is, please.

MR. MONEGAN: Exhibit 6 is a memorandum that I had addressed to Annette Kreitzer, the commissioner of administration. And it's regarding the then failing negotiations with the Public Safety Employees Association, which is the union that represents the Alaska State Troopers.

In essence, what I was expressing in this memorandum was disappointment that apparently our negotiation is failing, and that the reason why it was failing is that the State was offering less to PSEA, or the troopers, than they had offered to several other unions that already negotiated, strictly --

MR. BRANCHFLOWER: The unions, such as who?

MR. MONEGAN: The general -- the GU unit, as well as the SU unit, which is the supervisor's union.

MR. BRANCHFLOWER: Okay. And who is in charge of the negotiating on the State side?

MR. MONEGAN: It is Annette Kreitzer, the commissioner.

MR. BRANCHFLOWER: Okay. So as I understand it now, Annette Kreitzer had negotiated a settlement with the GU unit and the SS unit --

MR. MONEGAN: SU unit.

MR. BRANCHFLOWER: Excuse me.

MR. MONEGAN: Supervisor's union.

MR. BRANCHFLOWER: Supervisor's unit. And what sort of a salary increase, on a percentage basis, had been agreed to with those two unions?

MR. MONEGAN: It was 5.5 percent.

MR. BRANCHFLOWER: Okay. And yet during this period of time, were negotiations still ongoing with PSEA and the administration?

MR. MONEGAN: They were.

MR. BRANCHFLOWER: And the period of time we're referring to is what?

MR. MONEGAN: This is dated March 25 of '08.

MR. BRANCHFLOWER: Now, if I'm not mistaken, and correct me if I'm wrong, the PSEA unit -- PSEA contract was scheduled to expire on June 30th, 2008?

MR. MONEGAN: I believe that's correct.

MR. BRANCHFLOWER: Okay. So was there some tension or perceived issue on your part concerning budgetary issues and/or union issues given Trooper Wooten's continued employment with DPS?

MR. MONEGAN: Intuitively, it's hard for me to pinpoint with hard evidence. But yes, I was starting to feel that there may be some other influences ongoing that would prohibit the awarding of -- or agreeing to 5.5 percent.

MR. BRANCHFLOWER: And what was Annette Kreitzer's position with respect to the increase that the troopers and other members of the PSEA would receive?

MR. MONEGAN: She wanted to give him no higher than 5 percent.

MR. BRANCHFLOWER: But everybody else got 5.5 percent?

MR. MONEGAN: That's correct.

MR. BRANCHFLOWER: So do you know why she wanted to limit it to 5 percent?

MR. MONEGAN: No. In fact, the purpose of this memorandum is to try to get her to go to 5.5 percent.

If I can read my last paragraph, it's a short one, but kind of summarizes this.

If the refusal to agree to 5.5 percent was yours, I ask you politely to explain why you so choose this figure that differs from the other negotiated contracts. If the refusal was not of your choosing and was directed from a higher authority, I offer you my sincere apology.

MR. BRANCHFLOWER: Did she ever respond?

MR. MONEGAN: She did not. I cc'd Mike Tibbles on this, chief of staff. And ultimately, the settlement for the troopers was 5 percent.

MR. BRANCHFLOWER: So what was going through your mind during this period of time of union negotiations and budgetary issues with regard to the financial well-being of the Department of Public Safety, given Wooten's continued employment?

MR. MONEGAN: Well, certainly Annette was very much aware, because we -- we were assigned the same -- to the same committee that was to work on the recruiting retention for the entire state.

I had been named to be part of that working group. And she was very much aware the issues that surrounded the difficulties of recruiting Alaska State Troopers, and trying to get them to be at a competitive wage.

One of -- the current recruiter was Lieutenant Jeff Laughlin, for example. He said he set up his booth right next to the Anchorage Police Department booth, and he would have candidates come up to him after they talked to him and the Anchorage Police and said, Anchorage Police is offering 10,000 a year more than you guys, and they don't have to travel anywhere. Why would I want to join your outfit? Which made it difficult.

So that was the impetus and the push to try to get those vacancies filled by increasing at least to a competitive wage. And the more I pushed on this to try to get that -- that, and other issues like lateral advancements and what not, I was just running into a stone wall.

And amongst senior command, meaning myself, John Glass, and Audie Holloway, we actually speculated amongst ourselves that there has to be a connection, why the troopers are different than the other unions. Because the SU actually includes trooper command, the lieutenants and higher.

MR. BRANCHFLOWER: There has to be a connection with what?

MR. MONEGAN: Mike Wooten.⁸²

Walt Monegan's testimony regarding Governor Palin's complementary comments at the Building Momentum Conference in Anchorage

Mr. Monegan testified that he attended a conference in Anchorage in early May 2008, called "Building Momentum" that was sponsored by the Alaska Native Justice Center. He said that Governor Palin addressed the audience and made several complementary comments about Monegan, who was present in the audience. This period was approximately ten weeks prior to the time she fired Mr. Monegan. He testified:

MR. BRANCHFLOWER: Now, I want to call your attention to early May. I believe there was a conference here in Anchorage at one of the hotels, and Governor Palin spoke at that conference. And I think you were in the audience, and she addressed your service up to that time. This would be in early May of 2008; is that correct?

MR. MONEGAN: That's correct.

⁸² Monegan transcript page 72, line 15. Exhibit six is located at the end of the transcript of Mr. Monegan's testimony.

MR. BRANCHFLOWER: So this would -- we'll get to this -- your firing here in a minute. But your firing was on July 11th, right?

MR. MONEGAN: That is also correct.

MR. BRANCHFLOWER: So this is about 60 days or thereabouts prior to your firing?

MR. MONEGAN: That's correct.

MR. BRANCHFLOWER: Okay. Why don't you state for the record then what happened at the conference, where it took place, and just essentially what happened.

MR. MONEGAN: The conference was called Building Momentum. It was put on by the Alaska Native Justice Center, of which I am a board member and have been since I was Anchorage Police chief.

The conference was focused on violence that happens against Native women, and that it was held at the Anchorage Hilton. It was a three-day conference, of which I intended to be there for the majority of the time.

And in that, there was a -- in the opening day and the opening reading, if you will, the governor, along with a panel of other people, such as Julie Kitka, president of AFN, and others were all on the podium.

And when it was the governor's turn to step up to the mike, she -- she spent about a minute, basically wanted to publicly thank me for my interest, my expertise, my participation in an event like this, and that we are -- something to the effect that she appreciates it. I am a symbol of -- my participation here is a symbol of her commitment to try to address these issues, and she wanted to thank me for being here and being so interested in the issues.

MR. BRANCHFLOWER: So these were words of praise from the governor in a public forum?

MR. MONEGAN: That's correct.

MR. BRANCHFLOWER: And if I do the calculation here, it's about nine weeks before you are fired?⁸³

MR. MONEGAN: That would probably be about right, yes.⁸⁴

Walt Monegan's testimony regarding why Governor Palin cancelled her appearance at the 2008 Police Memorial Day celebration in Anchorage

Mr. Monegan testified that the Police Memorial Day celebration is celebrated annually in Alaska on May 15 at the Alaska State Trooper headquarters on Tudor Road in Anchorage, in front of a flag pole and stone memorial with the names of officers who have fallen in the line of duty. Mr. Monegan testified about what happened in connection with the May 15, 2008 event, a date that was approximately eight weeks from July 11, the day he was fired:

MR. BRANCHFLOWER: Was the governor scheduled to speak at the police memorial event?

MR. MONEGAN: We extended her an invitation, much as we had the year prior.

And during a meeting with her that I had, I strongly encouraged her to show up for it, and she said she would. We got notified that she was planning to be there. We put her on the -- we made up our agenda, our thing.

Everybody was kind of happy that she was going to show up. The governor is a very popular lady. And so we were looking forward to it. And then literally, the last day, she canceled.

But prior to that, still in that euphoria that she was going to show up, I took it upon myself to actually take one of the glossy posters that we had made of a trooper holding a flag, and I dropped it off at the governor's office.

MR. BRANCHFLOWER: Here in Anchorage?

MR. MONEGAN: I did.

⁸³ It was actually slightly more than ten weeks or so [72 days]. An article about the conference was printed in the Anchorage Daily News on May 1, 2008 and suggests that it ended on Wednesday April 30, 2008. The conference occurred approximately two weeks prior to the Alaska Police Memorial discussed immediately below.

⁸⁴ Monegan transcript page 81, line 4.

MR. BRANCHFLOWER: Now, the police memorial celebration was to occur at the Alaska State Trooper headquarters on Tudor Road here in Anchorage?

MR. MONEGAN: That's correct. Right in front of the crime lab, which is our --

MR. BRANCHFLOWER: And there is a flag pole there and a memorial -- a stone memorial there with the names of the officers who have fallen in the line of duty?

MR. MONEGAN: That's correct.

MR. BRANCHFLOWER: And that's where this was to have taken place, correct?

MR. MONEGAN: Yes, it was.

MR. BRANCHFLOWER: Now, so it was you who dropped off this photograph that was to be used somehow in conjunction with the celebration?

MR. MONEGAN: Yeah. In fact, it was a poster that we had used this photograph, we made it into a poster. And we actually used it the year before, as well.

MR. BRANCHFLOWER: Let me ask you to identify what Exhibit 7⁸⁵ is.

MR. MONEGAN: Exhibit 7 is a glossy photo of an Alaska State Trooper in formal dress blue uniform, standing, holding a US flag and saluting it.

And the picture is taken from the angle of looking through the arm over the shoulder of a saluting trooper in the foreground.

MR. BRANCHFLOWER: And the approximate size of this photo is approximately 8.5 by 11, right?

MR. MONEGAN: That's correct.

⁸⁵ Exhibit 7 has been placed at the rear of the transcript of Mr. Monegan's testimony.

MR. BRANCHFLOWER: Now, but the actual poster itself was a larger --

MR. MONEGAN: We did.

MR. BRANCHFLOWER: -- (indiscernible), wasn't it?

MR. MONEGAN: I think it was, like, 15 by 17, whatever that -- the largest that they can make.

And what we did is I wanted those posters blown up advertising police memorial day and distributed to all the detachments and posts across the state. It's a momentous time. I mean, we want to honor those who have fallen, and remind people that -- that we believe in something larger than ourselves.

MR. BRANCHFLOWER: And so was this -- was this -- what we have here is a picture that you've been referring to as a poster.

MR. MONEGAN: That's correct.

MR. BRANCHFLOWER: Was it intended to be posted in public places?

MR. MONEGAN: Within the DPS section, yes. I mean, in the various windows of detachments and whatnot. I certainly didn't make enough of these so that they would go in cars' windows or anything like that.

MR. BRANCHFLOWER: Okay. And so you dropped this photograph off at the governor's office and gave it to who?

MR. MONEGAN: I left it with the receptionist. And then I returned to my car, drove back to the headquarters. And I was just walking into my office and got a phone call.

MR. BRANCHFLOWER: From?

MR. MONEGAN: Kris Perry, who is, again, the director of the Anchorage office for the governor.

MR. BRANCHFLOWER: Okay. And what did Kris Perry tell you about this photograph?

MR. MONEGAN: If I could try to quote it, what I recall is: Walt, what are you thinking? Why did you send a poster over here that has a picture of Mike Wooten on it?

MR. BRANCHFLOWER: And your reaction was?

MR. MONEGAN: I didn't know. I don't. I didn't know what -- I didn't know who these troopers were.

MR. BRANCHFLOWER: Tell us about the conversation.

MR. MONEGAN: Well, Chris is the one that -- if you recall, that I had spoken to in regards to the state fair and how the governor didn't want Wooten anywhere near her in the fair. And so in this particular conversation, it was, you know, how -- how the governor's not going to like this. I don't know if she actually saw it yet or whatnot, but Chris -- we didn't elaborate on that.

I was trying to explain the fact that I wasn't trying to antagonize anybody. This is an event. He is a trooper. I didn't know he was, you know, the guy in the poster. And that to me, this whole thing talked about the hypersensitivity of at least the governor and maybe her staff to Trooper Wooten.

MR. BRANCHFLOWER: You were just having a bad day that day, weren't you?

MR. MONEGAN: Well, I wasn't until that moment. I was happy that the governor was planning to be there.

MR. BRANCHFLOWER: Now, if you thought that your job was in jeopardy prior to that time -- actually, I gather from your testimony that your concern about your job started way back in January 4th of 2007, when you had your first meeting with Mr. Palin?

MR. MONEGAN: I think that more realistically, it was a couple of days after, when I heard him venting about how he was not happy with our review of what had happened.

MR. BRANCHFLOWER: What was your state of mind when you got a call back from Kris Perry, only to find out that of all the troopers on your force, you happened to have selected a photograph of the one

person who Mr. and Mrs. Palin were trying to get fired for all these months?

MR. MONEGAN: You know, I -- in fact, I remember turning to John Glass, and I said, what are the odds? Because I didn't know it was Wooten. I asked John, I said, is this Wooten? And he looked at it, and he said, I don't think so, but let me find out.

So he ran off to talk to somebody else. Actually, the guys who had taken the photo. And they said, yeah, it is. So we didn't recognize Mike Wooten out of that picture.

MR. BRANCHFLOWER: Now, did the governor show up, as she had been invited to address the attendees at the police memorial?

MR. MONEGAN: She did not. There was a last-minute substitution, and it was Lieutenant Governor Parnell that showed up.⁸⁶

The Audie Holloway-Bob Cockrell meeting one week prior to Walter Monegan's firing

1. Walter Monegan's testimony about the Audie Holloway-Bob Cockrell meeting

Walt Monegan testified to a meeting that "...didn't go well..." which took place in early July 2008, approximately one week before he was fired. The meeting was between Colonel Audie Holloway, the head of the Alaska State Troopers, and Bob Cockrell, the head of Governor Palin's security detail:

MR. BRANCHFLOWER: And since we're mentioning -- since I've mentioned the firing, did the firing actually take place on July the 11th?

MR. MONEGAN: It did. What had transpired earlier the week prior was a meeting apparently that was scheduled between Colonel Holloway and Bob Cockrell, again, the governor's head of security detail.

⁸⁶ Monegan transcript page 76, line 14. Exhibit seven is located at the end of the transcript of Mr. Monegan's testimony.

And after the meeting, Audie came on down to talk to me. And he says it didn't go well between him and Bob, and Bob left in a huff. And he said, you may be hearing about it.

So what I did is I immediately typed an e-mail to Mike Nizich, who is now the acting -- then the acting chief of staff. I said, there was a discussion that didn't go well between Cockrell and Colonel Holloway, and that I suggest that we set up a meeting, the four of us sit around the table and get this issue so we're all on one page, and I hit send.

MR. BRANCHFLOWER: And what?

MR. MONEGAN: I hit send.

MR. BRANCHFLOWER: You hit send?

MR. MONEGAN: And just a few minutes later, I got this response that just said, we certainly will.

MR. BRANCHFLOWER: We certainly will?

MR. MONEGAN: I think that's a quote.

MR. BRANCHFLOWER: That's from Mr. Nizich?

MR. MONEGAN: That's correct.

MR. BRANCHFLOWER: And how long prior to your firing was this e-mail exchange?

MR. MONEGAN: One week.

MR. BRANCHFLOWER: This e-mail that you sent, was it sent the same day that Bob Cockrell left in a huff, as you've described it?

MR. MONEGAN: Yes. It was just literally minutes afterwards.

MR. BRANCHFLOWER: Now, at this point in time, this would be July of 2008, I want to ask you a question about the security detail. And I've heard that it started at about -- well, when she took office in December of 2006, that the security detail was pulled over from the Murkowski administration and earlier administrations. And there

were six members in it. Some were troopers, some were special commission, there were a couple of officers that were pilots in that group.

But fast forwarding now to July of 2008, how many members remained in her security detail in Anchorage?

MR. MONEGAN: In Anchorage? I would say one.

MR. BRANCHFLOWER: That would be --

MR. MONEGAN: Bob Cockrell.

MR. BRANCHFLOWER: And are there -- were there any others around the state?

MR. MONEGAN: There was one part time, Tom. I can't recall his last name, but it's Tom, that would be on duty in the capital building during the session.

MR. BRANCHFLOWER: So one full-timer --

MR. MONEGAN: Yes.

MR. BRANCHFLOWER: -- here in Anchorage, that's Bob Cockrell?

MR. MONEGAN: Uh-huh.

MR. BRANCHFLOWER: And one part-timer in Juneau?

MR. MONEGAN: That's correct.

MR. BRANCHFLOWER: And how old is Bob Cockrell?

MR. MONEGAN: I believe he's 70.

MR. BRANCHFLOWER: Seventy?

MR. MONEGAN: Seventy.

MR. BRANCHFLOWER: Now, as an experienced police officer, what significance did you attach to the reduction in the security detail? I guess what I want to probe is, did you derive from what I've

just said that there could not have existed any legitimate fear on the part of the Palins reference Mike Wooten?

MR. MONEGAN: In essence, if they took and reduced the size -- and actually, in essence, doing away with -- literally doing away with. Because Bob primarily was a coordinator, and would do the -- if the governor was planning to travel to out of state, he would contact, and had had contacts, because he had been doing it for years, of all the various other entities out there, law enforcement that would assist and augment the governor protection detail.

But in the reduction of -- from six to one and a half, or however you want to call it, certainly the governor didn't feel that there was the necessity for this.

MR. BRANCHFLOWER: Now, when you received the response from Mr. Nizich that we certainly will, or words to that effect, right after you sent the e-mail, what was your state of mind, in terms of what the future held for you?

MR. MONEGAN: Well, I thought it was going to get ugly in regards to whatever -- not understanding fully all what was said between Holloway and Cockrell.

But I remember taking that e-mail from the response, and I sent it to Glass as FYI and to Audie, because I figured they're going to be part of this meeting coming up. And I said, brace yourselves.⁸⁷

2. Colonel Audie Holloway's testimony about the Audie Holloway-Bob Cockrell Meeting

MR. BRANCHFLOWER: Now, let me interrupt you for a second and ask you if you recall a conversation you had with Bob Cockrell right about this time?

MR. HOLLOWAY: Yes.

MR. BRANCHFLOWER: Who is Cockrell?

MR. HOLLOWAY: Bob Cockrell is the Security Detail Coordinator for the Governor. During the time when we were trying to figure out what the

⁸⁷ Monegan transcript page 81, line 10.

rules were previous to Friday the 11th, I had had a conversation with Bob Cockrell and he had come into my office and was quite upset and stated that he didn't think that we were supporting the Governor. He had called us on, you know, a couple of occasions and had actually kind of gone around the chain of command and gone directly to either one of my sergeants, Sergeant Jones, or to other people that he knew and wanted to direct them to assist him with security detail issues. My impression from the previous information that we had received through Commissioner Monegan is that the Governor only wanted very limited protection, she did not want us around her at all times. She felt that she was -- she was confident enough in her own abilities that she thought that she could handle many things like driving back and forth to events. So, we were working under that premise and that's one of the reasons we were trying to get some clarification. But, it seemed to me that Bob Cockrell wanted to still provide the same level of protection that he had been able to provide with the previous, you know, full-time protection detail, which I believe at one time was upwards of five people who full-time, you know, drove the Governor around, provided protection, set up travel arrangements and so forth, and even would call out of state if the Governor was traveling to make sure that there was going to be someone to meet with her, a security contingent at the airport destination wherever she was going. It was my understanding that that's not what she wanted, but Bob seemed to think that we should provide the same level. So, Bob and I were having a philosophical difference of what our interpretation of the orders were. He basically came to the office and was pretty upset with me that I was requiring him to go through the chain of the command before we assigned people to their detail. He wanted to be able to reach out and just talk to somebody he knew and have them come over. Basically, he wanted carte blanche to use State Troopers wherever and whenever he saw fit, and I certainly didn't mind providing, you know, the staff to the Governor when she wanted it. But, it seemed to me like I would be disobeying her orders and I wanted it to be clear that I didn't want to disobey her orders, her instructions, and that we needed to have clarification. But, during this conversation with him, he accused me and the Alaska State Troopers of not caring for the Governor and not putting her safety, you know, in a high enough position. That is entirely untrue. The fact of the matter is that we were very much against her disbanding her protective detail because we knew that at some point it would require the Alaska State Troopers to provide that protection. But, we thought we were only going to be providing it every once in awhile. The best way for me to provide it is for me to know what they need, and since my staff and I know -- you know, using the chain of command where our people are stationed, we know what's going on in the Detachments. We know what's going on in the Bureaus. Then, that meant that we didn't

disrupt work unnecessarily. We would be able to call on somebody that could leave their work and respond to whatever need the Governor had. Bob didn't seem to see the sense in that, although I wasn't about to change it because that could create a lot of disturbance and disruption with our workflow. So, I told him that I thought he was being unfair when he characterized us in that way and that I did not appreciate it. I certainly would not ever want to do anything that would leave the Governor without, you know, some security and safety. That is one of -- you would -- would be one of our primary duties, not to mention, you know, just any citizen, but the fact that she's the Governor means we would do everything we could to accommodate her request. So, Bob and I had that disagreement because he was now being frustrated because he was trying to continue on with the same set of rules he had used for several years when it was clear to me that we had been given new marching orders and that the rules were supposed to change. So, that was the gist of the conversation we had about that, and that's why I -- in fact, I insisted several times that Commissioner Monegan clarify these rules so that we didn't, you know, fall on our -- or not follow through with our duty to protect the Governor or that, if we were mistaken, we could fix our mistakes and do it correctly according to what she wanted.

MR. BRANCHFLOWER: So, the conversation ended, and he left, and it sounds like it ended on a sour note then?

MR. HOLLOWAY: Yes, it did.

MR. BRANCHFLOWER: Do you know.....

MR. HOLLOWAY: Although, you know, I have to say that, you know, I respect Bob and have known him for a long time. I met him several years ago during different, other protective details. You know, I think he's a good guy. I just think that we were working off of different interpretations and that kind of set us at odds. I have nothing but respect for Bob, you know, anyway.

MR. BRANCHFLOWER: So, that conversation occurred approximately when?

MR. HOLLOWAY: That would have occurred some time in early July and that led to my constant requests of Commissioner Monegan to clarify what we were supposed to be doing in regards to her protection detail.⁸⁸

⁸⁸ Holloway transcript page 30, line 16.

3. Bob Cockrell's testimony about the Audie Holloway-Bob Cockrell meeting

Q [By Mr. Branchflower] Right. Now, I want to ask you one last thing and it has to do with a meeting that you had with Audie Holloway who is the Colonel, of course, of the Department of Public Safety to discuss security issues, and you'll have to explain this to me, but it has to do or what I think has to do with is a reduction ordered by the Governor in the security staff. Why don't we address that part first, then I'll get to the second part of my question. Was there a reduction in the Governor's security staff that took place within the last few months?

A [By Mr. Cockrell] That's true, if you let me explain it.

Q Sure.

A We had an airplane. We had two King Airs. We had one in Juneau that flew Southeast and two of those guys was (sic) on our detail. The plane went away. The Murkowski Administration sold that plane. So, now, we have four guys in Juneau. So, one guy went back on patrol, Jeff Landvatter. Sean (sp) Stevenson, one of the pilots, went to Fish and Wildlife because there is no longer a plane down there in Soldotna. And, Brad Cooper retired and went to Oregon. That left Tom Lopez, who is still there. As a matter of fact, he's up here this week. Then, up here was Gary and I. She cut the position of Gary's, and she kept me. And, then Tom is in Juneau. One of the goals was that -- and I don't think it would ever work, and I've been here a long time, the troopers were going to pick up the slot. So, if you went to Fairbanks, you would just call, and a trooper would help you. Well, it never works because, you call a guy -- anyway, we've done this before and tried, and it didn't work, so.

Q Because of lack of manpower at the.....?

A Of the trooper level, plus you get a guy that's out on the road in uniform working something and you call him in and say go to the airport and do some advance work and where the Governor is going to give her speech or something. It's just -- it's very difficult. So, that's where we are at right now. I just talked to Mike Nizich within the last month or two and he asked me about what I thought about bringing somebody else on. I said, well --because all this was going on. I said, look, I can work the seven days a week for awhile. Let's

just wait and see what's going on here and we'll go from there.

Q So, whose idea was it to do the reduction in force for her security detail?

A I would think it was the Governor and maybe even the Chief of Staff. Maybe they sat down and talked about it. I wasn't privy to that.

Q Then, secondly, whose idea was it to try to satisfy the need for security with uniforms?

A I don't even know if it was uniforms. I think they just thought that the Troopers could help them in that area. So, if I said -- I just mean a trooper could probably help out.

Q They, meaning Mr. Nizich and Governor Palin?

A Yeah (affirmative), and I wasn't in on any of that conversation, so I am kind of, you know, to say who said do this or do that. So, I really hate to make a comment if it was Mike or the Governor. I don't know.

Q All right. Now, the second part of my question is having to do with this plan to have troopers fill in for her security detail. Did there come a time that you had a conversation with Trooper Holloway about that where his position was that he couldn't do that, couldn't fulfill that request, the Governor's request, because he didn't have the manpower to do that? Do you recall that conversation?

A That wasn't the conversation. The conversation was I asked for Sergeant Dave Jones to help me at the Governor's picnic. Dave Jones has helped me on many occasions. Dave Jones worked on the detail. I hired Dave Jones years ago. But, when I went to ask the Colonel because -- let me back up just a little bit. When I first met with him, if there's anything you want or need, and we understand the detail is going to be a little short.

Q You're talking about Colonel Holloway?

A Yes. And, anything you need or something, you let us know.

Q Who was saying that?

A The Colonel.

Q Holloway is saying that to you?

A Right. So, when I went back and I said -- well, I called Dave and I said I need you for the picnic because that was supposedly my contact, Sergeant Dave Jones. So, when I called Dave, Dave said, well, you probably should call the Colonel and I went, well, I thought we had all this. So then -- and when I called Captain Casanovas in Palmer for a guy out there, I heard, well, gee, oh, gosh, maybe, let me look around. I never had that in my years that I've dealt with him. Never with Captain Casanovas. So, I went over and talked to the Colonel, and the Colonel said, well, we have decided that the Commissioner and I, he, will be your security at the picnic. I said, well, what happens if you guys are called away, what do I do? He went I don't know, but he said, you know, your detail has been cut. We've got money -- you know, we don't have the money in the funds to do a lot of this, so we'll just do it and we'll get other guys to help you in other areas. I said I really want Dave Jones, he and I have worked together and we know what to do. So, I finally -- I've got to tell you I wasn't a happy camper. I got up and left. He also.....

Q It sounds like it was a pretty tense conversation?

A It was a tense conversation because I got the feeling that he did not want to help her at all and I'm saying, hey, all I'm asking you for is one guy here. Usually, we used to do it with it with four and five guys. Now, I got -- all I'm asking for is Dave and they won't even give me that. So, I just said, you know what, you guys -- you do what you want to do. I passed it on to the Chief of Staff and I said if need be, I'll just go by myself and they gave me Dave.

Q So, when you went to see the Chief of Staff, you're talking about Mike Nizich?

A I just called him, yeah (affirmative).

Q You called him and what did you tell Mike Nizich?

A I just said I want to use Sergeant Dave Jones. They tell me no because it would cost three hours of overtime. And, I had thought starting July, the first week of July, and they were already worried about three hours' overtime, was a little much.

Q Now, the record doesn't pick up your demeanor, but I'm sensing that you were pretty disgusted with Trooper Holloway?

A Disappointed

Q Disappointed?

A Yes. My job is to provide security for the Governor of the State. There will be 4,000 or 5,000 people there and you can't give me one guy?

Q So, when you talked to Chief of Staff Mike Nizich, did you call him on the phone, I think you said?

A I think I called him. I don't know that he was in the Anchorage office. I just -- I think I called him.

Q You were pretty upset. Did you express that dissatisfaction with the Troopers' unwillingness to provide security to Governor Palin? Did you express that to Mr. Nizich?

A Yeah (affirmative), I told him they wouldn't let me have Dave.

Q But, I mean, did you convey your unhappiness with how things went with Colonel Holloway?

A I told him I was really disappointed in the Troopers that they couldn't.....

Q If I were to ask Mike Nizich to describe the conversation, how do you think he would describe what you had to tell him?

A You know what?

Q Would he say that you were upset?

A I don't know. I know I wasn't happy. I know that I was disappointed, and I just had never, in my years on this detail, where they would say no to one guy.

Q Now, you mentioned the Governor's picnic and security for the picnic, but that's this summer then, right?

A Uh-huh (affirmative).

Q When was it?

A Oh, God, don't ask me the dates. One was in Wasilla. I want to say 18th, 19th and 20th.

Q Of June?

A I think June or July.

Q The security that you were looking for Governor Palin that was the subject of conversation with Colonel Holloway, which picnic were we talking about?

A Anchorage and Palmer and Fairbanks, all three.

Q So, there are three picnics?

A Uh-huh (affirmative).

Q So, the Governor was asking for security not only for Anchorage but for all those picnics?

A I was asking.

Q Excuse me, you were. For the Governor?

A Yeah (affirmative).

Q The dates of those picnics were in June?

A You know, it was 18th, 19th and 20th, I think.

Q Of what month?

A I was trying to think if it was in July. I'll say July, but I don't know now whether it was June.

Q Could it have been in June?

A It could have been.

Q If Commissioner.....

A Well, July was the start of the new budget, so it must have been in July, I would think.

Q If Commissioner Monegan was fired on/or about July 10th or the 11th,.....

A Yeah (affirmative), I don't know.

Qwas it before then?

A Yes, it would have been before then.

Q So, I'm going to make a statement and you tell me if my dates are correct. You went to see Colonel Holloway about security for the three picnics. There was discussion about him not having manpower. You asked for Trooper Jones to assist you. That was not forthcoming. You were upset. You reported this to Mike Nizich. The timing of this conversation with Colonel Holloway would have had to have been in close proximity to shortly before these three picnics, which would have been sometime in June. Does that help you remember when the conversation occurred?

A Well, it was before the picnic.

Q Right, but how long before the picnic would you say?

A Oh, just probably a week, three or four days.

Q Then, shortly after that, Trooper Monegan or Commissioner Monegan was fired. Now, do you see a connection between what we're talking about and Trooper Monegan getting fired?

A No.

Q You're not aware of any?

A A connection?

Q Yeah (affirmative).

A No, but I didn't talk to Monegan.

Q Now, when you talked to Mike Nizich, did the subject of Commissioner Monegan come up in the context of your conversation with Colonel Holloway?

A Yes, I said that the Colonel told me that both the Colonel and the Commissioner would be the security.

Q With respect to the reasons for the curtailment of the Governor's security detail, can you explain that? What was the reason for it; was it purely budgetary?

A I don't know. I don't -- I was actually on vacation when I called Gary and Gary told me that he had 90 days or something. I was still on the detail.

Q Have you ever discussed that with Governor Palin?

A No.

Q Or with Todd Palin?

A No.

Q Did you ever tell Colonel Holloway that you were unhappy with the plan as described a minute ago? The plan being that the Troopers would not be able to provide the required security. Did you ever tell Trooper Holloway that a) you did not like this idea, and b) you would be telling the Governor that AST was not supporting them?

A I know I told him I did not like the idea, I mean, that they are not going to help us, and I did not -- I don't remember ever saying I would go tell the Governor.

Q That AST was not supporting her?

A No, I don't know that I ever said anything like that.

Q Did you ever tell the Governor that it was your belief that AST was not supporting her?

A No.

Q Did you ever tell that to Mr. Nizich?

A I told him that I thought that they weren't going to help us at the picnic since I wouldn't get much support there. And, I also -- yeah (affirmative), that's all I told him.

Q What was Mr. Nizich's reaction when you told him all this?

A You know, I don't know, and I can't remember what I told him on the phone or whether I'd seen a reaction or not. I know I was disappointed because I really needed Dave to help me, but I think I called him on the phone.

MR. BRANCHFLOWER: The time is shortly after 5:00 p.m. Thank you for appearing today. We appreciate your time. If there's nothing else, Madam Clerk, we can off record.⁸⁹

MADAM COURT REPORTER: We're off record.
(Off record)

Walt Monegan's testimony about the day he was fired

Walt Monegan was fired by Governor Palin's Acting Chief of Staff Mike Nizich on July 11, 2008. He received word of the meeting at which it was to occur from his secretary Cassandra Byrne while he was in Dillingham, Alaska where he had just spent several days on an observation tour with the Alaska Wildlife Trooper. Mr. Monegan detailed how the meeting with Nizich unfolded:

By Mr. Monegan: And the following Monday, I had taken off to go to an observation tour with the Alaska Wildlife Troopers in the Bristol Bay enforcement. And I was there from Monday to Friday morning, mid-morning.

So being on fishing boats, doing the patrol thing, that you see guys running around in these inflatable looking kind of craft, as well as on big boats, it was educational orientational thing for me.

And then Friday morning, we were in Dillingham. And I was met by the trooper pilot who flew me from Dillingham back to Anchorage in one of the DPS aircraft. And because I was dressed to reside on boats

⁸⁹ Cockrell transcript page 19, line 22.

and would not -- wasn't necessarily professional attire while out on the boats, I was contacted by Cassandra.

MR. BRANCHFLOWER: Your secretary?

MR. MONEGAN: Correct. Who told me that the meeting was going to be set on Friday, and could I make Friday at 3:00.

MR. BRANCHFLOWER: Okay. You're talking about a meeting, and I don't think you've told the reader that somehow you have been contacted and that a meeting had been scheduled.

MR. MONEGAN: Yeah. While I was on the boats, we certainly were out of cell range.

But they were contacting us by satellite phone, that are equipped on the boat. And Cassandra told me that Nizich did call back and said, yes, the meeting is Friday. Could we make Friday at 3:00.

And I said -- when I talked to her, I said, sure. Who else needs to be there? And -- because I was anticipating, again, talking about the security detail and the upcoming governor's picnics, and trying to find out how we can get back on the same page.

And --

MR. BRANCHFLOWER: And then what happened?

MR. MONEGAN: Then Cassandra said she checked with Mike and Mike said, no, you don't need to bring anybody.

MR. BRANCHFLOWER: And so when was this meeting scheduled for then?

MR. MONEGAN: Friday, July 11th, at 3:00 p.m. in the governor's office in Anchorage.

MR. BRANCHFLOWER: With?

MR. MONEGAN: Mike Nizich.

MR. BRANCHFLOWER: Okay. So you showed up at the appointed time?

MR. MONEGAN: Yeah. My wife had dropped off a suit. I changed at DPS. I put a business suit on, and I went to the meeting.

MR. BRANCHFLOWER: Okay. Why don't you proceed kind of in a narrative form and describe who was present, how long it lasted, who said what, and then I'll have some follow-up questions for you.

MR. MONEGAN: Okay. When I arrived at the governor's office, the receptionist said, welcome, Commissioner. You're here to see Mike? And I go, that's right. So she got up and went down to his office. She said, he's not here. Let me look around for him. Please have a seat.

And she came back a couple minutes later. She said, I found him. The meeting is to be in the governor's office. Okay. So I walked into the governor's office. The only people in attendance were Mike Nizich and myself. There wasn't anybody. The governor was not there. And we were at the conference table.

As I sat down, he began by saying, Walt, the governor appreciates and respects your expertise and your interest in rural issues. And for that reason, she is going -- we are offering you the job to be director of the Alcohol Beverage Control Board, which was vacant at the time.

MR. BRANCHFLOWER: Which was what?

MR. MONEGAN: Vacant at the time. So my response was, so I take it then I'm no longer the commissioner of public safety? Because ABC Board actually works under the umbrella of DPS. And he said, that's correct. When is it effective? Immediately.

MR. BRANCHFLOWER: Did you ask him why you were being fired or --

MR. MONEGAN: I did. I said -- I told him, initially, though, I'm not interested in the ABC job. And he said, why don't you think about it? Go home, talk it -- talk it over with your wife, and then call me tomorrow. Okay. I can do that. You know, Mike, this is out of the blue. I didn't even know the governor was angry at me for anything.

MR. BRANCHFLOWER: This is what you asked him?

MR. MONEGAN: Yes. And he goes --

MR. BRANCHFLOWER: Well, wait a minute. What did you ask him?

MR. MONEGAN: I said, this is out of the blue. I didn't know the governor was angry at me for anything. So what brought this up? Was it Wooten? Was it the plane? Was it the security detail? What was it?

The governor wants to take DPS in a different direction.

MR. BRANCHFLOWER: That's what he said?

MR. MONEGAN: Yeah. I said, what direction would that be?

A different direction.

And so I tried to explain. I said, the last any kind of thing that I even heard from the governor about me and my ability, my performance, was that glowing one-minute thing at the -- nine weeks earlier.

MR. BRANCHFLOWER: Just a couple -- few weeks earlier?

MR. MONEGAN: Right. And I said, so if there was something I did wrong, just for my benefit, I'd like to know what it is. I said, what was it?

MR. BRANCHFLOWER: What did he say?

MR. MONEGAN: A different direction.

MR. BRANCHFLOWER: So he kept repeating a different direction?

MR. MONEGAN: Right. So then I asked him basically, okay, is John going to be the acting commissioner?

Yes.

MR. BRANCHFLOWER: John Glass?

MR. MONEGAN: Correct. And he said yes. And so I said, okay. Are you going to tell him or should I? And he said, why don't you tell him? Okay. Has the governor picked out somebody else? There's a short list.

And, okay. So I got up, shook his hand. I told him I'd call him the next day, and I left. And on my way out, I took off my government ID. I wrapped it up. It's got a little security buzzer pad type of thing. And I gave it to the receptionist. And she said, commissioner, you're going to be needing this.

No, I don't think so. And I left.

MR. BRANCHFLOWER: Now, how long did this conversation with Mike Nizich take?

MR. MONEGAN: I don't think it took -- I don't think it took ten minutes.

MR. BRANCHFLOWER: And when you kept asking him, why am I being fired, and his response was just different direction, different direction, did you get the feeling -- well, I think you even mentioned, is it about Wooten, right?

MR. MONEGAN: That was my first -- first question.

MR. BRANCHFLOWER: And did you get the feeling that he was being evasive in responding to your request to understand why you were being fired?

MR. MONEGAN: Well, the fact that he didn't answer me, yeah.

MR. BRANCHFLOWER: And when you said, is this about Wooten, his response was what?

MR. MONEGAN: A different direction.

MR. BRANCHFLOWER: But he never said no?

MR. MONEGAN: Right.

MR. BRANCHFLOWER: Now, on July the 12th, which would have been the next day, on Saturday, I think you attended the Bear Paw Festival. I think that's in Eagle River, right?

MR. MONEGAN: That's correct. My wife and I, we try to make that.

MR. BRANCHFLOWER: Okay. And did you report back to Nizich about the ABC Board?

MR. MONEGAN: I did call him. I talked to him, and I said, I thought it over, and I'm not interested. And he said okay.

MR. BRANCHFLOWER: Not interested in the ABC Board appointment?

MR. MONEGAN: Correct. And he said, okay. Thank you for your service to the State. And then that was it.

MR. BRANCHFLOWER: And that was it?

MR. MONEGAN: Uh-huh.

MR. BRANCHFLOWER: And did you run into anyone from the governor's office at the Bear Paw Festival?

MR. MONEGAN: I did. I ran into the rural advisor --

MR. BRANCHFLOWER: Who is --

MR. MONEGAN: -- to the governor. Rhonda McBride, who actually was in the office when I went to go meet Nizich. I saw her in her office.

MR. BRANCHFLOWER: She wasn't present at the meeting, right?

MR. MONEGAN: No.

MR. BRANCHFLOWER: It was just you and he?

MR. MONEGAN: Yes.

MR. BRANCHFLOWER: Okay. And the governor was not there, nor was Todd there?

MR. MONEGAN: No. It was just Mike Nizich and myself.

MR. BRANCHFLOWER: Okay. And what did you tell Rhonda McBride?

MR. MONEGAN: She was -- she introduced me to a friend of hers, and I introduced Terry to her friend, because I think Rhonda and Terry already knew each other. And so in this process, basically I'm looking at her, and she's -- she doesn't know. I mean, that was my impression. So I said, you know I've been fired. And she goes, what? When? Well, it happened yesterday afternoon. I saw you in the office, and I figured you were just trying to -- you know, didn't want to make eye contact with me or something. And she goes, no.

MR. BRANCHFLOWER: What was her reaction?

MR. MONEGAN: She was stunned.

MR. BRANCHFLOWER: So apparently, the word had not been shared with the other employees, to your knowledge, based on your conversation with Rhonda McBride?

MR. MONEGAN: At least not to Rhonda. I don't know how many -- I can't speak for the other ones. But --

MR. BRANCHFLOWER: Now, did you send -- around this period of time that we're speaking of, that weekend, did you send a goodbye e-mail to your former colleagues or some sort of letter or something?

MR. MONEGAN: I sent -- since I still had access to the DPS e-mail system, I sent an e-mail to all DPS employees. And I said, effective immediately, I have been relieved as the commissioner of public safety. And you will be getting a new commissioner soon. The reason I was dismissed was that the governor wants to take DPS in a different direction, and that direction will be made known to you in time.

And then I went on to say I appreciated the fact that I got to work with you. I wish I got to know all of you. You're good folks, good-hearted people.

And you know, I felt choked up when I left APD after almost 33 years. And after 17 months with them, I felt just as choked up. And so I said, boy, you guys are good. Take care, be safe, Walt.

I also sent an e-mail to the cabinet, and thanking them for accepting me and including me in discussions, both in official and in social situations.

And -- but I closed it by saying that there is a crisis that is developing in rural Alaska that includes fuel and a bunch of other kind of things, and never more will teamwork be necessary as it is right now. I wish you all the best. Thank you. Goodbye.

MR. BRANCHFLOWER: And did you receive a call at home from one of the cabinet members at about that time?

MR. MONEGAN: Actually from three of them.

MR. BRANCHFLOWER: From three of them?

MR. MONEGAN: Yeah.

MR. BRANCHFLOWER: And who were they?

MR. MONEGAN: They were Leo von Scheben, DOT, Larry Hartig from DEC, and Todd -- or Talis Colberg, the AG.

MR. BRANCHFLOWER: And when did you receive a call from Talis Colberg? Was it that very weekend?

MR. MONEGAN: Yes.

MR. BRANCHFLOWER: So if Saturday was the 12th, is it your testimony that he called you on the 12th of July of 2008, or would it be Sunday the 13th, or --

MR. MONEGAN: It could have been Sunday. But I know it was immediately -- practically immediately after the e-mails had gone out. It was in contemporary within a day or so.

MR. BRANCHFLOWER: When you spoke to Talis Colberg, given the give and take of the conversation, were you able to formulate any opinion about whether he had any advanced knowledge about your firing?

MR. MONEGAN: No. He said he was -- he says, Walt, I'm stunned. I didn't know this. And then he joked, because Talis does have a sense of humor. He said, I don't even know if I'm supposed to talk to you. And so we chuckled about that. But --

MR. BRANCHFLOWER: All right. So that occurred on July the 12th and perhaps the 13th. I want to fast forward a little bit to about the following weekend, July the 20th, 2008. I think there was a picnic scheduled for Wasilla, some sort of a picnic.

MR. MONEGAN: It's the governor's picnic.

MR. BRANCHFLOWER: Governor's picnic. And you were telling me earlier that you saw -- correct me if I'm wrong, but you saw some sort of a film clip on one of the TV stations wherein Todd Palin was interviewed -- Todd Palin, who was at the picnic, was interviewed, and there was something about Trooper Wooten. Do you recall telling me that?

MR. MONEGAN: I do. It was on channel 2, NBC up here. And the -- in essence, the media was still kind of surrounding the issue that I had been fired. And when I was told later that Trooper Wooten had stopped by the picnic to say hi to a couple of friends of his that worked for the Wasilla Police Department because, you know, the Mat Su Valley, there's -- they made friendships.

And that had been seen -- or his visit or stop-by had been seen apparently by Todd. And he made a statement to the press, something to the effect that --

MR. BRANCHFLOWER: This is Todd making the statement?

MR. MONEGAN: Correct. That, there he is. There's Wooten. He's riding his high horse.

MR. BRANCHFLOWER: So Todd was pointing to Trooper Wooten and saying, there he is, he's riding his high horse, or --

MR. MONEGAN: Something to that effect, yes.

MR. BRANCHFLOWER: Okay.

MR. MONEGAN: I think --

MR. BRANCHFLOWER: Did you see this newscast yourself?

MR. MONEGAN: Yes, I did.

MR. BRANCHFLOWER: And this would be after you were fired?

MR. MONEGAN: That's correct.

MR. BRANCHFLOWER: Within a couple of days actually, correct?

MR. MONEGAN: Well, it would be within the week, I think. Because the security detail that we were supposed to be talking about -- I thought we were going to be talking about was about those governor's picnics.⁹⁰

Walt Monegan's testimony regarding the presence of Todd Palin at cabinet meetings

I questioned Mr. Monegan about whether Todd Palin had ever attended Governor Palin's cabinet meetings. He testified as follows:

MR. BRANCHFLOWER: Okay. Now, we had mentioned a couple of cabinet members here a minute ago that had called you, including Talis Colberg. Let me ask you a question about cabinet meetings. You were there for about, what, 17 months or so?

MR. MONEGAN: That's correct.

MR. BRANCHFLOWER: And these cabinet meetings, how frequently did they -- or did they occur?

MR. MONEGAN: They -- I think the governor tried to have them once a month, and sometimes more, sometimes longer without them.

MR. BRANCHFLOWER: And so in a 17-month period, what's your best recollection of how many cabinet meetings were actually -- actually took place?

MR. MONEGAN: My best ballpark guess would be somewhere around a dozen, maybe a little more.

MR. BRANCHFLOWER: Twelve or 13?

MR. MONEGAN: Yeah, something like that.

⁹⁰ Monegan transcript page 85, line 24.

MR. BRANCHFLOWER: Now, when you say cabinet meeting, I assume by implication that the heads of all the departments are there by definition, correct?

MR. MONEGAN: Either physically or telephonically. Because there were some cases, in fact many cases, there'd be a video link that were extended to Juneau. And if anybody was in Fairbanks, they'd do a split screen and have somebody teleconferencing in from Fairbanks, which I did one time even.

MR. BRANCHFLOWER: Now, are these private meetings, or if Joe Citizen wanted to come in and sit and listen to what was going on in the meeting, what's the protocol there?

MR. MONEGAN: I would think that this is certainly not a Joe Citizen thing. I think -- because we talked about issues of -- literally issues of the state. We were trying to address certain things and discuss strategy. We talked about budgets. And all these kind of things are not something that are open to the public.

MR. BRANCHFLOWER: You talk about personnel issues?

MR. MONEGAN: Sometimes.

MR. BRANCHFLOWER: These are all confidential matters; is that correct?

MR. MONEGAN: Uh-huh.

MR. BRANCHFLOWER: I'm sorry?

MR. MONEGAN: Yes.

MR. BRANCHFLOWER: Now, did there ever come a time that you witnessed the presence of Todd Palin at some of these cabinet meetings?

MR. MONEGAN: I have. I've seen him there at least three or four times. And he may have been there more; I'm not sure.⁹¹

⁹¹ Monegan transcript page 95, line 22.

Walt Monegan's testimony regarding perceived pressure about Trooper Mike Wooten

As Mr. Monegan's deposition was winding down, I asked him about comments made by Governor Palin in the press regarding his failure to tell her about alleged pressure on him to fire Michael Wooten:

MR. BRANCHFLOWER: Now, I would imagine that following your firing, that you followed in the press the unfolding story of your firing and the events that followed, including hiring and firing of Mr. Kopp, and so forth, correct?

MR. MONEGAN: That's correct.

MR. BRANCHFLOWER: Now, did you see the governor's press conference wherein she disclosed the telephone conversation between Frank Bailey and Trooper Dial that occurred on February 29th of 2008?

MR. MONEGAN: I think I seen most of it, yes.

MR. BRANCHFLOWER: And at that press conference, it's either that one or perhaps another press conference, or perhaps in a newspaper article, of which there have been many, she made the comment that, Walt never told me -- Walt never told me about so-called pressure or alleged pressure against him to fire Trooper Wooten. Do you have in mind the comments that she made?

MR. MONEGAN: I --

MR. BRANCHFLOWER: I may be perhaps attributing it to the incorrect -- but I think it was at the press conference itself.

MR. MONEGAN: I can't recall if that was -- but I do remember hearing that she made that statement.

MR. BRANCHFLOWER: Okay. That's what I want to ask you about. Now, is that correct? Did you ever go to her and say, governor, you're pressuring me, or your husband's pressuring me, or Annette Kreitzer is pressuring me, or the attorney general is pressuring me, or Chris Perry is pressuring me, or any of the other numerous people that -- Mike Tibbles is pressuring me?

MR. MONEGAN: I --

MR. BRANCHFLOWER: Did you ever do anything like that?

MR. MONEGAN: I never did.

MR. BRANCHFLOWER: Why not?

MR. MONEGAN: Primarily because -- part of my rationale in trying to keep her at arm's length was to protect her from opening herself up to litigation by Wooten at some point for some political interference, doing something that officially she should not be involved in.

And every time that conversation -- as I had told all the other people who had contacted me, that those conversations with discoverable, such too would be that same conversation if I brought it up, if I initiated it and talked to the governor about this, that, too, would be discoverable.

And to me, it defied -- I didn't want to bring harm to her by bringing it up.

The second thing was I didn't see the point in it because she was my boss. Who am I going to complain to above her? And so I didn't.

MR. BRANCHFLOWER: Now, shortly after you were fired, it seems I recall reading an article wherein you were asked about the circumstances surrounding the firing. And you said, no, I'm not going to comment on it.

Yet later, as the story continued to unfold, you seemed to make an increasing number of public pronouncements about the circumstances at issue.

And so I wonder, how can you reconcile your first position of the no-comment position with your later position, where you actually did make comments?

MR. MONEGAN: There -- when I was in the period of saying that there is no comment and why discuss it, this was specifically about Wooten, which is a confidential issue.

MR. BRANCHFLOWER: Confidential by law?

MR. MONEGAN: Correct. And that once he signed a release and there was a flurry of -- there was a public thing about that, that he has

signed a release. I think John Cyr held up his -- the file in a press conference. Then that allowed me to speak if I so chose. So it was the release of the public records or his personnel records on that incident.

MR. BRANCHFLOWER: And they were later posted on various news sites, correct?

MR. MONEGAN: I suspect they were.⁹²

MR. BRANCHFLOWER: I guess the last question I have -- a closing question I have for you is this.

You testified about a number of contacts over a long period of time, 17 or 18 months, both starting with the first gentleman and in January of 2007 at the meeting at the governor's office, subsequent contacts that he made, personal calls from Governor Palin herself, calls from the director of her office here in Anchorage, Chris Perry, the commissioner of administration, the director of boards and --

MR. MONEGAN: Commissions.

MR. BRANCHFLOWER: -- commissions, Frank Bailey, the attorney general, Talis Colberg, Mike Tibbles was the chief of staff. To what, in retrospect, do you attribute all of these calls and visits and concerns expressed to you by these high government officials about Wooten?

MR. MONEGAN: That they were -- by the fact that they were calling was placing pressure on me and my staff to do something about Mike Wooten.

As a police officer, and we're supposed to be a little more skeptical, we want to know why the motive of doing this, the odds of all these individually contacting me all about the same issue over a period of 17 months, if they were random or if they were something that was more direct, direct would make more sense.

So obviously, in my mind, the governor wanted me to fire Mike Wooten.

⁹² The reader's attention is directed to the many news articles that address [what has been termed by the press] the "Troopergate" investigation. This compilation of articles is not all inclusive. Not included are additional articles which have been published and circulated within the public realm. The articles are attached towards the end of this report.

MR. BRANCHFLOWER: So you think all of these efforts to reach out to you originated with Governor Palin?

MR. MONEGAN: Yes.

MR. BRANCHFLOWER: All right. That concludes my direct examination.⁹³

Mr. Feldman, do you wish to cross examine here, or at least ask a few questions?

Jeff Feldman, counsel for Walt Monegan, questioned his client as follows:

MR. FELDMAN: I'll just ask a couple of questions. Mr. Branchflower asked you about the May event where the governor had some nice things to say about you, and then of course the July conversation in which you were terminated. Did anything occur between the May event and July 11th that, in your mind, could account for a change in feeling on the governor's part towards you?

MR. MONEGAN: The only thing it possibly could have been would be that argument or blowup between Holloway and Bob Cockrell. And -- but I thought that was not a -- that's not a firing event, because we're talking about one aspect of DPS versus anything else.

MR. FELDMAN: Did she or anyone else on her behalf ever communicate to you that that event, or any event that occurred between May and July, had made her unhappy with you and unhappy with your performance?

MR. MONEGAN: No one has communicated that.

MR. FELDMAN: Did she ever communicate with you, or anyone on her behalf ever communicate with you, that she was unhappy with you over budget issues, or over what she perceived as a lack of team-playing character?

MR. MONEGAN: No. Not prior to my firing.

⁹³ Monegan transcript page 97, line 16.

MR. FELDMAN: Other than the -- the issues involving Trooper Wooten, was there any other issue that you can think of that was a source of friction between you and the governor or her staff?

MR. MONEGAN: You know, when I first got fired, obviously, I was confused. I had no idea. I suspected. But why I feel more certain now than I did in July is that I have watched through the media where she would make -- well, he didn't recruit enough, or he wasn't a budget player, or he wasn't concerned about the Bush enough.

And each one of those I know are inaccurate. So by her statements, it literally was a process of elimination for me. In my mind, what was the central figure? What was the central theme through the 17 months of my tenure at DPS? And that was Wooten, from the beginning to the end.

MR. FELDMAN: I have no further questions.

MR. BRANCHFLOWER: All right. Thank you for coming today, Mr. Monegan and Mr. Feldman. Madame Clerk, if there's nothing else, we'll just go off record.

MADAME COURT REPORTER: I need to officially mark Exhibits 1 through 7.

MR. BRANCHFLOWER: I will hand you these.

MADAME COURT REPORTER: And, Mr. Monegan, you have a right to read and sign your deposition (indiscernible).

MR. MONEGAN: Okay.

MR. FELDMAN: Hold on just a second. Are we off record or on record?

MADAME COURT REPORTER: We are still on record.

MR. FELDMAN: Why don't we go off record and (indiscernible).

MADAME COURT REPORTER: Okay. We are off record at 4:45.
And this completes the deposition.⁹⁴
(Proceedings concluded.)

Acting Commissioner John D. Glass also testified to perceived pressure about Trooper Mike Wooten

During his sworn statement to me, I likewise asked Acting Commissioner John D. Glass about perceived pressure on DPS about Trooper Mike Wooten, and comments made by Governor Palin at her press conference on August 13, 2008:

MR. BRANCHFLOWER: ...In our earlier conversations, you pointed to a passage that the Governor or some comments that the Governor made in her Press Conference of August 13th, starting at 2:45. I want to read those in for the record. Then, I'll ask you a question about those.

The first passage appears on page 12 of the transcript, starting at line 11, and the Governor says, "I want to make a note about, though, this perceived pressure or alleged pressure is that Walt Monegan nor the Deputies Holloway, Glass, nobody ever came to me, despite the many, many hours that I've spent with Walt Monegan, to express concerns over Administration or individual Alaskans putting pressure on him at my behest or not regarding an individual trooper. Never had the conversation come up or the issue had been brought to my attention."

The second passage starts on line 18, page 23 of the transcript, and the Governor states, "Again, I want to repeat that, in the two years together that Walt Monegan and I served, we did not discuss Trooper Wooten, except at the very beginning when I expressed the concerns as being requested to by our security detail. No mention ever from Glass, from Holloway, or from Monegan that there were any -- maybe a rogue employee -- putting pressure on him or anybody speaking it seemed like on my behalf to put pressure on. No mention ever of that."⁹⁵

When I asked Mr. Glass to address the above he testified:

MR. GLASS: I don't think there was anybody within the Department of Public Safety that did not believe that the Governor had some real animosity towards Trooper Wooten, that the people that were contacting us, Frank Bailey, Todd Palin, were acting on the Governor's behalf, and that

⁹⁴ Monegan transcript page 101, line 5.

⁹⁵ Glass transcript page 35, line 4.

who do we call. I mean, there was nobody else to call. I mean, the Governor is the Chief Executive of the State of Alaska, and there's nobody above her. So, who would we call? To me, this only just re-emphasizes the fact that had we brought it forth, these events may have occurred much earlier than what they did on July 11th because this occurs about a week to ten days before Walt Monegan is fired and she is questioning our loyalty to her. I don't think there's anybody that would really question our loyalty to her because we have been trying to avoid this whole situation.⁹⁶

Attorney General Talis Colberg's testimony regarding his conversation with Todd Palin about Trooper Mike Wooten

Attorney General Talis Colberg testified on September 11, 2008. I questioned him about a conversation he had with Walt Monegan regarding Trooper Michael Wooten:

MR. BRANCHFLOWER: Have you spoken to Todd Palin about the Wooten matter, prior to July 11th of 2008, when Commissioner Monegan was fired?

MR. COLBERG: Yes.

MR. BRANCHFLOWER: And I believe you made reference to that call during the press conference.

MR. COLBERG: Yes, I did.

MR. BRANCHFLOWER: Can you state for the record how that went, who said what? Then I'll have some follow up questions.

MR. COLBERG: Yes. I was in the governor's Anchorage office and when I came out of the office he was in the hallway, he asked to speak to, and basically conveyed to me he had concerns about the trooper. The one thing that I'm certain that I recall is that he had related that there was a death threat to someone, which is what stuck in my mind more than anything else, and he asked is there anything that can be done about this. Then I went – and it must have been before the session, because I called in my Juneau office, Walt Monegan, and talked to him about it.

MR. BRANCHFLOWER: Do you remember the date or the approximate time that this conversation –

⁹⁶ Glass transcript page 36, line 2.

MR. COLBERG: I don't remember the exact date, and that's why I've projected back as to right before session started, because it was a contact made with me in the governor's Anchorage office suite, and the follow up by me was from the Juneau office, and normally I'm not in Juneau except for session.

MR. BRANCHFLOWER: So the year would be – what year would that be?

MR. COLBERG: At the press conference, I think I said I wasn't sure if it was the year back or the year plus back, and since then I've thought about that. It would have had to have been this last year because it was too soon in August for that to have happened.

MR. BRANCHFLOWER: So, 2007 then.

MR. COLBERG: 2007, 2008.

MR. BRANCHFLOWER: Was this just a passing – it sounds like it may have been just passing each other in the hallway or something?

MR. COLBERG: It was not a planned meeting.

MR. BRANCHFLOWER: Not a planned meeting. Was anyone else present, or just the two of you?

MR. COLBERG: I believe it was just the two of us.

MR. BRANCHFLOWER: Can you recall how long it took, how long the conversation lasted?

MR. COLBERG: It was fairly brief.

MR. BRANCHFLOWER: Did he provide you with any documents or materials?

MR. COLBERG: No, he did not.

MR. BRANCHFLOWER: It sounds like it was just a passing each other in the hallway and he made the comment.

MR. COLBERG: He asked to talk to me for a minute.

MR. BRANCHFLOWER: And you talked in the hallway, then?

MR. COLBERG: No. We moved over into what would be Kris Perry's office.

MR. BRANCHFLOWER: Was she present?

MR. COLBERG: No. I don't believe she was.

MR. BRANCHFLOWER: So, what did you do following that conversation?

MR. COLBERG: At some point, I went to Juneau ...

MR. BRANCHFLOWER: Right.

MR. COLBERG: ...and I called Walt Monegan and I talked to Walt Monegan. He was aware of the trooper because he (unintelligible – audio interference).

MR. BRANCHFLOWER: Had you ever heard of the name Wooten?

MR. COLBERG: I don't believe I had, but I will tell you that I have met a lot of people in a very compressed time frame since I've had this job, and I don't always remember everyone I talk to.

MR. BRANCHFLOWER: So, why don't you just describe, for the record, how the conversation went – what you asked, what he said to what?

MR. COLBERG: With Commissioner Monegan?

MR. BRANCHFLOWER: Yes.

MR. COLBERG: Commissioner Monegan basically said that this was a process that had already been addressing this particular trooper and that there was nothing more that could be done, and that it was a process that had taken care of.

MR. BRANCHFLOWER: How long would you guess the conversation took?

MR. COLBERG: It wasn't very long. It was a telephone conversation with Commissioner Monegan.

MR. BRANCHFLOWER: Five minutes, a minute, 10 minutes?

MR. COLBERG: It was not five minutes, in terms of that conversation.

MR. BRANCHFLOWER: You referred to a process having already taken place. Did you ask what he mean, what happened, or --

MR. COLBERG: I don't really think I did inquire into the details of what he was saying. He was aware (unintelligible -- sound interference) conveyed that he was.

UNIDENTIFIED FEMALE VOICE: (unintelligible -- too far from microphone)

MADAM COURT REPORTER: We're back on record after changing conference rooms.

MR. BRANCHFLOWER: I think the question that was on the floor had to do -- you were testifying about the conversation you had with Commissioner Monegan. You were down in Juneau. You had made a telephone call, and I was asking you about the length of the call and I think I had asked you about whether there was some discussion about his explanation dealing with -- he had said something about there had been a process or some proceeding or something. Why don't we pick it up there? Would you mind just repeating that part so we can --

MR. COLBERG: Right. I don't think I inquired into the details of any process or proceeding that was going on specifically. He was conveying to me fairly quickly that it was a matter that had already been taken care of.

MR. BRANCHFLOWER: So there were no details discussed, in terms of what the outcome of the proceeding was, or whatever it was he was explaining to you?

MR. COLBERG: Not really.

MR. BRANCHFLOWER: So, following that conversation, what did you do with respect to the information you had received?

MR. COLBERG: I had also asked my deputy in the criminal division, Mr. Svobodny, if he knew anything about it, and he called me within a day of the other conversation. I don't know exactly if it was before or after, and more or less conveyed that he didn't know anything about this being something

that could be perceived in any other way than was apparently done.

MR. BRANCHFLOWER: Did he know anything about the proceeding at all, or was this totally new to him, or what?

MR. COLBERG: I don't think he knew much about it, because he basically called me back after I'd left a message with him. He didn't know anything about it.

MR. BRANCHFLOWER: Did you have some follow up conversation with Todd Palin, then?

MR. COLBERG: Yes, I did.

MR. BRANCHFLOWER: Why don't you state, for the record, what happened, when it occurred, and so forth?

MR. COLBERG: I don't recall in that particular conversation whether it was in person or by phone, but I did follow up with him and say that we had looked into it and there was nothing more that seemed to be appropriate and pursuable.

MR. BRANCHFLOWER: So, how long did that conversation last, would you say?

MR. COLBERG: It would be more than a minute, but less than five minutes.

MR. BRANCHFLOWER: Did he ask you for any details at all?

MR. COLBERG: Not really.⁹⁷

When asked about whether he had had conversations with others about Trooper Mike Wooten prior to Walt Monegan's firing on July 11, 2008, Mr. Colberg testified:

MR. BRANCHFLOWER: Have you had discussions about Wooten prior to the time Walter Monegan was fired, on July 11th of 2008, with anyone other than Todd Palin or Walter Monegan and Rick Svobodny?

MR. COLBERG: Repeat the whole question, please.

⁹⁷ Colberg transcript page 6, line 24.

MR. BRANCHFLOWER: Have you had any other conversations, other than as you've just testified to – specifically about Trooper Wooten – since the time – I should say prior to the time – that Walter Monegan was fired on July the 11th of 2008. You've testified to having discussed it with Todd Palin, with Walter Monegan, and with Rick Svobodny, so I want to know have you spoken about that to anyone else prior to his firing?

MR. COLBERG: Other than those people that you just listed?

MR. BRANCHFLOWER: Correct.

MR. COLBERG: I don't believe so.

MR. BRANCHFLOWER: So, you've never discussed it with the governor?

MR. COLBERG: Not with the governor, no.

MR. BRANCHFLOWER: With Kris Perry?

MR. COLBERG: No.

MR. BRANCHFLOWER: Annette Kreitzer?

MR. COLBERG: No.

MR. BRANCHFLOWER: Frank Bailey?

MR. COLBERG: No.

MR. BRANCHFLOWER: Mike Tibbles?

MR. COLBERG: I don't know that Mike Tibbles and I ever had any discussion about it in that time period. I don't think so. I don't think there was a conversation.

MR. BRANCHFLOWER: Are you saying that you might have but you can't recall it, or you're pretty confident that none ever occurred?

MR. COLBERG: I met frequently with the chief of staff when he was the chief of staff, and it's possible that he had said something to me in the course of one of our meetings about having talked with Monegan about

Frank Bailey.

MR. BRANCHFLOWER: Can you say that again? Could you repeat that statement? I guess I –

MR. COLBERG: What I don't remember is – Mike Tibbles has had conversations with me where he had expressed a frustration about Frank Bailey. That part, it wouldn't be about Monegan and Bailey. It was about Frank Bailey in regard to Frank, and talking about Wooten, I guess. There would have been some reference to him. I can't place what it was, but I know he had frustration with Frank Bailey.

MR. BRANCHFLOWER: Tibbles did?

MR. COLBERG: Tibbles.

MR. BRANCHFLOWER: Frustration about Wooten, or just frustration in general?

MR. COLBERG: Frustration in general.

MR. BRANCHFLOWER: Would the general frustration include, as you understood it, frustration with Bailey about Wooten, in addition to the general frustration that he had?

MR. COLBERG: It would have been just a passing reference. He was frustrated with Bailey, in general.

MR. BRANCHFLOWER: Conversations. I'm going down my list. Mike Nizich?

MR. COLBERG: No.

MR. BRANCHFLOWER: With Chuck Kopp?

MR. COLBERG: No. Chuck Kopp was someone I did not meet until he became the commissioner.

MR. BRANCHFLOWER: So, that would have been in July – after July 11th of 2008.

MR. COLBERG: I had met him once in Kenai in the district attorney's office, but that was unrelated. No, I did not have a discussion with Chuck

Kopp about the trooper.

MR. BRANCHFLOWER: So, just to summarize now, as I understand your testimony, you only had conversations about Wooten with Todd Palin, with Rick Svobodny, and Walter Monegan, and no one else you can recall.

MR. COLBERG: Before Commissioner Monegan left State service -

MR. BRANCHFLOWER: Before he left the employee of the State on July 11th, 2008.

MR. COLBERG: Right.⁹⁸

Mr. Colberg also testified regarding Mr. Palin's attendance at Cabinet meetings and having received emails concerning state business:

MR. BRANCHFLOWER: Well, let me rephrase the question. Are you present at cabinet meetings, generally? Are you a participant?

MR. COLBERG: Yes, I am.

MR. BRANCHFLOWER: Did there ever come a time over the last 18 months, or so, that you saw Todd Palin present at a cabinet meeting?

MR. COLBERG: I have seen Todd Palin at cabinet meetings. I cannot tell you if it was – are you saying 18 months meaning from the start of the Administration?

MR. BRANCHFLOWER: Right, from January of '07.

MR. COLBERG: I have seen –

MR. BRANCHFLOWER: That's right – January of '07, because the governor was sworn in on December 5th, so starting January of '07. Are they monthly meetings, or what is the frequency of the meetings?

UNIDENTIFIED MALE VOICE: Again, I'm not certain how that relates to the proper scope of this investigation.

MR. BRANCHFLOWER: You have seen Mr. Palin there?

⁹⁸ Colberg transcript page 13, line 4.

MR. COLBERG : I have seen him at cabinet, a cabinet meeting.

MR. BRANCHFLOWER: One cabinet meeting?

MR. COLBERG : I believe I've seen him at two cabinet meetings. I don't know if there's ever been any more.

MR. BRANCHFLOWER: If someone had said that they have seen him at more than one or two cabinet meetings, would that give you pause?

MR. COLBERG : At more than two?

MR. BRANCHFLOWER: Yeah.

MR. COLBERG : That would give me pause, but it's possible.

MR. BRANCHFLOWER: Are cabinet meetings open to the public?

MR. COLBERG : No to my knowledge.

MR. BRANCHFLOWER: Is Todd Palin a state employee, to your knowledge?

MR. COLBERG : : No.

MR. BRANCHFLOWER: Do you know why he was allowed to remain there?

MR. COLBERG : No.

MR. BRANCHFLOWER: Have you ever inquired of anyone about why he was present at cabinet meetings?

MR. COLBERG : No.

MR. BRANCHFLOWER: To your knowledge, was he ever cc'd on emails circulated that involved state business?

MR. COLBERG : Yes.

MR. BRANCHFLOWER: Can you describe what your recollection is about him being cc'd on emails involving state business?

MR. COLBERG : I have been shown emails that have been subject to FOIA requests that have had his name on them.

MR. BRANCHFLOWER: Can you give an estimate of the number of those emails?

MR. COLBERG : I have no idea.

MR. BRANCHFLOWER: More than one or two?

MR. COLBERG : Probably, but I don't know.

MR. BRANCHFLOWER: Do you know why his name would have been included on emails circulated on, regarding matters that are state business?

MR. COLBERG : No.

MR. BRANCHFLOWER: Were you aware of it prior to July the 11th of 2008?

MR. COLBERG : If I was aware of it, it wasn't something I registered as something that would be noteworthy.

MR. BRANCHFLOWER: Do you know what his email is?

MR. COLBERG : His email address?

MR. BRANCHFLOWER: Yes, his email address.

MR. COLBERG : I don't know it off the top of my head, no.

MR. BRANCHFLOWER: Did you ever inquire of anyone, what the purpose of including him – assuming for the sake of my question that he was included – in emails regarding State business? Did you ever inquire of anyone why, what his interest was in being included?

MR. COLBERG : No.

MR. BRANCHFLOWER: Now, Madam Clerk, why don't you mark this? I'm going to hand you one of the emails that I have in mind and ask if you can identify it, if you recognize it. When you get done with that, let me just read it into the record. It's fairly short.

Do you recognize Exhibit 1?

MR. COLBERG : I don't recall, but you showed it to me.

MR. BRANCHFLOWER: It's an email from the governor. For the record, I'll describe it. It's an email from the governor, sent July 17th, 2007 at 6:16 in the morning, and it's to former Public Safety Commissioner Monegan with a cc to you and a copy to an email address 'fek9wnr@yahoo', and I have reason to believe that's Todd Palin's email, so I'll ask you to accept that for the purpose of my question. It reads: "Walt, we'll ask you to chime in on Gara's proposal regarding the gun issue in today's ADN when we all sit down to discuss this issue. The first thought that hit me when reading Gara's note about people not being able to buy guns when they're threatening to kill someone went to my ex-brother in law, the trooper, who threatened to kill my dad, yet was not even reprimanded by his bosses and still, to this day, carries a gun. Of course, we can't have those standards. Remember when the death threat was reported and follow on threats from Mike that he was going to 'bring Sarah and her family down'? Instead of any reprimand, we were told by trooper union personnel that we'd be sued if we talked about those threats. Amazing, and he's still a trooper, and he still carries a gun, and he still tells anyone that will listen that he will 'never work for that bitch', me, because he has such anger and disdain towards my family. So, consistency is needed here. No one's above the law. If the law needs to be changed to not allow access to guns for people who threaten to kill someone, it must apply to everyone. Hopefully we'll all meet on this soon, as Gara will be expecting a response."

Now, you recognize "Gara" as being Les Gara, a legislator, right?

MR. COLBERG : Right.

MR. BRANCHFLOWER: And, apparently, "the ADN" is a reference to the Anchorage Daily News.

MR. COLBERG : That would be my –

MR. BRANCHFLOWER: You would agree, okay. Apparently, this email has some reference to some pending legislation by Les Gara. Are you familiar with that legislation – what it was about, or –

MR. COLBERG : Not off the top of my head, but he has sponsored lots of legislation.

MR. BRANCHFLOWER: Would you agree that it probably is about some legislation that Gara had proposed?

MR. COLBERG : It appears to be.

MR. BRANCHFLOWER: So, accepting for the sake of my question, that this email address is her husband's email address, and we know who the other recipients are – Walter Monegan and you – coming from the governor, do you have any explanation for why he was included in the distribution of what appears to be State business?

MR. COLBERG : No.⁹⁹

Former Special Assistant and Legislative Liaison for Commissioner Walt Monegan Lauren Rice testified about the “New Direction for Department of Public Safety” plan announced by Governor Palin following Monegan’s firing

In a press release posted on the Governor’s website a few days after she fired Walt Monegan that is dated July 19, 2008, Governor Palin announced a “New Direction for Department of Public Safety.” It appeared a week after she fired Walt Monegan on July 11, and a few days after Chuck Kopp’s hiring as the new DPS Commissioner on July 14, 2008.

Highlights of the plan were stated as follows in the press release:

“Efficiently using trooper resources and filling vacancies. One example is to reclassify existing open trooper job positions to job classes (Court Services and investigative support positions) that are more easily filled, allowing troopers to carrying out a full range of public safety services.

Comprehensively review the issues of alcohol and drug abuse and crime, particularly in rural Alaska. Additionally, consider adding manpower for alcohol and drug interdiction efforts.

Cooperatively work with state and federal agencies and other entities as part of a multi-agency effort that focuses on outreach, education, treatment and prevention, and law enforcement as part of an answer to alcohol and drug abuse prevention problems in rural Alaska.

⁹⁹ Colberg transcript page 20, line 19. Exhibit one, above, and exhibit two [the Chuck Kopp “Severance Agreement and Release”], are located at the end of the transcript of Mr. Colberg’s testimony.

Establish strong lateral communications between departments to accomplish the mission of each department and to assist those agencies in meeting their missions.

Establish a recruiting effort focusing on returning National Guard troops and other military service members, VPSO's and Alaska Natives.

Increase training for troopers and VPSO's.

Propose legislation that will slow the flow of alcohol to rural Alaska, particularly communities that have voted to restrict alcohol. One example would be reducing the amount of alcohol that can be shipped by written orders into rural Alaska."¹⁰⁰

Ms. Rice testified she was Mr. Monegan's Special Assistant and Legislative Liaison for 18 months, and that the directions given by Governor Palin to Mr. Kopp set forth in the above press release had already been implemented by Commissioner Monegan during his tenure as Commissioner of DPS.

She testified, "It is my understanding that Commissioner Monegan was aware of the criminal justice issues that are outlined in the Press Release and both he and his team of directors were actively addressing those concerns to the best of their abilities."¹⁰¹ For example, with regard to efficiently using trooper resources and filling vacancies, she testified, "The idea of using less qualified individuals to carry out some of the functions that Department of Public Safety is mandated to do was an idea that came from both Colonel Holloway and Commissioner Monegan over a year ago. It's cited specifically in the 2007 DPS Spring Quarterly, but it was also an aspect of Commissioner Monegan's tiered proposal, which was essentially streamlining and organizing the classifications of varying levels of Peace Officers."¹⁰²

Similarly, with regard to addressing issues of alcohol and drug abuse in rural Alaska, Ms. Rice testified, "During Commissioner Monegan's tenure, he had a specific focus on rural Alaska criminal issues and in his efforts to address them, he was a member of the Alaska Rural Justice Commission. He served on the Senate VPSO Task Force. He testified in the Senate Judiciary Committee on their overall criminal justice hearings analyzing the criminal justice system. In addition, he traveled frequently to rural Alaska."¹⁰³ Also that "One of the highlights that have occurred within the last year within DPS is a partnership with the postal service to deputize our investigators as postal

¹⁰⁰ See the press release at <http://www.gov.state.ak.us/archive.php?id=1354&type=1>

¹⁰¹ Rice transcript page 18, line 10.

¹⁰² Rice transcript page 9, line 4.

¹⁰³ Rice transcript page 10, line 19.

inspectors. This effort -- we were the first State law enforcement entity to form this partnership, and this effort was hoped to expedite investigations, access information about bootlegging, have more of an inside view of what was going on. It's a huge partnership that's occurred and it's about one year in the making right now."¹⁰⁴

Ms. Rice testified that Commissioner Monegan had already established strong law enforcement ties with other law enforcement agencies and noted, "The partnership between local, state, and federal law enforcement agencies is strong in Alaska. We -- there is already a huge partnership on task forces, high level cases, special cases, and finding efficiencies by sharing resources."¹⁰⁵ With regard to the fourth point, the goal of establishing strong lateral communication between departments in order to accomplish the mission of each department, and to assist those agencies in meeting their missions, Ms. Rice testified, "Commissioner Monegan re-started a statutorily required group called the Criminal Justice Working Group. This is a group of high level departmental officials from various criminal justice agencies that had stopped meeting for some time when Commissioner Monegan came into his position. He re-started the group. He asked Justice Dana Fabe to co-chair with Lieutenant Governor Sean Parnell. They both agreed to do so. The group was made up of a variety of people and they met frequently to establish and discuss efficiencies within the criminal justice system to coordinate efforts, to discuss plans, and to come together as a group as all of these different pieces were going forward."¹⁰⁶

Regarding Monegan's recruiting efforts, Ms. Rice testified:

Ms. Rice: The recruitment efforts on military bases has been established for years and taking place for years. They are, obviously, a source of distinguished individuals who may have an interest in a law enforcement career and that has already been established. In terms of recruiting VPSOs and/or Alaska Natives to join the Troopers, this was an essential aspect of the tiered proposal simply because it created a clear ladder where they could begin at a lower level and work their way up to determine if they were really interested in a law enforcement career. There is currently a nationwide shortage of law enforcement officers and this creates a challenge, obviously, to the Troopers. However, they came up with a number of recruitment techniques that have been implemented and/or discussed.

Mr. Branchflower: Now, let me interrupt you. When you say they came up with a number of recruitment practices, who is the they that you refer to?

¹⁰⁴ Rice transcript page 11, line 5.

¹⁰⁵ Rice transcript page 12, line 3.

¹⁰⁶ Rice transcript page 13, line 6.

Ms. Rice: There is a team of individuals within the Department of Public Safety that head our -- the trooper recruitment efforts and they were proactive, thought outside of the box, and created efficiencies within the current application process. They streamlined the communication with possible recruits, possible hires. They looked into offering education incentives and reimbursing education. They increased the number of periods and -- or they discussed increasing the number of hiring periods annually. Currently, it's every six months. They discussed increasing that to quarterly hiring periods to increase their possible recruits. They also discussed hiring a retention specialist, paying for certain certification fees of new hires, beginning a statewide recruitment effort, and hiring an out-of-state recruiter to tap our national resources.

Mr. Branchflower: So, these were things that were already being done for at least the 18 months that you were there?

Ms. Rice: Some were being implemented; some were being discussed.

Mr. Branchflower: Did Commissioner Monegan advocate for salary increases for Alaska State Troopers?

Ms. Rice: He did. He was.....

Mr. Branchflower: Was he a strong advocate for that?

Ms. Rice: He was. He was involved in the Union negotiations and he believed that having a competitive pay package compared to other Alaska law enforcement agencies was essential, not only to retention but to recruitment. He advocated based on that opinion.¹⁰⁷

With regard to the goal of increased training for officers, Ms. Rice testified that, although it had not been implemented under Monegan, apparently due to cost considerations, it had been discussed.¹⁰⁸ Finally, regarding proposing legislation that would slow the flow of alcohol in rural Alaska Ms. Rice testified that "During the two legislative sessions where Commissioner Monegan was in his position, there were pieces of legislation that went forward, both with his support and with the support of his Directors and DPS staff that addressed bootlegging and rural justice issues. Senate Bill 128 was a piece of legislation that Doug Griffin worked on quite a bit, as well as Lieutenant Rodney Dial. Commissioner Monegan testified in favor of it."¹⁰⁹ She also

¹⁰⁷ Rice transcript page 14, line 12.

¹⁰⁸ Rice transcript page 16, line 15.

¹⁰⁹ Rice transcript page 17, line 2.

mentioned another legislative proposal, Senate Bill 265, that increased sentences and penalties for bootlegging, an idea that originated from the Alaska State Troopers.¹¹⁰

Mayor Mark Begich testified about former Anchorage Police Department Chief of Police Walt Monegan

I interviewed Anchorage Mayor Begich on August 18, 2008, about Walter Monegan who served as Anchorage's Chief of Police until he retired in October 2006 following a 32 year law enforcement career. Mr. Begich said after he was elected to his first term of service in April 2003, he empanelled a transition team that focused on all city departments to help him assess how they were functioning. He interviewed a number of former Mayor Wuerch's appointees, including Walt Monegan, to determine if they fit into what he was hoping for in the team he wanted to assemble in City government, and decided to keep Mr. Monegan on his staff. I asked Mayor Begich about the kinds of qualities he had looked for in his Chief of Police:

MAYOR BEGICH: What I was looking for at that point was based on a lot of the Transition Team activity I was seeing, but also through the campaign was someone who rebuilds the morale of the Department, which was a problem, and also put together and assist in making sure we had a long-term strategic plan to rebuild the Department because for years it was going the wrong direction; less resources; the morale was down; we were having a high percentage of turnover in the sense of retirees leaving. I think, at that point in my first year in, there was at least 31 retirees, so we were losing people faster than we could replace them. So, there was a desire to get someone in there who could actually, you know, communicate with folks on a very personal level but also be a good advocate for the Department, to me and to my budget people.

MR. BRANCHFLOWER: Did you ask Chief Monegan to help you put together the strategic plan?

MAYOR BEGICH: Yes. Actually, it was him and a team of folks over there that assembled it. What I asked for was there -- you know, most departments always come to you and say just give us more money, but my strategy is with all my departments, and the police was the first highly focused one, was develop the strategic plan that tells me how you will use new resources where you have gaps, where you have successes, and then we will move forward in putting the budget plan together to make that happen. So, they got very aggressive, a very complex effort to do the strategic plan, but the best part was, of course, they ended up with a

¹¹⁰ Rice transcript page 17, line 17.

strategic plan telling us, and I think we announced it, I can't remember. I think I gave them 60 days, and it turned into 90 to get the plan done. And then, we announced to the public because part of our process was not only internally, but one of the Chief's interests is always to make sure the community is well engaged in what we were attempting to do. Our goal was 93 additional personnel over the next five to six years. That's kind of the big piece of it. There's many other pieces to the plan.

MR. BRANCHFLOWER: And that strategic plan is still on the books, is it not?

MAYOR BEGICH: Absolutely, and we are achieving a significant portion of it. I think we're, today, at 70 officers or 70 new personnel, I think. When he left working for me, we were 38 or 40. I can't remember the exact number, about halfway there which is exactly where we needed to be. So, but we use it. We modify it based on conditions. There has (sic) been some changes in some conditions, but generally the plan is the core of what we do to move our police department forward.¹¹¹

Mayor Begich said when he came into office he was facing several serious public safety issues that Mr. Monegan helped to address:

MAYOR BEGICH: Well, we had several. I mean, the gang issue was one, the growing gang problem, perception and reality. The second was the traffic issues were really getting out of control. The amount of traffic fatalities, accidents, injuries were increasing rapidly. There was no traffic unit at that point. It had been disbanded, and many of our units were no longer specialized units. So, they were all melded together. So, we were not as focused as we could be, for example, on sexual assault, domestic violence, child abuse, and these areas that we thought were pretty highly important to refocus our energy. So, the whole idea of strategic plan was to re-examine all that, and then, what do we do? And we got busy. I mean, we started -- and the other piece was recruitment and diversity within our workforce. That was a pretty important piece of the equation. So, we got busy on kind of those four fronts. We ended up creating more specialized units. He -- we re-established the traffic unit, which started immediately having great success. Then, recruitment, which is something that takes a little time because you have to kind -- it's like a huge machinery, you know, this recruitment because of the amount of training it takes. But, the first job was to really reach out and he worked with our Office of Equal

¹¹¹ Begich transcript page 3, line 6.

Opportunity, Celeste Hodge, and went out, and we did stuff at the Anchorage Native Heritage Center, the Fairview Center, and some other community groups, very focused on minority groups, to see if we could recruit within the minority groups, again, to bring those numbers.

Then, one piece off to the side was to have a five year contract for our employees over there, and the reason I wanted to do that was to create some stability and build some decent morale, and he was part of that equation. We did it, and our retirees started to decrease very fast.

MR. BRANCHFLOWER: How about his ability to work with other law enforcement organizations, other police departments, the Alaska State Troopers, U.S. Attorney's Office, and so forth?

MAYOR BEGICH: Well, I think he had good relationships. People knew him and appreciated working with him. I think a lot of times, you know, Walt would be in my office here, and when he would talk about police, he would also talk about not only law enforcement but he'd talk about Parks and Rec. He'd talk about other departments that have an important role to play in how we deal with public safety. He was a little more holistic, is how he looked at it.¹¹²

When Mayor Begich was re-elected in 2006 for a second three year term, Mr. Monegan decided to retire rather than remain as Chief of Police for another three years. Mayor Begich explained:

MR. BRANCHFLOWER: He indicated at the time that he was interested in retiring. At the time, he had been on the job with APD and law enforcement for the better part of three decades?

MAYOR BEGICH: Right. He had -- actually, prior to the election, he had indicated his interest in retiring, and one of the things that we've done in every department -- one of the first things I did actually, a lot of our departments ended up with a deputy because what we wanted to make sure was you had a succession, some sort of process so you don't lose a leader of your organization and have no one to fill in. So, our two deputies at that time, you know, were in that position of a potential future filling in. So, when he indicated his interest in retiring, we started then to make a move to the transition. This transition was going to move to Rob Heun, who is the current Chief. Then, close to that, just right around the election time, he wanted to extend it maybe another year. And what I didn't want to do was,

¹¹² Begich transcript page 4, page 25.

in my remaining three years in the second term, because you only get three years, is have mid-way through, executives changing out. So, along with him and others, not a lot, I mean, my City Attorney left at that time, I wanted to make those transitions sooner than later, and that's how we put it out. There was no, you know, push out or, you know, early -- I think he re-kind of examined that he wanted to stay another year. I mean, his wife still works for me in the IT Department and does a great job. But, I think that was -- I think he felt like he wanted to stay another year. As the manager of these executives, I felt I couldn't afford that midyear, second last term, then splitting and trying to get a new chief in.

MR. BRANCHFLOWER: And I've heard that you had a big going away party for him.

MAYOR BEGICH: Yeah, yeah (affirmative).

MR. BRANCHFLOWER: A lot of people attended?

MAYOR BEGICH: Oh, yeah (affirmative). I mean, you know, he had a lot of good rapport out there, a lot of good community rapport. I mean, there were times when I couldn't make an event. For example, it might be around public safety or something like that and he would be the one that would be the spokesperson for the City.¹¹³

As he was concluding his interview with me, Mayor Begich said of Walt Monegan that "...I would consider him a team player..." " ...he was a good advocate for his department..." and "I think for us he was the right chief at the right time, offered the skills that the police department needed, helped us put together a strategic plan that now guides us into many years of future growth of that police department..."¹¹⁴

Former Alaska State Trooper Gary Wheeler testified about conversations he had with Governor Palin and Todd Palin concerning security issues involving Trooper Mike Wooten.

Gary Wheeler received a commission with the Alaska State Troopers in 1981. He worked on Governor Murkowski's protection detail, and later on the security detail for Governor Palin. He met with Governor-Elect Palin and Todd Palin during mid-November or early December 2006 to outline his duties and the functions of their security detail. The meeting lasted 15 or 20 minutes and occurred in their Anchorage campaign headquarters. Part of the reason for the meeting was to "obtain from them any

¹¹³ Begich transcript page 6, line 18.

¹¹⁴ Begich transcript page 9, line 2, and page10, line 25.

information on individuals or things that our detail should be concerned about as far as threats or physical or health issues that we needed to be apprised of.”¹¹⁵

When I asked Wheeler, “And did you specifically inquire of them whether they perceived any threats from any individual or were afraid of any individual?” Mr. Wheeler responded “I did. And I got a negative response, meaning that there - - they basically said no.”¹¹⁶

A second meeting about security issues occurred in the Governor’s Anchorage office after Governor Palin was sworn in on December 5, 2006. He testified Governor Palin and Todd Palin entered his office located within the Governor’s suite of offices and said he needed to be aware of a possible threat from Trooper Michael Wooten, a name Wheeler had never heard previously:¹¹⁷

MR. BRANCHFLOWER: What I'm getting at is earlier, you had said that you asked whether they had any concerns about threats, and they said no. And now a few weeks later, they are identifying this trooper, Mike Wooten, as a concern.

So you asked them, you know, has anything changed, has anything -- has he made any contact with you; did you inquire along those lines?

MR. WHEELER: No. I didn't specifically ask if during that three weeks or four weeks, had an incident occurred.

They did -- they did go into a brief history as to why -- what their concerns were with Mr. Wooten. And those concerns were that over some time period within the last year or two, Mr. Wooten had made threats to the governor's father, and specifically made threats to Molly, the governor's sister, and that most of these threats and the incidences involved a divorce and custody battle between the children of Molly and Mr. Wooten.¹¹⁸

Following that second meeting, there were between three to five additional times Mr. Palin spoke to Wheeler about Wooten,¹¹⁹ and that “It was always Mr. Palin.” that did

¹¹⁵ Wheeler transcript page 5, line 6.

¹¹⁶ Wheeler transcript page 5, line 9.

¹¹⁷ Wheeler transcript page 7, line 3.

¹¹⁸ Wheeler transcript page 5, line 21.

¹¹⁹ Wheeler transcript page 10, line 24.

the talking.¹²⁰ He said "The Governor, there were a number of times where I, you know, was in party with the governor, and she never spoke about - - about Mr. Wooten."¹²¹

Mr. Wheeler testified:

Mr. Wheeler: But he discussed Mr. Wooten being on workers' comp, and that while on workers' comp, that Mr. Palin had seen him riding a snow machine and doing things that Mr. Palin didn't think a person under a physical constraint, apparently [*an injury*] [specifics deleted as required by the confidentiality provisions of AS 39.25.080.]

He also saw him at a snow machine shop out in Wasilla. So I got the feeling that Mr. Palin was keeping track of Mr. Wooten and what Mr. Wooten was doing.

MR. BRANCHFLOWER: And how about fear? Did you ask him, are you afraid of this guy, or what was your sense that he was directing his comments at?

MR. WHEELER: Well, I -- it was interesting. Because as -- as the months went on¹²² and the conversations about Mr. Wooten would occur, you know, they would occur in -- in casual -- on a casual front.

I mean, basically, we might be at an event or something, and Mr. Palin would just -- would just bring it up nonchalantly. But the -- the threat part, I never really felt that they were in fear of Mr. Wooten doing anything to them, because they never required the protection detail to provide protection to them.

And in fact, after about two or three weeks into the -- the Palin administration, the governor actually asked us not to drive her to and from her residence and the events, and normal day-to-day duties that the protection detail normally does were curtailed greatly.¹²³

¹²⁰ Wheeler transcript page 11, line 15.

¹²¹ Wheeler transcript page 11, line 15.

¹²² The period of time Mr. Wheeler was referring to was 18 months. Wheeler transcript page 10, line 11.

¹²³ Wheeler transcript page 9, line 4.

Further, he testified:

MR. BRANCHFLOWER: And was there anything that you could do to help Mr. Palin?

MR. WHEELER: The only thing I could have done would have been had -- had Mr. Palin said that, we are afraid of Mr. Wooten and that we want you to watch our house, drive us here, drive us there, obviously, we would have done that.

But most of our -- most of our functions were curtailed. They never specifically asked us to protect them, protect the house, protect the kids or any of that.

And so the only thing I could express to them was that this was an issue that they were going to have to deal with the commissioner. And at that -- the new commissioner at that time would have been Mr. Monegan.¹²⁴

Mr. Wheeler testified further about conversations with Governor Palin and the reduction in the Palin security detail:

MR. BRANCHFLOWER: Did you -- did you ever spend a fair amount of time in the governor's presence?

MR. WHEELER: I did. We -- while she didn't require our assistance in state on many events, or if we did attend the event, it was simply to take care of parking and stuff, there was very little interaction specifically at those times.

But there were times when we traveled out of state, where we would sit on the same airplane for four or five hours and we would have small talk.

But there was never any time that we talked about Mr. Wooten.

MR. BRANCHFLOWER: And when you say "we," you are referring to you?

MR. WHEELER: The governor and myself.

¹²⁴ Wheeler page 13, line 22.

MR. BRANCHFLOWER: The governor and yourself. Did there come a time after Governor Palin was in office that she indicated that she no longer wished to have the security detail involved in her day-to-day events?

MR. WHEELER: Well, there did. Basically, it really started after she got into office with the reduction of -- of the travels -- the transportation to and from her house.

But specifically, we noticed it through the reduction of not attending formal functions or activities where the governor usually showed up and security normally was there. We just were not -- we were told not to be there or that she didn't need us there.

And in -- it would have been the early part of -- of '08 that the -- the largest part of the detail was -- basically started to go away.¹²⁵

When I asked Mr. Wheeler whether, from time to time over the 18 month period he served on the Governor's security detail, threats were made against the Governor or someone in the Governor's Office he said yes:

MR. BRANCHFLOWER: Now, over the 18 months that you were there or so, did there -- from time to time, did you get, you know, threats against the governor or someone in the governor's office?

MR. WHEELER: Oh, sure. We -- we received both e-mail threats and we received telephone threats.

And those telephone threats were basically left on an answering machine, typically would come in at night.

Those threats were always followed up. We would always take that information. If it came in via e-mail, that e-mail was sent over to Investigator Dave Jones with the state trooper intelligence unit.¹²⁶

¹²⁵ Wheeler transcript page 14, line 16.

¹²⁶ Wheeler transcript page 19, line 23.

MR. BRANCHFLOWER: And when you received these threats, did you pass them on to either Governor Palin or Todd Palin or someone in the office?

MR. WHEELER: I did. Generally I would follow up on -- try and gather as much information on the threat person, the caller, the person, the identity, the location.

And then I would go in and I would either discuss with Chris Perry (phonetic), who was the office manager, or I would discuss with Mr. Palin. Because generally I couldn't really get in to talk with the governor, or if I did, it just didn't seem like anybody cared.

And that occurred with -- with everybody. I would pass on these threats, and there was never any increase of security or anything like that. It was just nothing.

MR. BRANCHFLOWER: Did Mr. Wooten ever make any threats?

MR. WHEELER: Not to my knowledge. He never -- we never got any e-mails, never got any verbal threats. Now -- or anything like that at the office.¹²⁷

Gary Wheeler's testimony regarding Todd Palin's presence in Governor Palin's office and involvement in the day-to-day affairs of the Governor's Office emails

MR. BRANCHFLOWER: I want to ask you -- I'm going to shift the focus here of your testimony slightly to talk about Todd Palin's presence in the office, the governor's office here in Anchorage.

Let me first ask you about your office. Do you have a specific office -- or did you have a specific office within the governor's office complex here in Anchorage?

MR. WHEELER: I did. We actually had two offices. We had one real small, kind of a cubby hole that was located directly

¹²⁷ Wheeler transcript page 20, line 12.

next to the governor's office. And that's been there because we can respond directly to anything in the office.

I might add that that office was done away with, and a clerk was put -- or a receptionist type clerk was put there.

My office was about 50 feet. It was out in the main lobby area. And in my office, I basically had monitors for our camera system, which was -- had just been upgraded by the Atwood Building. So it was a pretty state-of-the-art camera system. And I could -- I basically spent my day watching people come and go, and stuff like that.

MR. BRANCHFLOWER: Did you have a view through the closed circuit television camera of the entire office complex?

MR. WHEELER: I had a view of all the offices, not really inside. The only -- what I could see in the governor's office is the end of her conference table, and basically just the entryway to it.

And so I couldn't see inside anybody's offices specifically, but hers I could see that entryway.

MR. BRANCHFLOWER: And were you able to -- well, did you ever see Todd Palin in the office?

MR. WHEELER: Oh, sure. You know, Mr. Palin would -- I'd say at least 50 percent of the time, he'd drive the governor in and remain either at the office or in the office most of the day. For the most part, they would show up around 9:30, 10:00. And he would participate in, you know, the meetings. And if he wasn't in a meeting, if it was a private meeting, he would be in Chris Perry's office or in Frank Bailey's office, or one of the other staffs', Sharon Leighow (phonetic).

MR. BRANCHFLOWER: The press --

MR. WHEELER: The press --

MR. BRANCHFLOWER: The press secretary, the --

MR. WHEELER: Yeah. She was --

MR. BRANCHFLOWER: The public information officer, something along those lines?

MR. WHEELER: Correct.

MR. BRANCHFLOWER: Did he have his own office?

MR. WHEELER: No. Generally, he just would use the governor's office.

A lot of times he would sit at the conference table. There was a phone and stuff there, and he'd use that. They'd bring the baby in after she had the baby. And prior to that, you know, they would -- if they just -- they'd show up, and he'd be there most of the day.

MR. BRANCHFLOWER: And I understand that he works on the Slope in some capacity?

MR. WHEELER: He -- he did.

MR. BRANCHFLOWER: Or used to perhaps. I'm not sure what the present situation is, but --

MR. WHEELER: Well, and I don't, either. I mean, primarily, I think during the 18 months that -- that I was there, I want to say that there might have been a three-month stretch that he went back to work on the Slope.

But I think his -- his -- he was primarily staying at the -- at the house with her, and really the primary caregiver for the kids and stuff.

MR. BRANCHFLOWER: So -- so you're pretty certain that he was there 50 percent of the time that he was in Anchorage, along with the governor?

MR. WHEELER: Oh, I'd say that, yeah, he was typically at least 50 percent of the time. I mean, he would frequently drive her into the office and come up to the office and hang out.

MR. BRANCHFLOWER: Do you have an opinion about his level of involvement in the day-to-day affairs of the working of the governor's office?

MR. WHEELER: I -- I think that he -- that he had a significant influence, in that he was always interacting with the -- the employees there. That any time I needed to get information to the governor, I would always go through Todd, because he was the only one I could -- could talk with, either via the cell phone or in person.

He -- I know that he got e-mails and stuff that he was in the loop on -- on activities. Because if -- if the governor was required to leave and go to Juneau or something, that Todd was always the one that would call me and let me know where they were and that they'd be five or ten minutes out.

So he -- yes, he was -- he knew a lot of the stuff that was going on.

MR. BRANCHFLOWER: How would you compare his level of involvement with the level of involvement in the day-to-day affairs of the governor's office by the spouse of former governor Tony Knowles or Frank Murkowski? You worked for them as well, correct?

MR. WHEELER: I did. I would say that the first ladies from the two previous administrations, while they were involved in state business, it was primarily in functions and non -- or -- I can't think of the word right now. Private -- things like breast cancer awareness and, you know, representing the state in these -- in these nonprofit organizations. They all had an organization that they took to heart.

And I never saw that from Mr. Palin. You know, I basically saw where he was involved more with the day-to-day things than -- than going out and attending these specific things, or specific organizations.¹²⁸

¹²⁸ Wheeler transcript page 25, line 15.

Gary Wheeler testified about the employees who spent the most time with Governor Palin, and that she never told him that she was afraid of Trooper Mike Wooten:

MR. BRANCHFLOWER: It sounds like you spent a lot of time inside the office -- inside the inner office, watching and keeping an eye on things. Actually, that was your job, right, to keep an eye on things?

MR. WHEELER: Correct.

MR. BRANCHFLOWER: What were your observations about Governor Palin with regard to -- did she have an inner circle or a close group of people that she seemed to spend most of her time with? If so, who would they be?

MR. WHEELER: Well, she did. She did. She -- you know, you could see that there were personal meetings or professional meetings with the commissioners or stuff -- or with different people like that.

But she had the -- an inner circle of friends, I guess. And that would be probably Chris Perry, Sharon Leighow, Ivy Fry, Frank Bailey. You know, they would sit around, and sometime during the day -- typically -- it wasn't unusual that there was laughter and stuff coming from her office where they had grouped up and were talking about something. I don't know what.

But you know, they were close. It was a very close-knit group.

MR. BRANCHFLOWER: All right. Did Governor Palin ever tell you that she was afraid for her safety concerning Michael Wooten?

MR. WHEELER: No.¹²⁹

¹²⁹ Wheeler transcript page 29, line 6.

Charles Kopp testified regarding the circumstances leading up to his appointment to the position of Commissioner of Public Safety by Governor Palin, and his resignation from that post eleven days later

Mr. Kopp was employed as the Chief of Police for the Kenai Police Department between the dates of May 31, 2002, until July 14, 2008, when he resigned to become the Commissioner of Public safety in Governor Palin's administration.¹³⁰

Mr. Kopp testified that in mid June 2008, he received a call from Frank Bailey:

MR. BRANCHFLOWER: Now, I want to call your attention to the month of June of 2008, and ask you whether you spoke with Frank Bailey about some employment possibility.

MR. KOPP: Yes. In June 2008, I didn't speak to Frank Bailey about employment, but I did speak to Frank Bailey. He called me.

I believe I was at work. And he -- he did state that -- he commented to me that the governor's office would like to make a change at some point in the future of the leadership in the Department of Public Safety.

He did comment that -- his statement to me is that Todd is really upset with Monegan. And he further asked if I would say hello to Todd when he and Governor Palin came through Kenai to sign the legislation. I did agree to do so.¹³¹

I then asked:

MR. BRANCHFLOWER: And when you say that he told you Todd is really upset with Monegan, is that -- are you putting that in a quote mark, or is that just a summary of --

MR. KOPP: That is exactly what he told me.

MR. BRANCHFLOWER: Todd -- quote, "Todd is really upset with Monegan," close quote?

¹³⁰ Kopp transcript page 3, line 22.

¹³¹ Kopp transcript page 4, line 1.

MR. KOPP: Yes.¹³²

Around mid-June 2008,¹³³ Governor Palin and Todd Palin arrived at the bill signing ceremony, and Mr. Kopp shook hands with Mr. Palin but did not speak to him or Governor Palin about Bailey's call.¹³⁴

Mr. Kopp testified that Mr. Bailey called him again in July:

MR. BRANCHFLOWER: All right. Now, did Frank Bailey call you again a short while later?

MR. KOPP: Yes. Wednesday, July 9th. I'm pretty sure of the day. I may be a day off, but I believe it was Wednesday, July 9th.

He did call me on my work phone and said the governor was looking to make a change in the leadership of DPS and asked if I would be interested in the public safety commissioner position.

MR. BRANCHFLOWER: Okay. And what did you say?

MR. KOPP: Well, I told him I'd applied for it in November 2006, that I was still interested.¹³⁵

Mr. Kopp testified what occurred next:

MR. BRANCHFLOWER: All right. And so what happened after that telephone call?

MR. KOPP: Well, we -- I continued that -- you know, that conversation with Bailey continued.

And he said the governor wanted to know how much notice I would need to give work, which is the City of Kenai, if I did go to work for the Department of Public Safety.

I told him I would need to give a minimum two weeks' notice. That is my municipal code, unless the city manager approved a shorter period notice.

¹³² Kopp transcript page 4, line 18.

¹³³ Kopp transcript page 7, line 2.

¹³⁴ Kopp transcript page 7, line 12, and page 8, line 16.

¹³⁵ Kopp transcript page 10, line 2.

I -- after he said that, I realized they were -- it seemed to me like they were talking very, very soon.

So I said, you know, are we looking at a sudden leadership change or one within a couple of years?

And he said that they wanted to make a change right away. And I asked him what the reasons were for the desired leadership change, and whether they had communicated the issues to Walt Monegan and what Walt's responses had been to their attempts to resolve the matter with him.

MR. BRANCHFLOWER: What did he say?

MR. KOPP:¹³⁶ He said that they had a number of reasons.

He said that they were concerned that Monegan was unresponsive to direction from the office of the governor and was letting Audie -- he was referring to the AST colonel, Audie Holloway, he was letting Audie run the entire Department of Public Safety.

He specifically mentioned that Monegan was a poor leader of the Department of Public Safety and that he was absent from duties he should be attending to or was delegating duties that he should have been handling as the commissioner.

He said the governor was extremely upset over a recent issue involving Trooper Wooten. Bailey said that a police memorial day photograph featuring Trooper Wooten had been presented to the governor by the AST.

And I can't remember if it was -- if it was the PSEA that advanced the photo -- and of course, you know, troopers are all members of -- if you're a sergeant or below, you are a member of the PSEA.

And I can't remember which term he used, Mr. Branchflower. But I just remember that the photo ended up on the governor's desk and was asked for the governor's signature and --

MR. BRANCHFLOWER: And it turned out to be Trooper Wooten?

¹³⁶ During the course of giving his testimony, Mr. Kopp referred to notes that he had prepared. See Kopp transcript page 11, line 22.

MR. KOPP: And it turned out to be Trooper Wooten. And Bailey said that -- you know, he just remarked to me that this was the trooper that had been threatening to kill members of the governor's family, you know, and now they're wanting the governor to sign the picture.

I asked him if he had talked to Walt Monegan about it, and -- and he said that -- that they had, and that -- that Walt had told him he had no idea what Trooper Wooten looked like, and that it was not an intentional act to upset the governor.

Bailey commented that it was incredible that the leadership of DPS would not know the appearance of an employee who had threatened the lives of the governor's family.

MR. BRANCHFLOWER: Now, did -- now, you used the term that Bailey said the governor was extremely upset.

MR. KOPP: Uh-huh.

MR. BRANCHFLOWER: Are you -- are you repeating his words or is that your interpretation of the governor's reaction based on your conversation with Bailey? Did he say --

MR. KOPP: No.

MR. BRANCHFLOWER: -- the governor was --

MR. KOPP: Yes.

MR. BRANCHFLOWER: -- extremely upset or --

MR. KOPP: Yes, Mr. Branchflower. Yeah. I'm just telling you what he told me about the governor's emotions, yeah.

MR. BRANCHFLOWER: And so he is the one who said the governor was extremely upset?

MR. KOPP: Yes.

MR. BRANCHFLOWER: Now, did he mention anything else during this conversation regarding Mr. Wooten?

MR. KOPP: Well, he said that the governor had lost confidence in AST and DPS's ability to protect her and her family from Wooten, and that Wooten had violated many state laws and agency policies in the past several years and that AST had never taken appropriate action to terminate his employment.

MR. BRANCHFLOWER: Okay. And did you ask Mr. Bailey, how do you know any of this, and what is the source of your information, where did you get all this stuff, anything along those lines?

MR. KOPP: You know, I was -- I was mostly listening to him.

And I didn't -- I didn't get into all of the -- you know, his sources of information or why he knew what he knew.

I -- my suppositions were that being attached to the office of the governor, he was hearing things from many different sources.

I was not familiar with the Wooten, you know, Molly McCann divorce saga that was going on, and I was not familiar with the Wooten issues. I just assumed that as being attached to the office of the governor, he had access to information that I didn't.

MR. BRANCHFLOWER: And you're still recounting this telephone call of July the 9th, right? This is the same --

MR. KOPP: Right, right.

MR. BRANCHFLOWER: So this would have been two days before Mr. Monegan was fired, assuming --

MR. KOPP: About, yes.

MR. BRANCHFLOWER: -- the record -- we've had evidence that he was fired July 11th.

MR. KOPP: Right. That is my understanding, too.

MR. BRANCHFLOWER: Which would be Friday.

MR. KOPP: Right, right.

MR. BRANCHFLOWER: So this must have been Wednesday, July the 9th?

MR. KOPP: Yes.

MR. BRANCHFLOWER: Okay. And during this conversation with Mr. Bailey, did you get the impression or did he say that this decision was a long time coming, or did it sound as if it was something that the decision had been made just within recent months?

MR. KOPP: I got the impression that there was a multitude of things that had finally come to a head, and they felt they needed to make a change. That there was no one thing that was driving it, that there were several issues that were driving it, and they finally decided it was time to make a change.¹³⁷

Mr. Kopp testified he received a call from Acting Chief of Staff Mike Nizich on July 10, 2008. Kopp testified, "Nizich confirmed that the Governor wanted to make a change very soon in the leadership in the Department of Public Safety. And he asked if he could speak with me in person about the matter in Anchorage at the Governor's Office the next day, on Friday, July 11th ¹³⁸ at approximately 10:30 a.m.¹³⁹ July 11, 2008 is the day Walter Monegan was fired.¹⁴⁰ The time of his meeting with Mike Nizich was 3:00 p.m.¹⁴¹

Mr. Kopp testified he drove to Anchorage and met with Mike Nizich, whom he had never met before,¹⁴² and Frank Bailey:

MR. BRANCHFLOWER: And so there you are. You arrived at the governor's office, and you're there to see Mike Nizich about possibly going to work as the state's commissioner.

MR. KOPP: Uh-huh.

MR. BRANCHFLOWER: This is July the 11th, the morning of the 11th?

MR. KOPP: Right.

MR. BRANCHFLOWER: And so tell me what happened.

¹³⁷ Kopp transcript page 10, line 2.

¹³⁸ Kopp transcript page 15, line 21.

¹³⁹ Kopp transcript page 16, line 1.

¹⁴⁰ Monegan transcript page 81, line 11.

¹⁴¹ Monegan transcript page 87, line 4.

¹⁴² Kopp transcript page 59, line 2.

MR. KOPP: Okay. We had an interview that was approximately a half hour in length. It was Nizich and Frank Bailey with me in the governor's office.

The governor was not present. I believe she was out at a national governor's association conference.

Mr. Kopp testified that Mr. Nizich handed him a copy of the Strategic Compass document prepared by DPS in the context of Monegan's having poor communication with the Office of the Governor on matters of public policy.¹⁴³

Nizich said that the Governor had lost all confidence in Monegan to lead the Department of Public Safety.¹⁴⁴ Mr. Kopp testified:

MR. BRANCHFLOWER: I believe there was some discussion about - or an expression of dissatisfaction with Commissioner Monegan, something having to do with a perceived bias -- union bias, the union being PSEA, his bias towards them or something along those lines?

MR. KOPP: PSEA's name didn't come up. But he -- there was a concern that the foreward written by the commissioner seemed to have a union bias in that it inferred the governor's office had failed to protect AST's ability to meet their mission requirements, and seemed to encourage a hostile us-versus-them attitude towards the governor's administration.

Nizich commented that Commissioner Monegan had sent the Strategic Compass to the office of governor for her signature. And he said the governor wanted a leader who could advocate for the needs of the Department of Public Safety and effectively represent the policy of the governor's office to the department in a harmonious manner that promoted the best possible solution for all involved. And he just indicated that he thought Monegan's bias was too union oriented.¹⁴⁵

Mr. Kopp also testified:

¹⁴³ Kopp transcript page 18, line 24. A copy of the "Alaska State Troopers 2008-2017 Strategic Compass" is labeled Exhibit 1 and may be found at the end of the transcript of Mr. Kopp's testimony.

¹⁴⁴ Kopp transcript page 13, line 21.

¹⁴⁵ Kopp transcript page 19, line 16.

MR. KOPP: Nizich said that the governor had disappointment with the deputy commissioner, John Glass, over the use of the state aircraft to fly the governor to rural Alaska on official business.

And the aircraft in question was the use of the King Air. That's the only twin-engine aircraft owned and operated by DPS. Nizich said the governor's office was regularly denied the use of the King Air by DC Glass.

And he said that Glass either did not or was not able to clearly communicate why it was unavailable, and it appeared to the governor that either DPS had no intention of allowing her to use the aircraft or that they had a poor and unpredictable schedule of aircraft use and maintenance that would not allow for customary use of the King Air by the governor.

MR. BRANCHFLOWER: Did you get the impression from what Nizich was saying that the governor was upset at Commissioner Monegan?

MR. KOPP: Well, I think she saw it as a leadership team responsibility, that it was kind of shared, it was a problem, indicated there had been many discussions back and forth about the King Air. And I think DC Glass's name was specifically brought up because he kind of had -- you know, had oversight of the aircraft division as part of what he was assigned as deputy commissioner. I think they saw it as a joint leadership team communication issue.¹⁴⁶

When I asked whether any other reservations about Mr. Monegan were expressed during the meeting, Mr. Kopp testified:

MR. KOPP: Well, they were concerned about -- they wanted another person to vet the AST annual report. They wanted to -- they thought that the information may be accurate, but they didn't know if it was -- really reflected the way things were.

And I told them at that time that I may come back and tell them exactly what Commissioner Monegan had presented to them, that the information is accurate.

¹⁴⁶ Kopp transcript page 20, line 23.

And Nizich said, well, we'll hear it from you. And he emphasized that Monegan did not work to get buy-in from the governor's office, that he got out in front of the governor in a way that was not accountable to the office of the governor.

Other -- other things related to Monegan -- well, it was related to the deputy commissioner part of the leadership team, where -- the funding of the proposed new crime lab, Department of Public Safety was asking for 100 million, and according to Nizich, that they seemed to favor one design option that was arguably extravagant for our state, and it would have significant annual maintenance and operation expenditures.

They were concerned that DPS was directly lobbying the legislature for funding without seeking buy-in from the governor's office and without offering a sound argument for why the proposed design was the best option for Alaska.¹⁴⁷

As the deposition continued to unfold I asked Mr. Kopp whether Trooper Mike Wooten's name surfaced during the meeting?

MR. BRANCHFLOWER: Okay. And so did Nizich raise the question of -- of -- well, let me ask you it a different way. Did the question of Trooper Wooten come up?

MR. KOPP: Trooper Wooten's name was mentioned, yes.

MR. BRANCHFLOWER: And who mentioned that? Nizich or Bailey?

MR. KOPP: Both of them.

MR. BRANCHFLOWER: And what did -- what did Mr. Bailey say about Mr. Wooten?

MR. KOPP: Well, let's -- I -- I just recall that they both expressed concern that the governor's family had safety concerns with respect to Trooper Wooten, who had made threats against the governor's family as a result of a marriage breakup of Governor Palin's sister, Molly Wooten. I guess her name is Molly McCann.

¹⁴⁷ Kopp transcript page 19, line 2.

But that's -- that's how that was expressed to me. And the context of that is they were also discussing -- Bailey was discussing AST properly policing their own, and suggested that trooper use of force on persons continued to be a concern expressed by citizens to the office of the governor.

And then of course Wooten had use-of-force issue on his own child. And they did mention the governor's concern about threats that were made to the governor's family as a result of the marriage breakup.¹⁴⁸

Regarding an offer of employment, Mr. Kopp testified he was offered the job of Commissioner of Public Safety shortly after his meeting with Nizich and Bailey:

MR. BRANCHFLOWER: Now, I believe that you were offered the job shortly after this meeting with Bailey and Nizich --

MR. KOPP: Right.

MR. BRANCHFLOWER: -- on the 11th of July?

MR. KOPP: Right.

MR. BRANCHFLOWER: Okay. And you got word back from Nizich that the governor had appointed you then; is that right? Or how did that work?

MR. KOPP: Let's see. I did get a phone call back after the interview. The job was tentatively offered to me at the end of that interview. And I -- but it was pending approval of Governor Palin.

I did accept it. The employment date was not set, but was anticipated to be within the next business week.

Frank Bailey called me later that afternoon and said that Governor Palin had approved me as her appointee for the commissioner of the Department of Public Safety, and that Commissioner Monegan had been removed as commissioner and offered a new job with DPS as executive director of the ABC Board. Bailey said Monegan was considering the offer.¹⁴⁹

¹⁴⁸ Kopp transcript page 22, line 15.

¹⁴⁹ Kopp transcript page 31, line 22.

Mr. Kopp also testified that he decided to retain both Deputy Commissioner Glass and Colonel Holloway in their posts, a decision made following consultations with Mike Nizich.¹⁵⁰

Later during the deposition, I questioned Mr. Kopp about the allegation of sexual harassment that had been made against him in 2006, and if he knew whether the Palin administration was aware of that matter in 2006 when he applied for appointment as Commissioner of Public Safety? He testified about a conversation he had with Walt Monegan about that matter:

MR. KOPP: I did apply for the job, yes.

MR. BRANCHFLOWER: Okay. And that you were -- you and several other people who applied were required to execute a waiver that would allow investigators to check your background, and that you did execute those waivers?

MR. KOPP: I filled out -- I can just tell you what I remember. I filled out a normal State of Alaska employee application. And there was -- and I filled out the full employee application, whatever that was.

And I do remember that the criminal history part they weren't going to do until -- until they were looking at possibly making a selection. But I just remember filling out a job application. I don't remember too much about waivers or --

MR. BRANCHFLOWER: Okay.

MR. KOPP: Yeah.

MR. BRANCHFLOWER: And someone -- someone else was selected. Obviously, Mr. Monegan was selected.

MR. KOPP: Uh-huh.

MR. BRANCHFLOWER: And at the time, if I'm not mistaken, Mike Tibbles was the chief of staff?

MR. KOPP: Yes -- yes, he was.

¹⁵⁰ See Kopp transcript pp. 31-39.

MR. BRANCHFLOWER: Okay. And after he was selected, did you ask him why you were not selected or make some inquiries of him or anyone else from the governor's --

MR. KOPP: No. I never spoke -- I spoke to Walt. Walt only -- in fact, Walt -- Walt actually came to me. Because you know, Walt -- in fact, Walt and I met -- we were at a coffee shop in Anchorage. It was the Kaladi Brothers coffee shop off of -- on Frontage Road between Dimond and Dowling. And we were meeting there.

I was chair of the transition team. Walt and I were on the transition team together.

As I said, Walt and I have known each other a long time. We were having coffee together.

And Walt said, Chuck, you know, in fairness to you -- you know, we had talked about working together. He goes, I want you to know that I asked the governor about you serving on the leadership team, and they said they were concerned because there had been this complaint raised about you. And they knew it.

MR. BRANCHFLOWER: They, meaning --

MR. KOPP: They, the governor's office. I mean, you know, I don't -- I didn't know if it was Governor Palin, if it was Lieutenant Governor Sean Parnell, if it was Chief of Staff Tibbles. I mean, I don't know if -- he meant they, specifically the decision-makers on the -- you know, with the governor's office.

MR. BRANCHFLOWER: What do you mean by a leadership team? Are you talking about the position of commissioner of public safety position? Is that --

MR. KOPP: Walt said that he -- when he got appointed, they asked him who would he like to bring on his team.

MR. BRANCHFLOWER: Oh, I see.

MR. KOPP: And Walt says, Chuck, he says, I mentioned your name, and they said no. They were concerned because this complaint had been made. And Walt (indiscernible) what happened, so I told Walt what happened.

MR. BRANCHFLOWER: Okay.

MR. KOPP: And later, Walt told me -- because we had had -- we had had regular interactions during the transition for almost a month, like, you know, from the end of November through the end of December. Walt told me -- he goes, Chuck, I want you to know that I did get back with the governor on what you had told me. She was -- you know, she was fine with it. I mean, not that I had a job or anything, but that, you know, she was -- there wasn't any -- any more concern.

And I just -- I never thought about it again. I was disappointed that the complaint had been made, but I -- I -- you know, Walt, I trust him, and I appreciated the fact that he mentioned it to the governor, and that was it.

MR. BRANCHFLOWER: Well, I don't mean to get into the specifics of the complaint.

MR. KOPP: Yeah.

MR. BRANCHFLOWER: I'm just trying to -- I'm trying to establish whether someone within the governor's office in 2006 was aware of the allegation as a result of some investigation into your background that had taken place.

And it sounds like, like you just said, that they were aware of it, because Walt knew about it. And apparently somebody had expressed reservations about you being on the leadership team, which means (indiscernible) with Walt.

MR. KOPP: Absolutely. Yes.¹⁵¹

Mr. Kopp testified that he was appointed Commissioner of Public Safety having never spoken to Governor Palin,¹⁵² and that the matter of the sexual harassment allegation was never discussed during his meeting with Mike Nizich and Frank Bailey on July 11, 2008.¹⁵³ I questioned Mr. Kopp about this:

¹⁵¹ Kopp transcript page 52, line 19.

¹⁵² Kopp transcript page 31, lines 10-23. Mr. Kopp testified Governor Palin called to congratulate him after he was hired, perhaps "...on my first or second day on the job." See Kopp transcript page 45, line 11.

¹⁵³ Kopp transcript page 54, line 22 to pg. 55, line 2.

MR. BRANCHFLOWER: What I am addressing is this. It seems to me -- I'll go back to the question that I had earlier. That a position as important as the commissioner of public safety merits -- and I'll ask you for your comment -- seems to merit a more deliberate approach than what occurred in your case here on July the 11th, especially if the very governor's office that had a reservation to hire you back in 2006 is once again considering you for that same position. And the question was never asked during the interview with Mr. Nizich and Mr. Bailey.

MR. KOPP: Uh-huh.

MR. BRANCHFLOWER: So what I'm trying to get at is not to question the merits of the allegation, but why you were not asked about that; do you know?

MR. KOPP: I don't know, Mr. Branchflower. But I know that the interview to me was short. As I said, they did most of the talking.¹⁵⁴

Mr. Kopp's testimony regarding Trooper Wooten showing up at the Governor's picnic in Wasilla on July 18, 2008

Governor Palin had scheduled a series of picnics for Wasilla, Anchorage, and Fairbanks to take place in mid-July 2008. On Friday July 18 Mr. Kopp received a call from Mike Nizich stating that Trooper Wooten had just shown up in uniform at the Wasilla Governor's picnic, and that most of the Governor's family was present. Nizich told Kopp that "...there was a lot of fear in the Palin family that were there, and he asked if I could do anything. That's simply the way he said it. He said, can you do anything."¹⁵⁵ Mr. Kopp testified:

Mr. KOPP: I said -- I said I could absolutely influence his on-duty conduct. And you know, by context, just the previous day, there had been a major news event -- media event where, through the PSEA -- where Trooper Wooten had released his personnel file to the media. And there was a lot of public discussion about the very, you know, volatile, painful, public divorce of Trooper Wooten and Molly McCann, and also of course highlighted disciplinary issues that Wooten had as a trooper.

¹⁵⁴ Kopp transcript page 56, line 12.

¹⁵⁵ Kopp transcript page 43, line 10.

That was all the context of -- you know, Thursday this happens, and then Friday he shows up at the picnic.

And I called Colonel Holloway right away. And I said, you know, can you clarify if Wooten is there? And if he is, I directed Holloway to send him away and tell him not to return.

Colonel Holloway did call me back in a few minutes. And he said, Chuck, you're right. He says, Wooten was there. He was there in uniform. He said that he had dropped by to visit other local police officers he recognized at the picnic. And he said that Wooten had left immediately as ordered.

Col. Holloway's testimony regarding conversations with Commissioner Charles Kopp about Trooper Mike Wooten shortly after Kopp was appointed.

Shortly after Commissioner Kopp was appointed, Col. Holloway met with him to discuss several matters, including Trooper Mike Wooten.

Colonel Holloway testified:

MR. BRANCHFLOWER: What did you tell him?

MR. HOLLOWAY: Well, I explained to him, you know, the history behind it, the history of Mike Wooten. I also even said that, you know, in my opinion with what I had seen of Trooper Wooten's history, he should not be an Alaska State Trooper, but the only options we have were to, when he did something that was against policy or illegal, in other words, there had to be some type of actionable occurrence that would allow us to take, you know, some kind of disciplinary action against him. Those had not occurred. I explained to him about the Worker's Comp. defraud issue, I explained to him about the medical issue, and I explained that we had -- there had been nothing to occur since then to where we could take any action.

MR. BRANCHFLOWER: Now, I got the feeling from the way that you explained it that, during this meeting -- how long did this meeting last? This would be first meeting with Chuck Kopp?

MR. HOLLOWAY: Yes. It lasted about two and a half hours.

MR. BRANCHFLOWER: So, the very first topic was what the state of the troopers was, is that right?

MR. HOLLOWAY: Yeah (affirmative), just in general, and you know, I told him that there were, you know, several issues that the troopers were facing. You know, I just explained to him in very broad, general terms.

MR. BRANCHFLOWER: What was the next issue that he raised? Was that this Wooten matter?

MR. HOLLOWAY: Yes.

MR. BRANCHFLOWER: So, it sounds like it was at the top of his list then?

MR. HOLLOWAY: Yes.

MR. BRANCHFLOWER: Now, did he indicate to you why he was interested in the Wooten matter?

MR. HOLLOWAY: He explained that the Governor's staff and the Governor's family, I do not know if he had spoken to the Governor or not, but certainly, he was concerned that they were at risk because of Trooper Wooten and that they were wondering why something hadn't been done to take care of this problem with Trooper Wooten's employment.

MR. BRANCHFLOWER: Did he tell you whether he had been directed to look into why the Department of Public Safety had not removed Wooten as a trooper?

MR. HOLLOWAY: Well, that's the wording that I remember. If not the exact wording, then at least that was the impression that I had, was that he was told to look into this and to find out what could be done.

MR. BRANCHFLOWER: How far into this first meeting you had with Chuck Kopp, this two hour meeting, on a timeline basis, how far into that two hour meeting would you say that he brought the conversation around to Trooper Wooten?

MR. HOLLOWAY: I would say that probably within the last few minutes of the first half hour. I mean, it was pretty soon after we had started talking, but you know, there's a period of time where we were talking about, you know, what can you tell me about the Division and things like that.

MR. BRANCHFLOWER: So, it would have been about 20 minutes into this two hour conversation, 20 or 25 minutes?

MR. HOLLOWAY: Yes.

MR. BRANCHFLOWER: Now, after Chuck Kopp was made the Acting Commissioner, did he instruct you to do anything specific with respect to Trooper Wooten?

MR. HOLLOWAY: No.

MR. BRANCHFLOWER: Was there something.....

MR. HOLLOWAY: Only that -- not during this conversation. There was (sic) specific things that came later.

Col. Holloway's testimony regarding the directive from Governor Palin's office to cooperate with the Attorney General's investigation

On August 6, 2008, Acting Chief of Staff Mike Nizich sent a letter to Acting Commissioner John Glass directing DPS to cooperate with an investigation undertaken by the Attorney General's office into the circumstances surrounding the firing of Walt Monegan. Colonel Holloway testified about the letter and his response to it:

MR. BRANCHFLOWER: Now, I want to call your attention to the early part of August of 2008. Did you receive a directive or I should say did your office, did the Department of Public Safety receive a directive of some sort from the Governor's office?

MR. HOLLOWAY: Yes.

MR. BRANCHFLOWER: What was that directive?

MR. HOLLOWAY: That was a directive to comply with the Department of Law, in particular, Mike Barnhill in my case, to provide information that we had any print or electronic documents or any other type of information that we knew of regarding the pressure that had been placed on the Department to take action against Trooper Mike Wooten and this was after Monegan was terminated. So, the issue came up that, you know, was Monegan terminated correctly, and apparently, Monegan said that, you know, he felt like part of the reason that he might have been terminated was this issue with Wooten. So then, there became a flurry of, you know, news media events looking into this. The Legislative -- or I think it was the

Legislative Council of either the Senate or the Legislature was convened to determine whether or not the Governor had acted beyond her scope or that she had done something improper. So, at that time, there was going -- we knew, at that time, there was going to be an inquiry into the matter with an independent investigator. Prior to the -- we all knew that we were going to be interviewed by this independent investigator and I don't know, at that time, if you had been named or not. I believe you had by the time that we got this, but this basically said that we were supposed to provide information to the Department of Law in front of or before the information was provided to the independent investigator.

MR. BRANCHFLOWER: So, I'm going to take this letter. This appears to be a letter dated August the 6th sent to John D. Glass who, by this point, had been appointed to be the Acting Commissioner, correct?

MR. HOLLOWAY: Right.

MR. BRANCHFLOWER: I'll just read it into the record: Dear Commissioner Glass, please consider this letter a directive to you and all Department of Public Safety personnel to cooperate in every respect with Assistant Attorney Generals Mike Barnhill and Susan Cox who have been asked to inquire into personal matters concerning the Department of Public Safety on behalf of the Governor. In this inquiry, Mr. Barnhill and Ms. Cox have complete authority as agents of the Governor to interview witnesses and to obtain print and electronic documents and information without reservation. As agents of the Governor and as State attorneys acting officially in personnel matters, their access is not limited by Alaska Statute 39.25.080 which provides that certain State personnel records are confidential. If you have any questions about this directive, please contact me. It's signed Michael Nizich, Acting Chief of Staff. Copies were circulated to the Attorney General Talis Colberg, Richard Sofodney (sp), who is a Chief Prosecutor on the criminal side of the Attorney General's office, Mike Barnhill, Susan Cox and Susan McLane and also with the Department of Law. I'm going to mark this Exhibit No. 3 for the record.¹⁵⁶

Two days later, Colonel Holloway prepared a memo to Acting Commissioner Glass concerning the Department of Law's investigation. His memo is dated August 8, 2008, and is marked Exhibit four.¹⁵⁷ Colonel Holloway explained the memo:

¹⁵⁶ Holloway transcript page 41, line 14. Exhibit three may be found at the end of the transcript of Holloway's testimony.

MR. BRANCHFLOWER: It starts out -- it's from you to Acting Commissioner John Glass dated August 8th: "I am in receipt of a copy of a directive from Governor Palin's Acting Chief of Staff Michael Nizich dated August 6th. It is my understanding that my staff and I are to cooperate in all facets of an investigation regarding a personnel matter that involves allegations against the Office of the Governor. That personnel matter is specifically that the Governor's office brought undue influence upon the Administration of DPS and AST to take personnel action against Trooper Michael Wooten. I understand that my staff and I are allowed and encouraged to speak openly and fully about this matter, about this personnel matter, with Department of Law attorneys Mike Barnhill and Susan Cox and, in doing so, will not violate any statutes or personnel rules. I believe it is my duty and responsibility to respectfully mention some concerns. First, my staff and I will readily comply with the directive. We will provide any and all information that may be relevant without reservation. Secondly, I must, on record, say that I believe this action to be ill-advised and possibly detrimental to the Office of the Governor. This investigation by Department of Law has the appearance of an improper action from an ethical viewpoint, regardless of technical correctness. There is currently an independent investigator assigned to look into these allegations. The alleged violator is the Office of the Governor and/or some of the Governor's staff. This Department of Law review with the intention of a situational assessment prior to any review by the already named independent investigator may be perceived as providing the accused party with information that may be used to mitigate the situation, regardless of veracity. This same information could be obtained after the independent investigator has collected information without the same risk. I believe it is my obligation to bring this issue forward. While the Governor is the custodian of these records, they do not belong to her. They belong to the citizens of the State of Alaska who desire a fair but complete and untainted investigation."¹⁵⁸

When asked to explain why he wrote the memo, Holloway testified:

MR. HOLLOWAY: Well, for two reasons. First of all, I think that it was improper, and secondly, because I think it was going to damage the Governor's reputation and her ability to do her job. Part of my job is to take care of the Governor, not just in terms of physical security and safety,

¹⁵⁷ Holloway transcript page 43, line 21. Exhibit four may be found at the end of the transcript of Holloway's testimony.

¹⁵⁸ Holloway transcript page 44, line 7.

but it's also my job, I believe, to bring things forward if I see something incorrect or improper happening that could damage her. I mean, that's part of my job, the way I see it, to give advice, and if that advice is not needed, then they can disregard it. But, even though it may cause a risk, I'm paid to take that risk, and if I hadn't done it, then I would have been thinking that I didn't do my job completely. Even if it causes discordance or a creation of an impression that I'm not trying to support the Governor, that's incorrect. I'm trying to do my job to the best of my ability, and I think that includes, you know, whenever something like this comes up, at least making my position known. If they don't want to take -- you know, they can take that in whatever way they want to and that's how that was provided.

MR. BRANCHFLOWER: So, you said in this memo that, in your opinion, the investigation undertaken by the group that was being investigated had the appearance of being of questionable ethical validity?

MR. HOLLOWAY: Yes, and I thought it could be damaging.¹⁵⁹

Col. Holloway then identified two related exhibits labeled five and six. Exhibit five is a letter I sent to Governor Palin on August 13, 2008 requesting equal access to DPS information and personnel as that provided to the Attorney General's investigators. Exhibit six is a response from Acting Chief of Staff Mike Nizich. Holloway testified:

MR. BRANCHFLOWER: The next document I want you to identify I've labeled Exhibit No. 5. Why don't you identify what that document is?

MR. HOLLOWAY: This is a letter regarding equal access to all DPS employees. It's written by you, Steven Branchflower, as the Special Counsel to the Legislative Council of the Alaska State Legislature. It is written to the Honorable Sarah Palin, Office of the Governor, and cc'd to Talis Colberg, the Attorney General, Mike Nizich, the Acting Chief of Staff, and it is dated August 13, 2008. It basically asks to provide you with the same information that everyone at DPS had provided to Mike Barnhill and Susan Cox.

MR. BRANCHFLOWER: I'll read this into the record: "Dear Governor Palin, On August 6, 2008, Acting Chief of Staff Michael Nizich sent a letter to Acting Commissioner John D. Glass on your behalf. In pertinent part, the letter directed 'you and all Department of Public Safety personnel to cooperate in every respect with Assistant Attorney Generals Mike Barnhill and Susan Cox who have been asked to inquire into personnel matter

¹⁵⁹ Holloway transcript page 45, line 14.

concerning the Department of Public Safety on behalf of the Governor.' I have attached a copy of that letter. In order to effectively advance my work as Special Counsel to the Legislative Council, I ask that you immediately circulate a similar directive to Mr. Glass and all employees of the Department of Public Safety authorizing them to provide equal access to information and documents as granted to Mr. Barnhill and Ms. Cox. "

That is Exhibit No. 5. Can you identify Exhibit No. 6 for us?

MR. HOLLOWAY: This is letter from Mike Nizich, the Acting Chief of Staff. It is dated August 15th. It is directed to John Glass, Acting Commissioner of the Department of Public Safety. It is a directive to Commissioner Glass and to all Department of Safety personnel to cooperate with Mr. Branchflower.

MR. BRANCHFLOWER: I'll read that, as well, into the record: "Dear Acting Commissioner Glass, Please consider this letter an additional directive to you and all Department of Public Safety personnel to cooperate in every respect not only with the Department of Law, as specified in my letter to you of last week, but also with Steven Branchflower, the investigator retained by the Legislative Council in this matter. If you have any questions about this directive, please contact me. Sincerely, Michael A. Nizich," with a copy to me, Steven Branchflower. It's dated August 15th.

Now, did there come a time that you were actually interviewed by Mr. Barnhill from the Attorney General's office?

MR. HOLLOWAY: Yes, and during that interview, I gave him a copy of that memo that I gave to -- that I wrote to Acting Commissioner Glass so that he knew my position from the beginning and so that he could take that into consideration whenever he interviewed me.

MR. BRANCHFLOWER: You're referring to Exhibit No. 4, your August 8th memo to John Glass expressing reservations on an ethical basis about the Attorney General's investigation?

MR. HOLLOWAY: Yes. I had asked Acting Commissioner Glass if I could give a copy of the memo that I wrote to him to Mr. Barnhill so that everything was out on the table. Everything was in the open. Regardless of what happened to, you know, me and in my employment, I wanted to do

the right thing and let everyone know upfront where I stood.¹⁶⁰

The Attorney General's internal investigation into the firing of Walt Monegan

Mr. Nizich's letter to Acting Commissioner Glass

AAG Mike Barnhill and AAG Susan Cox interviewed a number of witnesses pursuant to the Attorney General's internal investigation into the circumstances surrounding Walt Monegan's firing. Their authority to conduct that investigation derived from a letter sent to Acting Commissioner John D. Glass dated August 6, 2008 by Acting Chief of Staff Micheal Nizich.¹⁶¹ The letter states:

The Honorable John D. Glass
Acting Commissioner
Department of Public Safety
5700 East Tudor road
Anchorage, AK 99507-1225

Dear Commissioner Glass:

Please consider this letter a directive to you and all Department of Public safety personnel to cooperate in every respect with assistant attorney general Mike Barnhill and Susan Cox, who have been asked to inquire into personnel matters concerning the Department of Public Safety on behalf of the Governor. In this inquiry, Mr. Barnhill and Ms. Cox have complete authority as agents of the Governor to interview witnesses and to obtain print and electronic documents and information without reservation. As agents of the Governor and as state attorneys acting officially in a personnel matter, their access is not limited by Alaska Statute 39.25.080, which provides that certain state personnel records are confidential.

If you have any questions about this directive, please see me.

Sincerely,

[signed]

¹⁶⁰ Holloway transcript page 47, line 6. Exhibits five and six may be found at the end of the transcript of Holloway's testimony.

¹⁶¹ A copy of the letter, marked Exhibit 3, may be found at the end of all of the Holloway exhibits.

Michael Nizich
Acting Chief of Staff

Cc: Talis Colberg, Attorney General
Richard Svobodny, Deputy Attorney General
Mike Barnhill, Attorney, Department of Law
Susan Cox, Attorney, Department of Law
Susan Mclean, Attorney, Department of Law

My “equal access” letter to Michael Nizich

My first day of work in Anchorage in connection with this investigation was August 11, 2008. I met with Governor Palin, Attorney General Colberg, AAG Mike Barnhill, and Acting Chief of Staff Michael Nizich on August 13, 2008 in the conference room of the Governor’s Anchorage office. It was a brief “meet and greet” meeting that lasted about thirty minutes, and no one was interviewed about the case. That was my only meeting with Governor Palin. That day, August 13, I handed each of them the following letter¹⁶² during our meeting:

Hand Delivered in Anchorage

Honorable Sarah Palin
Office of the Governor
PO Box 110001
Juneau, Alaska 99811-0001

RE: Equal Access to all DPS employees

Dear Governor Palin:

On August 6, 2008 Acting Chief of Staff Michael Nizich sent a letter to Acting Commissioner John D. Glass on your behalf. In pertinent part, the letter directed “...you and all Department of Public Safety personnel to cooperate in every respect with assistant attorneys general Mike Barnhill and Susan Cox, who have been asked to inquire into personnel matters concerning the Department of Public Safety on behalf of the Governor.” I have attached a copy of the letter.

In order to effectively advance my work as Special Counsel to the Legislative Council, I ask that you immediately circulate a similar directive,

¹⁶² A copy of the letter marked exhibit 5, may be found at the end of the Holloway exhibits.

to Mr. Glass and all employees of the Department of Public Safety, authorizing them to provide equal access to information and documents as granted to Mr. Barnhill and Ms. Cox.

Respectfully,

[signed]
Stephen E. Branchflower
Special Counsel to the Legislative Council
Alaska State Legislature

Cc: Talis Colberg, Attorney General
Michael Nizich, Acting Chief of Staff

Mr. Nizich's follow-up letter to Commissioner Glass.

In response to my "equal access" request, Mr. Nizich sent a follow-up letter¹⁶³ to Acting Commissioner Glass two days later. The letter is dated August 15, 2008 and provides:

John D. Glass
Acting Commissioner
Department of Public safety
5700 East Tudor Road
Anchorage, AK 99507-1225

Dear Acting Commissioner Glass:

Please consider this letter an additional directive to you and all Department of Public Safety personnel to cooperate in every respect not only with the Department of Law, as specified in my letter to you of last week, but also with Stephen Branchflower, the investigator retained by the Legislative Council in this matter.

If you have any questions about this directive, please see me.

Sincerely,

[signed]

Michael A. Nizich

¹⁶³ A copy of the letter, marked exhibit 6, may be found at the end of the Holloway exhibits.

Acting Chief of Staff

Cc: Stephen Branchflower

Explanatory note regarding the interviews conducted by Mike Barnhill and Susan Cox.

The interviews conducted by the Attorney General's investigators Mike Barnhill and Susan Cox were not recorded. Instead, handwritten notes were taken by them. The interviews addressed several matters; consequently the notes of those interviews covered a variety of topics.

Barnhill's and Cox's interviews were commenced on August 4, 2008 and were concluded on August 12, 2008. Copies of their notes were provided to me on August 15, 2008 following my entry into the case on August 13, 2008. I have no information about why they selected the individuals they chose to speak to, or why they decided not to speak to others.

All of the notes fall into one of three categories:

[1] They do not discuss personnel matters, and are therefore disclosable to the public in the public section of my report.

[2] They do discuss personnel matters, either matters involving Trooper Mike Wooten or that of another employee, and are therefore deemed confidential by law and are not disclosable to the public in the public section of my report. In that case, those notes will be included in the confidential portion of the report.¹⁶⁴

[3] Some portion of the notes discuss matters that are not confidential, and are therefore disclosable, but other portions discuss confidential matters, about Trooper Mike Wooten or another employee, and may not be disclosed. Where the contents of the notes fall into this mixed third category, I have attempted to redact the confidential portions of the notes to allow for inclusion of them in the public section of my report. In that case, the reader of the public section of the report will see blacked out markings on the notes. The markings were placed there by me. No effort has been made to redact or mark any of the notes presented in the confidential portion of the report. They are presented there as I received them.

¹⁶⁴ The entire report, including the confidential portion of the report, will be presented to the Legislative Council.

Sometimes, the confidential portions of the notes are so numerous, and the non-confidential segments so few, I decided to err on the side of preserving confidentiality and elected to place the note within the non-public portion of the report.

Whether presented in this section of the report, or the confidential portion of the report, they have all been included.¹⁶⁵ I have not withheld any copies of the notes provided to me by Mr. Barnhill and Ms. Cox. With the exception of the redacting mentioned above, I have presented them as provided to me, with no attempt to interpret or explain them to the reader.

The law dealing with confidentiality of personnel matters is found in Alaska Statutes 39.25.080 and 39.25.900. Those statutes provide in pertinent part as follows:

Sec. 39.25.080. Personnel records confidential; exceptions.

(a) State personnel records, including employment applications and examination and other assessment materials, are confidential and are not open to public inspection except as provided in this section. [none of the exceptions are applicable to the notes of this witnesses' interview.]

Sec. 39.25.900 Penalties.

(a) a person who wilfully violates a provision of this chapter or of the personnel rules adopted under this chapter is guilty of a misdemeanor.

Witnesses interviewed by AAG Mike Barnhill and AAG Susan Cox¹⁶⁶

The witnesses interviewed by Barnhill and Cox, and the dates of the interview are as follows:

Annette Kreitzer-Commissioner of Administration.....by Cox on 8/7/08
Brad Thompson Director-Division of Risk management, DOA.....by Cox on 8/7/08¹⁶⁷
Cheri Cadiente-DPS Special Assistant.....by Cox on 8/11/08¹⁶⁸
Diane Kiesel-Dir. Personnel and Labor Relations-DOAby Barnhill on 8/8/08¹⁶⁹

¹⁶⁵ The confidential portion of the report contains copies of all the notes without redaction.

¹⁶⁶ No interviews were conducted with Governor Palin or Attorney General Colberg.

¹⁶⁷ The interview notes for Mr. Thompson have been placed in the confidential portion of my report.

¹⁶⁸ The interview notes for Ms. Cadiente have been placed in the confidential portion of my report.

¹⁶⁹ The interview notes for Ms. Kiesel have been placed in the confidential portion of my report.

Frank Bailey-Dir. of Boards/Commissions.....by Barnhill on 8/4/08¹⁷⁰
Ivy Frye Special Assistant-Constituent/External Affairs.....by Cox on 8/12/08
Karen Rehfeld-Director of Office of Management and Budget.....by Cox on 8/8/08
Kris Perry-Director of Governor Palin's Anchorage.....by Barnhill on 8/4/08¹⁷¹
Michael Nizich-Acting Chief of Staff to Governor Palin.....by Cox on 8/6/08
Mike Tibbles-Former Chief of Staff.....by Barnhill on 8/5/08
Randy Ruaro-Deputy Chief of Staff to Governor Palin.....by Cox on 8/8/08
Russ Kelly-Associate Director, Office of the Governor.....by Barnhill on 8/5/08
Todd Palin - The First Gentleman.....by Barnhill 8/5/08

A comment about Frank Bailey

Mr. Bailey was subpoenaed by the Senate Judiciary Committee on September 12, 2008. The subpoena commanded him to appear on September 19, 2008 before that committee to testify in this matter. His attorney, Greg Grebe underwent total knee surgery on September 17th and was unavailable to attend the hearing to accompany Mr. Bailey. As an alternative, we agreed that he would provide a copy of a deposition he gave to Mr. Tom Van Flein, Governor Palin’s lawyer, on August 26, 2008 regarding his call to Trooper Rodney Dial, and other matters dealing with the handling of Trooper Wooten’s case. Inasmuch as the contents of that deposition address matters that may be confidential by statute, I have included a copy of it in the confidential portion of my report along with copies of the interview notes for Brad Thompson, Cheri Cadiente, and Dianne Kiesel.

With the exception of the interview notes for Brad Thompson, Cheri Cadiente, Diane Kiesel, Annette Kreitzer, and Frank Bailey [and Bailey’s deposition], copies of the interview notes for the above individuals appear on the following page, redacted as required by law.

¹⁷⁰ The interview notes for Mr. Bailey have been placed in the confidential portion of my report.

¹⁷¹ Mr. Barnhill advised me the only note he took during the few minutes he spent with Ms. Perry on 8/4/08 say: “TP↔1 contact with Monegan re Poster 5/8 – heads up only.”

Testimony of John Bitney regarding conversations with Todd Palin about Trooper Mike Wooten

Mr. Bitney is the Chief of Staff to John L. Harris, the Speaker of the House of Representatives in the Alaska Legislature. He was formerly employed as Governor Palin's Legislative Director, and held that position from December 2006, when she was elected, to July 2007. Prior to that, he was candidate Palin's Policy Director for her campaign for governor, and served on her transition team following her election. Mr. Bitney knows Sarah and Todd Palin well; they attended junior high and high school together in Wasilla, Alaska and have been friends for many years.

In October 2006, prior to the time Ms. Palin was elected, Todd Palin had his first conversation about Trooper Mike Wooten with Mr. Bitney. It occurred in the Palin campaign headquarters in midtown Anchorage.¹⁷² Mr. Bitney testified about the conversation as follows:

MR. BRANCHFLOWER: Now, why don't you just state that for the record? Just in a narrative, in your own words.

MR. BITNEY: Well, it was the two of us in what was my office, over in the midtown campaign office – a little separate office with a separate, you know, a door that could close, and we were in there. You know, I don't recall how the conversation got started, if you will, because we were talking about odds and ends, but I do recall him bringing up that he, that there were family problems with the trooper, Wooten. I don't remember details. I remember him bringing it up – just that there was, again, it was a statement that became a common thread in all conversations after that, which was a trooper out there acting above the law is, I think, my best way to paraphrase what he was saying.¹⁷³

Mr. Bitney testified about the second conversation he had with Todd Palin about Trooper Wooten

MR. BRANCHFLOWER: Now, when we talked earlier, I've got a note here that says that he was – pardon the expression that I use, but – that he was "pissed". Now, did I misunderstand you, or were you talking about a subsequent conversation.

MR. BITNEY: I believe I'm talking about, was talking to you about a subsequent conversation, because we have other conversations to talk about

¹⁷² Bitney transcript page 5, line 23.

¹⁷³ Bitney transcript page 6, line 7.

here.

MR. BRANCHFLOWER: Well, let's focus on that second conversation. When was it?

MR. BITNEY: The best I can remember, it was in early January 2007. At this point I've, if you will, moved down to Juneau to start this new job, preparing for the legislative session and getting set up in my office on the third floor. He was gone quite a bit between, you know, training for the Iron Dog and what have you, but he came down early on, before the legislative session, when the family was moving down to Juneau. So, he was there for some period of time, and I seem to recall it was early in January because that's when I went, I went down after the holidays.

MR. BRANCHFLOWER: So, where did the conversation take place?

MR. BITNEY: It was in my office on the third floor. The Legislative Director's office is down, it's separate from the other offices, if you will. It's on the third floor, but it's down the hall sort of on its own, if you will. He walked down there and came in.

MR. BRANCHFLOWER: Was he by himself?

MR. BITNEY: He was by himself.

MR. BRANCHFLOWER: Did he have, like, an appointment, or just walked in?

MR. BITNEY: No. He just walked in, you know, and because of the personal relationship it was always good to see Todd, you know? He usually came in, and I would always shut the door because, you know, because we are confidants, if you will. And we had the conversation again, but this time I just, like I say, I sort of – it was a little more pointed in terms of he began to get into more specifics about what his issues were, and he talked about efforts on the part of the family to make complaints with the Department of Public Safety under the Murkowski Administration, and talking about sort of his frustration, if you will, in the sense that nothing was ever done about it, that it was sort of, you know, swept under the carpet, if you will. Those are my words. And you know, again, just a frustration that nothing was done to address – again, the common statement I recall in every conversation was “a trooper out there acting above the law”. He's drinking in his car, poaching moose. You know, the litany of things that we're aware of now but, you know, he was talking about them,

then. And, you know, frustrated but, you know, sort of – anyway, that was that conversation. This time it was much more detailed about what his concerns were.¹⁷⁴

Mr. Bitney testified he told Mr. Palin “I’ll check it out.”

MR. BRANCHFLOWER: And did you, what opinion did you form about – did you form any opinion about what he wanted you to do, if anything? Why was he saying all these things to you, in your mind?

MR. BITNEY: Well, he was clearly upset, and...

MR. BRANCHFLOWER: Did he ask you to do anything specific? Take any action, or?

MR. BITNEY: I don’t recall him saying. I don’t recall him saying, you know, I want somebody fired. I don’t want you to take an action. He never said anything like that. Again, it was sort of an adamant expression of his frustration about this trooper and what this trooper had done to their family and that he was, you know, still out there driving around after, you know, doing all these sorts of egregious things, and nothing was being done about it.

MR. BRANCHFLOWER: How did the conversation end? Did you say you would look into it, or...?

MR. BITNEY: I seem to recall that I said “I’ll check it out,” or “let me see what I can do.” I mean, you know, that was, you know. My recollection of my own sense was, you know, “here’s a friend and” if you will “the Governor’s husband”, who’s got into office who’s got a problem, you know, and someone that seems to be a serious problem for him, from my perspective. You know, when the First Gentleman comes into your office and says you got a problem, you sort of feel compelled to look into it and see if something can be done.¹⁷⁵

Mr. Bitney testified about what he did after talking to Todd Palin

MR. BRANCHFLOWER: So, what was your plan?

MR. BITNEY: I didn’t feel it was appropriate for me, as the Legislative

¹⁷⁴ Bitney transcript page 7, line 23.

¹⁷⁵ Bitney transcript page 10, line 10.

Director, to call the Commissioner, so I went down and talked to the Chief of Staff in the Governor's Office, Mike Tibbles, about, you know, hey, I'm aware of this. You know, Todd's talked to me about this. Are you aware of it? What's going on? What can we do about this?

MR. BRANCHFLOWER: What did Tibbles say?

MR. BITNEY: Well, he was, when I went and talked to him, he was already aware of, you know, well, the issue at hand here.

MR. BRANCHFLOWER: How did he – you assume that. How did you arrive at that opinion?

MR. BITNEY: He just kind of – I remember him, just recall him indicating that he was aware of it, yes, and you know. And like I say, Steve, as we go forward here, I mean, there's other conversations yet to come, and I don't remember which conversation is which but, you know, after every conversation with Todd, my approach was always the same – to go talk to Tibbles.

MR. BRANCHFLOWER: In that conversation that you're recounting now, did he say something to indicate to you that Todd had already talked to him? You said that he said to you, "I'm aware of it," and that suggests that maybe he had some conversations with the First Gentleman. Did he say that, or you just surmised that?

MR. BITNEY: I really don't recall him saying who told him about it. He told him he was well aware, sort of "I'm very aware of this thing," and then in subsequent discussions with him, you know, "yeah, I've spoken with Walt about it" – because that's what I was asking Mike to do, was to "hey, could you call Walt and find out what's going on?" I think that was the most, I felt that was the most appropriate way, was to have the Chief of Staff call the Commissioner, and –

MR. BRANCHFLOWER: Commissioner of Public Safety, you're talking about.

MR. BITNEY: That's correct, Walt Monegan, and just find what's the story, get the facts. That was the channel that that sort of a discussion needed to go through, in order to deal with it appropriately

MR. BRANCHFLOWER: And, so, what did Tibbles say?

MR. BITNEY: Well, he – I remember we talked. He said he had been talking to Walt, and I recall down the road that having conversations with him about, you know. Mike was, first of all, seemed, was growing uncomfortable with the, you know, the Governor's Office being continually looking into this and being involved and following up, and me even going and approaching him and talking about it, he was uncomfortable. He indicated that the union had been involved on Wooten's behalf on these things and that, if we continued to press them, you know, we'd sort of been talking back and forth, we kind of, both kind of talked about how we could sort of empower, if you will, Mike Wooten, if somehow this was perceived as heavy handedness of the Governor's Office, and the union got a hold of it or something like that, that you know, we were sort of setting ourselves back, if you will. The effort was to try to discipline the guy or, you know, take some action or whatever the case may be to try to, you know, react to these charges against him that, if it wasn't dealt through channels appropriately, that he was going to – that he would probably get his job back if we, for example, just fired him. He'd sue and he'd probably win, was what we said. You know, he sort of, if you will, be in a stronger position than he was. So, if the goal was to discipline him or go after him in some way that, you know, we had to be very careful about making sure that it was done appropriately. Now, I can say I just recall him mentioning that the union had been involved and so, that sort of they were well aware that this had sort of heightened attention by the union, and any involvement by the Governor's Office would, they would pick up on that pretty quickly, and they would act on Wooten's behalf.¹⁷⁶

Mr. Bitney testified about his conversations with Chief of Staff Mike Tibbles:

MR. BRANCHFLOWER: So, over the period of time that you're referring to, what's your best recollection of how often you went down and talked to Mike after talking to Mr. Palin about –

MR. BITNEY: Probably every time.

MR. BRANCHFLOWER: - about Wooten.

MR. BITNEY: Usually every, usually within that same day or , if not within five minutes.

MR. BRANCHFLOWER: But I mean, give me a number. How frequent did these visits to Tibbles – are we talking about once a day or once every

¹⁷⁶ Bitney transcript page 11, line 8.

month? I'm looking for your recollection of how frequently you talked to Tibbles about Mr. Wooten at Mr. Palin's...

MR. BITNEY: Every time Todd called or spoke to me about it, I'd go talk to Mike.

MR. BRANCHFLOWER: What is that number, though.

MR. BITNEY: So all I'm saying, I'm saying I'm recalling we had the conversation in my office, and that was sort of when I got the impression that this is a very important issue now. I mean, he was very pointed about his concern. Then with the follow-up calls, like I say, I just, you know, he called me every day.

MR. BRANCHFLOWER: So, are you saying –

MR. BITNEY: Sometimes twice a day. On my personal cell phone, you know, I'd see Todd Palin on the phone and I always took the call.

MR. BRANCHFLOWER: So, just so that I'm clear, are you saying that Mr. Palin talked to you every day about Mr. Wooten and then you, in turn, talked to Mr. Tibbles about it? Is that what you're saying?

MR. BITNEY: No, sir. I'm just saying Todd calls me, would call me about once a day, sometimes two or three times a day, just on a myriad of things.

MR. BRANCHFLOWER: Okay.

MR. BITNEY: I'm recalling that he spoke to me about Wooten maybe three or four time in the course of about a month and a half. He brought up, you know, "Hey," you know, "I still don't hear anything going on." You know. "We see him driving around," incidents with the kids and Molly, or something or other.

MR. BRANCHFLOWER: Okay. So –

MR. BITNEY: And I would always go talk, on most cases, you know, and this was a pointed thing, and he was upset, and so I would go talk to Mike to find out if we were doing anything.

MR. BRANCHFLOWER: Did he seem frustrated that nothing appeared to happen to Trooper Wooten during this several phone calls that you had with

him? Was that part of the frustration that you describe?

MR. BITNEY: Well I, you know. Steve, to the best of my memory, what I recall was as most of his frustration was that these complaints have been brought in the past and nothing had been done at that time. I think what he wanted was to sort of re-open them, and wanted to know if, you know, why this guy is still out there? Why is this guy still driving around? Again, I don't ever recall him saying "I want him fired," you know, "put the heat on Walt," or, you know, no specific direction. It was just a lot of expression of frustration about this guy. I think it's, yeah, you know, he wanted something done. He wanted, you know, we shouldn't have a trooper out there, again, acting above the law. That was always what I – the common phrase he used in just about every conversation.

MR. BRANCHFLOWER: So, you said that he never told you or suggested that he should be fired, yet he seemed frustrated that he was still working and he wanted something done. So, what conclusion did you arrive at?

MR. BITNEY: Well my conclusion was as that we needed to find out what was going on, and what the case, what the facts were. I mean, I was not comfortable dealing with this because it's a personnel action, which I'm not good at. That's not what I do, but you know, I've got enough management experience to know you've got to be careful in these kinds of things. So, again, my approach was always to go talk to Tibbles, ask him are we doing something. Mike would always say "well, I'm talking to Walt," and I sort of always would tell Todd, "well, I talked to Tibbles and –"

MR. BRANCHFLOWER: You were kind of caught in the middle here?

MR. BITNEY: Yeah. Yeah, but I didn't want to tell him I wasn't going to do anything. I wasn't going to, you know, I'm not going to call Walt because I didn't think that was appropriate, but I didn't want to tell Todd that.¹⁷⁷

Mr. Bitney's testimony about emails to Todd Palin

MR. BRANCHFLOWER: Did you ever notice in emails, part of the distribution included Todd Palin?

MR. BITNEY: Oh, yes.

¹⁷⁷ Bitney transcript page 14, line 8.

MR. BRANCHFLOWER: Can you speak to that?

MR. BITNEY: Well, I don't know what else to say. I mean, there were certain issues that I would copy him on when I would send emails, just because I knew he was interested in some issues. I don't recall him sending me a lot of emails. A few. Usually, it was just he was forwarding me an email that he had received, again, from somebody that said "hey, what's going on with this?," or "here's an issue," or "did you hear about this?" I'd send him a lot of news clippings, things like that.

Mr. Bitney's testimony about Todd Palin's attendance at cabinet meetings

MR. BRANCHFLOWER: Now, did you ever participate in any – what are they called? Commissioners' meetings? No, not Commissioners' meetings

MR. BITNEY: Cabinet?

MR. BRANCHFLOWER: Cabinet meetings.

MR. BITNEY: Mmm hmm. Yep, I went to every cabinet meeting.

MR. BRANCHFLOWER: How frequently are they held.

MR. BITNEY: Well, we were just getting started as an Administration. You know, I was there for six months and in six months, I'd say there was probably about four.

MR. BRANCHFLOWER: So this would have been the first part of 2007, then? The first few months of 2007, because you left –

MR. BITNEY: I think we had the first one in December of 2006, if I remember right. We had it over here in Anchorage.

MR. BRANCHFLOWER: And what was your departure date? You said –

MR. BITNEY: The seventh of July.

MR. BRANCHFLOWER: Seventh of July.

MR. BITNEY: It was a Friday.

MR. BRANCHFLOWER: So during that six or seven week period, or about six month period, you say there was four of them?

MR. BITNEY: I seem to recall, yeah, four.

MR. BRANCHFLOWER: Did you see Mr. Palin attend these meetings?

MR. BITNEY: I remember him at one.

MR. BRANCHFLOWER: If someone said that they had seen him at more than just one, would you have any reason to doubt that?

MR. BITNEY: No. I specifically recall him at one, because he got a phone call in the middle of it. It was after the legislative session had ended, and it was in Anchorage.

MR. BRANCHFLOWER: So that would have been what month, probably?

MR. BITNEY: Well, the session ended May like 15th or 13th that year so June. Early June, maybe –

MR. BRANCHFLOWER: Of '07?

MR. BITNEY: Yeah, maybe late May. I don't remember, but I remember it was in Anchorage. We had just gotten back and – well, I don't really want to talk about the phone call, but it was amusing. So I specifically recall it for that reason.¹⁷⁸

Mr. Bitney testified about his conversation with Todd Palin regarding Trooper Mike Wooten's workers' compensation case

MR. BRANCHFLOWER: All right. Was there ever any talk about delegating, between you and Tibbles, now I'm talking about. Was there ever any talk about you, or not you but someone, delegating Trooper Wooten to a desk job to take him off the street, or to demote him? Any of that kind of action?

MR. BITNEY: The last conversation I remember with Tibbles about this, and with Todd for that matter, was he was in my office again. He came back down to Juneau in, I believe it was, April, towards the end of the session.

MR. BRANCHFLOWER: You're talking about Mr. Palin?

¹⁷⁸ Bitney transcript page 18, line 15.

MR. BITNEY: Todd Palin. It was the last conversation, and this time he talked about something that I hadn't heard before from him. He talked about a worker's comp claim. It was sort of a new twist on what I had heard before. He said he had photos of the guy riding around on his snow machine while he was out on a work comp, you know. Again, just continually coming back to the point of, you know, what does it take? This guy is just, he's out there, he's been doing this stuff. I don't understand why a trooper that acts above the law, does this sorts of behavior, how they can still be a trooper. I went down, talked to Tibbles, and he said that something to the effect of "he's been taken off patrol and moved to some sort of a desk job" or some sort of reduction in the scope of his duties and, if you will, responsibilities.

MR. BRANCHFLOWER: As a result of something Mr. Tibbles did?

MR. BITNEY: Well, he didn't sort of tell me directly why, but it just sort of, you know, he was responding to me saying "hey, you know, now I've got this new thing. Are we still, what's going on with that?" He says "well, you know, I've talked to Walt and he's been taken off patrol or something. Something's been done." He didn't give me any indication why, but I sort of, you know, sort of took it as this probably helps address the concerns that I'm hearing here, in some regard. I mean, that's what he said, you know, sort of, the demeanor was "it's being taken care of" and "don't worry about it" kind of a thing, and "I think we're doing the best we can."¹⁷⁹

Mr. Bitney testified regarding Frank Bailey's telephone call to Trooper Rodney Dial on February 29, 2008 about Trooper Mike Wooten

Mr. Bitney testified that Mr. Bailey was one of Sarah Palin's earliest full-time campaign volunteers. Following her election, Bailey worked on Governor Palin's transition team as a paid employee¹⁸⁰ along with Mike Tibbles, himself and others.¹⁸¹ I asked him about Mr. Bailey's call to trooper Rodney Dial on February 29, 2008.

MR. BRANCHFLOWER: Do you know anything about what may have precipitated Mr. Bailey's telephone call to Trooper Wooten – to, excuse me, to Trooper Dial?

MR. BITNEY: Well, I've listened to the thing. What was going on was

¹⁷⁹ Bitney transcript page 20, line 4.

¹⁸⁰ Bitney transcript page 21-22.

¹⁸¹ Bitney transcript page 22, line 3.

that the State was in contract negotiations with the Public Safety union, PSEA. At that point, I don't think the negotiations were going well, is what we were hearing. Again, I'm only speaking – I can only speak to this from being in the Speaker's Office, you know, one floor below the Governor's Office but, you know, we're aware of the issues. Having listened to the thing, what he starts off by saying is “can you give me some inside scoop,” if you will, “about communications going on within the union?” I know that at that time, I think PSEA was coming out with a public television ad, or some sort, that was meant to enhance their bargaining position in some manner. And that contract was due to expire that June – June 30th of this year.

MR. BITNEY: I know that, yes. We were trying. We were hoping that they could get those done because the process is that they get submitted to the Legislature for, you know, approval, if you will, in the budget, and we always like to get those, of course, before we adjourn. So, there was some heat, if you will, on the Administration, to get all the contracts negotiated before the 90-day adjournment.¹⁸²

Mr. Bitney's testimony regarding Frank Bailey's friendship with and loyalty to Sarah and Todd Palin

Mr. Bitney testified:

MR. BRANCHFLOWER: So, you got a pretty good opportunity to observe his interaction with the Palins, then?

MR. BITNEY: Oh, yes.

MR. BRANCHFLOWER: How would you describe their level of friendship, working relationship?

MR. BITNEY: Frank was incredibly devoted to Sarah and Todd. He worked long hours for just no pay during the campaign, dedicated all that volunteer time to getting them elected. He was energetic. He kind of had sort of a personal fervor, if you will, to make a difference in government, you know. That was kind of his big thing. I guess my experience working with Frank around the campaign was, is I would characterize myself as coming more from sort of the insider's kind of group of politics. You know, I'd worked in Juneau and knew those folks, and Frank –(sound interference – beeping)

¹⁸² Bitney transcript page 28, line 1.

MADAM COURT REPORTER: Go ahead. You're okay.

MR. BITNEY: Do I need to be concerned about that?

MADAM COURT REPORTER: No.

MR. BITNEY: - was kind of, had this network of people that, you know, he was bringing into the campaign that were – well, they had non-orthodox views on what needed to be done in state government, if you will. So, we always sort of kidded about, you know, the people that Frank was drawing upon to bring into the campaign. I mean, sometimes we were trying to tell him “hey, some of these people,” you know, “you might want to be a little more careful about. Do you know some of the political background on this person?” and that sort of thing. So, he had sort of a wide array of people that he was sort of networking with. He was sort of the go-to guy for them in terms of doing this, doing that, getting things done.

MR. BRANCHFLOWER: The “go-to guy for them” meaning –

MR. BITNEY: Anything they needed done.

MR. BRANCHFLOWER: Governor and Todd Palin?

MR. BITNEY: Yes. If they needed – he was, you know, it was the gofer, if you will. You need something done, you need somebody to drive something out to Mat Su or some guy to run over to the hardware store to, you know, that was Frank. He was good at computers, so he knew how to set up databases and things like that. You know, he worked hard. He was sort of the head gofer, if you will.

MR. BRANCHFLOWER: Would you say that he was loyal towards Todd Palin and Sarah Palin?

MR. BITNEY: Very loyal. That was probably his strongest point, with them. He was always by their side. I found him to be a good worker in the regard of he worked hard and he was very loyal and dedicated to helping them.¹⁸³

¹⁸³ Bitney transcript page 23, line 25.

Frank Bailey's call to Trooper Rodney Dial on February 29, 2008 and the Andre McLeod public information request email privilege log

I have attached a transcript of Frank Bailey's call to Trooper Dial.¹⁸⁴ Portions of the audio recording are available for listening on line.¹⁸⁵

On September 3, 2008, I received an unsolicited email from a stranger. The subject line read, "Palin/Monegan Investigation-Tip-Suggestion." The sender of the message made reference to emails that had been exchanged between several employees of Governor Palin's office during late 2007 and early 2008. In a follow up message to me dated September 5, 2008, the sender mentioned the name "Andree McLeod." One of the comments made by the sender in that email was:

"I don't know if you are or have been in contact with Andree McLeod, but judging from the complaint filed and the number of emails secured through an FOIA request, that might be an option to pursue. I've attached a copy of his complaint that was filed with Colberg for your reference in case you do not already have it."

According to an article that was published in the Anchorage Daily News online edition on August 7, 2008, captioned "Ex-state employee files ethics complaint against Palin's office,"¹⁸⁶ Andre McLeod has filed an ethics complaint that asserts the governor's office used its influence to get a Palin supporter a state job. The article states "The e-mails McLeod used in her complaint are among four banker boxes full of papers she got through a public records request for e-mails between members of the governor's staff."

A copy of a privilege log for what may be the emails mentioned in the senders September 3rd message was emailed to me on September 6, 2008. It is 78 pages long. Given the mention of the name Andre McLeod, the privilege log emailed to me by the stranger may have been prepared by someone in the Attorney General's office in response to McLeod's complaint and public records request for emails.¹⁸⁷ For ease of reference only, I will refer to it here as the McLeod email privilege log.¹⁸⁸ I am not aware

¹⁸⁴ I have placed the transcript of that telephone conversation immediately behind the transcript of the sworn statement I took from Trooper Dial, which is discussed immediately after this section. The same transcript was published by the Juneau Empire newspaper on September 5, 2008 in connection with a story titled "State Troopers file ethics complaints." A copy of that story has been included in this report.

¹⁸⁵ <http://www.adn.com/monegan/story/493360.html>

¹⁸⁶ <http://www.adn.com/front/story/486163.html>

¹⁸⁷ I have never met or spoken to either the sender of the emails or Andre McLeod.

¹⁸⁸ The large circles drawn on pages 24 and 25 of the privilege log are not mine. They are duplicated here just as I received them.

of, nor do I suggest that there exists, any connection between the McLeod matter and my investigation.

As I reviewed the McLeod email privilege log for my purposes, my attention was drawn to an email exchange that most likely had nothing to do with the McLeod matter, that occurred February 28, 2008, and the morning of February 29, 2008, between several employees of the Governor's Office and other state agencies, including Governor Palin and Todd Palin. That was the day before and the day of Frank Bailey's call to Trooper Dial. I have printed out pages 24 and 25 of the McLeod privilege log and placed them immediately following the over page for ease of reference by the reader. They are marked at the top: "Privilege Log Ivy Frye's and Frank Bailey's February 2008 E-mails." I felt the emails may be significant to my investigation for the following reason.

There are three boxes on page 24 of the log [see over], that I have labeled in my handwriting with the numbers 1, 2, and 3. The top of the page provides information about the data in the column below [see "Date", "Author", "Recipient" "Document Description" "Privilege"].

Box 1 describes an email from I. Frye, DOA to A. Kreitzer, DOA sent on 2/28/08 at 7:27 pm, the evening prior to Frank Bailey's call to Trooper Dial. The "Document Description" of that email says "E-mail re PSEA Article 7 and 14" The "Privilege" column says "Deliberative Process/Executive." The significance of the document description is as follows.

The Public Safety Employees Association contract¹⁸⁹ with the state was going to expire on June 30, 2008. The state and the PSEA were then in the process of renegotiating the contract. This was mentioned by Frank Bailey during his February 29, 2008 call to Trooper Dial:

MR. BAILEY: Good. Good. Hey, I've got a question that's a little bit awkward to ask, and so I want to be real respectful. I mean, if this is something you don't feel comfortable with, that -- just tell me straight up, and I respect that fully.

But as you know, I mean, things are really ramping up with the contract negotiations right now.

LIEUTENANT DIAL: Uh-huh.

MR. BAILEY: And we hear that there's going to be quite a bit of

¹⁸⁹ The PSEA contract may be viewed at the following site: <http://psea.net/documents/2005-2008%20ATC%20CBA.pdf>

communication going around on the PSEA side, coming from say John Cyr and things like that.

Is there -- do you feel comfortable keeping us in the loop on that, if any of that does come through in writing?

LIEUTENANT DIAL: You mean if -- if I learn what they're asking for, or what?

MR. BAILEY: Yeah, yeah.¹⁹⁰

It thus appears that the "E-mail re PSEA Article 7 and 14" message written by Ms. Frye the evening prior to Bailey's call refers to the following information as described in the table of contents of the PSEA contract regarding Article 7 of the contract:

ARTICLE 7 - MEMBER RIGHTS	13
Section 1 - Definition of Discipline	13
Section 2 - Application of Discipline.....	13
Section 3 - Administrative Investigation Procedures.....	14
Section 4 - Voting	17
Section 5 - Examination of Personnel Files	18

The table of contents of the PSEA contract describes the contents of Article 14 of the contract:

ARTICLE 14 - LEAVES OF ABSENCE FOR PERMANENT EMPLOYEES.....	51
Section 1 – Personal Leave General	51
Section 2 - Parental Leave	54
Section 3 - Military Leave	54
Section 4 - Leave Without Pay.....	55
Section 5 - Association Leave Bank	55
Section 6 - Administrative Leave	55

The emails described in box number 2 [see over] were also exchanged the evening prior to Bailey's call, are also described as "E-mail re PSEA" and involve I Frye DOA, A. Kreitzer, DOA, S. Palin, GOV, and K. Perry, Gov.

Two of the emails described in box number 3 were exchanged the evening before Bailey's call, at 8:07 p.m. and 8:09 p.m. Again, they are all described as "E-mail re PSEA."

¹⁹⁰ Bailey transcript page 2, line 16.

The third email described in box number 3 is described as “E-mail re PSEA” and involves the following participants to the exchange of information: I. Frye, DOA, A. Kreitzer, DOA, S. Palin, GOV, F. Bailey, Gov, T. Palin [no office mentioned for Todd Palin], and K. Perry, Gov.

The time of the last email described in box number 3 prior to Frank Bailey’s call also involves discussion about the PSEA, and occurred at 9:28 a.m. the morning of February 29, 2009. According to the sworn testimony of Trooper Dial, the call from Frank Bailey came in to AST in Ketchikan at 9:39 am on February 29, 2008:

MR. BRANCHFLOWER: Maybe you can answer this question, or you can include the answer to this question, as well. Can you describe how it came to pass that this telephone call was recorded, and include in your answer the time that it was recorded and how much time would have transpired between the time when the receptionist is heard to say “Good morning. State Trooper’s Office. May we help you?” on page two, to the time that you actually spoke with Mr. Bailey?

TROOPER DIAL: Yes. In referring to my notes, that call came in at 9:39:43 in the morning, and the call came into our dispatch center on the main line, and it was answered by a dispatcher named Richard Nolan, and it was within probably 10 or 15 seconds that he had transferred that into my office line, where I received the call.

MR. BRANCHFLOWER: All right. So, your testimony is that this call was placed to your office on February 29, 2008. It was received by your dispatcher, Mr. Nolan, at 9:39 and 43 seconds in the morning – 9:39 a.m.?

TROOPER DIAL: Yes. The call was placed to the dispatch center, which was transferred to my office.¹⁹¹

The reader’s attention is also directed to the second page of the McLeod privilege log. The third box from the top [which I have not numbered], describes additional emails involving the PSEA after Bailey’s call.

My written request to the Attorney General’s office for information about the above described emails

On September 16, 2008, I sent an email to AAG Jan De Young as follows:

Hi Jan. I am directing this request for information to you inasmuch

¹⁹¹ Dial transcript page 11, line 1.

as you have now taken over from AAG Mike Barnhill, who until today was the person assigned by Attorney General Colberg to be project manager [and my contact] regarding the Monegan Investigation.

I would like to please receive copies of the email messages I have labeled number 1, 2, and 3 in the attached two page PDF document. The two page document is captioned at the top "Privilege Log Ivy Frye's and Frank Bailey's February 2008 E-mails," and on the bottom, with the words "Page 24", and "Page 25." The handwritten numbers "1, 2, 3" are in my handwriting on the far left of page 24. The top right hand side of each page bears the date "July 18, 2008."

As you can see, my handwritten numbers are just to the left of the three blocks that contain summary information about the emails [the columns at the top of the page say "date", "author", "recipient", "document description", "privilege." These two pages are from a larger document emailed to me by someone I do not know. It was an unsolicited email. The circles around the boxes [in red ink] were there when I received the material from that sender. I didn't put those marks there. The person who sent me the material mentioned the name "Andre McLeod," in his/her message, and suggested that some emails had been obtained through a FOIA request [perhaps these are part of what came out of the FOIA request-I don't know-I'm just guessing]. It looks like it may be a privilege log, perhaps prepared by someone within the AG's office. As you can see, the "Document Description" for the few messages I seek are designated "E-mail re PSEA Article 7 and 14" or "E-mail re PSEA." They are all dated 2/28/08 or 2/29/08.

With regard to the "Privilege" column on the far right hand side, and the entries "Deliberative process/Executive" next to the emails: It seems to me that the inclusion of Todd Palin in this string of connected emails [both on 2/28 and 2/29] takes them out of the "Deliberative process/Executive" privilege that is mentioned in the "Privilege" column. Please take a look at this and let me know what the AG's position is. Finally, note that the "T" in Todd Palin's name for the 2/28/08 message about the PSEA is misformatted and appears to the right of Bailey's name.

Thank you.

Steve Branchflower

Ms. De Young responded the next day, September 17, and said:

Steve, just to touch base, I will follow-up on this specific request and review the basis for the earlier assertion of privilege. And, Mike Barnhill is continuing to work on your earlier documents request.

Jan DeYoung

The requested emails have never been provided.

Telephone records from ACS regarding Frank Bailey's cell phone

A subpoena was issued by the Senate Judiciary Committee on September 12, 2008 for Frank Bailey's cell phone records for telephone number 907-748-5816 for the period February 1, 2008 through March 31, 2008. This telephone number was given by Baily to Trooper Dial during the February 29, 2008 call:

MR. BAILEY: Yeah. That -- that would be fantastic, Rodney. And this number -- I don't know if this came up on caller ID, but that's my cell phone. And you can catch me any time on that, though.

LIEUTENANT DIAL: The 748-5816?

MR. BAILEY: 5816.

LIEUTENANT DIAL: Okay. And are you normally at the Anchorage office?¹⁹²

The subpoena was served on ACS, and Mr. Bailey's records were obtained. The records show that a call was placed from Mr. Bailey's cell phone, number 907-748-5816, on February 29, 2008, at approximately 9:43 a.m. to 907-225-5118 (the number for the Ketchikan Alaska State Troopers, and that the call lasted approximately 25 minutes.

Inasmuch as committee subpoenas are difficult and time-consuming to obtain, I elected not to seek additional subpoenas for the telephone number subscriber information for the telephone numbers called by Mr. Bailey shortly before and after his call to Trooper Dial. Instead, I planned to question Ms. Frye, Ms. Kreitzer, Ms. Perry, and Mr. Palin about their telephone numbers during their depositions. They were all served with their respective subpoenas, either personally or through their counsel, and all failed to appear, so no additional telephone subscriber information was obtained.

¹⁹² Bailey transcript page 19, line 25.

Lt. Rodney Dial's testimony

Lt. Rodney Dial is the Deputy Commander of A detachment, Ketchikan, Alaska. Prior to taking his sworn statement on September 8, 2008, I had asked him to prepare an outline of the events of February 29, 2009, and his acquaintanceship with Governor Palin. His outline was emailed to me prior to September 8, and we identified it for the record during his statement:

MR. BRANCHFLOWER: All right, then. The letterhead says "State of Alaska, Department of Public Safety, Division of Alaska State Troopers." It's dated August 30, 2008. It's to me, and it starts out "Dear Mr. Branchflower: As per your request." It is a two page document. At the end of the document it says "Sincerely,". It's unsigned, but your name appears, "Lieutenant Rodney Dial, Deputy Commander A Detachment, Ketchikan", and there appears to be a color picture about two inches by three inches. Who are the folks in the picture? Why don't you describe those?

TROOPER DIAL: That's myself, Governor Palin, my wife, Lisa Dial, and my children, (indiscernible – poor teleconference sound quality) Dial.

MR. BRANCHFLOWER: All right. Did you prepare this document yourself?

TROOPER DIAL: Yes, I did.

MR. BRANCHFLOWER: All right. So, I think that adequately describes Exhibit 1.¹⁹³

Trooper Dial testified about his friendship with Governor Palin, and how they met

MR. BRANCHFLOWER: Can you just describe for the record your friendship with Governor Palin – how you met her, when, and so forth?

TROOPER DIAL: Yes. Shortly after I was promoted to the rank of Lieutenant, I was transferred from the Glenallen post to the Anchorage post, where I worked in Headquarters as a Recruitment Supervisor and did a number of other jobs for the Department. One of those other jobs was, I was the Department's Color Guard Supervisor. I basically supervised the team of Troopers who would attend certain functions in dress uniform and pay our last respects for a funeral, or to police memorial days, those type of

¹⁹³ Dial transcript page 4, line 5. Exhibit 1 has been placed at the end of the transcript of his testimony.

things. I first met the Governor in that capacity. It was during Police Memorial Day, and I was actually one of the members that was, you know, doing the flags and helping with the ceremony, and I remember that she had showed up at the service there, and I do remember that Trooper Wooten was there at the time. Trooper Wooten was an occasional Color Guard member, and I believe he also was there at the time for the ceremonies, although I don't remember if he was performing actual Color Guard duties. I do remember that he was there. That's the first time I met the Governor, and of course over the years I read about her in the paper and how she was Mayor in Wasilla. I just remember, from that instance, she came up and introduced herself and shook everybody's hands, and that was the first time. It would have been somewhere around 2001, 2002 – somewhere around in there.

MR. BRANCHFLOWER: In the Exhibit 1, the document you've prepared that I've labeled Exhibit 1, you state that you were impressed with Ms. Palin when she was a candidate for Governor and you volunteered for her campaign. You describe putting up yard signs and distributing bumper stickers, and manning a booth at her election committee during the Ketchikan blueberry festival, or blueberry event. Then you refer to this picture. When was this picture taken?

TROOPER DIAL: Prior to the election. It would have been that August prior to the election for the Ketchikan Blueberry Festival. She had showed up. I had offered to assist with the booth, and my family and I went there with the intentions of helping out. We did not stay very long, as I recall. We were there for a short amount of time and there was enough volunteers there, so that we really weren't needed all day, and we left, and that was pretty much the end of it.

MR. BRANCHFLOWER: So correct me if I'm wrong but, if this was prior to the time of her election – I believe she was elected in November of 2006, sworn in, in Fairbanks, in February 2006. Is that your recollection?

TROOPER DIAL: Yes. It was prior to the election, and I believe it would have been that August prior to the election.

MR. BRANCHFLOWER: I believe that you had some contact with her at church, or in church-related activities when you were assigned up in the Matanuska Valley. Am I correct on that?

TROOPER DIAL: Well, I may have. I don't recall.

MR. BRANCHFLOWER: So your testimony is that the extent of your friendship and acquaintance with her is limited to what you've just described.¹⁹⁴

Lt. Dial testified about his acquaintanceship with Frank Bailey

MR. BRANCHFLOWER: Since we're referring to Exhibit 1, on page two you speak of your acquaintanship with Frank Bailey as the person who called you on February 29. You've met him on a couple of occasions at the Capitol during legislative sessions. Other than those chance meetings, have you had any person history with Mr. Bailey?

TROOPER DIAL: No.

MR. BRANCHFLOWER: Have you ever spoken to him on the phone, other than this one time that he called you on February 29?

TROOPER DIAL: I don't believe I have. I don't remember ever speaking to him, other than that one time.

MR. BRANCHFLOWER: Do you ever recall corresponding with him? Letters or emails, anything of that sort?

TROOPER DIAL: I think we shot a couple emails back and forth. As I recall, I think they were about new articles. I think he sent me one on either a Letter to the Editor or a news article, and I shot him one back about my impression on it. I think that was – so, it's probably only been a couple emails.

MR. BRANCHFLOWER: Yes. So, would it be fair to characterize your knowledge of Frank Bailey as being very limited to the two occasions that you had contact with him at the Capitol during the legislative session, and the two brief emails you just alluded to?

TROOPER DIAL: Yes.

THE END OF THE PUBLIC PORTION OF THE REPORT

¹⁹⁴ Dial transcript page 7, line 18.