

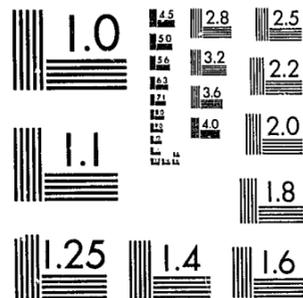
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Vol. I

National Criminal Justice Reference Service



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National Institute of Justice
United States Department of Justice
Washington, D. C. 20531

PUBLIC HEARING

before

SENATE JUDICIARY COMMITTEE
(Pursuant to Senate Resolution 3008)

Held:
January 4, 1978
Senate Chamber
State House
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

- Senator James P. Dugan (Chairman)
- Senator Martin L. Greenberg
- Senator William Vincent Musto
- Senator John F. Russo

U.S. Department of Justice 76343
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MAR 17 1981
ACQUISITIONS

SENATOR JAMES P. DUGAN (Chairman): The Senate Judiciary Committee will convene now. The first witness I would like to call is Mr. Rodriguez.

J O S E P H R O D R I G U E Z, being duly sworn as a witness, according to law, testified as follows:

BY SENATOR DUGAN:

Q Mr. Rodriguez, you are the Chairman of the State Commission of investigation?

A That's correct.

Q And are you here in response to a subpoena served upon you with regard to a hearing to be conducted on Senate Resolution 3008?

A Yes.

Q And in connection with that subpoena, did you bring certain documents with you?

A I did.

Q I show you that list of documents. Are those the documents that you are bringing in response to the subpoena?

A Yes, these are the documents consisting of fourteen exhibits.

SENATOR DUGAN: Will you mark those, please?

(Whereupon set of fourteen documents was marked "SCI-1" for identification.)

BY SENATOR DUGAN:

Q And in addition to those documents, Mr. Rodriguez, you delivered to myself and members of the Committee a three-page letter dated December 28, 1977.

A That's correct.

Q Mr. Rodriguez, I wanted to have those documents before us, and that is the reason I called you at this time, since I didn't have the benefit of these documents and a more complete outline of the SCI's knowledge of the matters that we are going to inquire into. I didn't have an opportunity to review this prior to this morning.

What I would like to do now is to ask your indulgence. I will excuse you now and call certain other witnesses, and I will ask you to be patient and resume the chair at a later time this morning or this afternoon.

A Sure, as you wish.

SENATOR DUGAN: Our next witness will be James Jellicks.

BY SENATOR DUGAN:

Q Mr. Jellicks, did you respond here today to a subpoena that was served upon you by this Committee to a hearing in connection with the inquiry authorized by Senate Resolution 3008?

A Yes, I did.

Q Mr. Jellicks, are you aware that you have the right to be represented by Counsel at a hearing such as this?

A Yes, I do.

Q And you have the right to waive that right?

A Yes, I do.

Q Do you waive the right to Counsel at this hearing?

A Yes, I do.

Q Now, Mr. Jellicks by whom are you employed?

A I'd rather not say that, please. I work for a trucking outfit.

Q Are you presently employed?

A No, I am not.

Q Mr. Jellicks, have you had, in your past, contact with the State Police in New Jersey and other law enforcement agencies?

A Yes, I have.

Q What was the nature of that contact? Specifically, when did you first come into contact with the New Jersey State Police?

A I was in contact with the New Jersey State Police in 1968.

Q And what were the circumstances under which you were contacted by the State Police?

A I was taken out of jail to work for them.

Q Where were you confined?

A I was confined at Bordentown Reformatory and the Middlesex County Workhouse.

Q How old are you, Mr. Jellicks?

A At that time?

Q At this time.

A I am thirty-four.

Q And you were approximately twenty-four at that time.

A Yes, sir.

Q You were confined in the Bordentown Reformatory on what charge?

A False pretenses, bad checks.

Q How did the contact that you first had with the State Police come about?

A I wrote a letter to the Attorney General's Office telling him I wanted to see somebody about certain crimes I knew about.

Q And in response to that letter, the State Police contacted you?

A Yes, they did.

Q And what conversations did you have with the State Police at that time?

A I told them I could help them if they would go to talk to a judge to have my sentence reduced that I had pending in Middlesex County Workhouse. You see, after I got done at Bordentown, I had to go and serve a concurrent sentence of 160 days.

Q You had a detainer on you while you were serving?

A Yes, I did.

Q And that detainer would have you confined after you completed the sentence?

A Yes.

Q All right, and what happened as a consequence of your conversation with the State Police?

A They did some checking and they come back on four or five different occasions to see me and talk to me. I was due up for parole. I made my parole and all and everything, and I was transferred to Middlesex County Workhouse.

I did approximately thirty days in the Middlesex County Workhouse, and the State Police went to see the judge that sentenced me in Edison Township and had my sentence reduced.

Q What then did you do in connection with the State Police?

A I cooperated with them in hijackings and in gambling.

Q Well, in what capacity did you cooperate with them?

A I passed on information to them that I knew about hijacking and gambling operations, where they could arrest people after they started their investigation on it in Jersey City.

Q And for how long a period did this cooperation between yourself and the State Police continue?

A Over three years.

Q From 1968 through '71?

A From 1968 until the end of 1970.

Q And after that, did that conclude your relationship with the State Police?

A No, it did not.

Q When did it resume?

A In 1974 I come back to the State of New Jersey.

Q Where were you between the years of 1970 and 1974?

A I was in the witness detection program. I was relocated by the Federal Government.

Q What was the occasion of you being placed in the witness detection program?

A I testified against several mob people in Federal court.

Q And as a consequence of that you were given protection by the Federal Government?

A Yes, I was.

Q And you were removed or you left the State and was out of the State from approximately 1970 to 1974.

A Yes, sir.

Q Upon your return to the State of New Jersey, did you again have contact with the New Jersey State Police?

A Yes, I did. I called a Lieutenant Rudy Simonetti, a State Trooper that I knew, and I asked him if he could help me get a job.

Q And what did he respond?

A He said he would see what he could do. I guess maybe about a month and a half later I contacted Rudy again, and he told me, yes, he could get me a job at the racetrack.

Q And as a consequence of that did you gain employment at the racetrack?

A Yes, I did. Well, I gained employment to the racetrack through Abbatiello's farm. You see, to work at the track, you have to be employed at a horse farm, a breeder's farm.

Q Well, who was your employer then?

A My employer at the time--- Anthony, Tony Abbatiello. They arranged it through the store manager Pete Verg, the store manager for the Freehold Raceway, and he spoke to

Abbatiello to get me on to his farm.

Q And who did you speak to?

A I spoke to Lieutenant Simonetti, Pete Verg, and Tony Abbatiello.

Q And as a consequence of these conversations, you went to work on the farm in Freehold?

A Yes, I did.

Q Where is the farm located?

A Five Point Road, in Colts Neck, New Jersey.

Q What was the nature of your employment?

A I was like a handyman on the farm fixing fences, emptying manure, baling hay, anything, everything that had to be repaired, I did.

Q Well, in pursuing your work, did you do anything at any of the racetracks?

A Yes, I did. I always made trips to the Freehold Raceway with the hay and the horses and all.

Q Well, what would be the occasion for you going from the farm to Freehold Raceway, for what purpose?

A To deliver feed, to take the pay up, deliver hay, bring equipment up to the racetrack, ride up with the horses.

Q Did you receive a license or a pass to work at the track?

A Yes, I did.

Q Was that license issued under your own name?

A No, it was not. It was issued under the name of James Cusick.

Q Who obtained the racetrack employment pass for you?

A The State Police took care of my fingerprints and everything so I would have no criminal record. Because you can't work at the racetrack if you have a criminal record.

Q Well, the State Police then arranged to have passes---

A Yes, when I went up to get fingerprinted and all and everything, they pulled my card, and they just sent it back that there was no criminal record on my card.

Q And you then had credentials that would allow you access to the track?

A Yes.

Q What did you do while you were at the track? Did you do anything other than bring the horses and the feed and so on?

A Yes, on two occasions I had to go there with Tony Abbatiello and carry needles in my boot.

Q Well, what was that for?

A That was to juice the horse, to give the horse a drug.

Q And what did you do? Did you report that to anyone?

A Yes, I did.

Q To whom did you report it?

A I reported it to Lieutenant Rudy Simonetti.

Q And what did-- What conversation did you have with Lieutenant Simonetti?

A I told him what was going on, that they were giving

needles and everything to the horses, and it was arranged the next time that we went up there, I was to call him and let him know when it was going to happen and they would catch Abbatiello right in the act of giving the horse the needle.

At that time, another detective that was a Sergeant, Harry Peterson was his name, he was supposed to be the one who was to intercede. On that day when that happened, he was transferred to the Monmouth Racetrack.

Q Well, what else, if anything, were you asked to do in cooperation with the State Police?

A I got samples of the drug bottles out of the garbage and all that was supposed to get burned. I took them up to Lieutenant Rudy Simonetti also.

Q Well, where did you obtain these drug samples?

A At the Five Point Farm, out of the burning barrel. You see, all the medicine bottles and all, Abbatiello has a big fifty-gallon drum there, and all the medicine bottles and all are put into this to be burned. I used to do the burning.

And the one day I was supposed to burn it, I took everything out of the garbage and put it in a box and took it up to Lieutenant Simonetti.

Q Well, in your work at the farm, was it also not the practice to administer drugs and medications to horses that were perfectly legal?

A Oh, yes. It was.

Q And it was not an uncommon experience for the horses

to be administered medicine, is it?

A No, they would be given vitamins and muscle stimulants and all; you know, like if they pulled a muscle or something, they would treat the horse.

Q The needles that you brought to the track, were they for the purpose, if you know, of administering legal drugs?

A No, they were not.

Q What was the purpose?

A These needles that were given to these horses were given just before the horse left for the racetrack to race that day.

Q And what was the nature of the medication or drug?

A For their muscles to give them extra speed and all. It would go into the blood system and into the urine. It wouldn't even show up on their tests, this stuff. It would give the horse extra energy.

Q All right, now, in connection, was there an ongoing investigation of irregularities or illegal acts at the track?

A Yes, there was.

Q To your knowledge.

A Yes, there was.

Q What were you asked to do, if anything, in connection with that investigation by the State Police?

A Well, you see, I broke contact with Lieutenant Simonetti in, I believe it was, the beginning of May.

Or I believe it was the end of April that I lost contact with Lieutenant Simonetti.

Q Of what year?

A Of 1975. And I was contacted by Lieutenant George Smith.

Q Yes, and---

A He knew what I was doing with Lieutenant Simonetti. You see, Rudy would never ask me to do nothing wrong. But--- You know, I want that to be said right away. But, Smith came to me, because I went up there looking for Rudy and he said Rudy wasn't there. So then he wanted to talk to me. He took me up to the rail around the racetrack and we were talking. Then he told me about my criminal record.

And I said, "Well, you people did it." He said, "Well, I can have your license pulled." At that time I was making \$150 a week at the farm. And that was everything to me. So he asked me if I would pass on any information that I got. And I told him that I would. And I started working with George Smith at that time.

Q Well, up until that point you were doing the same thing in connection with Lieutenant Simonetti.

A Yes, sir, I was.

Q What then did you do for Lieutenant Smith, or at his request?

A I passed on information to him about meetings that were being held at Abbatiello's farm on Sunday mornings, and he asked me if I knew what they were about.

I told him I had a rough idea what they were about, because I really never heard none of the conversations. But there were drivers and trainers and ticket agents that were present there at these meetings. And when them people get together, there is something going on.

Q Well, when were the meetings held?

A On Sundays, Sunday mornings.

Q Were they routinely held every Sunday morning?

A Yes, sir, they were.

Q And then what did the State Police officer request that you do, if anything, in connection with those meetings?

A He asked me if I could install something in the office. Right, and he told me what it was.

Q What was it?

A He wanted a tape player for the telephone, and the conversations that they were having, installed in the office.

Q What were the devices you were asked to install?

A A tape machine, and a listening device on the bottom of the telephone.

Q Do you have those--- Where did you get those?

A I got them off Lieutenant Smith and Lieutenant Walter Decker.

Q All right, now, there was a device that you attached to the telephone?

A Yes, sir.

Q Can you describe the device and how it attached to the telephone?

A It just layed up underneath the telephone. You see, the first device I had was only supposed to go on the top, and I installed it on the bottom. It didn't work. The second device he gave me was a flat piece of a plastic and you just lay it right underneath the phone and tape it on there. You ran it right down the wire, right down into the tape recorder.

Q Well, what phone was it?

A It was the office in Abbatiello's, Tony Abbatiello's office phone.

Q And there was a wire running from this device.

A On to the telephone.

Q Was the wire visible?

A No, sir, it was not.

Q And what kind of a phone was it?

A A regular desk phone, a black desk phone.

Q On whose desk was it?

A Tony Abbatiello's desk.

Q And you installed that device?

A Yes, I did.

Q Were there recordings of conversations made through that device?

A Yes, there was.

Q And where were they recorded?

A They were recorded in the office there by a remote control that was hooked up in the garage downstairs. I would be able to turn it on when the meeting started.

Q Well, did this device record what went on at the meetings on Sunday morning, or did it---

A It was just the meetings on Sunday mornings.

Q Well, did it also record conversations on the telephone?

A That I am not sure of. I am not sure of that. If the phone rang and all, it would pick up the conversation on the phone.

Q You mentioned that there were two devices that you were asked to install; is that correct?

A Yes, sir.

Q One of them was this device on the bottom of the phone. Now, where was the other device?

A The other device was a tape recorder that was installed in the office under the desk at one time, and on a second Sunday it was installed underneath the couch I put it.

Q And these devices, how were they activated?

A By remote control from the garage. I had about fifty foot of wire with a remote control on the end of it.

Q Well, who activated it?

A I did; I turned it on.

Q On two occasions?

A Yes, sir.

Q And were you successful in recording the conversations?

A I believe so. I never listened to the tapes, but I believe they were.

Q Well, where was the tape recording machine?

A Right in the office. It was installed right in the office, hidden.

Q Well, did you, or do you know if those tapes were retrieved from the office?

A Yes, sir, they were.

Q By whom?

A By myself. I took them out of the office. I was given a new tape to install on it, and I turned over the tape to Lieutenant Smith.

Q What did you do with it?

A I turned it over to Lieutenant Smith.

Q And do you know what happened thereafter?

A No, sir, I do not.

Q Do you know if there were any indictments or prosecutions subsequent to those recordings?

A I just heard once something about Atlantic City. That is all I heard, that in the course of this they were getting information about Atlantic City on it.

Q But you have no knowledge of any indictments or convictions that resulted from those recordings?

A No, sir.

Q Now, what about the device that was on the telephone? Where were those conversations recorded?

A That was also recorded directly into the tape.

Q The same tape that picked up the voices at the conference?

A Yes, sir.

Q Now, approximately when were these two occasions that you made reference to, the two Sunday mornings?

A In May.

Q Of what year?

A 1975.

Q All right, and did you continue to cooperate with the State Police after that?

A Yes.

Q What was the nature of your cooperation?

A In June--- Well, I met Lieutenant Smith one day coming out of the farm. He told me he wanted the drug books, and we were going to go up there to get them. I told him there was no way I could get them, because the room is always kept locked. He told me he would get the keys. I was given keys to the farm by Lieutenant Smith. One was for the office, and one was for the tack room, where the drugs are kept and all.

Q Okay, now, what were these books that he asked you to get?

A They were entries of what horses were being given in the line of drugs and everything.

Q Well, were they--- Did they contain the entry of every drug and medication that was administered to a horse?

A Yes, sir, they did.

Q And, of course, it contained the legally administered drugs, I assume?

A Right.

Q Did it contain any entries as far as drugs that were illegally administered?

A Yes, sir, it did.

Q What was the purpose of the drug book?

A To prove--- You see, when a horse runs at the racetrack, if he is given a needle that day, it would show it right in the book. A horse is not to be given a needle on a day it is supposed to race.

Q Well, if there was an illegal drug given on the day of a race, would that be entered into the book?

A Yes, sir, it would be.

Q Why would---

A They have to keep track of what drugs they are giving the horses.

Q Why would they want to record illegal administration of a drug to a horse?

A Well, they have to keep track of what they are giving to the horse.

Q For what purpose?

A For their own records, so they don't give the horse the wrong drug or nothing. One drug can counter-act another drug.

Q Well, did they have two sets of drug books?

A There was four books kept up in the office, in the tack room, plus loose papers and all. I took all of that stuff, when I took it.

Q Well, were there two sets of books, one that only reflected legally administered drugs?

A That I am not sure of.

Q Well, what did you do then with the books?

A I turned them over to Lieutenant Smith and Walter Decker.

Q Did you do--- Did you go to the farm that day by yourself?

A Yes, sir, I did--- No, I did not. I took another fellow with me.

Q Who was that?

A A fellow by the name of John Chew.

Q And what did he do? Did he aid you in obtaining these books?

A Yes, he did.

Q What happened after you turned the books over to the State Police?

A I turned the books over to the State Police that Sunday night. I was given them back that Sunday night and I was told to put them back, and I told them I could not. That is when I told them about what the fellow did to the house and all, that he burglarized the home also.

And all hell broke loose. I turned around, let's see, about three days later and Detective Kyle came to my home. All right, and he said, what did you do with the books. I told him that I still had them. I turned them over to him. Detective Kyle gave me a receipt for them. I also turned over to him a gun, a rifle that this other fellow stole, this John Chew from another burglary in Waretown, New Jersey, and he said he would have to check it out.

They were looking for John Chew because he had about \$200,000 worth of checks out under another name. In fact, the man is in jail now for that. I was working with Detective Kyle all along on some other stuff, too. And, approximately about four or five days later Detective Kyle comes back with two other detectives and they arrest me for the burglary at the Abbatiello's farm.

Q Well, if you know, why would, or did Detective Kyle tell you why he was investigating you or arresting you for this burglary, if in fact you were doing it with the knowledge and consent of the State Police?

A He told me everything would be taken care of, not to worry about nothing. He told me all I had to do was say that Lieutenant Rudy Simonetti put me up to it and all, and I wouldn't go along with it.

He called from my home that night they arrested me - and in fact the other detectives that were there, they knew something was wrong. Detective Sergeant Walsh and his partner knew something was wrong, because they even--- Detective Walsh said, "I don't go for this cloak and dagger stuff."

He called Lieutenant Decker about four or five times from my home phone that night saying that I wouldn't cooperate with him. I wouldn't say Lieutenant Rudy Simonetti put me up to it. I told him, you're the ones who are putting me up to it, and I ain't saying Rudy did it.

Q Well, did they take you then from your home?

A Yes, sir, they did.

Q And you were arraigned on a breaking and entry charge?

A No, sir, I wasn't arraigned--- Detective Kyle took me that night to Barnegat and fingerprinted me and then lodged me in the Ocean County Jail that night.

Q And for how long a period did you stay there?

A I stood about eighteen hours and I was bailed out.

Q And what disposition was ultimately made of the charge?

A I was convicted and I did nine months in jail for it.

Q Well, did you plead guilty to it?

A Yes, sir, I did.

Q When did you plead guilty?

A I pleaded guilty in April of 1977 of this year.

Q On April of '77 you pled guilty?

A Yes, sir.

Q And you were sentenced to nine months?

A Yes, sir.

Q How long did you serve?

A Six months.

Q And I assume that after the arrest on this charge that you had no further contact with the State Police, they didn't ask you to do anything for them?

A No, sir, they did not.

Q You had no further contact---

A Well, I did have contact with them after that.

Q But it was not in the--- You had contact, but you didn't have any cooperative effort---

A Yes, sir, I did. I kept on being told everything would be taken care of by the Federal Government and by the State Police on this charge. At that time I was involved with some mob people, and the State Police took me to Sea Girt, New Jersey, to the headquarters--- Not the headquarters---

Q The training school?

A Yes, sir, they took me out there and they gave me a polygraph test and everything about things that were going on with the mob. At that time they contacted the U. S. Attorney's Office, and notified them about it, and the U.S. Attorney's Office took over the case and all.

Q All right, was this before you were sentenced?

A Yes, sir.

Q And did you work in conjunction with the U. S. Attorney's Office?

A Yes, sir, I did--- For a fact, the State Police and the U. S. Attorney's Office had my bail changed from \$5,000; they turned around in Ocean County and all where I was arrested and all and everything, and they had my bail reduced to "OR."

Q What is "OR"?

A Own recognizance. I was let out with no bail.

Q What was the nature of your cooperation with the United States Attorney's Office?

A I gave testimony in 1975 in Federal Court about John De Gilio and Vincent Verneramo and the Chrzanowski Brothers on loan sharking and all and how they were trying to set up the F. B. I.

Q And that testimony was given at the trial?

A Yes, sir. It was given at, not a trial, it was given at a hearing---

Q Grand Jury hearing?

A No, sir, before Clarkson Fischer, a--- It was some type of hearing to see if the men were forced in prison.

Q It was a proceeding after they were in jail?

A Yes, sir, like on an appeal. It was a hearing on an appeal.

Q Was it a habeas corpus hearing, do you know?

A That I am not sure of.

Q But it was after they were convicted that you testified at the post-conviction hearing.

A Yes, sir.

Q And what other involvement did you have, if any, with the Federal Government?

A That was it. I was relocated again, moved, and that was it. But there was still outstanding warrants against me. They were supposed to be taken care of, but never were until December 24, 1976; I was arrested by the Sheriff's Department in Ocean County for the charges they had pending against me by the State Police.

Q What was that? That was the check charge?

A No, sir, that was for the B and E and larceny. The check charges came three days later.

Q Where were the check charges lodged against you?

A Ocean County and Middlesex County.

Q So at this point in time you have check charges lodged against you in Ocean and Monmouth Counties?

A Yes, sir, and Middlesex County.

Q Ocean and Middlesex County.

A Yes, sir.

Q And in Monmouth County you had---

A I had the B and E and larceny. And in Ocean County also.

Q You had a B and E in Ocean County also?

A The same B and E I was charged with--- I was charged in both counties for the same one.

Q Both counties for the same act.

A Yes, sir.

Q Now, when were these charges disposed of?

A In 1977.

Q In April you pled guilty to the burglary at the Five Point Farms?

A Yes, sir.

Q And what about the Ocean County charge?

A I also pled guilty there.

Q And what were you sentenced to?

A There it was one year suspended sentence, time served, 143 days, and four years probation plus restitution in Ocean County.

Q And the Middlesex County charges?

A I was sentenced to two to three years state prison suspended on all four counts because I wasn't indicted. I pled to an accusation up there. I was given two years probation plus I was given restitution.

Q When was that?

A December 20th.

Q Of 1977?

A Yes, sir.

Q All right, then, the last charge against you was disposed of in Middlesex County this past month?

A Yes, sir.

Q And you were given a suspended sentence?

A Yes, sir.

Q Now, I draw your attention to the time that you were in prison serving time for these offenses, specifically the B and E at the Five Point Farm. Where were you confined?

A I was confined in the Camden County Jail. I was transferred from Monmouth County because they couldn't hold me up there, because of security reasons; I had a fellow up there try to stab me. He was affiliated with the mob. So they transferred me. I was supposed to be transferred to Ocean County Jail. The judge ordered me to be transferred there. The State Police put a stopper on that and moved me from there all the way out to Camden County.

Q All right, and how long did you serve in Camden County?

A Six months on a nine month sentence.

Q Now, during the time that you were confined at Camden County, did you have any contact with law enforcement agencies at that time?

A Yes, sir, I did.

Q Tell me when your first contact was?

A I had the State Police come down there to see me on several occasions.

Q For what purpose did they come?

A They would have me transferred to Ocean County Jail if I would give them a deposition saying that I made up the story about the State Police.

Q Well, there were a number of occasions where you did in different courts state that you broke into the Five Point Farms on your own without any solicitation by the State Police.

A Yes, sir, I was told that the charges would be taken care of. I even testified about that in Federal Court in '75.

Q All right, you testified in Federal Court that you broke in by yourself and that there was no State Police involvement. You testified at the time that you were sentenced that you did it by yourself. Is that not correct?

A No, sir, I did not. On the minutes in Judge Lane's when he accepted by plea, he asked me if I broke in there, and he asked me how I did it, and I told him how I did it. For a fact, he stopped the hearing, and I had to be taken into a jury room and then brought back in after

they talked to me up there, because I told them that I did not break in. Because there was nothing to break. I had keys for the place.

Q I want to give you an opportunity to explain occasions where you made testimony inconsistent with what you are telling us today.

A Yes, sir.

Q Now, those are the occasions when you told a different story in the Federal Court hearing before Judge Fischer?

A Right, I told Judge Fischer in Federal Court, 1975, that this was all going to be taken care of. The State Police and the F. B. I. said it would all be taken care of. It was all being worked out because I was working for the State Police. That is on the minutes of Judge Fischer's in that hearing and all.

Q Do you remember who it was from the State Police who visited you in the Camden County Jail?

A Yes, sir. Detective Sergeant Mc Mahon.

Q And who else?

A Another Detective. I don't know his name. They were from the internal affairs unit.

Q All right, did any other law enforcement agency contact you while you were in the Camden County Jail?

A Yes, sir, the SCI.

Q And who from the SCI contacted you?

A My first contact was George Sahlin of the SCI.

Q How did he come to visit you at the prison?

A He just came on a Saturday afternoon to visit me.

That was it.

Q Well, what did he say the purpose of his---

A That he wanted to talk to me, and then I went into an office with him and another Detective. His first name is Dick. I don't know his last name. I went in there, and he says, "Jimmy, I was told, you know, to talk to you; maybe you would have some information for us." And I guess we talked for about four and a half hours.

Q What information did you give him?

A I told him all about the involvement with the State Police on it.

Q And what else?

A And he told me he had to get a hold of his boss to see what could be done about this.

Q Now, what else did you tell them? Was it just your involvement with the State Police? That was the subject matter?

A No, no, we also talked about the food theft from the Camden County Lakeland, the jail annex we call it, in Lakeland. It is like a workhouse.

Q And you gave him information about the food thefts at the Camden County Jail?

A Yes, sir.

Q And in addition to that, you told them about the problem you had with the State Police?

A Yes, sir.

Q And what did Mr. Sahlin or other agents of the SCI say?

A He told me that he had to speak to the fellow that would be in charge of this, a Mr. Al Genton. On Monday they called---

Q Can you fix the time of this first conversation?

A It would be August.

Q August of '77.

A Yes, the visiting book there would show when he came to visit me on it. On Monday I was contacted by them that I would be getting taken out of the jail the next day to be spoken to. The next day the SCI arrived at the work release program where I was at in Camden and they produced a body order and took me out of the jail.

Q All right, and then where did they take you?

A They took me to the Parkade Building in Camden on the fifth floor.

Q And to whose office was that?

A Mr. Rodriguez's office.

Q Now, who was there in Mr. Rodriguez' office?

A George Sahlin, Bruce, another special agent, Mr. Al Genton, the court stenographer was there. Mr. Rodriguez was there also and there was another gentleman. I don't know who that was.

Q What went on?

A I just went over everything that me and George spoke about that Saturday.

Q Well, specifically what was that?

A About my involvement with the State Police. They asked me if I would take a polygraph test and I told them yes, I would.

Q And did you take a polygraph?

A Yes, the following day I was taken out of jail again, and I was taken back to the Parkade Building and I was given a polygraph test by special agent Bruce Best.

Q The polygraph test was administered in Mr. Rodriguez' office?

A Yes, it was.

Q All right, what was the next contact you had with SCI representatives after the polygraph test was administered?

A They kept on investigating, and they come up with certain things. They went to my home, and took pictures and everything of the stuff I had there.

Q What stuff are you talking about?

A That the State Police gave me, the identification and all and everything. They went to the judge to have my sentence reduced. The judge refused, because the State Police were told, "Don't let me out of jail."

Q The SCI--- Well, who of the SCI did these things?

A Al Genton and Mr. Rodriguez and other people that are on the Committee there. They took a letter up to the judge asking him to reduce my sentence in Monmouth County.

Q What judge was that?

A Judge Atkins.

Q In addition to that, the SCI agents went to your home and photographed certain equipment.

A Yes, sir, they did.

Q What was the equipment?

A The identification that was given to me by the State Police and the wiretap equipment that was given to me.

Q The identification that was given to you, the false identification that allowed you to work at the track?

A Yes, sir.

Q And this wiretap or electronics equipment.

A Yes, sir.

Q Do you still have that equipment, incidentally?

A I turned that stuff over to a Detective I knew in Middlesex County in October; October 20th, I turned it over to him. He gave me receipts and everything for the stuff, and I just found out last night that all of this stuff has been turned over to the Attorney General.

At the end of November, the Attorney General called for all that stuff.

Q How about the identification card?

A The Attorney General also has that.

Q Do you have a receipt for that also?

A Yes, sir, I do.

Q What was your next contact with SCI representatives.

A They kept on trying to get me out. Somebody kept on putting a stopper on it.

Q They were then unsuccessful in getting you released early.

A Yes, sir. Then I met with them. They told me they sat down--- Mr. Genton told me that they sat down with the Colonel of the State Police, in the Attorney

General's Office and laid everything out to him, and now they were just sitting back waiting to see what was going to happen on it.

Q Well, approximately when was that?

A That was the early part of November.

Q Well, did you have any further conversation with Mr. Genton?

A Yes, sir, I did. I met him in the Howard Johnson's on Route 1 and 118 on a Monday--- No, it wasn't a Monday. It was during the week, about nine-thirty in the morning, I met him.

Q This is in November?

A Yes, sir.

Q What conversation did you have?

A Mr. Genton gave me \$50. I signed the voucher for it. And, well, you can find out the exact date by the voucher, because I signed for the money. We talked, and then he told me that he had somebody that was very interested in talking to me. And I asked him who. And he told me a Marvin Scott from New York, from Channel Five. He said this would help, because once everything hit the news media and all and everything, then everybody--- The whole case would be opened up. They would be able to investigate it and all and everything.

Q Let me see if I have this correct. Mr. Genton told you he wanted you to talk with Marvin Scott of a television station in New York?

A Yes, sir.

Q And for what purpose? What were you to talk to him about?

A About the State Police involvement.

Q And you were to tell Mr. Scott about your involvement with the State Police?

A Yes, sir.

Q Did he say why he wanted you to talk to Mr. Scott? Did Genton tell you why he wanted you to talk to Mr. Scott?

A Yeah, because nothing was being done with the case, and this way, once it hit the news media and all and everything, the SCI could step in and investigate it. Nobody could stop it then.

Q Do you remember specifically what Mr. Genton said at that time?

A No, sir. I don't. But it was roughly that it would open up the investigation. They would be able to go ahead with the investigation on the State Police.

Q Now, after that conversation at the Howard Johnson's did you have any other conversations with Mr. Genton?

A Yes, sir, I had many conversations with him on the telephone.

Q About your meeting with Marvin Scott?

A Yes, sir.

Q And what were the conversations that you had?

A I come up with a lot of excuses why I couldn't go over there. See, I didn't want this to hit the news media, because I wrote letters to the Attorney General

and I wrote letters to the Colonel of the State Police. All I asked for was an investigation. That was it. I didn't want none of this to hit the newspapers or anything else, because of two or three men in the State Police. There is too many good ones. There's way too many good ones. And I just can't see--- Why put the blame on all of them, when it is only for one or two.

Q Did Mr. Genton then put you in touch with Mr. Scott?

A Yes, sir, he did.

Q Okay, did you ever meet Mr. Scott?

A Yes, sir, I did.

Q In person?

A Yes, sir.

Q When did you meet him?

A I met him on the New Jersey Turnpike, between exit 11 and 12 at the Howard Johnson's up there, in the rest area?

Q And what conversation did you have with him?

A We went over a lot of background about working for the State Police. He looked at the receipts and all and everything I had, and then he wanted to sit down and put everything on tape. He wanted everything to go on tape, so they could go and just check everything out and then put it right on the media where--- Or the way he said it, he said, millions of people would see it and nobody can cover it up then. This way everything would be out in the open and then an investigation and everything would start on this. It would be beneficial for me to get

everything out in the open.

Q Did you make a date to meet Mr. Scott?

A I made many a date with him and I never showed up for any appointments.

Q Was Mr. Genton aware of these dates?

A Yes, sir, he was.

Q And did you discuss the arrangements for meeting with Mr. Scott with Mr. Genton?

A Yes, sir, I did.

Q How were you first put in contact with Marvin Scott?

A I was given his telephone number and all by Mr. Genton.

Q And--- Are you looking for that?

A Yes, sir, I have it right here.

Q What is it?

A Mr. Genton gave me the address and all out of a book he had, of Marvin Scott.

Q And when you called Marvin Scott, did you tell him that you were calling at the suggestion of Mr. Genton?

A Yes, sir, I did. I have it here. Marvin Scott, WNEW-TV, 2-1-2-5-3-5-1-0-0-0, extension 426.

Q Who wrote that?

A I wrote it. Mr. Genton gave it to me.

Q Did Mr. Scott acknowledge in your conversation that he had been in touch with Mr. Genton about this?

A Yes, sir, he did.

Q And did Mr. Genton in conversations with you acknowledge that he had been in touch with Mr. Scott?

A Yes, sir, he did. I also taped them conversations.

Q You taped conversations with Mr. Genton and with Mr. Scott?

A Yes, sir, I did.

Q And during these conversations you talked about your appearance or giving interviews to Mr. Scott that he would use on the television station?

A Yes, sir.

Q And did Mr. Genton ever change his opinion in conversation with you about why he wanted you to talk to Mr. Scott?

A Yes--- Just once. Even Mr. Scott told me. For a fact, that is on the tape. Mr. Genton was disgusted with what's going on.

Q And he wanted---

A An investigation.

Q And he wanted the expose by Mr. Scott to be the occasion for the SCI investigating the State Police?

A Yes, sir.

Q Mr. Jellicks, I am going at this point interrupt my examination of you and ask some of the other Committee members to ask some questions of you.

SENATOR DUGAN: Senator Greenberg.

BY SENATOR GREENBERG:

Q Mr. Jellicks, during the course of time that you were in contact or supposed to be in contact with Mr. Scott, did you ever have occasion to speak with anyone at the SCI office in connection with that contact? Did you call in to the office?

A Yes, sir, I did.

Q Who did you ask for?

A Mr. Genton.

Q And with whom did you speak?

A I spoke with Mr. Genton.

Q On how many occasions?

A A dozen times.

Q Did you ever have occasion to speak with anyone else at the SCI office?

A Yes, sir, I did.

Q With whom?

A I believe it was Mr. Rodriguez.

Q Would you tell us how that occurred, please.

A I asked for Mr. Genton. Mr. Genton was out that day. And Mr. Rodriguez answered the telephone and was talking to me, asking how I was doing and all.

Q How do you know it was Mr. Rodriguez?

A He told me it was.

Q And what did you say, and what did he say?

A He asked me, "Did you go over to New York to see our mutual friend."

Q To whom was he referring?

A To Mr. Scott. And I told him that I just couldn't get over there to see him. I said I had another appointment with him, and that was about it. He said it would be very beneficial for me if I did.

Q Going back to your original discussions with Mr. Genton about seeing Mr. Scott, was there ever any discussion between yourself and Mr. Genton as to the fact that the SCI was under the opinion that political pressure was being applied in an investigation of this case?

A Yes, sir.

Q What did he say?

A That day I met him at the restaurant, he said somebody is trying to put a stopper on this investigation.

Q Did he say who?

A No, sir, he did not.

Q Did he advise you to tell that to Mr. Scott?

A Yes, sir, he did.

Q Did you do so?

A I am not sure if I did that. You see, as soon as I knew what was going on, that they wanted me to go to the news media, I contacted somebody else, and they told me, don't go near the news media, because I didn't want none of this to hit the newspapers, none of it.

Q The tape recordings to which you have referred that you made of your conversations with Mr. Scott, did you turn those over to this Committee?

A Yes, sir, I did.

SENATOR DUGAN: Senator Russo.

BY SENATOR RUSSO:

Q When you said earlier that your fingerprint card was cleared, or your fingerprints came back as clear when

you got the job at the Freehold Raceway, I think it was, you indicated that the State Police did this.

A Yes, sir.

Q Do you know who did it?

A Lieutenant Rudy Simonetti.

Q Lieutenant Rudy Simonetti?

A Right, with the approval of his superiors.

Q Do you know which superior of his approved it?

A No, sir, I do not.

Q How do you know that Lieutenant Rudy Simonetti did this? I assume he told you?

A Yes, sir. The one day I was up there, he had to write my name correctly and all and everything, so they could pull my file. He had to make out a report to show that they were covering up my fingerprints.

Q Was anyone present when Lieutentant Simonetti told you this?

A I believe Harry Patterson was present, Detective Harry Patterson.

Q Patterson?

A Yes, sir.

Q I have a name earlier, and perhaps it is my mistake, of Lieutenant Peterson. Is that the same?

A It is supposed to be Patterson. I am sorry. Right, Detective Harry Patterson.

Q So he was present then when Rudy Simonetti told you that they were pulling the fingerprint cards so that you would show up clear?

A Yes, sir.

Q Now, on Lieutenant Patterson, I didn't quite follow you. You indicated that something was being set up on a particular day, and on that day Lieutenant Patterson, or the day before, was transferred.

A Yes, sir, he went to the Monmouth Racetrack that day. All of a sudden he was just moved out of Freehold down to Monmouth County.

Q Do you know of, or did anyone tell you anything to indicate it was anything other than a sheer coincidence that at that particular time he was transferred?

A No, it wasn't supposed to be on the schedule, he said.

Q He said?

A Yes, sir.

Q Who is he?

A Detective Patterson.

Q He told you that?

A Right, he said they moved him out of Freehold and he is going to be down at Monmouth now.

Q I see, and he nor anyone else suggested to you that he was moved to prevent something from being done?

A No.

Q Now, on the drugs that Senator Dugan questioned you about, how were you able to personally know that the drugs that were being administered by injection were illegal drugs as distinguished from the legal injections that you indicated were frequently given horses?

A Well, the horses--- Just before the truck would come to pick the horses up to take them up to the track from the farm would go in--- I watched the horses many a times get needles just before they leave for the track, and the horse is not to be given a needle going into a racetrack for that day's race. That is the State law and Federal law.

Q Even a legitimate drug?

A Yes, sir, a horse is not to be given any type of needle the day he races.

Q All right, so at least you have indicated now that an injection was given, which you say is illegal, on the day of a race. How do you know what was in it?

A I don't know.

Q You don't.

A No.

Q And neither do you know what effect it had on the horse?

A The only thing I was told that one of the bottles that I did take up to Lieutenant Simonetti, it was checked out. It is a stimulant for the horse.

Q Who told you that?

A Lieutenant Simonetti did.

Q All right---

A And he just told me it was a stimulant for a horse that wasn't supposed to be given to a horse.

Q And do you know who checked it out?

A I guess the State Police Laboratory did.

Q Well, did Rudy Simonetti or anyone else tell you that they checked it out?

A They told me it was checked out, the drug that was in the bottle, and it was a stimulant to a horse to make him go faster.

Q I want to move now to the device that was put on the phone at the Five Point Farm. I think you indicated that Lieutenant Smith and Lieutenant Walter Decker were involved with you on that---

A Yes, sir.

Q ---wiretap. Who gave you the equipment?

A Lieutenant Smith and Lieutenant Decker, both.

Q And who showed you how to rig up and operate the equipment?

A Lieutenant Smith did.

Q Lieutenant Smith himself?

A Yes, sir.

Q Was Lieutenant Decker there?

A Yes, sir, he was.

Q Did you know how to rig up and operate this equipment before they showed it to you?

A The listening device I did. The one for the top of the phone I did, but not the bottom part. I hadn't seen one like that before.

Q And they showed you how to do that?

A Yes, sir.

Q Was there any discussion---

A You know, how to run the wire into the garage and all, the length of wire.

Q Was there any discussion at that time between you and Lieutenant Decker and Smith as to whether or not they had authorization to do what they were doing?

A No, sir, there was not. I knew they didn't have no court order. They wouldn't need me to put it in if they had a court order.

Q Well, let's stop there a moment. Is the only way you know they didn't have a court order because you assumed that from the fact that they used you to put it in?

A No, sir. I don't know of---

Q You don't know.

A No, sir.

Q Was there any discussion at any time between you and Decker and Smith as to the legality of what you were doing, namely, the recording device?

A No, sir, there was not.

Q None at all?

A No, sir.

Q You just assumed it was illegal?

A Yes, sir.

Q But there was no discussion.

A No, sir.

Q Now, I am still not clear, Mr Jellicks, after reading the transcript of your deposition and hearing your testimony today, as to why you were arrested for this burglary. I may be missing something, but I want

you to go over it with me once more briefly. They told you, the State Police, that is, they gave you the keys and told you what to do. Nevertheless, afterwards, you are arrested for this burglary afterwards; is that correct?

A Their words to me was, the shit hit the fan. That was their words to me. There was too much pressure coming down because it was Tony Abbatiello that was involved, and he knew people, and they had to arrest somebody for it.

Q Is part of the reason you were given the keys to go in and take the books or whatever, certain information pertaining to this matter, and you also took a lot of other things?

A Yes, sir.

Q I see. And was a complaint made by Abbatiello?

A Yes, sir, there was.

Q And was there any indication or any evidence pointing to you for committing this act other than what the State Police knew because you say they cooperated with you on it?

A They said there was none.

Q There was none?

A No. In fact, the Detective told me the day he come down the house, Detective Walsh says, after we got done with everything, we're going to start checking on former employees that worked there.

Q So basically they told you they arrested you because they had to do something because of what you described?

A Yes, sir.

Q Okay. Now, I would like to go for a moment to Judge Lane and Judge Atkins in Monmouth County. You testified, did you not, that Judge Lane was fully aware of your contention that the State Police put you up to this B and E and in fact gave you keys and all; is that correct?

A Yes, sir.

Q And you told the judge that?

A Yes, sir, it's right on the minutes of the court. They had to stop the court hearing, and take me out before he would accept my plea. Because he accepted my plea and then he threw his hands up in the air, and he said, "No, wait a minute. Let's let this go to trial." And then he said, "Take the defendant out." They took me to the jury room and the lawyer come in there and spoke to me, and everything and then they brought me back in. He said, "Now, did you change your mind." That's right in the minutes of the court.

Q And your answer was.

A I told him, yes, I did.

Q And you at that time recanted---

A I told him, yes, I did break in to the farm.

Q And you then recanted and in effect said you lied when you previously told the judge that the State Police put you up to it.

A No, sir, he didn't even ask me that.

Q He didn't even ask you that?

A No, sir, he did not.

Q Stay there just for a moment. You say you specifically told Judge Lane that you did not break and enter this farm, but rather the State Police gave you the keys and the whole story you gave here today, you told that to Judge Lane?

A Yes, sir.

Q And on the basis of that, he wouldn't take your plea, and you went into the jury room.

A Yes, sir.

Q Who went into the jury room with you?

A My Attorney John Flynn.

Q John Flynn from Brielle?

A Yes, sir.

Q And who else went into that jury room?

A Just me and John Flynn.

Q And then you came out?

A Yes, sir.

Q And at that point you told the judge that you admitted you broke and entered the farm.

A Yes, sir.

Q This is Judge Lane?

A Yes, sir.

Q And the Judge didn't ask you then about the story you previously told about the State Police?

A No, sir, he did not.

Q He didn't?

A No, sir.

Q And as a result he accepted your plea?

A Yes, sir, he did.

Q And where did Judge Atkins come into this?

A He was my sentencing judge.

Q He was your sentencing judge.

A It was transferred from Judge Lane to Judge Atkins.

Q Now, at the time you were sentenced there was a probation report, wasn't there?

A Yes, sir, there was.

Q And that probation report was prepared subsequent to the day you pled guilty before Judge Lane that you just told us about---

A Yes, sir, it was.

Q ---and before the day of sentencing before Judge Atkins.

A Yes, sir.

Q It would be about six weeks?

A No, it was done in six days to be exact.

Q Was there some special reason why your sentencing was expedited, that you know of?

A No, sir. It was just that in six days my pre-sentence report was done, and I was taken into court and sentenced. On the day he seen me was--- No, excuse me, it was nine days to be exact. On April the 20th they came to see me when I was taken into the Monmouth County jail. It was on a Wednesday. On the following Friday, April 29, I was sentenced by Judge Atkins. Within nine

days my pre-sentence report and everything was all done.

Q Now, in the preparation of the pre-sentence report, someone from the Probation Department interviewed you.

A Yes, sir, there was two of them, a man and a women.

Q Do you know their names?

A No, sir, I do not.

Q And at that time they asked you about the crime.

A Yes, sir.

Q And what did you tell them?

A I told them just what I am telling you right now.

Q In other words, you now went back to the State Police story?

A Yes, sir.

Q And you told the Probation Department that you in fact were not guilty but you were doing this under State Police direction?

A Yes, sir, it is right in the pre-sentence report.

Q And it is in the pre-sentence report?

A Yes, sir.

Q You read that pre-sentence report?

A Yes, sir, I did.

Q They gave you an opportunity to read it in court, didn't they?

A Yes, sir.

Q And at the time the pre-sentence report was before Judge Atkins, did you at any time stand up and say, I don't want to plead guilty any more, I want to retract my plea?

A Yes, sir. I did.

Q You did? And for the reasons that are---

A The court was stopped again, and I was taken out of court a second time before Judge Atkins and brought back in again.

Q Where were you taken at that time?

A Into the jury room.

Q With whom?

A With my attorney, John Flynn.

Q Anybody else?

A There was somebody else there. I don't know who he was, though.

Q In any event, you came back out, and---

A He told me the most I would do on this thing was six months.

Q John Flynn told you that?

A Yes, they would put in for a reduction in sentence and all.

Q All right, now, when you were in the Camden County Jail, you have indicated that Lieutenant Kyle wanted you to say---

A Detective Kyle.

Q ---that you were ordered by Lieutenant Rudy Simonetti to burglarize the farm; is that correct?

A Yes, sir.

Q First of all, do you know why Lieutenant Kyle, a State Police Lieutenant---

A A Detective.

Q Detective Kyle, okay, wanted you to say that a

fellow State Police Officer, Lieutenant Rudy Simonetti, put you up to this burglary?

A Yes, sir, I do.

Q All right, would you tell us?

A Lieutenant Simonetti at one time used to be in charge of the northern division of organized crime up in Little Falls, New Jersey. Central Jersey and Northern Jersey do not get along, the State Police. This you can check on very easily. Because once I did a hijacking for them up there - for Lieutenant Decker, and he called Lieutenant Simonetti, and asked him for manpower. Simonetti told him, "se your own men." They would not cooperate with each other. There is a going feud between them. There is no kind of cooperation on it.

Then Lieutenant Simonetti was transferred to the race track, and Smith wanted to get his men out of there into organized crime with Lieutenant Decker. This is what I was told by them. They wanted them all to come under organized crime, the race tracks, by Decker and Smith. They wanted it all to come under organized crime, the race tracks, so they would be in charge of everything.

Q All right. Now, you also indicated that you were actually physically beaten in order to get you to say that Simonetti put you up to this.

A Yes, sir.

Q Who beat you?

A Detective Kyle.

Q Detective Kyle?

A Yes, sir, and it is on the records of the jail where a Sergeant had to come out and stop him from the jail.

Q What jail was this?

A Ocean County Jail. That was September, I believe, the first--- No, the day they lodged me in the jail, that night, at eleven o'clock at night Detective Kyle took me there alone. And for a fact, the State Police come down there in March to look into this, because I wrote to the Colonel about it. And some men come down - two troopers come down to investigate this. Captain Lewis, the Commanding Officer of the jail says, "Wait a minute, this didn't happen in the jail. Your State Police Officers beat him bringing him in. Here is the record and here is the doctor's report and everything."

Q You heard Captain Lewis say that?

A Yes, sir, I did.

Q Ocean County?

A Yes, sir.

Q And do you remember which doctor it was?

A No, sir. All I know is they had the card and everything there.

Q Was it Dr. Corrigan? Does that name sound familiar?

A I am not sure, sir.

Q And when was this beating?

A That was the night I was arrested.

Q September first---

A No, let's see---

Q What year and what month?

A It was about a week after the burglary at the Abbatiello's.

Q And you say the beating was because Kyle was trying to force you to say that Simonetti put you up to this, and not the State Police in general?

A Yes, sir. He took me to the police station, and after they arrested me, and the other two detectives left, I was with Kyle alone. He took me to the Ocean County Jail alone. He took me back to my home, and he started hitting me in my own home.

Q In your home he was beating you?

A Yes, sir, he hit me there. In fact, my wife and her girlfriend were standing right there when it happened, and then he took me up to the jail. It is on the records of the jail.

Q Can we have the names?

A Carolyn Jellicks and Sharon Holman. But on that beating, the Captain even came up and talked to me about that.

Q Captain Lewis?

A Yes, sir. He told me, "Those guys left here fast when they found out they were trying to investigate their own, when all the proof was there in writing."

Q You said that they wanted you to sign a statement that Simonetti ordered you to do this.

A Yes, sir.

Q Did they have a statement prepared?

A No, sir, I don't think he did.

Q You mentioned that you did some work for the U. S. Attorney's Office.

A Yes, sir.

Q And as a result of the efforts of the U. S. Attorney's Office, your bail of some \$5,000 in Ocean County was reduced to "OR" released in your own recognizance.

A Yes, sir.

Q Why? What were you to do for them?

A I was testifying in the Federal case that the State Police originated.

Q Okay, and the testimony that you were given in that case, was it true testimony?

A I don't want to answer that question, please.

Q Well, let me ask you another one, and you may not want to answer it. Did the U. S. Attorney's Office or anyone connected with that office ever at any time suggest to you that you be untruthful in a criminal matter?

A Yes, sir.

Q Now, when was this particular occasion when the U. S. Attorney's Office suggested that you testify falsely in a criminal matter?

A In the beginning of 1970.

Q And do you remember what particular matter it was?

A I would appreciate it if you wouldn't go into that, please.

Q Okay, if I ask you a question that you don't want

to answer, you tell us, and I will abide by the Chairman's direction on that.

A Thank you.

Q Could I just ask you, then, you said the beginning of 1970. How long a period did that particular matter continue?

A Up until 1975.

Q Up until 1975?

A Yes, sir.

MEMBER OF AUDIENCE: That was pertaining to me, I guess. Joseph Chrzanowski.

SENATOR DUGAN: Sir, please. You can address the Chair privately, but don't get up and volunteer any statements.

BY SENATOR RUSSO:

Q You also mentioned something that I didn't quite understand. You indicated that a B and E was committed and that you were charged in two counties.

A Yes, sir.

Q For the same B and E?

A Yes, sir. The stuff was found in my house from the B and E---

Q Oh, okay, you were charged for possession in Ocean County, and you were charged for the B and E in Monmouth.

A Yes, sir.

Q And you live in Ocean County, is that correct?

A Yes, sir.

Q Now, Detective-Sergeant Mc Mahon, you indicated, came to you in the Camden County Jail?

A Yes, sir.

Q And he told you they would have you transferred to Ocean County if you would say the State Police had nothing to do with the break-in at the Five Point Farm; is that correct?

A Yes, sir.

Q Who else was present at that time with Mc Mahon?

A Another Detective; that's all I know. I don't know who he is.

Q You don't know his name.

A No, sir.

Q Now, the meeting in Mr. Rodriguez' office in August 1977, you indicated that Mr. Rodriguez was present. Was he present throughout the meeting or only at a portion of it?

A Only--- He would come in and out.

Q Okay. Did you ever at any time, other than the telephone conversation that you related, where he said, have you talked to our mutual friend in New York - you say referring to Scott - at any other time did Mr. Rodriguez indicate anything concerning his awareness of the attempts to set up an expose through Channel Five, if we can call it that?

A No, sir, there was not.

Q Was anyone else in the SCI, any of the Commissioners aware of the Marvin Scott Channel Five episode?

A No, sir, it was not.

Q Was anyone else present when the polygraph was taken that was administered by Bruce Best? Was anyone else there?

A No, sir, there was not.

Q And Mr. Best is with the SCI?

A Yes, sir.

Q And you indicated--- Incidentally, did I not read in your transcript that you were given a number of polygraph tests?

A Yes, sir, he ran the--- About three and a half hours he ran me. I think he gave me seven tests.

Q Seven tests?

A Yes, sir, all about the same thing, and every one come out the same. How much the State Police paid me, and everything, how Lieutenant Smith gave me the equipment, everything.

Q Do you know why - if you do - or did he indicate to you why he would run a second, third, fourth, fifth, up to seven tests?

A Yes, sir, he says, on certain tests he told me to definitely lie, for reflexes or something.

Q And then six after that, or about six?

A Yes, sir.

Q Okay, that is all I have.

BY SENATOR DUGAN:

Q When these polygraph tests were administered, Mr. Jellicks, were you under any medication?

A No, sir, I was not. I was in jail.

Q Well, you took no medications?

A No, sir, I did not.

Q Mr. Jellicks, I show you these three pieces of paper, one dated July 30, 1975, purportedly signed by Charles Kyle and it is a receipt from James Cusick of certain materials. I show you that and ask you, is that a receipt you got from---

A Yes, sir, I got this from Detective Kyle the day I gave him the drug books at my home and everything, plus a gun.

Q What is the receipt for?

A For four drug books and papers on horses being drugged at Five Point Farm, and also for a rifle and two boxes of shells that I was charged for.

Q Whose handwriting is that?

A Detective Kyle's. It was him and another Detective with him when he came down to the house that day.

SENATOR DUGAN: Would you mark that, please.

(Whereupon document is marked "J-1" for identification.)

BY SENATOR DUGAN:

Q Now, I will show you a receipt dated October 25, 1977.

It is signed by Rocco R. Massa and James Forrest. It is dated 11-22-77 and ask you what that receipt is.

A It is a receipt on October 25, the day they brought me home from jail. I gave them the identification card and everything to hold, so that nothing would happen to the stuff.

Q And that is signed by---

A Yes, sir, by Detective Rocco Mazza.

Q Of what office?

A The Middlesex County Prosecutor's Office.

SENATOR DUGAN: Will you mark that, please.

(Whereupon document was marked "J-2" for identification.)

BY SENATOR DUGAN:

Q All right, I show you now what purports to be a receipt dated October 20, 1977, signed by Gary J. Rothen, County Detective MCPD.

A This is the stuff I turned over to them on the recording and all, and on the other Racing Commission I. D. I had that was given to me by the State Police.

SENATOR DUGAN: Will you mark that, please.

(Whereupon document was marked "J-3" for identification.)

BY SENATOR DUGAN:

Q Mr. Jellicks, I show you this device here. It has an inscription on it "pick up coil." Can you tell me what this is?

A Yes, sir, that is a piece of equipment the State Police gave me to put underneath the telephone in Tony Abbatiello's office.

Q It was this piece?

A Yes, sir.

Q And where would this be plugged into?

A It went right into the tape recorder.

Q And the tape recorder is the subject of one of these receipts?

A Yes, sir.

SENATOR DUGAN: Can you please put a tag on that.

(Whereupon device was marked "J-4" for identification.)

SENATOR DUGAN: There will be one last question from Senator Russo, Mr. Jellicks.

BY SENATOR RUSSO:

Q Mr. Jellicks, the meeting at the Parkade Building, you said there were a number of people there including Mr. Rodriguez, the Chairman of the SCI.

A Yes, sir.

Q And you told us about a conversation you had with him. Do you remember the gist of what you indicate anyway that the SCI told you as to why they wanted to do all this, setting this up with Channel Five and so forth?

A All I could gather from the way they were talking and all,--- Well, it wasn't at the Parkade Building that I spoke to him. I never spoke to them at the Parkade Building about that.

Q Okay.

A The only thing, at the Parkade Building, they told me I shouldn't be in jail. I was sent to jail for something I didn't do.

Q Let me just ask you, in the deposition you gave Senator Dugan, you were asked a question, "Now, getting back to the Parkade Building interview, the first time

that you were there, you said you had conversation with a number of people, including Mr. Rodriguez.

A Yes, sir.

Q What conversation did you have with him, if you can remember - and the answer that you gave was, "just about the State Police and how they were going to make their little white castle crumble around them.

"Question, Mr. Rodriguez said that?

"Answer, Yes, sir."

A Yes, sir, that was at the Parkade Building. That was in August.

Q And that is the gist of what Mr. Rodriguez told you as to why---

A He said it was about time, right, that the State Police's little white castle crumbled.

Q And was that in conjunction with the discussion about Marvin Scott?

A No, sir, it was not.

Q That was another time?

A Yes, sir.

Q That is all. Thank you.

BY SENATOR DUGAN:

Q The last question. And what was the occasion, or what prompted you to bring this to my attention, Mr. Jellicks?

A I read about you in the newspaper. And I didn't want to go to Channel Five. I didn't want this to hit the news media. I didn't want them to know about it. For

a fact, you can check with Middlesex County. As soon as I was told about this, about going to the news people, right, I told Gary Rohen and all, about it, and they told me not to go near the news media, which I did not.

Q So you read about this Committee's inquiry into matters concerning the---

A SCI and the State Police.

Q Okay, and then in response to that, newspaper report, you called me.

A Yes, sir.

Q And then you came to my office and gave this deposition.

A Yes, I did.

SENATOR DUGAN: Okay, thank you. That is all we have at this time. Before you leave, the subpoena will continue, Mr. Jellicks. We are going to take a short recess, and I would like to talk to you very briefly.

We will take a fifteen minute recess.

(Whereupon a recess was taken.)

(After Recess)

SENATOR DUGAN: The Committee hearing will reconvene.

Mr. Jellicks, the reporter inadvertently failed to swear you prior to your testimony. I am going to swear you now. Will you raise your right hand, please.

Do you solemnly swear that the testimony you gave in this hearing is the truth, the whole truth and nothing but the truth, so help you God.

MR. JELICKS: Yes, it is.

SENATOR DUGAN: And you realize, Mr. Jellicks, that the testimony that you gave this morning is under oath and violation or untrue statements are subject to the penalties as provided by law?

MR. JELICKS: Yes.

SENATOR DUGAN: That is all we have for you, Mr. Jellicks.

Mr. Genton. Will you give your name, please.

MR. GENTON: Alfred L. Genton, G-E-N-T-O-N.

SENATOR DUGAN: Will you swear the witness.

A L F R E D L. G E N T O N, being duly sworn as a witness, according to law, testified as follows:

BY SENATOR DUGAN:

Q Mr. Genton, by whom are you employed?

A The State Commission of Investigation.

Q In what capacity?

A I am one of the counsel with the State Commission.

Q You are an attorney?

- A Yes, sir.
- Q And you are licensed to practice law in this State?
- A Yes, I am.
- Q Mr. Genton, were you here this morning during the testimony of Mr. Jellicks?
- A Yes, I was, sir.
- Q And you heard the testimony that he offered?
- A I did.
- Q Well, do you know Mr. Jellicks?
- A Yes, I do.
- Q When did you first meet Mr. Jellicks?
- A The first time I met him was on September 20th, 1977.
- Q And what was the occasion of your first meeting?
- A The occasion was to take a statement from him with respect to certain allegations he had previously made to the agent that is assigned to me.
- Q How did these allegations come to your attention?
- A Through the agent assigned to me, who had received information from someone else that Mr. Jellicks had some information that we might be interested in in connection with the meat investigation in the Camden County Jail.
- Q Who was the agent that you are making reference to?
- A That is George Sahlin, S-A-H-L-I-N.
- Q And do you know how Mr. Sahlin came to have this knowledge of Mr. Jellicks' information?
- A He received it through a reliable source.
- Q Do you know who the reliable source was?

- A No, I do not.
- Q And as a consequence of your contact with Mr. Sahlin, you went to visit Mr. Forrest?
- A That is correct.
- Q And that was on September 20th?
- A Correct.
- Q Where did you meet?
- A In the Parkade Building on the fifth floor, in the offices of the law firm of Smith, Connery - and I am not sure of all of the other names in it. Mr. Rodriguez is a member of that firm.
- Q And you met Mr. Jellicks at the Parkade Building in Mr. Rodriguez's office?
- A That is correct. Well, in the firm's offices, not Mr. Rodriguez's office specifically. It was in a conference room in the firm's offices.
- Q I see. And how did he get there?
- A The two agents went over, Mr. Best, B-E-S-T, and Mr. Sahlin - went over to the work release facility and brought him over to Mr. Rodriguez's offices.
- Q And what was the subject matter of the discussion that you had with Mr. Jellicks at that time?
- A Well, there were two specific matters. There was the investigation with respect to the thefts of meat from the Lakeland Complex of the Camden County Jail, which was our initial contact with Mr. Jellicks, and also the allegations with respect to the State Police that was testified to this morning by Mr. Jellicks.
- Q Now who was present at this meeting?

A At the time that the statements were taken was Mr. Jellicks, known to us as Mr. Forrest ---

Q Well, refer to him as Mr. Jellicks.

A All right. --- Agent Best, who was there for the purpose of listening to the testimony in the event we determined subsequently to give him a polygraph, Mr. Sahlin and myself, and, of course, the court reporter.

Q Best, Sahlin and ---

A Myself.

Q How about Mr. Rodriguez?

A He was introduced to Mr. Jellicks and immediately left the room.

Q Was that the only time he was present during ---

A That's correct. He was not present for any of the statement whatsoever.

Q Did Mr. Rodriguez know of the two areas of your inquiry, the theft of the meat from the Camden County Jail facility and the State Police matter?

A Yes. At the conclusion of the day, I stopped into Mr. Rodriguez's office and in about three minutes told him that we had had allegations with respect to the meat and also with respect to State Police.

Q How long were you in conference with Best, Sahlin and Jellicks?

A I believe he came to the office at about 10:00 A.M. - after some preliminaries, testimony to about 12:00, I would say. Then a break for lunch. Then about two hours with respect to the other allegation. So

all together, it was about four hours of transcripts which were taken from him, about equal in length with respect to both allegations.

Q Was there a polygraph test administered at that time?

A No, the subsequent day.

Q The following day there was?

A Yes.

Q And where was that administered?

A That was in the same place, in the conference room in the law firm.

Q And who administered it?

A That was Agent Best.

Q And what was the subject matter of the polygraph test? Was it the theft of meats at the Camden County facility or the State Police allegations?

A The State Police allegations.

Q He wasn't tested in regard to the theft of the meats?

A No, he was not.

Q Do you have a report with you of that polygraph test? A Yes, I do, if you will wait a minute, please. Yes, dated October 4th.

Q May I see that? (Paper handed Senator Dugan.)

I assume, Mr. Genton, that you have other copies of this. This looks like a copy, not the original.

A The original would be in the Commission's files. This was a copy for my particular file. When the agent generates a report, the original goes to the Director, copies go to the other people.

Q This then is the same as Exhibit 6 in the package of documents that were given to us by Mr. Rodriguez?

A Yes, sir, it is.

Q To that point, to the point of September 20th, was there any action by the Commission as a whole in regard to either of these matters, the theft of meat or the State Police allegations?

A No. This was the initial contact with the individual.

Q I see. And on the following day, the 21st, you administered the polygraph test.

A Agent Best did, yes.

Q Were you present when that was done?

A No, I was not.

Q Did Agent Best give you a report of that test?

A Yes, first verbally and then the report that you just saw.

Q When did he give you the verbal report?

A Within that same day, he would have called me from the Parkade Building.

Q And subsequently he gave you a written report?

A Yes.

Q You can make reference to the report that you have in front of you. What conclusions did Mr. Best come to in regard to the inquiry he made of Mr. Jellicks in connection with the allegations against the State Police?

A That he was truthful.

Q What were the specific allegations that Mr. Best said

were truthfully stated by Mr. Jellicks?

A The question propounded for the examination was, first: Did Lieutenant Smith really give you the keys to the Five Point Farm office? Answer: Yes. The second one: At Five Point Farms, did Lieutenant Smith really tell you to plant that illegal tape recorder? The answer was, yes. Are you deliberately trying to frame Lieutenant Smith for something you know he did not do? The answer was, no. And the last one was: From Five Point Farms, did Lieutenant Smith really promise you \$250 to steal those drug books? And the answer was yes.

Q Do you know how many questions were asked of Mr. Jellicks during this polygraph test?

A No, I am not that familiar with polygraph. But I do know that the number of test questions has to be kept small; it cannot be lengthy in number.

Q Well, do you know how many specific and severable tests were given to Mr. Jellicks on that day?

A No, I am not absolutely certain. But they are not really separate tests. They are different parts of one overall test to test credibility.

Q Well, the testing technique that was used on that day is something that you have no personal knowledge of?

A I have no personal knowledge nor expertise.

Q All right. Following the administration of that test, did you have further conversation with Mr. Jellicks?

A Oh, yes, repeated conversations.

Q How frequent were your conversations?

A Almost too innumerable to mention. He was still in custody. These were all telephone calls generated by him, sometimes as many as three or four a day. I guess when you are hanging around in a work release facility after hours or when you are waiting to go to work, you don't have much else to do. But he had some problems and we tried to help him with those problems.

Q Well, did you contact the sentencing judge, the judge that sentenced Jellicks?

A Yes, we did. Initially, he thought he was going to get out on October 1st. Then he found out he was not going to get out on October 1st; it was going to be sometime later in the month. The day that I was there on the 20th, I made a call to Sheriff O'Rourke to try and ascertain with definiteness what his release date was going to be. I found it was going to be the 20th. And he felt that this was wrong, that he wasn't getting credit for his time in the other county and could we get him out on early release and so forth. As a result, we tried to go see Judge Atkins with a letter written by our Director, indicating he had given us some information, was cooperating, and we would appreciate any consideration the court could give us to the reduction of his sentence.

Q Did you go and see Judge Atkins?

A I did personally, yes.

Q What did Judge Atkins tell you?

A He said, no, he would entertain a formal motion for reduction of sentence, which he said had never been made in his court, although he had calls from many people, including the Middlesex County Prosecutor who wanted him out for his own purposes. And he just felt too many people were badgering him about this.

Q Well, what did you do?

A I delivered the letter.

Q You went back and got a letter from the Chairman?

A No. The letter was written by the Executive Director and on the day that I went to see the Judge, I had it with me. It was only one trip to the court.

Q Do you have a copy of that letter?

A Yes, I do. I don't seem to find mine, but it is Exhibit Number 5.

Q I will show you Exhibit 5 that Mr. Rodriguez offered earlier in the day. Is that the letter?

A Yes.

Q Did you have any liaison yourself in this matter with the State Police? Let me put it differently. To your knowledge, did you or anyone on behalf of the SCI bring the matters of Mr. Jellicks' allegations to the attention of the State Police?

A At that time, no.

Q That was October 20th. I mean, September 20th.

A September 20th - that's correct.

Q At what time did the Commission or representatives of the Commission bring this to the attention of the State Police?

A I believe it was on or about October 6th, with the actual referral being somewhere around October 27th.

Q Between the actual referral -- What is the actual referral? What does that mean?

A There apparently was a meeting with the Commissioners, or some of the Commissioners, the Executive Director, representatives of the State Police - I believe Colonel Pagano - and there may have been Mr. Hyland or Mr. Del Tufo, at which time I understand they were given the transcripts that we had taken with respect to the State Police allegation, and copies of our reports up to that date.

Q All right. In the month that intervened between September 20th and October 27th of 1977, did you conduct any investigation of the charges made by Mr. Jellicks?

A Not really. The only thing we did was to have Agent Sahlin go down and photograph the tape recorder and the identification. That was done, I believe, on the 17th of October, some three days before he actually got out.

Q And during the intervening month, that was all you did?

A That's correct.

Q You didn't attempt to check out these allegations?

A No - in speaking to the Commission, they were making a determination as to whether we would keep it or

refer it. I subsequently found out on, I believe, October 13th that it had been determined it was going to be referred to the State Police for their own investigation and, thereafter, it was referred, I believe, on October 27th.

Q Now during this period between September 20th to date, did you have any conversation with Mr. Jellicks wherein the name of Marvin Scott was mentioned?

A Yes.

Q Do you know who Marvin Scott is?

A Yes, I do.

Q Who is he?

A He is an investigative reporter with Channel 5, WNEW - TV - yes.

Q Do you know him personally?

A Yes, I do.

Q How do you know him?

A I have met with him. I have had several phone calls with him. I know his immediate boss who is the head of WNEW-TV news. I have met and had dinner with him in the past.

Q Well, have you had contact with him in connection with work that you were doing for the SCI?

A No.

Q Is this a social relationship that you have?

A Well, it is a more casual social relationship rather than an actual one. I have never been to either of their homes. I have been out to dinner at

restaurants with both Mark Monsky, who is the Vice President in charge of news of WNEW-TV, as well as out with Marvin Scott.

Q And when you mentioned Marvin Scott to Mr. Jellicks, what conversation did you have with Mr. Jellicks about Marvin Scott?

A Well, that was only the second time I had personally met Jellicks. As I indicated to you previously, there were innumerable phone calls basically where he was seeking assistance from us in connection with his early release. They were going to transfer him at one time because of the allegations he had made on the meat situation, transfer him out of Camden to, I believe, Cape May County, because he was afraid that the guards in Camden County would be beating him up. I spoke to Sheriff O'Rourke on a couple of occasions, the Middlesex County Prosecutor's Office, all with a view to getting him transferred to another facility. He, finally, was transferred for the last few days of the sentence to the Middlesex County Jail.

Another time, there was a telephone call from him, as the welfare people had come to his home.

Q Well, my question is: What was the occasion of your conversation with Mr. Jellicks about Marvin Scott?

A We were developing the individual as an informant. He indicated to me that he had valuable information with respect to organized crime and gave me quite a bit of detailed information which he was going to

subsequently substantiate. The way we got together on November 2nd was that on November 1st, he called. He said that he still hadn't gotten full-time employment, Middlesex was trying to give him a job with United Parcel Service in the New Brunswick area that hadn't firmed up, he was broke, his welfare check hadn't come through, and things of this sort - could we loan him some money or give him some money.

At that time - I believe it was November 1st - I went to the Executive Director who authorized me to give him \$50. I met him on November 2nd at about 9:30 or 9:45 at the Howard Johnson at Route 18 and Route 1 for the purpose of giving him the \$50. We went inside, sat down and had a cup of coffee together and he started to give me additional information about areas that we were interested in, specifically, without going into any names, he indicated a meeting that he had observed involving an organized crime figure, gave me the name of that individual, three other people who had come there. The purpose of that meeting was with respect to stolen vehicles in the Ocean County area. He was going to give me the license plate numbers of the four cars that came to the meeting. He also indicated a prominent, top, Mafia figure had appeared at that meeting, gave me a physical description of the individual.

Q I don't mean to interrupt you, Mr. Genton, but my question is: What was the occasion --- what were

the circumstances concerning Marvin Scott that were relevant to your conversation with Mr. Jellicks?

Did you tell Mr. Jellicks that Marvin Scott would be interested in the information that he had?

A Not in that way, sir, no. It all comes up in the context of an hour-long discussion which first I want to point out involved information that was of interest to us on organized crime figures.

Q Well, let me put it this way: Did you bring to Mr. Jellicks' attention the existence of Marvin Scott?

A Yes, at the time that I felt that he was definitely going to carry through on his threat to go to the press.

Q And you told Jellicks that Marvin Scott was an investigative reporter?

A No.

Q Who did you tell him Marvin Scott was?

A I told him specifically at the conclusion of our lengthy hour conversation, in which he expressed his concerns that if we would not investigate - we were his last resort for an investigation of his allegations against the State Police, and his actual apprehensions about State Police, that they would prevent him from getting a job, they would cause him to be fired, that they had beaten him up once before and they were capable of doing it again, that he was afraid they might frame him on charges - and if we weren't going to look into this

thing, where could he go? - he was going to blast this thing all over the place.

Q And then you gave him Marvin Scott's name?

A Yes, realizing in my own mind that this guy was ready to blow up, I felt he should have the name of a responsible person whom I knew, rather than to let him just go out wildly making these charges because we had not investigated ---

Q Did you try to dissuade him from carrying this tale to the media?

A I gave him this name as a last resort because I felt ---

Q No. My question is: Did you try to dissuade him from going to the media with these allegations against the State Police?

A I would have to say no to that.

Q Okay. Did you tell the State Police about what you thought his intention was?

A No.

Q Did you discuss this matter, the reference of Jellicks to Mr. Scott, with members of the Commission?

A No. The only person I spoke to subsequent to the meeting was Agent Sahlin when I told him all of the information I had gathered that day and that finally when this fellow indicated he was going to go somewhere else, I gave him the name of somebody responsible because at that time I knew our Commission was not going to investigate it, but I had not told him and was not going to tell him at that time.

Q Did you ever bring the matter of the referral to

Marvin Scott to the attention of any of the Commissioners ---

A No, sir.

Q (Continuing) --- of the SCI?

A The first time they knew about it was when they read the transcript.

Q And since that time, you have discussed it with them?

A With the Commissioners?

Q Yes.

A I met briefly and gave them the story that I have given you here today and my dealings with Jellicks over this period of time.

Q Following this November 1st conversation at the Howard Johnson's on Route 18 and Route 1 ---

A Yes, November 2nd, sir.

Q November 2nd. Was that the first time that you talked to Jellicks about Marvin Scott?

A That was the first and only time that I ever brought the name up.

Q Did you ever have any telephone conversation with him about that subsequent to that?

A Every phone call was initiated by Jellicks to me talking about either his problems or how things were beginning to shape up. And he was the one who kept on saying, "I haven't gotten to see Scott," and so forth. I made no comment to that. I felt I had given him a safety valve and apparently he was settled down.

Q Did you tell him how to get in touch with Scott?

A I gave him the name and telephone number.

Q When did you do that?

A November 2nd.

Q November 2nd?

A That's correct.

Q Subsequent to that --- Strike that. Did you have any conversation with Marvin Scott about the possibility of Jellicks' contacting him?

A No.

Q Did you have any conversation with Marvin Scott from November 1st to date?

A Yes.

Q And when did you have those conversations?

A I called Marvin Scott after I read the transcript and saw that there were references in there to taped conversations of he and I.

Q Did he tell you that he did, in fact, have conversations with Jellicks about meeting?

A He indicated, as I recall, that he had never been able to set up a meeting with him or had met him once.

Q My question is: Did he tell you that he had conversations with Jellicks about a meeting?

A Yes.

Q And arrangements were made on a number of occasions where Jellicks was to meet with Marvin Scott?

A I don't know about the number, but there had been some arrangements ---

Q Several.

A (Continuing) --- made and that they had been broken and he hadn't spoken to him.

Q Marvin Scott then told you that there were a number of occasions when he had arranged to meet with Jellicks, but the meeting never materialized.

A Something to that effect. And that would have been subsequent to the time of this transcript because I didn't realize that any conversations had been taped.

Q Did you in any way know of specific prospective meetings between Jellicks and Marvin Scott?

A No, sir, I did not.

Q In these telephone conversations you had with Jellicks, he never mentioned a specific meeting?

A He said he had a meeting scheduled and he cancelled it. He said that about three or four times on different occasions.

Q Well, did he tell you about a specific meeting ---

A No.

Q --- in any of his conversations?

A No, sir.

Q He just made reference to the fact that there was a meeting scheduled?

A There were meetings scheduled; he had cancelled out.

Q Do you know what disposition was made by the State Police of the allegations that were presented to you by Jellicks concerning their conduct?

A No, I don't. I understand that the Attorney General's Office had assigned a Deputy Attorney General to work in connection with the matter.

Q Well, you don't know what disposition was made of it?

A No.

Q Or what the Attorney General's Office did to investigate those charges?

A I know they got a copy of the transcript of the allegations that we took down from Jellicks.

Q But you don't know what they did subsequently?

A No.

Q And the allegations made by Jellicks were true as far as you were concerned?

A As far as we were able to determine from the limited look that we had at it. The polygraph, which is only a tool, because if a person truly believes a lie, it is going to show it's truthful -- but that was an indication that he might be telling the truth there. Also we had gotten a copy of that race-track pass and photographed it and it looked bona fide. But we would have had to check with the Racing Commission to determine if it was. The tape recorder was inconclusive because it was a common type tape recorder. There were many things that we had to do before we could even determine whether there was really truth to his allegations before even talking to anybody in the State Police whatsoever.

Q But you did not undertake to do any of those things?

A No, sir.

Q Mr. Genton, is it your testimony that you put Mr. Jellicks in touch with Marvin Scott who you know to be an investigative reporter and who was a friend of yours because you thought Mr. Jellicks was going to go to the newspaper in any event?

A Yes, sir.

Q And you were just guiding him to a specific reporter.

A I felt he should go to someone responsible, not that Marvin Scott is the only one responsible. But that is one I know personally and ---

Q Well, weren't you afraid that that would be a sensationalized treatment of his allegations?

A No, I don't think so. I think that before Marvin Scott would have moved on it, as with some of the other responsible stations and newspapers, they would have made their own independent investigation and, if there was nothing there to it, nothing was going to happen.

Q Well, you would give this information to Marvin Scott through Jellicks in spite of the fact that you and the SCI did nothing for a month about checking them out. Is that so?

A I gave him the name, yes.

Q And did he mention --- did Jellicks mention specifically that he was going to any other of the members of the press or television reporting services in the State?

A No, sir.

Q And you didn't think that there was anything improper in you as counsel to the SCI to put Jellicks in touch with an investigative television reporter about a matter as sensitive as these allegations made against the State Police?

A Not at the time, Senator, and under those circumstances, when, as I say, he was like a time bomb ready to go off. Economically, he was in bad shape. He had apprehensions about the State Police, whether they were founded or not, about retribution, because he had even told us. I don't know, but it seemed at that time, if he was going to go - if we weren't going to go ahead with this thing, I'm going to blast this all over.

Q Then you are saying on November 2nd he was unemployed.

A Yes, he was trying to get to work with the United Parcel Service.

Q Well, isn't it a fact that he had had a specific commitment for employment with United Parcel Service at that time?

A That for a fact, I don't know. He said that he had filed an application in his own name, and if they ran any check on it, he might not get it, et cetera and so forth. He was not working then. He was --- subsequently he picked up a few days work and he finally got busy around the Christmas holidays.

Q Didn't he tell you that he had someone in authority that was going to arrange for his employment by United Parcel Service at that time?

A No. I got the impression it was all being set up by Middlesex County.

Q Yes, and they were going to get employment for him.

A Try and pave the way to get him in, yes.

Q And he gave you that indication at the November 2nd meeting.

A Yes.

Q Do you know if, in fact, he ever did meet with Marvin Scott?

A Yes.

Q How did you gain this knowledge?

A Through Marvin Scott.

Q And where did he meet with Marvin Scott?

A I believe he met at the Vince Lombardi Rest Center on the Turnpike.

Q And when was that?

A I don't know.

Q When did you gain the knowledge of that meeting?

A When I spoke to Marvin Scott and told him with respect to the transcript that his name was mentioned in there and there were indications that conversations were taped. That would have been after December 9th or whatever.

Q And did Marvin Scott tell you that Jellicks had given him information at that time?

A No, sir. He said he had never been able to meet with him to get any information.

Q Isn't your testimony that they did in fact have a meeting?

A Apparently, yes.

Q And you talked to Marvin Scott about that meeting after it took place?

A Yes, what I am telling you, after the deposition came out - yes.

Q You had no knowledge of that specific meeting prior to its taking place?

A No, sir. And in no way did I ever set up any meeting for him with Marvin Scott. I threw the name Marvin Scott and the telephone number out on November 1st and never brought it up again. He was the one who kept on saying, "I didn't meet Marvin Scott. I had problems. I didn't go," and so forth and so on.

Q Well, in any event, regardless of who brought it up, you did have conversation with Jellicks following November 1st about his meeting Marvin Scott?

A Yes, as well as many other things obviously.

SENATOR DUGAN: Senator Greenberg.

BY SENATOR GREENBERG:

Q Mr. Genton, you heard the testimony given here this morning ---

A Yes, sir.

Q (Continuing) --- by the prior witness, in which he indicated he was advised by someone on behalf of the SCI that there was political pressure being put on the investigation and that that was the reason he was sent to Marvin Scott. You heard that testimony?

A Yes, I did, sir.

Q Do you know of any such conversation?

A No, sir, and I know of no pressure put on the agency, except perhaps at the outset, my pressure in asking them to continue the investigation till we at least determined whether there was truth in it or not.

Q Let's see. The file was turned over, actually physically delivered, or a report of the SCI's investigation was physically delivered to the State Police on or about October 27th.

A That's correct. It was on October 13th, which was a week after the Commission had initially determined to turn it over and it was, of course, not turned over till the 27th. It was on the 13th, I was advised by the Executive Director that they had made a decision and the decision was to turn it over. I then asked the Executive Director if I might meet with the Commissioners for the purpose of filling them in a little bit more on it because I didn't know to what extent he had the benefit of the testimony that we had taken. We had not gotten the transcripts back.

Q All right.

A On the day, I believe, that Senator Dugan came over - I think it was the 13th - in a break while they were waiting for Senator Dugan to appear, I did go in and speak to the Commissioners for a brief time and they indicated they would keep the matter under advisement. I subsequently found out about November 1st or 2nd that, in fact, the referral had been made on the 27th.

Q And it was not until November 2nd that you had a conversation with Mr. Jellicks with regard to Marvin Scott.

A That's correct, sir.

Q Did you report to your superiors or to anyone at the SCI of the fact that you had given him, Jellicks, Mr. Scott's name and number?

A No, none of the superiors. As I indicated before, I told the agent who was working on the case with me.

Q Who was that?

A George Sahlin. This actually was a throw-away at the end of an hour conference with him involving many matters. In fact, we had actually physically separated and gone toward our separate vehicles.

Q I understand.

A And I called him back.

Q But there were a number of conversations which you had with Mr. Jellicks in which he advised you of his conversations with Marvin Scott subsequent to November 2nd.

A That he had not kept appointments that he had made, that's correct, sir.

Q How many times, did he discuss with you the subject of Marvin Scott subsequent to November 2nd approximately?

A Three, four, five, that I had an appointment and I didn't keep it.

Q So at that point, you had some idea that the throw-away of Marvin Scott's name and his telephone number

were being utilized by Mr. Jellicks.

A No. I felt the fact that he wasn't going was maybe things had settled down and he was never going to go.

Q Did you communicate that information to anyone?

A No, sir.

Q Why not?

A I just did not. I can't give a reason why I did not - I just did not. I didn't think it was that significant at the time I threw it away.

Q You don't think that the communication or attempted communication of this witness with regard to this very, very sensitive matter of the activities of the State Police with an investigative reporter for Channel 5 was of consequence or significance to the members of the Commission?

A I don't think I looked at it in that way. The fact that he never went - the longer he never went, the less important it became in my mind. I just figured he was never going to go, which was fine. I didn't care. I just didn't want him at the time when he was up tight to go running off at the mouth to anybody who might print something. And I knew that there would not be a shoot-from-the-hip approach if it ever did go through with Marvin Scott.

Q What did you expect Marvin Scott to do with the information if he ever got it?

A I can't answer for that. I would hope he would have

acted responsively with it and probably would have come back to the people who were involved and gotten their side of the story, and maybe there was no other side --- maybe there was another side to the story. I don't know. We never got a chance to investigate it ourselves.

A Well, in your opinion, at that point, the testimony that you heard from Mr. Jellicks was true, based on the polygraph; isn't that correct?

A Based on the polygraph, yes.

Q So you could reasonably expect a competent investigative reporter to go with that story, couldn't you?

A No, I don't think so.

Q Why not?

A In my opinion, I would never go with just a polygraph. You have got to get corroboration and we did not have corroboration. I think anybody acting responsively would just not go with a polygraph.

Q You heard Mr. Jellicks testify that you told him that this was an opportunity for the State Police to be investigated by the SCI this morning, did you not?

A Yes, I did.

Q Did you ever make such a statement?

A No, I didn't. In fact, if I wanted our agency to investigate it, the last thing we would do would be to go with publicity on it because if there were allegations of actual criminality being splashed in the newspaper or in any other media, we would not get involved as we are not a prosecutorial agency. Those

criminal allegations would go elsewhere immediately. So if it was my purpose to try and get it for our agency, it would never happen that way.

SENATOR DUGAN: Senator Musto.

BY SENATOR MUSTO:

Q Mr. Genton, in line with the questioning you have had, what puzzles me is you have called - correct me if I am wrong - Mr. Jellicks a time bomb. That is a pretty serious thing you worried about. And yet you say in your testimony, "Go to Marvin Scott." I just don't follow that and I am trying to.

A Senator, I was trying to give him an out, so to speak. He had threatened ---

A Again, time bomb.

A Right.

Q Is that true you called him a time bomb? Do you know what that means? What do you mean by a time bomb?

A He was all worked up and if we weren't going to investigate his allegations and we were the last place he could turn to - he had an obsession about clearing himself and a paranoia, in essence, with the State Police - and if we weren't going to do it, he was going to blast this out, and so forth. So I kind of gave him, I thought, an out, a reasonable out.

Q Then you, representing the SCI, suggest he go to Marvin Scott, the Executive Director of Channel 5, a television station?

A I guess perhaps I was thinking more as an individual

than a member of the SCI at that time.

Q Then, as I understand the testimony, just to clear the air in my mind ---

A Yes, sir.

Q (Continuing) --- you told no one else, no superior.

A That's correct.

Q Just in closing, I just want one more question. You had made no polygraph tests of the thefts of meat. Any reason for that?

A Yes, because within a --- first, we don't want to give a series of polygraph tests on one day. It takes about three and one-half or four hours. Within a couple of days in talking to our agency and with the Sheriff, we were going to get actively involved in the meat investigation. Now in that meat investigation there were several names that were given to us of guards at the Camden County Jail who would talk to us about it, who actually knew about it first-hand knowledge. We never did get to see those people either because within a very short period of time - let's say a week or ten days - Sheriff O'Rourke spoke casually to the Attorney General about the fact that we were interested in working with him in connection with the Camden County meats. As a result, the Attorney General suggested that perhaps it would be better handled by the Division of Criminal Justice and the matter was then shipped up by Sheriff O'Rourke to the Division of Criminal Justice. So we were not involved in it. So we never got back to it.

SENATOR MUSTO: I have no further questions,
Mr. Chairman.

BY SENATOR DUGAN:

Q Mr. Genton, you knew, did you not, that putting Jellicks in touch with Marvin Scott could result in a TV broadcast where these allegations by Jellicks would be broadcast over the TV station that Mr. Scott is connected with, did you not?

A They might, yes.

Q Did you think that would advance the investigation into the truth of the charges against the State Police by making them public in that fashion?

A No.

Q You didn't think it would advance the investigation?

A No.

Q Did you think that it could have the result of seriously embarrassing the State Police by the promulgation of untrue charges?

A No, because I didn't think that they would be put out on the air if they were not true and also I knew, at that time, that the matter had been referred and Colonel Pagano's people were looking into it with the Attorney General's Office.

Q But they didn't know anything about the Marvin Scott contact that Jellicks had that you provided?

A No, sir.

SENATOR DUGAN: Senator Russo.

BY SENATOR RUSSO:

Q Mr. Genton, you made a determination, did you not, that Mr. Jellicks was basically a credible witness, didn't you?

A Yes, to the extent that I was able to corroborate.

Q In fact, am I not correct that at no time did you ever determine or even come to a conclusion yourself that he was in any way being untruthful; isn't that correct?

A With respect to these specific allegations, yes, sir.

Q With respect to everything.

A Well, that is basically the only area I had of corroboration, sir.

Q Let me ask the question again. Did you at any time come to the conclusion that Mr. Jellicks was being untruthful with you on any matter?

A With me, personally, no.

Q Now, you ---

A Subsequently, I found out that he was not.

Q Now look. I didn't ask you substantively or procedurally or anything else. I just asked you, and I will ask you again ---

A I say "subsequently," sir.

Q Oh, forgive me then. I misunderstood you. Did you find him at any time to be untruthful or you came to that conclusion on any subject?

A Yes.

Q And when was that?

A Subsequent to our getting this information in the transcript form.

Q Okay. Before that, at no time did you find anything he said to be untruthful.

A That's correct.

Q And what did you find --- At the time you referred him to Marvin Scott, you basically believed everything he said to be true.

A That's correct.

Q Now you also heard him testify here today.

A Yes, sir.

Q And with regard to the substantive nature of the things he said today, they were basically the same as the things he told you on September 20th and prior thereto.

A With respect to the State Police allegation, yes, sir.

Q Now I am going to ask you again. You say you never told anyone that you attempted to put him in contact with Marvin Scott - you never told anyone that?

A No. I have indicated I told the agent that worked with me.

Q What was his name again?

A George Sahlin.

Q All right. Do you know whether or not --- Well, let me start with you first. Did you tell anyone else other than George Sahlin?

A No, sir.

Q Do you know whether or not George Sahlin told any of

the Commissioners or Mr. Siavage or anyone connected with the SCI?

A I believe he did not.

Q You believe he did not. You did hear Mr. Jellicks testify though, didn't you, today that at one time he attempted to call you after you gave him Scott's name. You weren't there and he spoke to Rodriguez. Remember that testimony?

A Yes, I do.

Q And Mr. Jellicks said that Mr. Rodriguez said to him, "Have you met with or made contact with," or words to that effect, "our mutual friend in New York?" You heard Mr. Jellicks say that.

A Yes, I did.

Q Do you know whether or not, in fact, Mr. Rodriguez made that statement?

A It is an absolute fabrication.

Q How do you know?

A Because if I never told anybody but my agent and my agent never told anybody else, then Mr. Rodriguez would have no way of knowing that the name Marvin Scott had ever come up. And, secondly, he would never be answering my telephone in my office.

Q I don't think he said he answered your telephone. He said he spoke to him. But in any event, contrarywise, if Mr. Rodriguez did in fact make that statement, it would mean that you or your agent told him or someone in the SCI, wouldn't it?

CONTINUED

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A That's correct.

Q You are telling us that you didn't tell anyone.

A Absolutely not.

Q Now on September 20th and prior thereto, of this year, this past year, you had this information about what you know to be crimes on the part of the State Police, isn't that correct?

A Prior to, sir?

Q On September, the 20th - I think that is the date of the statements.

A That's correct.

Q And perhaps prior to -- I assume you learned of this information before the actual statement was taken.

A The 17th.

Q The 17th. So in that area, September 17th to the 20th, you obtained or received information that crimes had been committed by certain people in the State Police, New Jersey State Police. Is that right, sir?

A Allegations of crimes, sir.

Q And you believed them. You believed that they, in fact, had taken place, didn't you?

A On the 21st, yes, I had an indication that what he was saying was truthful, yes.

Q You see, Mr. Genton, you say to me now, an indication that what he was saying was true and I thought you told me a few moments ago that you, in fact, came to the conclusion that these allegations regarding the State Police were true.

A I indicated previously in my testimony that there were so many things that had to be checked out to corroborate. I couldn't make an ultimate determination as to the truthfulness of this by just relying on a polygraph and an ID card. There were so many things around that had to be checked out. Example, his wife, seeing him beaten up by the State Police - all of these other things. We never got to Ocean County to see if, in fact, he was brought there in handcuffs, beaten, and admitting was refused. None of these things were done. There are 14 or 15. And until I had done that, I was not prepared to say that, yes, we'd better go into this full scale and get into the State Police files and bring State Police in for testimony and so forth. We were nowhere near that at all at that stage of the game. But what little I did know and had seen, yes, he was truthful.

Q You had quite lengthy and detailed statements that you took from him ---

A Correct.

Q (Continuing) --- that alleged crimes on the part of the State Police of New Jersey.

A Correct.

Q Is that right?

A Yes, sir.

Q And for at least a month you never conveyed this information - and when I say "you," I mean the SCI, in general, including yourself - to either the State

Police or the Attorney General's Office or any other law enforcement agency.

A I don't think that is correct, sir.

Q That is not. Okay.

A I think on October 6th, the decision was made to refer it to the State Police and the Attorney General's Office and, shortly thereafter, if not that same day, the Executive Director was in communication to set up a meeting, and the transfer actually took place on October 27th.

Q Yes. That is the date I had, October 27th, when the transcripts were sent to the State Police and the Attorney General's office.

A Correct.

Q Is it your testimony though that the State Police and the Attorney General's Office were advised of these allegations as early as perhaps October 6th or thereabout?

A I know that there was some arrangements set up for a meeting. What the exact nature of it was, I don't know. I was not privy to the meeting.

Q The date then that you gave him Marvin Scott's phone number was what again?

A 11-2.

Q October.

A November 2nd.

Q November 2nd. Now that is after the transcripts are sent to the State Police and Attorney General's Office.

A Correct.

Q And certainly you had no reason to assume that there wouldn't be a proper investigation by certainly the Attorney General's Office of these allegations of criminal events on the part of the State Police; isn't that correct?

A That's correct, and I had the same feeling with the State Police.

Q Right.

A Because it was coming from the very top.

Q And, nevertheless, you as an attorney referred this man to a news media, a television commentator, with every reason to feel that these allegations might then become public - you weren't sure they would or not -- might become public while an investigation would be pending by the Attorney General's Office and perhaps the State Police and maybe eventually the criminal courts; is that right, sir?

A I wouldn't put it in that context. But I can see that that's the end result of it, yes.

Q Well, that is the end result of it, isn't it?

A Yes.

Q And you felt it was justified because he was going to go to some news media and you just wanted to make sure it was a responsible one.

A Correct. And the way he was indicating that he was going to get his story out and was ready to blow up, I wanted to direct him to a responsible person.

That's all.

Q Didn't you at that time and, if not, maybe you can tell us, if upon reflection - and I know hind sight is a great thing -- but didn't you at that time consider this a serious ethical impropriety on your part as an attorney to refer allegations of crime to the news media that may eventually be coming up in a criminal court?

A Obviously, I didn't reflect sufficiently at that time, sir.

Q And upon reflection now, what would you say?

A I would never have given him the name.

Q You would never have given him the name.

A That's correct.

Q Now on these various occasions when --- well, when you speak to a witness or an informant or what have you, isn't it your practice to make a memo, whether at that time or later when you go back to the office, of your conversations with this particular person for the file?

A Depending on the nature of the contact, yes or no.

Q Well, the only thing - and please forgive me if I am wrong because we just got this batch of material this morning - but the only thing that I see here in the material furnished to us by Mr. Rodriguez that concerns to you in its entirety is Exhibit 8, a memo by Alfred L. Genton on October 7th of '77 and then, finally, Exhibit 14, letter by Alfred Genton, November 10th, '77. Is that the extent of your entire file in

this case?

A Yes, basically it is. The transcript was the whole first day the first time I met him. Then the next time I met him, it was an hour conversation at the Howard Johnson. There was no further investigative work done on this case.

Q And you did not record by memo or otherwise these various phone calls that this man made to you?

A No, because they were just passing conversation calls. "I want to get you this information. We have got some dynamite stuff on the race track. I'm working on it. I'll get it for you. The job is coming along pretty well. I'm working out well with Middlesex." Or, "It's not going so good. I need some help with my welfare. Can you talk to the welfare people for me? I haven't met Marvin Scott," and things of this sort. There was nothing of substance there, nothing to record.

Q Mr. Genton, with regard to your reference of this man to a television station concerning allegations of criminal activities on the part of the State Police, let me ask you this question: Is there or are you aware of a feeling of hostility or antagonism on the part of one or the other, maybe mutually, the SCI and the State Police in this State in recent months, if not at all?

A I am not aware of any major hostility between the agencies.

Q How about minor ones?

A Well, I would think that there may be some now, based on my action in this case.

Q Before this action, before the Marvin Scott incident, you were not aware of any feeling of ---

A Well, it is my understanding that our agency is exchanging information freely in the areas of our concern and my area of interest in the State Commission - I am dealing basically with the criminal justice system in the county levels - that's my main area of concern and has been for the past year. So I have not been involved in any byplays if there were any.

Q I gather then, your answer is you have not been prior to this incident, the Marvin Scott incident -- you have not been aware of any feeling of hostility on the part of either agency toward the other. Is that correct?

A That's correct.

SENATOR RUSSO: That's all I have.

BY SENATOR DUGAN:

Q Mr. Genton, just one or two questions: When you gave Jellicks the \$50 ---

A Yes, sir.

Q (Continuing) --- did you make a memorandum of that payment?

A No, I gave him the receipt voucher that must be filled out by our agency - \$50, he has to sign for it - and it was turned into the Executive Director. Did I misunderstand your question?

Q No, I am afraid I didn't --- I don't see it here

among the exhibits, a receipt for the \$50. Would that be in the SCI's records?

A Yes, that would be, yes.

Q And it would say \$50 paid to ---

A It would say -- acknowledge \$50 or something of that sort and just signed \$50, yes.

Q That would be signed by Jellicks?

A Yes - as Forrest, he would have signed it.

Q Well, I asked that specifically because I don't see it here among the exhibits. And that voucher has to be approved by the Executive Director?

A The authorization to make the payment comes from him and then you get the voucher and you get it signed and bring it back.

Q And you gave that to him on November 2nd ---

A Yes.

Q --- the day that you talked about Marvin Scott.

A That's correct.

Q And I assume that the Executive Director then inquires what was the \$50 for.

A Yes.

Q To whom you gave it and --

A He inquired ---

Q (Continuing) --- what are you doing with it.

A That's right.

Q And you never mentioned it to the Executive Director - mentioned it, being the Marvin Scott contact?

A No, sir.

- Q When Jellicks called you at the SCI headquarters, did he use his own name?
- A Yes, sir. He used Forrest because that's the name we know him by.
- Q Did he have any code name?
- A No code name, no. He kept on calling ---
- Q Did he have any nickname?
- A Jim.
- Q Jimmy?
- A Jim.
- Q Okay. And that's what he was known as to you and to anyone else at the SCI?
- A No. He was told to call in collect because we were working with him on these various things. And at the beginning, it was Jim Forrest calling, or Mr. Forrest calling. Finally, it would be Jim calling. And that's the only person I was dealing with. "May I speak to Mr. Genton." So the secretary would say, "There's a fellow named Jim wants to speak to you. Will you accept the call?" "Yes."
- Q There were other people at the SCI that knew him by that name, by that nickname, Jim or Jimmy.
- A Jim Forrest was his name, yes, sir.
- Q Was there ever any - and I want to ask you specifically because you had the deposition of Mr. Jellicks, did you not?
- A Yes.
- Q And you had an opportunity to read it prior to the

- hearing here.
- A Yes, sir.
- Q Mr. Jellicks makes reference to the fact that the SCI, either you or Mr. Rodriguez, said that by putting him in touch with Marvin Scott and having Marvin Scott conduct an expose of these charges, that that would give the opportunity for the SCI to have a wide-scale, broad investigation of the State Police, and further that, by doing that, the State Police little white castle would crumble around them. Did you ever have any conversation with that import ---
- A No, sir.
- Q (Continuing) --- with Mr. Jellicks?
- A No, sir, not at all.
- SENATOR DUGEN: Senator Musto.
- (Witness continuing) -- In fact, the white castle I see in the transcript is imputed to Mr. Rodriguez at the opening remarks the first time we met - and that never happened.
- BY SEANTOR MUSTO:
- Q Mr. Genton, you testified that you acted on your own in the reference to Marvin Scott in the Jellicks' situation.
- A Yes, sir.
- Q Since then, has anyone at all contacted you regarding your act in that regard?
- A Well, when the Commissioners found out about it in the transcript, they asked me what the circumstances were, and I have told them.

Q What was their reaction?

A Guarded. I think the jury is still out.

SENATOR MUSTO: I didn't hear that.

SENATOR DUGAN: The jury is still out.

Senator Greenberg.

BY SENATOR GREENBERG:

Q I might have missed the answer to this question.

And, if so, forgive me, Mr. Genton. What was the first purpose of your meeting with Jellicks subsequent to the referral of the file to the Attorney General's Office?

A He had certain information that he indicated he could furnish us, specifically information concerning organized crime people, indications that there was a fixing of races. He said he could get some documentation for us that would be dynamite if we would keep his name out of it. He also threw out stuff about gambling activities in the northern counties where people were being transported for big games down to the shore area. You guys want some stuff on Atlantic City. I can get you some information about a fellow who has a construction company that is associated with organized crime and is doing repair work in Atlantic City - owns some taverns there, and things of this sort.

Q So that the purpose of your meeting was unrelated ---

A Absolutely.

Q (Continuing) --- to the State Police.

A We were out of that and we are not involved in that

investigation.

Q How did you come to meet with him? Did you call him or did he call you?

A He called me. He was broke. Could we get him a couple of bucks to tide him over till he really started getting money on his job? And that's when I went forward to get the \$50.

Q Now at that time, what was your title or position with the SCI?

A The same as now, Counsel.

Q Is it your normal function to go out and conduct these types of preliminary inquiries or conversations as Assistant Counsel to the SCI?

A Yes, as Counsel, I actively involve myself in all investigation in the areas that I work in.

Q And is it your normal function to go alone on such occasions?

A Yes, I will go alone and sometimes with others.

Q Have you ever under any other circumstances referred an individual to a newspaper or television media for purposes of discussion of the nature of an investigation that the SCI had knowledge of?

A No, sir.

SENATOR DUGAN: All right, Mr. Genton, thank you.

We will recess now for one hour and reconvene at quarter of three.

(Recess for Lunch)

SENATOR DUGAN: The Committee will reconvene. I call Colonel Pagano.

(CLINTON L. PAGANO, was duly sworn as a witness, according to law.)

SENATOR DUGAN: I see you are flanked by two people, Colonel. Will you identify them, please.

COLONEL PAGANO: The man to my left is Captain Thomas Tyrrell, the Supervisor of the State Police Internal Affairs Bureau. The gentleman to my right is Detective Robert Mc Mahon of the State Police Internal Affairs Bureau and the principal investigator in these allegations.

SENATOR DUGAN: Colonel, do you expect Captain Tyrrell or Detective Mc Mahon to have any of the questions put to you referred to them?

COLONEL PAGANO: Probably not, but I would expect them to assist me in digging through these reams of reports on this. Unless you have questions and I have no objection, if you wish to swear them also, Senator, it might be more convenient.

SENATOR DUGAN: Well, I think rather than guess whether that is going to be the case, we might as well have them sworn, also.

(THOMAS TYRRELL, was duly sworn as a witness, according to law.)

(ROBERT MC MAHON, was duly sworn as a witness, according to law.)

CLINTON L. PAGANO, testified as follows:
BY SENATOR DUGAN:

Q Colonel, by whom are you employed?

A By the State of New Jersey, more specifically the Division of State Police.

Q And in what capacity?

A I am the Superintendent of the New Jersey State Police.

Q For how long have you been serving in that office?

A Since October 24, 1975, a little over two years, sir.

Q And prior to that time?

A Prior to that time, or since July of 1952 I have been continuously employed as a member of the New Jersey State Police.

Q And Captain Tyrrell's assignment in the State Police is what?

A He is the Supervisor of the Internal Affairs Bureau.

Q And what is the Internal Affairs Bureau?

A The Internal Affairs Bureau is that unit within the State Police that investigates any complaint or processes any complaint against a member of the State Police.

Q And what assignment does Detective Mc Mahon have?

A Detective Mc Mahon is an investigator in the Internal Affairs Bureau.

Q Colonel, were you here this morning and present when the testimony was given by Mr. Jellicks and by Mr. Genton?

A Yes, I was, sir.

Q You were here continuously while they were testifying and you heard all of their testimony?

A Yes, I did, sir.

Q Colonel, I would like to, on behalf of the Committee, express our appreciation for the thorough and detailed response that you have made to our request for information concerning the Jellicks allegations. I received this booklet on Thursday of last week, and there is a great amount of information and detail in it, and I know that a lot of work and thought went into its preparation and the Committee is grateful to you for giving us that kind of notice of what your testimony, I assume, will be.

There are two parts to our inquiry of the matters that we are authorized to look into by reason of the Senate Resolution that brings us here. And the first is the alleged illegal acts by the State Police that were recited by Mr. Jellicks, the one concerning the bugging of the Five Point Farms conference room, and the tap or device that was installed on or proximate to the telephone in that Five Point Farms office.

The second thing is the allegation that was made that Mr. Jellicks with the knowledge and consent and at the solicitation of the State Police officers broke into the office of the Five Point Farms for the purpose of obtaining information concerned with the drugging of horses that presumably were running at the Freehold Race Track.

The second area of concern that the Committee has and is the principal thrust of the resolution authorizing our inquiry is the Committee's concern about the relationship between State law enforcement agencies and their cooperation, one with the other, or their lack of it, their competitiveness, and their general relationship. We are concerned to know whether it is the kind of relationship that promotes an efficient administration of our system of justice in this State or if it inhibits that goal.

Some of the things that concerned the Committee was the testimony that Mr. Jellicks offered in that latter concern, that is the relationship between the State Police and the State Commission of investigation.

Now, I am going to put questions to you in the two areas, one, the relationship between the State Police and the State Commission of Investigation, and on the other hand, the allegations of impropriety or illegality that are made against members of the State Police.

Having the benefit of your report, and using that as an outline for myself, I would like to have you now give the Committee your comment, evaluation and history, recent history, of your relationship with the SCI. Are you prepared to respond to that?

A Yes, I am prepared to respond to any questions that you may ask, and possibly I can open with a very short general statement myself.

Q All right, suppose we then let you proceed.

A Well, I only have a very short statement to make, and really, it has come to mind as I have been sitting here listening to you.

Probably the most important thing that I can say right at this point is in defense of an individual who is not here, but an individual who has been mentioned here many times. I think it important that at the outset I say that the New Jersey State Police has no information whatsoever that would impune the character or good standing of Anthony Abbatiello in the community. And I think that has to be said. He is a prominent member of the horse racing group and he is well-known throughout this State and we know nothing that would be derogatory to that gentleman. I think that should be said.

Secondly, on behalf of the members of the State Police who have been mentioned here today, I want to enter a denial to the allegations of James Jellicks, an emphatic denial, and we can proceed with questioning along those lines.

Thirdly, probably equally important, we speak of the relationship between the State Police, other law enforcement agencies, and the State Commissions of Investigations in the report that I presented; I followed trace rule my perception of the difficulties that we have experienced, and agencies frequently have difficulties. We have had some difficulty, and I will respond to any questions you may have along those lines, but we have had no difficulties with the State Commission that are

irreversible or that are fatal, as far as I am concerned. And that is really the only statement I have.

Q Well, can you expand on what you are making reference to when you mention that you have had in the past and apparently---

A Can we get to Jellicks first, Senator, or do you want me to take the SCI relationship first? I think we are putting the cart before the horse.

Q Well, let's do the SCI first, your relationship with the SCI.

A All right. The State Police is the largest law enforcement agency in the State and probably the heaviest funded, and probably the broadest authority. My policy has been, since I have been superintendent, and even before then, to do everything that I possibly could to cooperate with law enforcement agencies throughout the State, any law enforcement agency working properly within the State, be it the federal, county, or state level, whatever.

When I became Superintendent of the State Police, I didn't become Superintendent without having some contact or some insight into the other agencies in the law enforcement community, and specifically the SCI. Prior to becoming Superintendent I spent twenty-three years of my career in the criminal investigations field. And many times I was called upon individually either to cooperate with the agency, their agents, or to testify on behalf of the agency. So I have a good understanding of what

that agency has by way of a mission. I think that when I read the Jellicks' deposition that was given you, Senator, I very clearly saw the two areas that needed to be addressed, one, the allegations, and, secondly, the relationship. And I was disturbed, quite frankly, over the fact that if there was any shred of evidence that a member of another State agency had done or given the information that Jellicks alleged had led this individual to a public agency with confidential information, then I have to be frank, I was very disturbed about it.

And when I wrote my response to you, I indicated that feeling, and I think it was very clear in what I said. But I think in order to trace the difficulties in the relationship back, I would have to go back to early Spring of 1976, when Captain Dentino, who is my Intelligence Officer, first advised me that either SCI agents or persons assisting the SCI agents were making inquiries into the activities of my organization in South Jersey, and conducting themselves in a fashion that would leave the impression that they were intentionally looking for information to embarrass my organization. And that was early Spring of 1976.

In mid August or early August of 1976---

Q Can you be a little more specific?

A Sure.

Q You said in early Spring of 1976.

A Early Spring of 1977.

Q Captain Dentino told you that SCI agents were

looking into work that State Police Officers had done for the purpose of embarrassing the State Police. Now, specifically, can you tell us what that was? How did you come to that conclusion?

A It really, at that point in time, was an inquiry into a death that we had participated in the investigation of a death. The questions that were being asked by those persons in the SCI were such that would indicate that they felt that our agency had not properly investigated the death.

I had no contact from the agency itself. This was a report coming in from the field.

Q Do you consider that reliable, or do you know that it was reliable?

A I didn't consider it a major problem at the time. I do consider it a reliable report. We took no action at that time.

Q Did the SCI bring this matter to your attention?

A No, they did not.

Q Or anyone in the Attorney General's Office?

A Not to my knowledge.

Q Okay. Then you were talking about August 1st of 1977.

A Right in early August, or August the first, I became aware that Deputy Director at that time Ed Steir had a conversation with Frank Holstein about the SCI investigation into the same deaths, and at that point, he found that Mr. Holstein had no knowledge of the

investigation, but this again was another indicator that we had to pay some attention to what was going on.

I know at that point, or I am told at that point, that Mr. Steir informed Mr. Holstein that if there were any difficulties along those lines that it was a case of a criminal nature and that the SCI should refer those cases to the Division of Criminal Justice or the Attorney General's Office. But this is by way of tracing back what I found to be a difficult situation.

Q Well, let me see if I have that correct. In August of 1976, Frank Holstein who was then the Director of the SCI had conversation with Ed Steir with the Division of Criminal Justice about a matter that the SCI was investigating?

A That's correct.

Q And Holstein told you that or told Steir that he had no knowledge of that investigation?

A That's correct.

Q And did he represent that the investigation then was unauthorized?

A I don't know what representation he made. I just know that he had no knowledge of the investigation that was going on, and by way of general conversation, I learned of this from Mr. Steir. And, again, we took no direct action at that point, because we trusted the integrity of the organization, the SCI.

Q Did Mr. Holstein or someone address themselves to that problem?

A Not that I am aware of. Not to me, Senator.

Q Well, did their activity in this area continue, the SCI's activity?

A Yes, and I will trace that through.

Q All right.

A The first actual contact that I had that caused me some difficulty was when on January 28, 1977, I was contacted by Thomas Grecki who is head of the State Police Fraternal Association, our State Police union, indicating that two detectives from the Camden City Police Department had contacted one of my uniformed troopers on behalf of the SCI, ostensibly on behalf of the SCI, and inquired into alleged improprieties on the part of the State Police. They were looking for information again, relating to internal improprieties that they thought this trooper might have some information on.

The head of the union realized immediately that this was not the normal kind of a grievance thing that he ought to be hearing and he contacted me. I had a member of the Intelligence Bureau contact--- At this point I had not made any contact at all with Internal Affairs on the matter, but a member of the Intelligence Bureau was in touch with the trooper and indicated to me very quickly that these were not SCI agents, that they were two Camden City detectives that had been working with the SCI on some sort of investigation and that they themselves had taken it upon themselves, or at least one of them, to begin looking into what he considered improprieties on the part of the State Police, and that the information was for the benefit of the SCI.

Q What were the alleged improprieties?

A The improprieties related to the handling of a suicide and accidental death and a murder, all of which the State Police had either investigated or we had participated in the investigation of those deaths.

Q Well, what was the---

A The improprieties being or the allegations or the inference being that we hadn't done our job properly.

Q In what respect?

A I don't know.

Q All right.

A On February 7, and I think this is probably the beginning of what I consider to be a really significant problem. Captain Dentino had a visit from Agent Sahlin, and it was at his home at night, and during the course of this visit, agent Sahlin indicated to Captain Dentino that he had become aware of the fact that I was now aware that SCI or persons representing the SCI had been looking into the background of the death investigation that we had conducted. He indicated to Captain Dentino that Frank Holstein the Executive Director was not aware of the fact that they were conducting these investigations, and he didn't want me to contact Holstein. At that point Frank was a patient in a New York City hospital, and I was aware of this.

But, incidentally, as we go through this first year in office, my first year in office, I had a good

relationship with Frank Holstein, and I felt comfortable that anything I brought to his attention would be properly handled.

When Sahlin came to Dentino on February 7, he indicated to him that he didn't want me to call Holstein, because Holstein wasn't aware of what they were doing, and he was concerned about whether or not he would have difficulties with his job. He really tried to have Captain Dentino intercede to prevent me from calling Holstein. I was now aware of these difficulties both with the uniformed trooper and the other things I have described.

Q Was this all in connection with the murder?

A It was all in connection with a number of deaths that they were reviewing in the Camden County area. And they were irritating to me, but not significant to the point that I really thought I had to take some direct action.

Q Well, do you know what prompted the SCI's inquiry into these matters?

A I learned later from Frank Holstein what prompted them. But I wasn't aware at that point what had prompted them.

Q Okay, will you come to that in your narrative?

A Yes, I will. I didn't contact Frank Holstein immediately, because I knew prior to Frank going into the hospital that he had a problem, and I didn't feel that while he was recuperating from surgery that I ought to contact him.

However, like in all other organizations, I guess, things did continue to heat up to the point where within my own division I caught hold of a rumor that indicated that it wasn't just a case of looking over investigations, it was a case of their investigating the possibility that one of my detectives had actually been involved in one of these things. And at that point I found that I could no longer tolerate this kind of thing, so I contacted Frank directly, and I spoke to Frank in the hospital in New York, and he indicated to me at the beginning that he really had no idea of any investigation in the Camden County area involving these deaths, and that he would check into it and get back to me quickly.

And he did call me back. He indicated to me that what was happening was an investigation that he had no idea of, that they were reviewing a number of deaths on the county level to determine whether or not law enforcement agencies in general had the ability or the capability or the facilities, whatever, to conduct these kinds of investigations, with the ultimate view in mind of making recommendations to the Legislature to improve legislatively or otherwise.

I told Frank at that time that the cases they were looking at involving the State Police had been thoroughly investigated, that we had the files available, that should there be any need for any information whatsoever from the organization that he could feel free to come to me to my office and that I would see to it that they would

have access to any information we might have. I also indicated to him that I resented the fact that persons were in the field speaking to my troopers at a level where they had no insight at all into the background of these cases, and he agreed.

Q Well, Colonel, if Holstein didn't know about it, on whose initiative were these investigations by SCI agents undertaken?

A I have no idea. I have no idea, and I felt I resolved the problem at that point simply by speaking to Frank Holstein, and I resolved them with my own people by putting it in perspective as far as my organization is concerned.

Q Well, what happened after that in that regard, in regard to these investigations by the SCI?

A I don't know what happened to them. I know to the best of my knowledge we never had any real inquiry from SCI and I imagine that the investigations themselves were concluded or whatever. I just don't know, Senator.

Q Well, did you ever have any conversation with SCI Commissioners about your ability to deal with the solving process of murders?

A With Holstein at that time, and then eventually with the Commission itself. I think that I have to trace through another one or two incidents, but the thing that disturbed me, quite frankly, is, threaded throughout all these incidents was, the inference that whoever was representing SCI, be it proper or otherwise, meaning the

actual members of the SCI or otherwise, that they were intentionally looking for information that would embarrass the New Jersey State Police.

I think probably the next most significant contact I had was in June of 1977, at which time I received a letter from an attorney in Atlantic City, Patrick Mc Gahn, which later became public, and it involved two members of the SCI revealing information, or members of the SCI revealing information, but nonetheless in the first paragraph of that letter, and I quoted it in my report to you, "Information has come to my attention that the State Commission of Investigation is presently conducting a surveillance in the cities of Margate and Longport, in an attempt to embarrass the New Jersey State Police, and to show that the State Police are not on the ball and doing their job in Atlantic City. You can rest assured a statement made by me as above has complete credibility."

That again was the same syndrome, so to speak, that had disturbed me prior to that about someone trying to intentionally embarrass my organization.

Q Well, what was going on in Margate and Longport?

A I think at that point, Senator, there, right, at this time, is an investigation that is still not concluded being conducted jointly by the State Police and the Division of Criminal Justice that would preclude me from saying too much more publicly about what the full text of that investigation or what was going on might be.

Q Well, are you satisfied that there were SCI agents involved in that kind of surveillance in Margate and Longport?

A I am satisfied that they were involved in surveillances in that location, but I am not absolutely certain that they were involved in those surveillances solely for the purpose of finding information to embarrass the State Police.

Q Well, was that part of their motivation, as far as you have been able to determine?

A I have not been able to determine that. But because of that and because of the reports that I had prior to that, I did speak to Chairman Rodriguez and Director Siavage in my office and tell them of the concern that I had over these persistent rumors that someone, or someone from the SCI was trying to develop information to intentionally embarrass the State Police. As a result of that meeting, and after I did consult with the Attorney General, I made arrangements - and of course this goes on later - to speak to the Commission.

There was a report to me on July 8, and I have indicated in that report to you some information that was provided one of my detectives from two agents incidentally who were discharged because of the Mc Gahn letter, as to why this so-called embarrassment undertaking was taking place, and I have laid that out in the report to you.

Q Well, this was a motive that was voiced by two former agents---

A Agents of the SCI, that's correct, sir.

Q ---concerning why the SCI was investigating certain matters in Atlantic City?

A That's correct.

Q And what was that motivation?

A I will quote again from a report, incidentally, which was prepared by a detective who is not part of that particular investigation by the State Police in Criminal Justice, but the excerpt is, and this being the reasoning for this so-called embarrassment situation, "... they" - meaning Collins and Varallo - "indicated that there was an unofficial working policy of non-cooperation with the State Police. When they were asked to explain this antagonism toward the State Police, three reasons emerged. First is the general sensitivity on the part of the State Commission of Investigation regarding a sound justification for the continued existence and expansion. This concern may have been accentuated by the Governor's past position that perhaps the State Commission of Investigation function should be ended.

"Second is the failure of the State Commission of Investigation to link Resorts International to mob influence. At the initial briefing regarding this probe the agents were told that the State Commission of Investigation was going to accomplish something that no one else could do. There followed for a period of several months, ending during 1976, a rather extensive effort to accomplish this without success.

"And third as the resentment by the State Commission of Investigation that they were assigned, what appeared to them to be a secondary role in regulating the State's developing casino industry.

In this connection they noted that the Attorneys were especially resentful of the fact that the State Police had refused to divulge the full details of information from a very delicately placed informant regarding proposed sale of the Claridge Hotel to organized crime figures shortly before the passage of the referendum."

These are perceptions on the part of two fired SCI agents. I think they should be viewed in that text. But, nonetheless---

Q How did you view them?

A I view them as the kind of information that to me made it proper on my part to request to see the Commission and air the difficulties that I had been experiencing, and I wrote to Chairman Rodriguez and thereafter on August 4, 1977, I met with the Commission. I met with the Commission on August 4, 1977, and laid out the litany of difficulties that we had been having, because I wanted to resolve them in-house if I possibly could.

Q What came of that meeting?

A What came of the meeting? Quite frankly I had a feeling after the meeting was concluded that there was an understanding on the part of both agencies that should there be any need for SCI to have any information from the State Police or the State Police files, whatever, that they

could feel free to come to me and I would provide it. Beyond that, should there be any information that they might develop that would indicate to them a problem within the management of the State Police, that they could feel free to go to the Attorney General, and I urged them to do this.

And I felt comfortable in having this meeting with SCI, because I felt that they knew firsthand of the concerns that I had as Superintendent of the State Police, and the difficulties that I was experiencing in my office because of activities of some of their agents.

Q What was the date of this meeting?

A That was on August 4, 1977.

Q Well, we had testimony from those two former agents of the SCI in our past---

A I am aware of that, and that is why this was included in my presentation.

Q They said that there was a calculated plan that the SCI would not share information that it gathered in Atlantic City as to illegal activities. They would not share that information with the State Police.

Now, to your knowledge, is that so?

A To my knowledge, that is not so. To my knowledge, as late as last week, we have correspondence from Director Siavage which in essence follows the arrangement that we have had, and in essence sets the wheels in motion for them to turn over to us all the information they have in Atlantic City.

Q Well, I am talking about during the year 1976. Was there a cooperative effort between the State Police and the SCI at that time?

A I think as far as I am concerned there was a cooperative effort.

Q Well, it takes two to cooperate.

A It takes two to tango, Senator, you are absolutely right. But I didn't feel that we had that much difficulty. I know that the things that were disturbing me were occurring at a much lower level than the level of people I was speaking to. Certainly, completely outside the direct view of the Commissioners, and beyond possibly even the direct view of the Executive Director, but nonetheless, I was concerned enough that I brought these reports to the attention of the Commission so that there could be a credible relationship between the two agencies.

Q Well, what were the areas of responsibility assigned or assumed by the State Police and by the SCI in monitoring what was going on in Atlantic City?

A I think in some respects we had an almost concurrent responsibility. Our responsibility, of course, is to prevent the intrusion of organized crime into that area, and our responsibility as a law enforcement agency is to develop information that will lead us to the arrest and the correction of criminal problems. Their responsibility is to overview, in fact, and to make recommendations to the Legislature or the Executive, whatever, to see that the problems that they have

perceived are corrected. They are not a law enforcement agency.

Q Well, substantively, are you saying that you are doing the same work, the State Police and the SCI in Atlantic City, during that time frame?

A To an extent, yes. But the mission of the two organizations is different.

Q No, I am not talking about the ultimate mission, once you gather the information on criminal activity, but in gathering it, aren't you doing the same work?

A Yes, as is the prosecutor in some respects, as is the Atlantic City Police Department, and the key to the whole resolution is a cooperative effort among the agencies involved.

Q And the FBI, I assume, is involved?

A The FBI, that's correct. And it requires a working relationship and a cooperative relationship between all the agencies constituting government to see to it that the problems are properly resolved.

Q Well, do you ever think you have too much, or too many law enforcement agencies stirring the broth?

A Do I think?

Q Yes.

A No, no, I really don't. Because I think the different levels of government have different concerns that have to be addressed.

Q Well, do you think there is any legitimacy to the

conclusion drawn from what you just said, that the Atlantic City police are involved in monitoring this criminal activity if it exists, the county prosecutor is involved in it, the SCI is involved in it, the State Police is involved in it, the Federal Bureau of Investigation is involved in it. The law enforcement agents should be tripping over themselves down there.

A Well, except that there aren't that many to trip over each other. I think in that regard, in order to be sure that there wasn't an inordinate duplication, the Governor directed the formation of the Atlantic City Law Enforcement Council, which brings together those law enforcement agencies which have concern in the Atlantic City area, especially in the area of organized crime, and calls us together regularly so we can compare notes and define each other's jurisdictions and see to it that we don't stumble over each other.

Q Okay, did I interrupt your narrative?

A Not at all.

Q Okay, proceed. Where were we?

A We were at the meeting with SCI which in effect to me hopefully would have resolved the issue.

Q Well, did it resolve the issue?

A I think that it may have gone toward a better understanding, but I don't know that it resolved the issue, because of a couple of other things that have occurred since, and because of the very subject matter

that you are examining here, because of a time when I was telling the Commission that we wanted to work cooperatively and should they have information reflecting---

You know, we are talking about a concern that went back to an agency intentionally trying to embarrass another agency, and this is something new to me. I have never run across this, quite frankly. Competitiveness, duplication, surely, but not an intentional effort to embarrass. So we are talking about my presentation to that Commission being for the purpose of trying to assure them that should there be a problem that they could either call it to my attention personally or go to the Attorney General, and see to it that resolutions had---

Q At what point in time are we now?

A We are now around that August 4th time, at which time, or very shortly thereafter, we find the James Jellicks thing occurring, and James Jellicks was nothing new to the New Jersey State Police or to many other law enforcement agencies in the State. So, I don't know if my presentation to the Commission materially helped or not. I would like to think that it did. I would like to think that that, coupled with the regular conversations that I had with Director Siavage, had a conciliatory or a corrective influence.

But, nonetheless, I see from the testimony today that when the Jellick's information first became known that we weren't contacted quickly enough, because at that point in time, the New Jersey State Police, our Internal

Affairs Bureau had conducted a thorough and a complete investigation into those allegations, and certainly had we known quickly we could have solved a lot of the problems that have come as a result of our not knowing quickly in the first instance.

Q Well, on October 27th of this year, you had a meeting with the SCI commission members and Mr. Siavage?

A That's correct.

Q And what was the subject matter that you discussed at that meeting?

A The subject matter at that time was the Jellick's allegation, and in essence it consisted of two documents, the transcript of their deposition, and a copy of a polygraph report.

Q And what did the polygraph report conclude?

A It concluded that he had spoken truthfully. However---

Q In his allegations against the State Police?

A His allegations against the State Police. However, it is in direct conflict with the polygraph reports that we had administered, and I think that had the examiner been given benefit of the investigative file that we had amassed, and here it is, it is pretty heavy as far as I am concerned, Senator, he would have had a different insight into how to conduct an examination, and that without question very quickly distressed me.

Because we had conducted an examination of James Jellicks.

Q When did you conduct your examination?

A Excuse me one second, Senator. We had concluded our investigation in May, May the second. Our last investigative ocontact with Jellicks was on May the second.

March 3, 1977, this individual was examined on a polygraph by a member of the State Police

Q What was the date?

A March 3, 1977. And that examiner had two points that he had to know in addition to the extensive investigative findings. It is very important for that examiner to know things before he went in tthere, and it is important that we do certain things in order to conduct the proper examination.

Q Well, for purposes of the question that I have, the State Police conducted a polygraph test that concluded that Jellicks was lying in his allegations?

A That's correct.

Q Okay. Who conducted that examination?

A That was conducted by Lieutenant John Toth of the New Jersey State Police.

Q And what were the two things that were critical?

A In addition to the critical knowledge that he picked up from our investigation, he knew ahead of time that Jellicks had tried to beat the polygraph in prior examinations through the use of drugs, and he knew from our investigation that Jellicks was a pathological liar. And for an examiner these two points were very important. For the investigators they were important also. First of

all, they had to orient the examiner. But, secondly, they arranged without Jellicks knowledge beforehand to see to it that he was drug free, and they arranged beforehand that he would not know that he was being taken out of jail to be examined.

Q I am more interested in the facts, Colonel, than your conclusion about his being a pathological liar.

A Well, those are very important things for an examiner to know---

Q I know that is a very self-serving declaration for you to make, and I expect you to make it, but we are looking for the facts to support that. Suffice it to say that for purposes of this limited inquiry that you achieved a different result in the polygraph examination.

A That's correct. Suffice it to say that.

Q Okay. Do you have a copy of Lieutenant Toth's report that you can leave with us?

A I have the excerpts of the questions, and I probably do have the report.

Q Well, can you make available a copy?

A We can make the report available, yes, sir.

Q All right, now getting back to the meeting of October 27th between yourself, members of the SCI Commission and Mr. Siavage. Who else was there from the Division of Law and Public Safety?

A Captain Dentino and myself.

Q Was Mr. Hyland there?

A No, he was not--- Oh, wait, October 27th, I am sorry,

I am mistaken. I was thinking of the August 4th meeting. On the 27th it was Director Del Tufo, myself and the Attorney General.

Q Am I skipping ahead too much?

A No, it is perfectly all right.

Q What was the subject matter of that conversation?

A The subject matter in essence was the Jellick's report. That was the reason for the arranging of the meeting. Beyond that, we discussed general relationships between the SCI and the State Police, because of my meeting with them on August 4th, and other situations that we felt had best be discussed.

Q What were those other situations?

A Just general relationships between the law enforcement agencies.

Q Well, specifically in your report you made reference to the Lordi affair.

A All right, okay.

Q What do you mean by that?

A Let me get that portion of the report so that I can --- On page ten, at that meeting what we really had discussed was cooperation between agencies, and the need for cooperation between agencies, and during the course of the discussions, we heard a comment from the Chairman about the fact that the State Police had lost the Lordi report. And at that point the Attorney General told the Chairman, that, yes, we had lost a copy of the report some place, but that we were conducting an

investigation to determine how that report had been revealed, and it was a criminal investigation and one way or another we were going to get to the bottom of the loss of that report, and that is still an ongoing investigation.

Q Well, what was the criminal act that you are making reference to?

A We are probably speaking in terms of an act of misconduct or a revelation of state secrets.

Q Okay, and you discussed this matter with the SCI.

A We discussed this with the SCI and specifically with the Chairman at that point. And again the significance when you speak in terms of relationships, when you speak in terms of sharing of information, when you speak in terms of cooperation, we have determined at the point that that conversation took place, that Mr. Rodriguez had a copy of the report. We don't know, or there is no information indicating that anyone other than he knew of the possession of that report.

Q Well, you were having this conversation with Mr. Rodriguez on October 27th concerning the Lordi affair because you knew that he had a copy of the report?

A No, no, not at all. We had no knowledge.

Q Why were you discussing it with---

A Only because of a remark made by the Chairman, and---

Q By Mr. Rodriguez.

A By Mr. Rodriguez, and the Attorney General responded

simply by saying that the loss of the report was under investigation, that it was an active investigation, and that we were going to get to the bottom of that situation because we looked upon it as a criminal act.

Q What did Mr. Rodriguez say in response to that?

A Nothing.

Q Did he tell you that he had a copy of the report?

A He did not.

Q Did he later tell you, or did you later find out that he did?

A We later discovered that he had a copy of the report.

Q And did he have a copy of the report on October 27th when you were having this conversation with him?

A Yes, he did.

Q Did he ever acknowledge to you that he did in fact come into possession of a copy of that report?

A On or about October 22 or the 26th, but prior to the meeting on the 27th.

Q At the time of the meeting he had in his possession a copy of the report but said nothing during this meeting that you discussing cooperation between your two agencies?

A Nothing.

Q Do you think that failure to comment on the fact that he had it was consistent with the cooperation that you were talking about?

A No, I do not.

Q Well, when did you find out that he did have that report?

A On or around November 3rd. Now, we are getting into an area too, Senator, where I really feel that what I have said is significant in terms of cooperation between agencies, but we are continuing that investigation. We will get to the bottom of that, if we possibly can, and I really don't want to go in to too much more detail about that specific situation if you can bear with me on that.

Q I understand that there are certain sensitive areas. You mentioned the Longport and Margate investigation that is ongoing, this matter of the Lordi report, and your testimony seems to be a little bit inconsistent to me an impression that I get.

You say that you have, you feel that your relationship is improving with the SCI, but on the other hand---

A I didn't say it was improving. I think I said, I hope it would improve after the meeting.

Q Well, that clears up some of the inconsistency, because it appears to me that you keep having these meetings discussing cooperation, and you keep coming away from these meetings, or subsequent to the meetings have the feeling that you have reinforced, but you are not truly getting cooperation from the SCI; is that so?

A That is essentially correct, except that when we specifically ask for things, I think we get them. I really don't know. It is difficult for me to answer that question, Senator, especially in light of some of the

things that have been said in this room here today.

Q Getting to some of the things that were said in this room today, specifically about the propriety or the appropriateness of an SCI agent putting Mr. Jellicks in contact with an investigative T. V. reporter, how do you respond to something like that, taking into consideration the relationship that you have with the SCI and the history of that relationship?

A I respond very poorly to that. In fact, I am incensed by that. In fact, as a matter of fact, I don't believe that at least as far as that individual is concerned there can be any relationship.

Q Well, what hazard attached to Marvin Scott broadcasting Jellick's allegations?

A What hazard?

Q In reference to the State Police.

A Well, I think the greatest hazard is that a law enforcement agency must necessarily have the confidence of the people it serves. That from time to time when there are difficulties encountered, that agency follow through on those difficulties and bring them to a proper conclusion. To have those kinds of allegations brought out publicly, and to have the organization and the individual members of the organization unjustifiably impuned would diminish that public confidence in that organization and would injure that organization and that is what I feel. I feel very strongly about that.

Q In this particular case, would it threaten any ongoing investigations?

A No, because we concluded the Jellicks' investigation I don't see where it would have threatened an ongoing investigation at all. It would materially have affected possibly us again looking at the Jellicks allegation if there was anything new in the SCI transcript, and there wasn't, but nonetheless, it to me is nothing that could go well toward either organization. And as a matter of fact, it is an underhanded way of doing business, as far as I am concerned.

Q At that meeting of October 27th, did the Attorney General ask you to take another look at the Jellicks investigation?

A We agreed at the meeting to now take the transcript, the polygraph examination and look again to see if there was anything new or whether or not there was anything that we hadn't covered the first time around. That new look was to be a cooperative new look between our internal affairs bureau and the Division of Criminal Justice.

Q Is that inquiry ongoing?

A No. It is completed.

Q When did you complete that?

A December 9, 1977.

Q Do I have a copy of that in your report?

A No, you don't. I don't think you do.

Q Do you have any objection to having that marked?

A I think for the purpose of the overall issue at hand, Senator, what I will do, instead of turning all these

reports is offer the Committee an opportunity for yourself or any member of the Committee or any number of members of the Committee to review all the reports, including this memorandum dated December 9, 1977 that we received from Ed Steir indicating the completion of a review of the case.

Q All right, that may be satisfactory, so we will pass on that.

A Otherwise, we will be disjointed even more than we may be right now.

Q Before I solicit questions from other members of the Committee, I just want to address myself to--- You put Mr. Jellicks' credibility seriously in question. You said that he was a pathological liar.

A I think in order to bring it back into perspective, I am speaking in terms of an objective analysis of an individual and his propensity to lie, so that an examiner would have that kind of an insight before conducting an examination.

Q Now, knowing that, you used him, or the State Police used him as an informant in a number of criminal matters, did you not?

A That's correct.

Q In some instances did his information turn out to be accurate?

A In some cases his information was accurate.

Q Did other law enforcement agencies to your knowledge use him as an informant?

A Yes, they did.

Q And in some cases, did they find that the information that he gave them was accurate?

A I believe so, but I am not certain.

Q Is it not a fact that Mr. Jellicks has been used as an informant by a number of different law enforcement agencies to their satisfaction as to his credibility and accurateness?

A I can't speak for other agencies right at this point, Senator, but I know that he has been used by other agencies. I know that we have used him, and so long as we have handled him properly we did get information from time to time that was accurate. On the other hand, we got information that was not accurate.

Q The Middlesex County Prosecutor's Office used him and got accurate information; is that not so?

A I spoke to Prosecutor Hamlin a week or so ago, and he indicated that he had gotten some accurate information from him.

Q How about the U. S. Attorney's Office?

A I don't know, sir. I know that they have used him, but I really can't comment on the specific cases, because I don't really know all the ramifications. I just don't know.

Q Well, you wouldn't characterize any of those acts by these law enforcement agencies as irresponsible?

A Not in any way, because when you deal with this type person, you have to go beyond the testimony.

Q So his credibility can't be abjectly condemned. It has to be taken on a case by case basis.

A On a case by case basis, piece by piece basis.

SENATOR DUGAN: Senator Greenberg.

BY SENATOR GREENBERG:

Q Colonel, to pick up where you left off, merely because an agency thinks that his testimony is accurate is not an indication, is it, that in fact the State Police would view it as accurate? Because in this particular incidence the SCI views, as I understand it, what he has testified to here today as being accurate.

A Without any surrounding investigation they do. I think the testimony here so far goes only to the transcript and that one polygraph examination.

Q It is a problem, and frankly in my judgement, this Committee isn't capable of resolving the question of the accuracy of the statements made by Mr. Jellicks in the face of all we have heard here today, in my judgement, but what I think, however, does vitally concern this Committee is the question of the relationship between the law enforcement agencies in this room and the allegations and inferences and innuendos that we have heard with regard to the desire on the part of one to embarrass another if in fact that is true.

Secondly, I think, speaking for myself, what the Committee is concerned with is the question of direction. Who knows what's going on with regard to the activities of the SCI, who in fact issues the directives, can an

individual in a responsible authority as Assistant Counsel make the type of representations and recommendations which can so vitally affect law enforcement in the State in terms of cooperation between the two of them without in fact the entire Commission knowing or participating in it.

I recognize that that is not necessarily your problem, but I think it is, just as it is ours.

A Well, it is my problem to the extent that I take my end of the problem to the Commission, so that they all understand what my end of the problem is, and that is exactly what I did, as best I could.

Now, I think beyond that you make some very valid points, but they go to the internal management of the SCI and they are outside the scope of my authority or--- I don't even necessarily know that they are not outside the scope of my influence. I think that you have to look to the SCI for those answers.

Q Yes, I think you are right.

SENATOR DUGAN: Senator Russo.

BY SENATOR RUSSO:

Q Do you have with you any of the specific instances where you have used Mr. Jellicks as an informant and in fact his information had been inaccurate or untruthful?

A All right, probably the last one which was our last investigative contact and which was referred to in this room today, the visit of Detective Mc Mahon on May 2nd to the Camden County Jail. The only reason for

that visit - because our internal investigation of that concluded - was because Jellicks indicated that he had information relating to a homicide, and the Detective who accompanied Detective Mc Mahon was one of our major crime unit's people, Detective Tabiner[sic.] and the information that he provided or that he gave us was not accurate or not credible. It had no value at all.

But, only because we investigated the information we found that it was not credible.

Q Well, was it information that appeared or that you concluded was untruthful, as distinguished from inaccurate?

A He was lying, according to Detective Mc Mahon on that particular piece of information.

Q According to---

A I look to Detective Mc Mahon, because he conducted the interview and then was aware of the conclusion of their finding.

Q And were there any other instances prior--- I'm sorry, that incident you just mentioned, was that before or after the polygraph test that your Department took?

A That's after our polygraph examination.

Q Were there any instances before the administration of the polygraph test by Lieutenant Toth where you concluded---

A I know that we have information in some of the letters that we got from Jellicks in which he admits that he had lied on prior occasions and in prior correspondence to me.

to me. I am sure it is part of the investigative file that we will make available to you.

Q You have letters from Jellicks where he admitted that he lied on prior occasions.

A I have a letter in the file specifically in which he admits that he lied about the allegations concerning the State Police.

Q These particular allegations?

A That's correct, the allegations you have under inquiry here. On August 8th, ---

Incidentally, we are getting into the other area, and I have no objection to that, but one of the things, when you speak in terms of his having lied in the past, he was arrested, if I recall correctly, on August 6th of 1975. On August 8th in a conversation with Lieutenant Simonetti, which we have documented and presented as part of our information to you, Senator, he admits that he lied when he said that the State Police directed him to break in to the Abbatiello Farm. So he lied there. And we have eleven or twelve other occasions in which we can document specific lies.

Q Okay. Thank you.

SENATOR MUSTO: Can I ask a question?

SENATOR DUGAN: Of course.

BY SENATOR MUSTO:

Q While we are waiting, is there any reason we use these people that seem to lie all the time? They lie for you and then lie for somebody else. Is there any reason?

A I think that is part of the responsibility of an enforcement agency in their management of informants, to take nothing at face value, and only act on that information which you can prove credible, that information which you can substantiate by outside information, sometimes joined together with the testimony. With an individual such as Jellicks, we would never take any action based solely upon his testimony or his representation to us that something did or did not occur.

If he reported a hijack to occur at a certain time, we would look to see if the hijack occurred and take our enforcement action based upon what we found, not upon what James Jellicks would have told us, so there is a need to work with liars from time to time.

Q The reason I asked that question, is the testimony that I hear today seems to be we use these people, unless I am not hearing correctly, when it suits our convenience.

A No, I don't think when it suits our convenience. I think it always suits our convenience or suits our purpose, but it is up to responsible people to determine whether or not the information that they are providing is credible, is accurate, because as we have a responsibility to prosecute offenders, we have the same concurrent responsibility to see to it that the innocent are not prosecuted. So you have to weed the fact from the fiction especially with an individual like Jellicks.

Q What I am leading up to, we would use Mr. Jellicks again?

A The New Jersey State Police won't use him again.

Q Do I get a yes or no to that?

A No, you got an absolute no that we will not use Jellicks again.

Q Well, will the SCI use him?

A You would have to ask the SCI.

Q Will the FBI use them again?

A Well, I think---

Q Will the U. S. Attorney's office use him again, that's what I mean? The jury's out on that one too.

A I have heard that statement before too, Senator.
BY SENATOR RUSSO:

Q Let me ask a question or two on this polygraph exam. You mentioned in your report that he had indicated in the past he beat a polygraph by taking thorazine.

A Right.

Q Do you know who the polygraph examiner was for the SCI who gave him the exam and concluded he was telling the truth?

A Only by name. I don't know the individual.

Q Do you know, by any chance, what his training is?

A I really don't know.

Q Do you know, or is there any evidence to indicate affirmatively that he had in fact taken drugs before that particular exam?

A I don't know. We have not reviewed the polygrams, so I just don't know, Senator.

Q And did you come to any conclusion that in fact he was a pathological liar of the nature that could beat the box, so to speak?

A I think when I speak in terms of the pathological liar, I am speaking in terms of what the polygraph examiner must know before he conducts the examination. One of the things he has to know, of course, is what we discussed about drugs, and we had to make some arrangements to be certain that when we conducted our examination that he was drug free.

But, secondly bringing him out without prior notice was important, because we knew beforehand that this man did on occasion lie, and it was important to us to catch him offguard in a situation where we could with our examiner in the fact situation we have given him, separate the kinds of questions that we know he would lie about from those that we knew he would not lie about. So, maybe the use of the term pathological liar isn't just in the germaine sense, but we knew beforehand the man had a propensity to lie.

Q Now, the report you have from Lieutenant Toth, is that only the same comments that appear in the transcripts you have given us, or do you have a more detailed report?

A We have a more detailed report.

Q Subject to your approval and that of the Committee, during the recess, may I review that report, Colonel?

A Yes. I have it right here handy for you, Senator.

BY SENATOR DUGAN:

Q Colonel, I am going to ask you a few more questions, and then we will have a recess. These one or two questions, I hope, may conclude our inquiry into the relationship of the SCI vis-a-vis the State Police.

In the cooperation that flows back and forth between the two agencies, I am interested, does the SCI ever bring to the State Police attention a criminal activity that the State Police is not aware of?

A I would have to say that through the years it has been my experience that they probably do. I think in order to answer that question with accuracy I would have to review the files to cite specific circumstances.

Q Well, can you think of any offhand?

A Specific criminal acts--- I can't think of any offhand, but it would be unfair to say that they didn't through the years. I really have to review the file, Senator.

Q Well, was there any major illegal activity that in the first instance was brought to your attention by the SCI, or the State Police's attention by the SCI?

A I would have to say yes, but I really can't off the top of my head say what they were.

Q Well, can you make reference to the two gentlemen that are here with you as to their recollection?

A Let me ask my cohorts. I am making reference across the room, too, Senator. I am told Medicaid fraud, a prison investigation. I know that there have been

instances of cooperation that resulted in criminal investigations directly attributable to information from the SCI.

Q Well, did that medicaid fraud result in indictment?

A Yes, they did, dozens of them.

Q When was that information given to you?

A Last year sometime, late '76, early '77.

Q Did the State Police conduct the investigation?

A That was a criminal Justice white collar crime unit investigation. We conducted the jail investigations. I know there were indictments there.

Q What jail investigation?

A The State prison investigations. That's the best I can do on short notice, Senator.

SENATOR DUGAN: All right, we will recess now for ten minutes, and then we will come back and hopefully conclude today, but I don't know if that is possible or not. We will be back, in any event, in ten minutes.

(Whereupon a short recess was taken.)

(After Recess)

SENATOR DUGAN: The Committee will reconvene. While the witness is getting settled, I would like the reporter to mark two receipts that were supplied to us by SCI after the lunch break. One is dated 10-27-77 and the signature is James Forrest - it is for the receipt of \$20 from George Sahlin - and another receipt, dated 11-2-77, again signed by James Forrest, witnessed by Alfred L. Genton, and it's for \$50. Will you mark these two.

(Whereupon receipt for \$50 was marked "SCI-2" for identification; and receipt for \$20 was marked "SCI-3" for identification.)

SENATOR DUGAN: Colonel and ladies and gentlemen, the Committee met in this brief recess and we decided that obviously we can't conclude this hearing today and we thought we had reached a point in the hearing, in the inquiry, that would be an appropriate point at which to recess.

We realize that there are a number of issues that were raised today that haven't been responded to nor has the opportunity to respond to some of those things been afforded. But everyone concerned or a party to these hearings will have a full opportunity to respond to everything that was said today: Colonel, you in regard to the allegations by Mr. Jellicks as to the impropriety of certain

of your officers; and the SCI, in response to the allegations of impropriety or irregularity that were alleged by Mr. Jellicks against the SCI.

Unfortunately, we can't compete with the time clock. It just continues to run and it is going on five o'clock now and we just physically don't have the time today to complete all of these things.

We think at this point it would be an appropriate point to recess with everyone being given the assurance of a full opportunity to respond and to make whatever case anyone wants to make at a future date. Tomorrow I will take up the matter of that future date with the full Senate Judiciary Committee and some other administrative matters that are relevant to the Senate Resolution that authorized this hearing.

I might add that there are several other citizens who have brought matters to our attention that we think appropriately could be spread on the record of the inquiry that we are engaged in, consequent to the Senate Resolution.

These matters will be taken up tomorrow by the full Senate Judiciary Committee here in Trenton and we will notify all parties to this inquiry and who were the subject matter of subpoena of when we will reconvene. We will give you adequate notice. But I assume that you are as anxious as we are to have an early date at

which time these matters can be fully responded to. So, with that, I will remind you that the subpoenas are still in effect, will be in effect, and we will be in touch with all of the parties that have been subpoenaed and the other interested witnesses and parties when we arrive at a suitably convenient, early date to resume this hearing.

In conclusion, I would like to thank everyone that participated today and especially the State officials. I realize it was an imposition on your time perhaps to have you here and only give you the opportunity to be heard so briefly or not to be heard at all. But, as you can see, it is a serious concern that the Legislature has with this sensitive matter and we want to give everybody a full opportunity to be heard and give the Legislature the benefit of a full hearing into this matter.

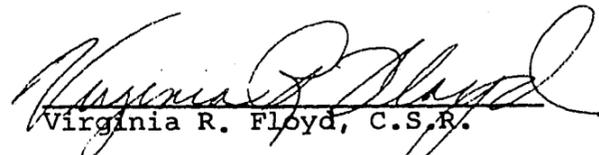
So, with that, thank you, and our apologies for bringing you here without the opportunity to speak. We are in recess.

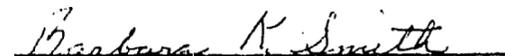
(Hearing Recessed)

RE: Public Hearing before Senate Judiciary Committee,
pursuant to Senate Resolution 3008.

CERTIFICATION

WE, VIRGINIA R. FLOYD and BARBARA K. SMITH, DO
CERTIFY that the foregoing is a true and accurate
transcript of the testimony and proceedings in
the above-entitled matter.


Virginia R. Floyd, C.S.R.


Barbara K. Smith, C.S.R.

PUBLIC HEARING

before

SENATE JUDICIARY COMMITTEE

(Re: Activities of Law Enforcement Agencies)

Held:
January 26, 1978
Assembly Chamber
State House
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

- Senator Martin L. Greenberg (Chairman)
- Senator William V. Musto
- Senator Joseph A. Maressa
- Senator William J. Hamilton, Jr.
- Senator William N. Sheil
- Senator Steven P. Perskie
- Senator John F. Russo
- Senator Barry T. Parker
- Senator James S. Cafiero
- Senator James P. Vreeland

ALSO:

John J. Tumulty, Research Associate
Legislative Services Agency
Aide, Senate Judiciary Committee

* * *

I N D E X

<u>Name of Witness</u>	<u>Page</u>
Anthony T. Abbatiello	1

APPEARANCE:

Joel H. Sterns, Esq., for Mr. Abbatiello

76343
2 of 5

NCJRS
MAR 17 1981
ACQUISITIONS

SENATOR MARTIN L. GREENBERG (Chairman): The Judiciary Committee meeting will commence.

While this is a new session and this Committee is operating under authorization of a new resolution adopted by the Senate at its last meeting, this is, in effect, the continuation of a hearing, pursuant to an identical resolution, which hearing was held on January 4th, 1978. During the course of that hearing, testimony was received by this Committee in which the name of Anthony T. Abbatiello was mentioned.

As a result of that mention, the Committee has received a request from Mr. Abbatiello of his desire to testify, and I indicated to him that that request would be granted. He is here pursuant to that request today and is prepared to testify.

Mr. Abbatiello, will you be sworn, please.

ANTHONY T. ABBATIELLO, being duly sworn, according to law, testified as follows:
BY SENATOR GREENBERG:

Q Mr. Abbatiello, do you have a statement to make?

A Yes, Mr. Chairman, I would like to read a written statement.

Q Go ahead.

A Mr. Chairman and members of the Senate Judiciary Committee:

While I sincerely appreciate the opportunity to appear here today, it is really unfortunate that I must do

so in order to clear my name and reputation from the totally false and outrageous charges made against me by a disreputable individual who testified before this committee at an earlier hearing.

Even though most reports of that earlier hearing clearly showed that I have not been under investigation, nor involved in any wrongdoing whatsoever, there has been needless, undue suffering and damage to me, my family, my business and my reputation. Despite the fact that Colonel Pagano, the Superintendent of State Police, has stated publicly that I was not under investigation and that there is no reason to question my integrity or reputation, I am an innocent victim of one individual's outrageous, unsubstantiated statements.

I have devoted my adult life to standardbred racing and I am proud of my work. I have been a respected owner, trainer and driver of standardbred horses for the past 27 years and have always worked to improve the standardbred industry in New Jersey. I am serving my 14th term as president of the Standardbred Breeders and Owners Association of New Jersey and am currently a regional vice-president of Harness Horse International, an organization representing more than 18,000 members in the United States and Canada. As a matter of fact, when I leave here today, I will be going to Florida to receive an award as "Man of the Year" at the Harness Horse International convention. I was also the first chairman of the New Jersey Sire Stakes Board, which has made great strides over the past several years

to improve the caliber and quality of the standardbred industry and standardbred racing in our state.

More specifically, I want to take this opportunity to respond to the totally false, baseless and outrageous statement by the witness who appeared before your Committee and identified himself as Mr. Jellicks, that I was illegally drugging race horses and holding meetings to discuss race fixing. I want to state categorically that Mr. Jellicks' statements are lies and that I have never taken part in either the illegal drugging of horses entrusted to my care as an owner, trainer and driver, nor have I ever been party to any discussion of or actual fixing of races.

The man who has been identified as Mr. Jellicks before your Committee came to me under the name of James Cusick for a job at my farm, Five Point Farm. There are always job opportunities at the farm because much of the care, training and raising of horses is dependent on the seasons and the movement of people around the state and to other states. Mr. Jellicks had no experience with horses and as I recall he drove up in a car with Rhode Island license plates and told me he had been doing landscaping work there. Nevertheless, before hiring him, as I do with every individual, I asked him if he had ever been in trouble with the law because it would be necessary for him to receive clearance from the State Police. He assured me that he had not. I then sent him to the Freehold Raceway to obtain clearance from the New Jersey Racing Commission and from the State Police, which is a normal procedure for

all employees at my farm. This, incidentally, is a routine practice followed by all our horsemen and women. It is for our protection as well. He came to work for me after obtaining that clearance on February 21, 1975. He left his job on January [In Mr. Abbatiello's written statement, the month is June] 13, 1975 and on July 27, 1975 my house was burglarized. I reported it to the State Police, which subsequently led to the arrest and conviction of the man identified as Mr. Jellicks and the return of the personal property stolen from my wife and myself.

Again let me state that I am personally outraged that this man had the opportunity to impugn my integrity, damage my reputation and cause needless anguish to me and my family. I am glad to have had this opportunity to reaffirm the fact that I was unjustly victimized by his false statements and to assure my friends, colleagues and business associates that I have always and will continue to work to uphold their faith in me and my farm and stable.

I am, of course, happy to answer completely any questions you may have.

Thank you

Q Thank you, Mr. Abbatiello. Congratulations, incidentally, on the award you are about to receive.

A Thank you, Mr. Chairman.

Q Mr. Abbatiello, when an individual comes to work for you, does he generally get referred by anyone connected with the racing industry or law enforcement bodies?

A If he is horse orientated or if he has worked at

the tracks before, yes; but if he is a green person, someone coming in off the street, no. He wouldn't know where to ---

Q How did you view Mr. Jellicks when he came to you? Did you view him as someone who was sent to you by either law enforcement or the racing industry or someone who came green off the street?

A Someone who came green, Mr. Chairman.

Q Did he represent to you that he had been sent by anyone to work at your farm?

A No, he had told me that he had worked for a landscaper in Rhode Island and he had just moved in the area and he was looking for work. And I questioned him on his ability with horses. He had none, so ---

Q What type of work did he do for you?

A Maintenance man, sir.

Q Did he ever accompany you to the track or did he go to the track on your behalf?

A He might have went to the track on our behalf to help deliver some feed to the track. He could have gone, yes.

Q Would that have been in your company?

A No, sir.

Q He has testified that you used to have meetings on Sundays at your farm.

A What's the question?

Q He has testified that you used to have meetings on Sundays at your farm. Is that true? Did you have periodic, occasional or regular meetings?

A No, they weren't meetings, sir. We work afternoons and evenings. Sunday is the only day we have off. We also have a breeding establishment. But in the months of March, April, May, mares will foal, owners will come to see their mares, and it is the only day that an owner could stop over and talk to me or see his horse or bring the family with him. Normally, I am away at other parts of the week.

It is a gathering, you might say, of owners or visitors stopping. A farm like ours, sir - and we are proud of it - is quite a large operation and we have mares out in the field and foals and people will stop in and there will be a lot of traffic.

Q When people stopped in on a Sunday, would they meet in one particular place or location?

A No, sir. They can be at the barn. There will be people in the barn, people around the paddocks where the mares are.

Q From time to time on Sundays, did you ever have conversations with those people when more than one was present, in addition to yourself, in a room in your home?

A Oh, it could have been three or four of the owners could have stopped in, surely, sir; it could have been possible.

Q You indicate in your statement to us that you obtained the return of the personal property stolen from your house, belonging to yourself and your wife. Were there any books or records contained in those returned items?

A Yes, sir, there were books. There was medication taken from the tack room and there was also records that we must keep. When we run an operation such as ours with 30 - 40 brood mares and close to 15 yearlings, every horse, sir, must have a medical record. What we do is -- they are given tetanus. They are given penicillin if they are sick. And a record must be kept and, under the supervision of a veterinary; should a horse ever get cut, he would want to know immediately when the horse had his tetanus shot. And it is up to us to have these records available to show him whether to give him a booster shot or give him a full shot.

Q What form were those records kept in?

A They are kept in loose-leaf books, sir, with the name of the horse and procedures - when the horse received medication.

Q Was there more than one set of books kept with regard to those records on those horses?

A There was one set of books of those, sir, and two other books of equipment, what horses wear.

Q Repeat that answer, please.

A Equipment, sir, what horses wear. If they wear ---

Q No. I am talking about records with regard to drugs or medication.

A No, sir. There is just one book with the vets' requests in it.

Q And was that book, in fact, stolen and returned?

A Yes, sir.

Q Was any portion of that book, to your knowledge, missing when it was returned to you?

A No, sir.

Q Did anyone ever discuss with you the contents of that book after it was returned to you?

A No, sir.

Q Did you ever have any conversation with anyone from the State Police during which any specific representations were made to you concerning Jellicks?

A Yes, sir. I think - I can't recall the date - but someone from internal division, I think, of the State Police came down investigating the charges, I think, that Jellicks had made.

Q Approximately when did that occur?

A I'm sorry, sir. I just can't recall. It had to be - I would have to be guessing at it.

Q And you told them basically the same as you have told us here today.

Q Right, sir.

Q At any time did anyone from the State Police ever make any representations to you concerning the fact that Jellicks was working for the State Police or was cooperating with the State Police?

A No, sir.

Q No one?

A No, sir.

Q No one ever made that representation to you

from the State Police or from any other source?

A No, sir. I did not know this.

Q When was the first --- I am sorry.

A I wanted to say the first I knew of this, sir, was when it came out in the newspapers.

Q That was the first time you learned of the allegations that he was, in fact, working with the State Police?

A Right, sir.

Q Subsequent to that time, has anyone from the State Police contacted you?

MR. STERN: Since the last committee meeting?

Q Subsequent to the time that you learned of it by reading of it in the newspapers.

A No, sir.

Q Has any other law enforcement authority or agency contacted you?

A No, sir.

Q Have you ever had any discussion with regard to Jellicks with any member or employee of the State Commission of Investigations?

A No, sir.

Q You hesitate. Are you ---

A No. That's SCR, right?

Q That's SCI.

A No, sir.

SENATOR GREENBERG: All right.

Questions. Senator Sheil.

SENATOR SHEIL: No, I'll pass. You have covered the questions.

SENATOR GREENBERG: Senator Hamilton.

SENATOR HAMILTON: Just one or two questions, Mr. Chairman.

BY SENATOR HAMILTON:

Q Any of those people that came to your farm on a Sunday morning to visit, to see their mare or what have you -- were any meetings conducted in a room where there was, in fact, a telephone located?

A It could have been in my house. We have telephone extensions through the whole farm, sir. So I would have to say, yes. If we were discussing a horse in a barn or a mare or a foal or something, I would have to say I was by a phone at every time.

Q So there is a phone in the barn area or the paddock area?

A Yes. We have extensions throughout the whole farm, sir.

Q Did you either before or after Mr. Jellicks was in your employ at any time see any evidence that he or anyone else had installed any kind of a listening device in or about those premises?

A. No, sir.

Q Was there any evidence that you were able to discern of a break-in after it, in fact, occurred, either at your house or in the barn or paddock area?

A After the break-in?

Q Yes.

A Yes, sir. The night of the break-in, the house was a total wreck. Everything was upside down in the house. And I guess the --- You'd definitely know it was burglarized.

Q There was clear evidence the house was burglarized.

A Oh, definitely.

Q How about in the barn or paddock area, was there any evidence that there had been any unlawful entry there?

A Well, there was nothing that --- we knew stuff was taken out of the office. They made shambles out of the office. They turned the drawers, you know ---

Q And is the office in the barn or stable area?

A The office is in the barn area, sir. And it was not just records, sir; it was personal property and personal things that were taken, jewelry, etc.

Q I understand. There is just one other thing that I think perhaps you could enlighten us all on because there seems to be some uncertainty in the transcript. Is there, in fact, to the best of your knowledge, a restriction on all medication being given to the horse on the day he is going to race or just certain kinds of medication?

A All restrictions, sir. But let me explain something briefly. A medication like pencillin, terramycin or streptomycin is something that we use regularly when we have a sick horse at the farm. This is an illegal medication to use on a race horse. It contains a very

minute amount of procaines, which can be picked up by the systems, as we have, that we are proud of - that we instituted, by the way, our Association and the horsemen - called pre-race testing, that any foreign substance in a horse can be picked up immediately.

Q Do you say the use of those medications is legal or illegal?

A It is legal on a farm, 'sir; illegal to give to a race horse on a day he's racing.

Q And if the horse is at the track on the day he is going to race, he can be given no medication?

A No medication whatsoever, Senator.

Q From your experience over the many years that you have been in the industry, is it possible for a horse to be given illegal medication and for the results of the test to be switched? That seems to be the implication that Mr. Jellicks made, that the wrong test was turned over. Is that possible?

A No, sir. Briefly, the people that take the urine - it's a procedure that is foolproof. He doesn't know what urine he is taking. The things are just numbered. I am proud of New Jersey in this respect. I think we have the greatest system of protecting the public and the horsemen and the owners with the system that we have. And I will have to say it is run by the State Police.

SENATOR HAMILTON: Thank you, Mr. Abbatiello.

I have no further questions, Mr. Chairman.

SENATOR MUSTO: I will defer now, Senator Greenberg.

SENATOR GREENBERG: Senator Cafiero.

SENATOR CAFIERO: No questions.

SENATOR GREENBERG: Senator Vreeland.

SENATOR VREELAND: No.

SENATOR MARESSA: Mr. Chairman, I don't have a question, but I would like to make a statement.

Anticipating Mr. Abbatiello's testimony, I checked with some other people in the industry. I have several friends who are standardbred owners, people, Mr. Abbatiello, like Charles Desorte and Giberson and Tommy Lail. And I can say here - and I think it is necessary for it to be said, utilizing this forum because of the bad publicity that Mr. Abbatiello has gotten - that he enjoys one of the finest reputations of any man in the industry.

THE WITNESS: Thank you, sir.

SENATOR GREENBERG: Senator Russo.

SENATOR RUSSO: Thank you, Mr. Chairman.

BY SENATOR RUSSO:

Q Just a question or two. Let me ask you the question and let you answer it in conjunction with what Senator Maressa just said. Have you ever drugged horses illegally?

A No, sir.

Q Can you tell me - and you probably can't

since you haven't done that sort of thing - why would anyone illegally drug horses and keep records of that? Can you conceive of any reason for that being so?

A He would be a foolish individual. That's all I can say, sir.

Q And who had the keys to --- Let me withdraw that. There was talk about a break-in here. And then I recall some comments by you to the effect that it wasn't consistent because this fellow Jellicks had keys to the house and wouldn't have to break in. Can you just ---

A Well, yes, sir, number one, he was a maintenance man and he had access to the keys to the office. He cleaned the office out in the evening when the bookkeeper was done and he would clean out the tack room. And he had the keys available to him at all times if these records were so important for him to take. On the night of the break-in, the house wasn't locked; he didn't need a key to walk into the house.

Q One last question: The testimony as I recall - and, please, if any member of the Committee thinks I am incorrect, correct me - is that the meetings, the Sunday meetings that Jellicks claimed to have recorded and to have recorded evidence of discussion of race-fixing or what have you, supposedly had taken place in the living room, I think, of the home. Am I correct from the records? Is that correct? My question to you very simply is: Did you or did you not - and I don't really care whether they were family gatherings or what -- did you or did you not

have regular, or with some regularity, meetings in your home, in the living room area or what have you, with trainers and maybe ticket sellers or whatever they were, for whatever purpose, perhaps not for an illegal purpose, but for whatever purpose?

Q Well, we'd stop in on a Sunday morning. We'd look at the horse and have bagels and coffee, if you'd call that a meeting.

Q Okay.

A We'd sit down and discuss horses. An owner would stop in. I might have raced his horse on a Wednesday and it would be the only opportunity. There might be two or three people there and sometimes there may be seven or eight. And we'd have breakfast and ---

Q All right. But in any event, at least with some regularity, there was some kind of a gathering that would take place, reasonably regular, whether for bagels or coffee or to discuss horses or what, in your home in the area we're talking about.

A Yes, I would have to say on a Sunday morning. I'd race Saturday nights. I'd get home in the wee hours of the morning.

Q And you say there may be owners present?

A Right, and someone who I raced a horse for that week would stop in and look at his horse or his mare. Most of the people that came owned mares at the farm and it was the only time they could see me -- owned brood mares. We stand a stallion there and it's a breeding operation, and it would be the only time they can actually get to see me.

Most of our horses, Senator, are away at the race tracks. What is left at the farm are rehabilitation of horses, and young horses and different ones.

Q Were there trainers present?

A No, not very often.

Q No trainers?

A No.

Q Were there ticket sellers?

A One individual who is - I owned horses together - Mr. James O'Rourke - yes, he would stop. He owned a mare there and he would bring his grandchildren on a Sunday morning to see the mare and the foal. And he was the only ticket seller who was ever present and he is a ticket seller at Freehold Raceway.

Q Were you ever present at any time when there was any discussion of drugging horses or fixing races?

A No, sir.

Q Just a second - Mr. Abbatiello, just a moment. Mr. Abbatiello, you are rather prominent in the horse-racing industry. Let me ask you, since this Committee has received information in various ways, including referring to you, perhaps unjustly, to your knowledge, in New Jersey is there any illegal drugging of horses or any illegal fixing - or fixing - of course, it would be illegal - of horse races in New Jersey?

A First let me start with the illegal drugging. We have a system in New Jersey which we are very proud of. It is called pre-race testing. It's for the protection of the public, individuals like myself, and owners. Before a

horse can participate in a race, blood is drawn from this horse approximately one hour beforehand. It is done by the State Police under supervision of the State Police. If there are any foreign substance in this horse's blood, the horse is not allowed to race. So that is step number one. It is virtually impossible to race a horse with any foreign substance in him in a race today in New Jersey.

As far the other aspect of it, fixed racing, or what have you, no. I have never participated in one and I can't honestly say that I have ever even known of one.

Q With regard to the testing of the horses for drugs, you say an hour before the race ---

A Right, sir.

Q (Continuing) --- blood is drawn. Why can't they be injected then thirty minutes before the race?

A Because, sir, if the horse wins, not only does blood taken from him, but he must also pass a urine test. If the horse is --- and if he is a beaten favorite and he is not in the money, he will have to pass a urine test. The restrictions on medication in New Jersey are the toughest in the world and we are proud of them.

Q And then, not to suggest this happens, but this would all depend then on the integrity of the person doing the testing too, wouldn't it?

Q Well, yes, sir, I would have to say that.

SENATOR RUSSO: Thank you, Mr. Chair-

man. Thank you, Mr. Abbatiello.

BY SENATOR GREENBERG:

Q Mr. Abbatiello, Senator Russo asked you whether or not an individual would be wise in keeping two sets

of books if, in fact, a horse were drugged. The testimony ---
 And you indicated he would have to be foolish to do that.
 The testimony we have indicates that that was done for
 the protection of the owner in the sense that he would have
 to know which drugs were administered to a horse illegally
 so as not to injure the horse by administering contra-
 indicated drugs illegally at some subsequent time. Do you
 find any validity in that theory?

A No, sir. One would --- he'd have to be a
 fool to. The value of a race horse, sir, today is on the
 average of about ten to twenty thousand dollars. That's
 the average race horse. To even think to have an individual
 experiment with a horse, a valuable piece of horse flesh,
 especially a race horse, would have to be crazy.

Q Mr. Abbatiello, did you have any occasion to
 witness Mr. Jellicks, at any time that he was employed by
 you or that you knew him, having any conversations with
 any individuals who were known to you to be associated with
 law enforcement agencies or agency in the State of New
 Jersey?

A No, Mr. Chairman, never; and the only time that
 there was one incident where I recalled - I think it was
 in February or March - he came to me one day. He said a
 relative of his had been killed in an automobile accident
 and he showed me the piece - it was in the Star Ledger -
 and it was a federal Prosecuting Attorney that was killed
 in an automobile accident on the Parkway or Turnpike, I
 don't know which. And he took a couple of days off and he

said it was a relative of his. I remember that vaguely
 and I couldn't think who it was - and that was the only
 time that he has ever mentioned police or anything, sir.

Q Was that a Mr. Cranwell [phonetic]?

A I couldn't honestly remember that, sir.

SENATOR GREENBERG: We have two other
 Senators whom I didn't see before. Hello,
 Senator. Do you have any questions, Senator
 Parker?

SENATOR PARKER: No.

SENATOR GREENBERG: Senator Perskie.

SENATOR PERSKIE: I was just curious
 if he had lox with bagels?

THE WITNESS: Yes, definitely.

SENATOR GREENBERG: All right. Any other
 questions of the witness?

If not, just before excusing you, I
 would like to state that we appreciate your
 coming here. You are not here under compul-
 sion; you are here voluntarily. More import-
 antly, you are here at your own request.

It will be a policy of this Committee
 to permit any individual whose name has been
 mentioned and who may feel that he or she
 has been defamed and wants an opportunity to
 come before this Committee so that that person
 can air his side of the story, to have such
 an opportunity. The function of the Judiciary

Committee is not to besmirch and defame individuals. Unfortunately, from time to time, names pop up in the course of testimony, and it is unfortunate that it happened in this case with regard to yourself. And without passing upon the merits of what has been said by any witness, we are happy to have afforded you this opportunity to be here today.

THE WITNESS: I thank you very much, Mr. Chairman, and the other Senators, for being given this opportunity. Thank you, gentlemen.

SENATOR GREENBERG: Thank you.

RE: Public Hearing before Senate Judiciary Committee, with regard to Activities of Law Enforcement Agencies.

CERTIFICATION

I, BARBARA K. SMITH, DO CERTIFY that the foregoing is a true and accurate transcript of the testimony and proceedings in the above-entitled matter.

Barbara K. Smith, C.S.R.

PUBLIC HEARING

before

SENATE JUDICIARY COMMITTEE

(Re: Activities of Law Enforcement Agencies)

Held:
January 30, 1978
Court Room 438
State House Annex
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Senator John F. Russo (Acting Chairman)
Senator William V. Musto
Senator Joseph A. Maressa
Senator William J. Hamilton, Jr.
Senator Walter N. Sheil
Senator Steven P. Perskie
Senator Barry T. Parker
Senator James S. Cafiero
Senator James P. Vreeland

ALSO:

John J. Tumulty, Research Associate
Legislative Services Agency
Aide, Senate Judiciary Committee

* * * *

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1A-62A:I

I N D E X

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Clinton L. Pagano	1
Charles August Kuyl	17A

NCJRS

MAR 17 1981

ACQUISITIONS

SENATOR RUSSO: Colonel Pagano, will you please come forward and be sworn.

COLONEL PAGANO: I have with me a tape of a conversation that I would like the Committee to hear. Can you give us a few moments to set that up?

SENATOR RUSSO: Of course.

COLONEL PAGANO: I am ready.

SENATOR RUSSO: When you feel you want to interrupt to play the tape, you just tell us. We would like to get started with your testimony, because we will be in session this morning until twelve o'clock, no later. We will then resume at two o'clock, to try to complete all of the aspects of the State Police testimony today, if that can be done. I would like to expedite this as much as possible.

COLONEL PAGANO: I would like to complete this today myself, if we can.

SENATOR RUSSO: Will you swear in Colonel Pagano, since I don't know that we are continuing---

COLONEL PAGANO: If we can, at the same time I would like, if we may, Senator, because of some of the technical problems that may come up, I would like to have Captain Tyrrell and Detective Mc Mahon sworn in also.

SENATOR RUSSO: Would you like anyone else, sir, in case we have to turn to other members of your staff to have them all sworn at the present time?

COLONEL PAGANO: I don't believe so. I believe as

we go along, you will be able to call each one as a witness and swear them independently.

SENATOR RUSSO: Okay, will the other two gentlemen identify themselves and their rank and so forth?

CAPTAIN THOMAS TYRRELL, sworn.

DETECTIVE ROBERT MC MAHON, sworn.

COLONEL CLINTON L. PAGANO, sworn.

SENATOR RUSSO: Thank you.

COLONEL PAGANO: Senator, I have, really at your invitation, members of the State Police whose names have been mentioned throughout the course of these allegations, my purpose being to more or less give you some guidance into what you may expect chronologically of the testimony of our people.

For the record, I want to make a comment on the informants and how we handle informants. I want to, before the Committee, play a tape that was made of a telephone conversation which was originated by James Jellicks to Lieutenant Rudy Simonetti two days after his initial arrest. I would like, if possible, to run through a chronology of events surrounding this Jellicks matter, so I can better bring into perspective some of the technicalities of this matter, because it is fairly complicated.

I want to comment briefly on the evidence that you have, the physical evidence, and then really turn myself over to your questioning, and after that, turn my people

over to your Committee for questioning. For the purpose of an introduction, I would like to comment on informants. In our judgement, informants come from all walks of life. They are a necessity in many police investigations whose importance cannot be overlooked or discounted. Occasionally, an outstanding citizen of unquestionable integrity serves as an informant. However, informants are most often found at the other end of the social scale and at points in between. Sometimes hardened criminals and others of highly questionable backgrounds provide police information.

Working responsibly and successfully with this variety of people requires a high degree of competence which I believe the State Police have demonstrated over the years. In all cases, whatever the source, information provided by informants must be carefully assessed and checked out through necessary investigation.

In connection with Jellicks, he provided information to the State Police on several occasions in the past. This experience showed that all his information had to be confirmed through independent sources. At no time did we ever act on information provided by James Jellicks until we had conducted an investigation, and I believe that this hearing will show that really only on three occasions, or approximately four, did we ever take action. Jellicks has always been a low level informant, as far as the State Police was concerned, generally active only in gambling and hijacking cases. His contacts

with the Division in 1975 continued in the same vein as was our experience when we first came into contact with him.

The fact is that Jellicks was to be used only in connection with the suspected appearance of hard drugs and other activities among stable hands in the back of the track. He called it the back stretch. Finding a high caliber person to function as an informant in these surroundings is extremely difficult. Therefore, Jellicks was pressed into service and arrangements were made for him to work in the stable area. However, he secured his work at the Abbatiello farm independently. Since this employment gave him access to the track stable area and enabled him to mingle with the workers there from time to time, the general purpose of his placement as an informant really was met.

I want to point out that Lieutenant Simonetti will testify when he comes before you that it was Jellicks who came to him looking for a job, and it was Simonetti who initiated the use of Jellicks, but the use primarily being for getting a man a job.

Although Jellicks had a criminal record, and also had been involved in other questionable activities, the State Police did not have any reason to suspect that he would burglarize the Abbatiello Farm. When it was learned that he was involved in the crime, the investigation

was pursued and he was arrested. The State Police does not and cannot permit or condone illegal activities by any informant. The arrest of Jellicks, I believe, confirms this.

Since that period, the State Police has not sought information from Jellicks over the past two years. Frequent calls are received from the man, and I believe that this was one point that was made during your last hearing. The man is an incessant caller. We have recorded these calls. I say recorded them, and I don't mean tape recorded them, I mean, we have made a record of the bulk of these calls. His allegations of misconduct by the State Police were thoroughly investigated by the Internal Affairs Bureau and determined to be untrue and without foundation. I believe it is important that we get to the chronology, so that you understand why the Internal Affairs Bureau investigation did not take place for quite some time.

When Jellicks was initially arrested for the breaking at Abbatiello's Farm, I believe it was on the sixth of August, 1975, and on August eighth he placed a call to Lieutenant Simonetti and at this time he had already inferred at least to one of our clerical people and somewhere along the line to some of our other people, that the break at the farm was at the direction of members of the State Police. I think this tape will in some respect give you an insight into why we quickly discounted this particular allegation.

SENATOR PERSKIE: John, can we just find out where the call was made to?

SENATOR RUSSO: Yes, you may ask that question, Senator.

SENATOR PERSKIE: To where was this call made?

COLONEL PAGANO: The call was made from a pay phone to Lieutenant Simonetti at Division Headquarters. And this is another very important aspect of the case. One of the reasons that there is so much confusion in people's minds, a group of station level detectives --- Lieutenant Simonetti was at one time at the track himself. When this case really broke, he was assigned to Division Headquarters. And the information which we will relate to you prior to that had come to him but was relayed through channels out in the field units. So this call was made from an unknown pay phone - although it is not an unknown pay phone, because the number is identified on the tape. But this is from a pay phone to Simonetti at Division Headquarters.

This is a lengthy tape. You may interrupt it at any time you wish.

SENATOR RUSSO: How long is it, Colonel?

COLONEL PAGANO: I believe it is eighteen minutes. If you don't want to listen to it that long, we may break it off. You have a transcript in the presentation that we gave to you, the report of the State Police response to the Jellicks-Forrest allegations.

SENATOR MUSTO: Is this the same conversation?

COLONEL PAGANO: It is the same as the transcript that is in the back of the book, Senator. I think it is important that you hear his voice.

SENATOR RUSSO: Let's locate it first.

COLONEL PAGANO: I am referring to the transcript dated August 8, 1975. It is captioned as James Jellicks, also known as James Cusick, and it starts, "I am in a lot of trouble, Rudy."

SENATOR RUSSO: I would like to review what we are doing here. Are all the members of the Committee ready for the tape? Okay, Colonel.

(Whereupon tape was played for Committee, transcript of which follows.)

* * *

Lt. R. Simonetti

8-8-75

James Jelicks aka James Cusick

(inaudible.....)

J. I'm in a lot of trouble Rudy.

S. Your in a lot of trouble?

J. Yeap.

S. Well do you know the trouble you got me and Harry into?

J. I can imagine.

S. Do you know your going around telling everybody that Harry and I told you to break into Abbatiello Office.

J. Oh no, no uh, uh I did not and I told, you, you ask Sergeant Walsh last night and I even told him. I said no, no nobody told me to break into there nobody. I did that on my own.

S. You broke into Abbatiello's house on your own?

J. Yes sir.

S. Why Jimmy?

J. I did not break into the house, I did not. I broke into the office and into the medicine room Rudy.

S. Why?

J. That's all I did.

S. Why?

J. To get the records.

S. You were planning to sell them for \$2,000.

J. No uh, uh no see that's what, what I told Chew. I said we'll sell right. I, my intensions were, Monday morning I called Harry.

S. Yeah.

J. Right? I told him I had the records, I didn't

ask for no money. You can ask him. And I called out to your division out there to get a hold of you.

S. Yeah.

J. Right, I, I spoke with another detective, I think his name was Gross I even talked to Chris.

S. Huh.

J. I didn't say anything about money.

S. Jimmy why you do, we told you never to do nothin' illegal.

J. Because this guy was gettin' ready to get rid of everything.

S. Who was?

J. Abbatiello.

S. He was gettin'...

J. Because this big investigation was going on and I had to get them.

S. What investigation was going on?

J. That about druggin' horses and all that.

S. Where?

J. All over the whole state. He was scared because of this big investigation that was going on.

S. Abbatiello was?

J. Right.

S. But why did you break in after I put my god damn neck on the line to get you a job.

J. Because I figured right, that it would help.

S. Oh Jimmy.

J. That's what I figured.

S. How many times have I told you never to do nothing

CONTINUED

2 OF 7

wrong.

- J. I know I, I know you did Rudy. But if this guy got rid of them that would have been it, because I know what this guy was doing.
- S. Jimmy, Jimmy we could have handled it other ways. We could have handled it legally.
- J. I know I didn't think, I, I didn't think I was wrong, I was wrong.
- S. Jimmy for Christ sake you know if you know you got evidence illegally...
- J. Right.
- S. We can't use it.
- J. I know it, but now's you can.
- S. Now we can why.
- J. Uh?
- S. How can we use it?
- J. Cause it was taken in a burglary and I was arrested for the burglary.
- S. No Jimmy its (laughing). Jimmy let me ask you something.
- J. Go ahead.
- S. Your passing checks again.
- J. No I didn't, I didn't pass no checks Rudy.
- S. You didn't pass a check?
- J. No.
- S. Let me ask are you into the shys?
- J. No I am not. Now let me tell you this right, I have a meeting Monday...
- S. With who?
- J. With Jehnny DiGilio.

- S. Johnny DiGilio?
- J. Yes sir, their the ones who got me out on bail.
- S. DiGilio got you out on bail?
- J. Yes sir.
- S. What happen there?
- J. Huh?
- S. Why, why you meeting with John DiGilio of all people?
- J. Huh what Rudy?
- O. Three minutes signal when your through please.
- J. Alright operation. Huh, Rudy can you call me back at this number because I got no more change on me.
- S. Alright wait a minute, go ahead.
- J. Alright its ah 7-5-8-2-2-0-3, area code 6-0-9.
- S. Alright you stay there for about 10 minutes.
- J. Alright I'll, I'll hang out right here.
- S. Hang on there.
- J. Alright.
- S. Okay.
- J. Ah listen, listen Rudy, wait let, let me, that DiGilio right...
- S. Alright tell me that when I call you back. Hang up so they don't, she doesn't, the operator don't bother you.
- J. Okay, alright.
- S. Okay.
- J. Right.

END OF FIRST PHONE CONVERSATION BETWEEN THE TWO PARTIES

COLONEL PAGANO: Do you want us to go all the way through it, Senator.

SENATOR RUSSO: Yes, I do think we ought to go through it, please, Colonel.

* * *

J. Hell'o

S. Jim?

J. Yeah.

S. Yeah I couldn't, we couldn't get a line out of here on a the 7 scan. Where you calling from?

J. Uh I'm up on Route 529 uh 528

S. Where?

J. I don't even know the name of the town. Its just one of the backroads I'm on.

S. Uh, where you at a resturant or something?

J. Yeah.

S. What restaurant?

J. I don't even know. Uh its a goodyear, why how come Rudy.

S. No cause I know your not at a phone booth, I can tell by the number.

J. I am at a phone booth.

S. With a 2-2-0-3 is a phone number.

J. Yeah, right on the side of the phone booth.

S. Oh.

J. You know...

S. Ah so now your telling me about the meeting with DiGilio on Monday.

J. Right.

S. How did...

J. Didn't nobody tell you's about that?

S. No.

J. That Monday, let me tell you Charlie kick the shit

out of me.

S. Who?

J. Charlie Coyle.

S. Charlie Coyle?

J. Right.

S. He kicked the shit out of you?

J. Right, he said I wasn't playing square with him.

* * * *

SENATOR RUSSO: Colonel, at this point, let me ask you, when did you or someone, one of the superiors learn about this allegation that Kuyl - I guess is being referred to here - physically assaulted Jellicks?

COLONEL PAGANO: I don't believe I really knew about it until January, when I received a letter, of 1977. I have no recollection. Someone else may have.

SENATOR RUSSO: Although Lieutenant Simonetti is here, did he, once he had this information that a Lieutenant Kuyl assaulted Jellicks - did he report it to anyone, or was any investigation made of this allegation?

COLONEL PAGANO: I don't believe so.

SENATOR RUSSO: Okay, we can go back on the tape now.

* * * *

(CONTINUATION OF TAPED TELEPHONE CONVERSATION)

S. Yeah.

J. And Rudy I did, I, I, I couldn't have played no more square with em', right? Then he hits me with all these charges, man I gave him a gun the day he wrapped, ah locked up Chew.

S. Yeah.

J. I got the gun out of Chew's house, that Chew took a 30 odds 6. He charged me with it, possession.

S. How did they know you had the 30-06?

J. I gave it to Charlie, I gave it to him.

S. When?

J. Friday, Friday morning I gave it to him and Friday afternoon right, he comes back down and he is going to lock me up for it.

S. Yeah alright, now, no you didn't answer my question. How did they know you had a gun?

J. I told Charlie I had the gun?

S. You called him up?

J. Yeah, I told him that Chew pulled the robbery. I even told him where Chew pulled the burglary and all.

S. When did you tell Charlie this?

J. Uh Wednesday.

S. You called Charlie Wednesday where?

J. Yeah right.

S. Where?

J. At his home.

S. At his home?

J. Right and he called me back. I, I called the barracks and he called me back and all. Alright?

S. Now how did, alright now how did DiGilio know, know you were in jail though?

J. They came to see me, DiGilio and uh Vinnie Verdiramo and no wait no I'm wrong Vinnie Verdiramo came to see me with Sam DeLuca (phonetic) and another guy.

S. Whose Sam DeLuca (phonetic) a lawyer?

J. Yeah. He's the one who was just in the big federal case that DiGilio was just found guilty on.

S. Yeah. They came to see you where?

J. Right at my home at 1040 West Bay Avenue.

S. When?

J. In Barnegat.

S. When.

J. That was Monday night... Occasionally...

S. This Monday night?

J. Uh no Tuesday night, no I'm sorry Tuesday night that was.

S. Well that's August 5th.

J. Right.

S. Alright.

J. Okay. They came to see me right, they said Jimmy we know your in trouble and we are willing to help

you, if you help us right. He said now all you have to do go under our side, tell them the U.S. Attorney told you to lie and all and everything. Everything will be copacetic right. I said I would.

S. What case, what case you, what case you talking about.

J. All of em', all of em'.

S. All of the ones when you test for the federal people?

J. Right, right.

S. Did you lie on em'?

J. No I didn't.

S. But thee Sam DeLuca and this guy Marano.

J. Uh Vinnie Verdiramo.

S. Is he a lawyer too?

J. Yeah he's a big, he's under indictment by you's too.

S. And they can't help.

J. He's the one that set up that ah wire tap in the lawyers office and all and everything.

S. Yeah.

J. Right.

S. They came up to you on August 5th...

J. Right.

S. And told you to go back and tell them that you perjured yourself.

J. Right, they were going to arrange everything.

S. Are you willing to take a polygraph on that?

J. Yes, yes sir I am, I am Rudy. Rudy I told, I even tried to speak to you know a Charlie Tung (phonetic) he said your a fuckin' liar.

S. Yeah.

J. That's what he called me. Now you can check and see who bailed me out, you check and see who bailed me out.

S. Where the bail come...

J. You ask Sergeant Walsh, right.

S. Yeah.

J. Who is the lawyer and alright that sent the bondsmen and everything down. And where they took me last night and all and everything.

S. Where did they take you last night?

J. Huh up to the Holiday House on the Parkway.

S. Who did?

J. Uh the bondsmen and all.

S. And what was discuss, who was the bondsmen?

J. Uh, shit wait a minute let me get his card out. He's in with em' too.

S. He is?

J. Yep and I'll tell you this I can get this right out of, now you know who Vinnie is now, right. He is the big criminal lawyer for them all.

S. Yeah.

J. Right, okay Vinnie told me last night, Rudy on my two kids I swear this, this is the truth and I'm not lying alright.

S. Right.

J. He told me last night that Abbatiello, don't you know Abbatiello, Jimmy is one of us. And I can get that right on tape with him when I meet him Monday. That is no lie Rud I swear on my two kids, may they drop dead right now.

S. Well you know Sergeant Walsh called me last night at home.

J. Right.

S. You told him to call me?

J. Yeah.

S. That you wanted to talk to me?

J. Right I did (unintelligible.....)

S. Then why don't you cooperate with them.

J. I, I did cooperate with them.

S. Did you give them a statement?

J. No, I wouldn't.

S. Oh.

J. I wouldn't give them a statement Rudy, I've been get bounced around man like its been Carter's had liver pills.

S. Yeah.

J. And you know its, well forget it. Everything I give Charlies, he's charging me with, everything I gave him. I gave him the driver's license this guy was using he was charging me with possession of it, after I gave it to him. Then yesterday he goes and charges me with possession of it.

S. Of what the driver's license?

J. Right the driver's license this guy was using. Now if you think I was cashing the checks right, Rudy all you have to, I told him last night, even this guy's wife told him that this guy was lying. Even this guy's wife told him. You know now this guys says a he knows where there is two bodies too in a car.

S. Whose that?

J. Uh that would be a two, uh Charlie Nakowski (phonetic) and uh a Nancy Thompson.

S. Yeah.

J. Right, that the other Charlie, uh the other Charlie was working with, working with. That pulled the flim flam on the TV's.

S. Yeah.

J. Right. Now he says he seen those two bodies in the trunk of a car. That Charlie bumped him off.

* * *

SENATOR RUSSO: Colonel, the Charlie that is being referred to throughout, other than when we get to Charlie Nycowski, is that Charlie Kuyl?

COLONEL PAGANO: He is speaking about Detective Charles Kuyl, right, and we will explain the relationship between Kuyl and his assignment to Jellicks.

SENATOR RUSSO: Okay, go on.

* * *

(CONTINUATION OF TAPED TELEPHONE CONVERSATION)

S. Who said that he seen em'?

J. John Chew.

S. Chew did?

J. Right.

S. The guy that you broke into the house with.

J. Right. I didn't break into the house...

S. Well ya...

J. I did not break into the house. I'll admit I did the, the office and I, the drug room. I didn't go no where near that house Rudy, I didn't go near that house.

S. Where did the jewelry come from?

J. The what?

S. The jewelry?

J. He got all that stuff, he went into the house. I wouldn't go into the house.

S. Chew?

J. Yes.. And I'm willing to take a polygram on that Rudy I'm not lying to ya, that's the God's honest truth.

S. You'll beat the polygraph Jim, cause you beat on us once before, you remember.

J. Yeah I beat that because I had drugs. I beat that because I had drugs, I have no drugs.

S. When did we run you on that one?

J. Ah shit.

S. Was you in Bordentown at that time?

J. No I was out of Bordentown.

S. Oh you came out.

J. Right.

S. Yeah.

J. I, I, I had that huh 69 I think that was.

S. Alright Jim now this, this bail bondsmen who is he?

J. Oh wait (unintelligible.....) hold it. (pause)
Ah alright the bail bondsmen is a Brian K-i-m-m-i-n-s.

S. White or Black.

J. White.

S. He's white.

J. Right telephone number is 2-0-1...

S. Yeah.

J. 3-4-1...

S. Right.

J. 0-4-0-0.

S. Alright.

J. Alright now, in fact the bondsmen even told him last night that he take me up on the Parkway to meet Vinnie. And on the Parkway after I got up there right...

S. Yeah.

J. I, Vinnie called Johnny at home.

S. Johnny DiGilio?

J. Yes sir, and I spoke to him on the phone. I told him I'd cooperate all the way with em'.

S. Ah huh.

J. And they said I was set for life.

S. You were set for life?

J. Right and there would not be a hair on my head hurt.

S. Uh you believe all that?

J. No I, I don't Rudy, but I told them, I told them about this right.

S. Huh?

J. To get a hold of you down there and that and you said now, now you tell me nobody even said nuttin' (sl).

S. Nobody said a word to me.

J. Alright, well you ask Sgt. Walsh if I didn't.

S. The only word that, that the only thing that anybody said to me was that I ordered you to break into Abbatiello's place.

J. No you did not, you did not. No one ordered me to break, I did Abbatiello's on my own, my own free will.

S. Now Jim I want to ask you one thing. When they, when they arrested you at your house that night you had guns on you.

J. Wait say that again Rudy?

S. You had a gun on you the night you...

J. Yes sir I did, I had a gun in my back pocket.

S. What the hell were you even doing with a gun on you.

J. What do you mean?

S. How were you packing a gun?

J. I had a little twenty-five automatic in my back pocket.

S. Doing what?

J. Because I just came from meeting certain people.

S. Who?

J. DiGilio and them, I just got back from meeting them (unintelligible.....)

S. On that night they picked you up?

J. Yeah I just came back from meeting them in Toms River.

S. Where di you get this gun at?

J. That's a legal gun, I bought that, I even, they got the Bill of Sales and all for them. I gave them the bills of Sale and everything for tho....., for the gun.

S. Where did you buy that gun at?

J. I bought that in Pennsylvania (unintelligible.....)

S. When you were in Pittsburgh?

J. Yes sir. I bought that over four years ago up there in Pittsburgh, Pennsylvania. They got the Bill of Sale, they took everything out of my home, they took everything.

S. I know Poochie did say you had tapes?

J. The what?

S. You had some tapes?

J. Yeah.

S. On who?

J. On the U. S. Attorney and all of them. The conversations and all between me and him and the U.S. Marshall and everything.

S. Who's that Cramwell (phonetic)?

J. Yeah.

S. Joe Cramwell?

J. Right.

S. Alright now you were released on bond from the both jobs right?

J. Right.

S. I mean on bail?

J. Right, I don't know if I'm going to be picked up again or what, now I don't know.

S. Not unless you did anything else.

J. I didn't, I didn't do nothing else. Right but they said now I told him, I was even told him last night Pooch, right there Sergeant Walsh.

S. Yeah.

J. I told, I said when you check the handwritin' on them checks, I said they ain't mine, I said I didn't do nothin'. Now do I look like twenty-four years old Rudy?

S. (laughing)

J. Now do I?

S. No.

J. Alright, now I didn't do nothing, nothing. But this guy said I went, I went with him you know, I cashed checks and all, but you check the hand-writing on all them checks.

S. Alright now listen, you have a phone home?

J. Yeah.

S. What is your home phone?

J. Ah I'm in and out there. I'm afraid, I'm really a scared.

S. Afraid of who?

J. Well they want to take me to Bayonne.

S. Who does?

J. DiGilio and them.

S. No.

J. Me and my family and all. They want to take, take us to live in Bayonne.

S. They want a take, they want a, now DiGilio wants to relocate you.

J. The what?

S. DiGilio wants to relocate you?

J. Right.

S. Give me your home phone?

J. 6-9-8-8-5-2-5.

S. 609 area code?

J. Yeah.

S. What's your address?

J. 1040...

S. Right.

J. West Bay Avenue.

S. When was the last, where's that Barnegat?

J. Yea.

S. When was the last time you worked for ah Tony Abbatiello?

J. Um (pause) I'm trying to think, wait a minute. It was in June about the middle of June that's when I got hurt up there. But then I was up there about ten times after that arguing with them and all.

S. For what?

J. My compensation, he wouldn't give me you know. He wouldn't give me no papers, no, no names, no nothing.

S. Oh no.

J. On it. Something I had to write to disability

on it to disability and they turned me down and they said I had to go back to compo. I went to unemployment they turned me down, they said I had to go back to disability. I got the papers, no you's got, in fact they took all my personal papers out of the house. Only one thing they missed and that's gone.

S. What's that?

J. That's my valise with all my other papers and everything in it.

S. Who took that?

J. Uh with, between U.S. Attorney and all my ah government stuff and all its important.

S. Whose got it?

J. Huh?

S. Whose got that?

J. I got that.

S. Oh.

J. I got that stashed. A but they got all, all my personal papers they took, and you know and their no good to nobody.

S. Alright listen.

J. But I'm in trouble Rudy. You know Charlie is trying to hand me. Believe it, believe me you as my wife.

S. For what reason?

J. I don't know, I don't know, I can't believe it Rudy, I can't believe it honest. And then he had no, no right puttin' his hands on me the other night, he had no right at all.

S. Alright listen, you go home, you stay home, you don't talk to nobody till I get back to you.

J. What are you going to pick me up?

S. I'm not picking you up.

J. Whose going to pick me up?

S. Nobody is going to pick you up. Let me ask you this, pick you up for what? You were picked up for the Abbatiello job.

J. Yeah but they took other stuff out of the house and all and everything. I don't know what the hell their going to pull on me. Right I had a gun in, in my back pocket in my house and they charged me with possession of a gun in my own home.

S. Yeah well you have a criminal record and under the status Jim, your not allowed to possess it.

J. Yea but in my own home though, Rudy? Your allowed to have a gun in the house.

S. Are you hiding out now or what?

J. Yea I am.

S. Yeah alright. If I want you I all I have to do is call your wife and she get in touch with you.

J. Yeah alright, I'll, Rudy can you help me though

S. Well I'm going to see what I, I don't know Jim if, because your so deeply involved now. I don't know what I'm going, what I can do for you.

J. Well can this thing with DiGilio and all help?

S. Well I'll see, okay.

J. Alright.

S. What's your wife's name?

J. Carol

S. Carol?

J. Right, yeah. They even said they were going to lock her up and all and everything they told me.

S. Alright listen, I'll call her and she'll call

you and then you call me.

J. Alright.

S. And we'll see what happens. In the mean time keep your nose clean.

J. Rudy I, I don't have no gun, I don't have nothing. All I'm doing is riding around and I don't know if I'm coming or going.

S. Alright.

J. If the Feds wants me now.

S. The who?

J. The Feds.

S. For what?

J. Uh the U.S. Attorney's office wants me.

S. For what?

J. Because of DiGilio.

S. On account of DiGilio?

J. Yes. (pause) Yeah I don't know Jesus...

S. Yeah.

J. But nobody call you about Di....., DiGilio?

S. No.

J. See and I told, you ask Sergeant Walsh if I didn't tell them. I told Charlie and all, he said your a liar, he said, but I'll call Division. You ask Sergeant Walsh.

S. Yeah.

J. Because he played, you know, he, he treated me damn good the guy.

S. Good glad to hear it.

J. Him, him and his partner, they did, they did, they treated me real good. Ah but like Charlie he threw me in the county jail, right. I had a carton of cigarettes, he made them take everything away, everything away from me. So...

S. Alright. Just do what I told you.

J. Alright.

S. I'll call Carol and get in touch with you.

J. Okay.

S. Stay loose.

J. Right, alright.

S. Okay.

J. Alright Rudy.

S. Alright kid.

J. Thank you.

S. Good-bye.

J. Good-bye.

(END OF TAPE RECORDING)

* * * *

COLONEL PAGANO: Do you have any questions now, Senator, on the tape?

SENATOR RUSSO: I will ask again the same question, because there were further comments about Charlie Kuyl, out to get him and so forth. Was that ever reported by Lieutenant Simonetti to anyone else?

COLONEL PAGANO: I don't know right at this point. I will have to ask Lieutenant Simonetti.

SENATOR RUSSO: And he is here today?

COLONEL PAGANO: He is here today. I will say this: There was no formal investigation of any of the charges until the receipt of the letter in January of 1977. It is also with that tape somewhat significant that the number of things that were later said were not said on the tape. The charges weren't made. Jellicks left the Abbatiello Farm quite some time prior to the date of the break-in. I think he left in early June, and as I run through the chronology, you can see that he was out of that farm for quite some time. On the tape itself, he would have had no way of knowing that Abbatiello was going to destroy any records or anything else.

But, nonetheless, I would like, if possible---

SENATOR RUSSO: Before you go on, when John Toth administered the lie detector to Jellicks --- You are, of course, familiar with the Asbury Park Press story where

Jellicks said that Kuyl gave him the gun. Of course, we just heard on the tape, as we knew from the transcript, that he said he bought the gun in Pennsylvania and had a bill of sale for it and so forth. I don't recall on the summary, without looking through it, do you remember whether John Toth at any time asked him any questions about any gun on that lie detector?

COLONEL PAGANO: It was not significant at that time, and I am certain that he didn't. This is one thing that I think you will see evolve here. At the time of the initial complaint he said nothing. He only spoke about the break-in and, of course, the allegation of the beating. He never said anything about bugging or wiretapping. That came in January of '77. Later on, you will find that he adds the gun. As the story grows, and as we go on and on, something new is added each and every time. This came only after lengthy discussions with him, and after lengthy depositions, and really lengthy letters from himself.

This recantation of the story of the breaking is only one in probably six recantations from Jellicks to us. But for the purpose of bringing this thing into perspective, I would like to run through a chronological outline of our association with Jimmy Jellicks.

SENATOR RUSSO: Just a moment, Colonel. Senator Cafiero.

SENATOR CAFIERO: In this tape, and in the transcript we have, he makes reference to two bodies in a car. Was any follow up done on that?

COLONEL PAGANO: There was an investigation on that, and it was never substantiated.

SENATOR CAFIERO: There was no missing person?

COLONEL PAGANO: No, nothing ever came of that information. Nothing ever came of a good deal of the information that came from Jim Jellicks. I used the word in the other session of "pathological." I did that really to set the stage for what I think Lieutenant Toth will testify to, that from the outset we knew that we had difficulty with anything that Jellicks told us. We knew that we had to check everything he said. We have a responsibility without question to investigate information that comes to us. But that doesn't mean that each time one of these people tells us something, that it is in fact true. That is very evident right in the outset with Jellicks.

By his own testimony and by our recollection and our records, we first had contact with him in 1968 when he wrote to the Attorney General from the Bordentown Prison saying that he had information of very significant value to law enforcement. And at that point in Bordentown both Lieutenant Simonetti and Lieutenant Decker questioned Jellicks separately at that prison. He was later transferred after it was determined by supervision in the State Police that he could be of value to us. He was transferred to the

Middlesex County Workhouse where Lieutenant Decker interviewed him one or two more times.

SENATOR RUSSO: Colonel, are you now going---

COLONEL PAGANO: I am now going through the chronology.

SENATOR RUSSO: Before you do, I think Senator Perskie had a question.

SENATOR PERSKIE: You indicated that it wasn't until January of '77, I think, that an investigation was undertaken into the charge that Kuyl had assaulted him in August of '75.

COLONEL PAGANO: That is correct.

SENATOR PERSKIE: I just wondered why that period of time was allowed to elapse.

COLONEL PAGANO: Well, in January of '77 I was--- I am now Superintendent. I had been appointed in October of 1975. I received a letter from him, and in that letter he indicated--- And, really, it wasn't the Kuyl information that was of the most concern to me. In that letter, which is, again, in this packet, he indicated that he had broken into the Abbatiello Farm at the direction of members of the State Police, and also that he had wiretapped and bugged at the direction of the State Police. I don't even recall whether that allegation about Kuyl happens to be in this particular letter. It may not have been, but at that point the Internal Affairs Bureau conducted the investigation which included the allegation of Kuyl having struck him.

SENATOR PERSKIE: Prior to that time in January of '77 no investigation had been undertaken into that particular allegation?

COLONEL PAGANO: Not to my knowledge.

SENATOR PERSKIE: And you don't have any information as to why that hadn't been done?

COLONEL PAGANO: No, I don't.

SENATOR PERSKIE: When that investigation was undertaken---

COLONEL PAGANO: Captain Tyrrell tells me we have no formal complaint from him until January of '77. I think you can ask Lieutenant Simonetti what the remark meant to him and what he did about it.

SENATOR PERSKIE: When that investigation was undertaken in January of 1977, was anybody sent down to the Ocean County Jail?

COLONEL PAGANO: Yes, we went through a complete investigation on the allegation. We have really come up with no information that would lead us to conclude that Detective Kuyl beat him.

SENATOR PERSKIE: Did you get any information that would tend to indicate that anybody did?

COLONEL PAGANO: No, because he was photographed the day after. Actually, if you want me to go briefly into that investigation, he made no complaint at all on receipt at the Ocean County Jail, the evening that he was

brought in, contrary to what he says about Captain Lewis. Captain Lewis was interviewed by us, and he made no complaint that night. The next morning, at routine sick call, he made a complaint that he had been beaten by the troopers. He was examined by Dr. Corcoran. Dr. Corcoran, as the newspaper now says, prescribed medication. That medication was in the form of two aspirin. There were no marks on the body.

SENATOR PERSKIE: Is that report by the Doctor in the file?

COLONEL PAGANO: We have a complete investigation of it, Senator.

SENATOR RUSSO: Has that been turned over to this Committee?

COLONEL PAGANO: I think that is part of it.

SENATOR PERSKIE: I didn't see that.

CAPTAIN TYRRELL: That is in your report. However, the log from the Ocean County Jail is not in there.

SENATOR RUSSO: It is not. Well, what are you referring to that we have, Captain?

CAPTAIN TYRRELL: We have recited exactly what the

SENATOR RUSSO: You mean a summary by the State Police?

CAPTAIN TYRRELL: No, we do not have a copy of the log.

SENATOR PERSKIE: How about the Doctor's report?

CAPTAIN TYRRELL: We have notations on it.

SENATOR RUSSO: Don't you have a copy of the log and the Doctor's report, Captain?

Well, you see, this is what causes us difficulty, Colonel, if I may. This is the kind of problem the SCI got into with us. This seems very significant to this Committee, and yet we have never seen it, I don't think, Captain, have we, up until now?

CAPTAIN TYRRELL: Not to my knowledge, no.

SENATOR RUSSO: Now, this is the kind of thing---

COLONEL PAGANO: We were asked to respond, Senator, to the allegations of Jellicks primarily, and that is what we did in this document that we furnished to the Committee. But beyond that, there is supporting documentation supporting investigative reports of all sorts that can be provided and that can be given to you individually or any staff member.

SENATOR RUSSO: You see, here is the thing. There has been a lot of controversy, especially since the Asbury Park Press story, Jellicks maintaining that he was beaten by Lieutenant Kuyl and so forth, and obviously it is a very significant charge. What the State Police did about the allegation and whether there was an investigation and whether there was a conclusion and so forth --- We learned for the first time in the Asbury Park Press that there was in fact some complaint there. Now, whether it is justified and whether he thought of it the next day, and so forth, all of which is possible, especially in view

of what we have heard about this man, nevertheless here and for the Committee's benefit and the record, I am now referring to what, Captain, the Doctor's report?

CAPTAIN TYRRELL: Yes, sir.

SENATOR RUSSO: From the Ocean County Jail, Dr. Corcoran, it says, "Jellicks, James, pain in back and head following blow by State Trooper."

SENATOR PERSKIE: This is the Doctor's report?

SENATOR RUSSO: Yes, I am reading now what has been handed to me in the State Police file which has been represented to be the Doctor's report, and then there is a word - I am surprised I understood any of the Doctor's writing - which I can't read. Have you deciphered the next word? It says, "Something three times a day." Is it aspirin?

CAPTAIN TYRRELL: It is aspirin, right.

SENATOR RUSSO: It doesn't--- Why do you say it is aspirin? It doesn't look like aspirin to me.

CAPTAIN TYRRELL: I was told that was aspirin down at the jail, sir.

SENATOR RUSSO: "Something three times today," and then there is a symbol that we lawyers know as plaintiff, and in Greek it means "pi." Can we have this provided?

COLONEL PAGANO: I think the point that I should make, in our initial transmittal of what we consider to be most pertinent information, we also said that you may have access to all the records. In the last hearing, we offered to make all the records available to whomever you designated.

SENATOR RUSSO: Incidentally, Colonel, I don't mean to suggest at all - and this should be made very clear - that anything was withheld from us intentionally or anything of that sort. The same thing happened with the SCI when they gave us what they gave us. It is just that what may appear to be insignificant to you might be very significant to us, and so forth. I think we ought to have the entirety provided to us, so that we can make those determinations, so that there can be no question at all.

I personally have no concern at all that anything was withheld. I am sure it wasn't. It is just that it might be significant to us where you might not feel it is. Senator Perskie.

SENATOR PERSKIE: Could I just very briefly ask a question?

COLONEL PAGANO: Captain Tyrrell has a copy of the file, period. I mean the entire file, which was prepared and not transmitted, simply because it is so voluminous, and I think you really probably need someone to help you with it. We will give you a copy of the entire file.

SENATOR RUSSO: We have been handed to us apparently now everything that you have.

COLONEL PAGANO: That's it. That is the entire file.

SENATOR RUSSO: We are now equal.

COLONEL PAGANO: That is our investigative file on the Jellicks allegations.

SENATOR RUSSO: I think our staff is going to have to do some work, as soon as possible. Would you please, at the end of the hearing today, meet with the Captain as to locating the Doctor's report and statement. Please go to somebody - maybe a hospital - to get that interpreted as to what that is that was prescribed for Jellicks. I think we ought to find that out.

Senator, do you have something further?

SENATOR PERSKIE: Yes. You have indicated now that you have been given doctor's notes. Did anybody to your knowledge speak with the Doctor?

COLONEL PAGANO: We spoke to Dr. Corcoran.

SENATOR PERSKIE: Did he have any recollection a year and a half later?

SENATOR RUSSO: Other than what was in the record.

COLONEL PAGANO: Only what is in this log.

SENATOR RUSSO: Was there any second visit by him, any further notes from the Doctor other than what you just showed us?

DETECTIVE MC MAHON: He was released on bail and not committed back to that location until a year later.

SENATOR RUSSO: So there were no other doctor's reports or anything else relating to any claims of injury whether by beating or otherwise?

SENATOR PERSKIE: Photographs.

COLONEL PAGANO: There are copies of photographs of Jellicks at the time of the confinement, and there is no indication on the photographs of any beating or any injuries.

SENATOR RUSSO: What about Captain Lewis?

COLONEL PAGANO: Captain Lewis has also indicated this.

SENATOR RUSSO: You also spoke to him?

COLONEL PAGANO: That's correct--- I didn't speak to him, Senator.

SENATOR RUSSO: I understand, it was someone on your staff. And he indicated to you what?

COLONEL PAGANO: No recollection at all of these allegations.

SENATOR RUSSO: And my recollection is - and maybe someone on the Committee can help me along this line - that he told the Asbury Park Press something.

COLONEL PAGANO: I don't think Lewis told the Asbury Park Press anything. I think it was Jellicks that told your Committee that the Captain---

SENATOR RUSSO: I thought Lewis did. That is my recollection. I am trying to put my finger on the article quickly.

COLONEL PAGANO: Captain Tyrrell tells me that Captain Lewis told the Asbury Park Press that Jellicks was full of bologna.

SENATOR RUSSO: I think there was something in the press story.

For the record, the statement that I am referring to in the story, Captain Lewis specifically denies any recollection of a beating, and to quote, "... he was never beaten that I know of. He said he was beaten that I know of. He said he was beaten up by the State Police. We have no record of it here. I never saw any scars of the type that would result from a beating."

Of course, the difficulty is you have a record. So we will have to find out why Captain Lewis wasn't aware of that.

COLONEL PAGANO: I think that when we speak of the Asbury Park Press article, the most disturbing allegation is the allegation that we provided him with a firearm, the import of that being that the police would have aided and abetted the assault upon someone. That is the most disturbing point in that article.

SENATOR RUSSO: Colonel, if I may, I probably - maybe not - speak for the Committee when I say this, the difficulty here is, on the gun, for example, Jellicks told the press that story and it is all in specific details, and it is really a terrible thing to say, but we just heard on the tape that at least from his own mouth it makes it sound as though what he told the press was totally incredible. But the problem is this, there are just enough things here and there throughout this whole thing that make you wonder.

COLONEL PAGANO: We could not have responded to the allegation about the gun, because we didn't know about it until we read it in the Asbury Park Press, long after his testimony here. This had never been brought out in any of his writings to us, or to the Attorney General, or his testimony here for that matter, or in this interrogation by us.

SENATOR RUSSO: Also, we have the problem, we heard about the gun story here in the press. We heard him on the phone about the gun.

COLONEL PAGANO: I think what he was saying was he was armed---

SENATOR RUSSO: But he bought it himself.

COLONEL PAGANO: I think the import there, Senator, is that when he was arrested by Detective Kuyl he was armed. That is important.

SENATOR RUSSO: I think what also concerns us is, the story he gave the Asbury Park Press, they allegedly confirmed by a polygraph examination.

COLONEL PAGANO: That's right, and we will go into that.

SENATOR RUSSO: Yes.

SENATOR PERSKIE: John, aren't we talking about more than one gun?

SENATOR RUSSO: Are we?

SENATOR PERSKIE: Didn't he say---

SENATOR MARESSA: I think what he is talking about on the tape is a 30-06 which is a rifle. And I had a question here---

SENATOR RUSSO: No, that is not right.

COLONEL PAGANO: In the tape he is speaking about a 30-06 rifle.

SENATOR RUSSO: That is what he said he took from the farm, isn't it?

SENATOR MARESSA: He says, "Chew took the 30-06 and he charged me with its possession." I was going to ask, was that ever followed up?

COLONEL PAGANO: Sure it was. This is why I say, this is a complicated thing, and I want to run through the chronology.

He did turn a 30-06 rifle over to Detective Kuyl. He did show Detective Kuyl these records and these books and the medicine bottles which meant nothing to him. Kuyl took the rifle because that was significant. And they followed through and found out that that rifle was eventually stolen at a break-in in Ocean County completely separate from the Abbatiello break-in.

SENATOR MARESSA: So he didn't buy it in Pittsburgh?

COLONEL PAGANO: No, that was bought in---

SENATOR RUSSO: The .25 automatic is what he said on the tape he bought in Pittsburgh. Isn't that the gun that is talked about in the Asbury Press story?

COLONEL PAGANO: I would imagine that is the gun he is talking about, but I can only imagine. I don't know. He was found in possession of a firearm at the time of arrest by the arresting officer Detective Kuyl. He was charged under the Firearms Act with possessing a firearm as a convicted offender. That was plea bargained. He wasn't convicted. He plea bargained.

SENATOR PERSKIE: Didn't he say on the tape just now that he had given the gun that he got from Chew to Kuyl and Kuyl turned around and charged him with it?

SENATOR RUSSO: Yes.

COLONEL PAGANO: That's correct, and Kuyl did turn around and charge him with it.

SENATOR PERSKIE: Which gun was that, the 30-06?

COLONEL PAGANO: The 30-06 rifle.

SENATOR CAFIERO: He's talking about possession. He is not talking about a gun; he is talking about possessing a driver's license.

COLONEL PAGANO: He is talking about the driver's license also, Senator.

SENATOR RUSSO: I think this is important to the Committee. Let's get this clear, and I will try to state this and I am probably wrong, but the rifle that was taken from the Abbatiello Farm by Chew---

COLONEL PAGANO: That is a separate rifle. That was accounted for and recovered and returned.

SENATOR RUSSO: Okay, the 30-06?

COLONEL PAGANO: That is another rifle that Jellicks had in his possession during the first time that he was actually questioned by Kuyl, because at this point in time Kuyl knew that this man he was working with was not telling the truth.

SENATOR RUSSO: Okay. Neither one of those, though, is, of course, the gun referred to in the press story, because that is a hand gun.

COLONEL PAGANO: Right, the one referred to in the press story, the one that we allegedly gave him was supposedly thrown into the woods at the time that he was apprehended after a high speed chase by the Dover Township Police. Reporters from the Asbury Park Press went into the woods looking for the gun and did not find it.

We have not yet gone into the woods, but we will be more than happy to when the snow clears.

SENATOR RUSSO: Okay, now that is also the two rifles we talked about---

COLONEL PAGANO: There are a number of guns.

SENATOR RUSSO: But that is also not the .25 automatic that he had in his back pocket.

COLONEL PAGANO: The .25 automatic that was in his back pocket had been purchased by him in Pittsburgh, Pennsylvania ---

SENATOR RUSSO: He said.

COLONEL PAGANO: No, we traced that gun, because we charged him with that gun. He had bought it in

Pittsburgh. He was in possession here. He is a convicted offender, and he was charged under the Firearms Act, 2A:151-5. He was then charged. I don't really know at this sitting where that gun got to. I imagine it was eventually destroyed---

SENATOR RUSSO: You have that gun, that .25 automatic?

CAPTAIN TYRRELL: Yes.

SENATOR RUSSO: Well, then, my question is, is the .25 automatic possibly or perhaps the same gun that the Asbury Park Press story refers to?

COLONEL PAGANO: To the best of my knowledge, the .25 automatic the Asbury Park Press refers to is a myth. It is a new addition to the Jellicks story that has not as yet been accounted for.

SENATOR RUSSO: You just said the .25 automatic that the press story referred to. Did they identify it as a .25 automatic?

COLONEL PAGANO: I don't think they did. I think they said a handgun.

SENATOR MARESSA: Yes, they said a .25 caliber automatic.

SENATOR RUSSO: Yes, they did, here it is. It is a .25 caliber automatic. So basically we are dealing with a .25 caliber automatic in both cases, whether or not in fact either one or both are true---

COLONEL PAGANO: The one is true, because we took it from him at the time of arrest.

SENATOR HAMILTON: Mr. Chairman, before we go on, is the evidence of his purchase of that gun in Pittsburgh at some time now a part of the file that you have with you this morning, Colonel?

COLONEL PAGANO: Yes. I shake my head quickly to that, Senator, because--- Captain Tyrrell has the record.

SENATOR HAMILTON: As long as it is there, that is okay.

COLONEL PAGANO: I think while we are on the subject of the guns, he did allege two other guns, and I believe we have those guns. He also alleges that certain other people, the FBI or whomever, gave him the guns because he was a protected witness. We have no information at all along those lines, none whatsoever. This again was something new that I don't believe we have heard before.

SENATOR RUSSO: One last question before we go on, were you ever aware, up until prior to recently, of his allegations that the U. S. Attorney's Office or the F. B. I. or both urged him to perjure testimony in federal criminal matters?

COLONEL PAGANO: Yes, we were aware of those allegations, and Tom will answer that.

CAPTAIN TYRRELL: We were aware of that, and that flowed immediately from the taped conversation you heard. That was what he was offering to Lieutenant Simonetti in order to help him out of his present problem.

Immediately following that, or several days later, he was questioned in that connection.

SENATOR RUSSO: By whom?

CAPTAIN TYRRELL: By the State Police. During the interim he had contacted the F. B. I. And then a formal statement in connection with his allegations, vis-a-vis, Di Gilio and Verneramo, was taken. He was given a polygraph examination and turned over to the Federal authorities.

SENATOR RUSSO: By whom was he given the polygraph?

CAPTAIN TYRRELL: By the State Police.

SENATOR RUSSO: Was that the polygraph that John Toth gave?

CAPTAIN TYRRELL: No, that was another.

SENATOR RUSSO: Was he telling the truth or not the truth?

CAPTAIN TYRRELL: This was another one given at Sea Girt around the thirteenth of August of 1975. Following---

SENATOR RUSSO: What was the result? What did the examiner conclude?

CAPTAIN TYRRELL: Basically that he was telling the truth but there were problems surrounding him.

SENATOR RUSSO: He was telling the truth concerning the allegations he made that the U. S. Attorney's Office---

CAPTAIN TYRRELL: No, sir, containing his recantation of those allegations, which he raised in the first place.

SENATOR RUSSO: So, it showed that he was telling the truth that he was lying.

CAPTAIN TYRRELL: That's right. He then gave an elaborate deposition to the U. S. Attorney's Office saying that he was again lying.

SENATOR RUSSO: And who gave that examination?

CAPTAIN TYRRELL: By now he was with the U. S. Attorney's Office. You can read the results of the polygraph examination.

SENATOR RUSSO: This was by Edward Ganell?

CAPTAIN TYRRELL: Yes, sir.

SENATOR RUSSO: And the conclusion is - for the Committee and the record - "It is the opinion of this examiner that Jellicks is telling basically the truth regarding what transpired between him and Verneramo." That is the attorney---

COLONEL PAGANO: Right, the attorney whom I believe is now disbarred.

SENATOR RUSSO: "However, it is the opinion of this examiner that Jellicks has some type of angle or something that he is not telling the complete truth about regarding this entire matter. I believe that Jellicks is combining truth with fiction and possibly altering circumstances to suit his needs." That is the conclusion.

SENATOR MUSTO: Mr. Chairman, may I?

SENATOR RUSSO: Yes, go ahead.

SENATOR MUSTO: Isn't it true that he now has recanted that as well through testimony?

COLONEL PAGANO: I don't believe so, Senator.

SENATOR MUSTO: I mean, as far as he is concerned, hasn't he stated, I believe before us that---

COLONEL PAGANO: I think he went toward that in his last statement to you, but he was so guarded and so shielded that he never really said it.

SENATOR RUSSO: I think that should be made clear that the Captain has indicated the file in this matter is quite extensive and voluminous and that the State Police has made available to our Committee any information they have that we want. If our staff in reviewing the extensive file they have given us comes up with questions, their file is available to us. That should be made clear, in the event we need anything further.

SENATOR PERSKIE: Just for the record, you read the conclusion of the examiner on that report. Can you put in the record what statements--- His conclusion was that with respect to certain statements Jellicks was telling basically the truth. Can you just put into the record with respect to what statements the examiner concluded he was telling the truth?

SENATOR RUSSO: It is about a five-page report, but I will try to summarize quickly. Jellicks alleged

that he had been in contact with an attorney by the name of Verneramo, and he had been asked by this attorney to change his statement regarding an investigation involving John Di Gilio. The reason for the exam was to determine what information was possessed by Jellicks and also to determine the veracity of the same.

Now---

SENATOR PERSKIE: So, in other words, it didn't involve a direct test on the question of whether he had been asked by agents of the United States Attorney's Office---

SENATOR RUSSO: I don't know. Here is, I think, the critical part. Jellicks alleged that he was told by Vinney--- Who would that be?

COLONEL PAGANO: The lawyer.

SENATOR RUSSO: He was told by Vinney to say that he was told by George Kowinski, that Kowinski was to lie on the witness stand at the direction of the F. B. I. and the U. S. Attorney and that nothing would happen to him because the government prosecutes perjury cases.

I think the best thing to do would be to have this particular report maybe between now and the afternoon session pulled out and photocopied and submitted to the Committee members. It is really difficult to read this off. I don't want to take a chance on trying to summarize and maybe misrepresent what the facts are.

COLONEL PAGANO: Senator, it is a full-time job to take all the allegations and support them with what are identifiable facts. I think one very important point should be made, and that is that with experienced investigators, the polygraph is nothing other than an investigative tool. It very seldom, if ever, reaches conclusions and never reaches conclusions that are admissible before a court of law unless there is a prior stipulation that you are going to admit the results.

Nonetheless, the interrogations by the examiner are really the interrogations of an expert examiner, expert interrogator supported by mechanical devices.

SENATOR RUSSO: I think we better get back on to the schedule, but I think you have raised something that I think perhaps the Committee may want to cover now. I think it is important.

You have a polygraph examination given by the State Police in this matter as to Jellicks' allegations. That is given by Lieutenant Toth who I just might say, and I have no hesitancy to, I worked with him for ten years as a prosecutor and I thought he was outstanding. However, his exam contradicts some three or four by the SCI polygraph examiner and apparently three or four by the Asbury Park Press examiner.

COLONEL PAGANO: However, this Committee has made a very important point right here this morning in trying to

look through what you have been trying to look through. Lieutenant Toth had benefit of almost two months intensive investigation into the facts, and he had the records before him where the other two really were not supported by investigation. Neither agency had made an intensive investigation to weed out the facts.

SENATOR PERSKIE: Can't that be looked at two ways. Couldn't that have affected Toth's objectivity before he sat down and talked to the guy?

COLONEL PAGANO: That goes to the integrity of Lieutenant Toth.

SENATOR PERSKIE: I expressly don't mean that. I don't mean to suggest that he had prejudged how the thing was going to come out and was going to say that he was telling the truth or lying regardless of what he found the operation to be. Let's make that clear, because I know the Lieutenant's reputation also, and I concur with what Senator Russo said. I just meant, isn't it possible or isn't it a fact that the examiner when reading that machinery has to exercise some measure of discretion with respect to what it says?

COLONEL PAGANO: That is true. I think that in addition to the investigation, as I go through the chronology, you will find very quickly that our organization, because of our association with Jellicks, knew certain things that maybe the other examiners didn't know, and that we prepared our examination, and we prepared ourselves

in line with what we knew. We knew, as a matter of fact, that Jellicks had used Thorazine and other drugs to try to escape the polygraph. We knew from the very outset, from our very contact with this man, that rarely if ever did he give you any information that was not embellished with some untruth. That is why I used the word pathological.

SENATOR RUSSO: Colonel, let me really give you a loaded question, all right, and see how you respond to it, and it is really a devil's advocate question. Let's forget I know Lieutenant Toth or anything about his integrity or anything else, because I agree with what you are saying.

You have here an allegation against the State Police. Lieutenant Toth is a career man in the State Police, outstanding record. You are the head of it. It involves particular officers in the State Police. First of all, we ask a man that is employed by the organization to run a lie detector test on him, knowing that these tests - incidentally, I might say in recent months I have come to question my own confidence in them that I have had over the years, but anyway, maybe that will change. We ask him to run the test. He runs the test, and he concludes that he is lying. We now have the SCI test run by an examiner I don't know. He concludes that he is telling the truth. It is all on the same subject matter

basically. And the Asbury Park Press does the same test. They conclude, or their examiner that they hired - whom I don't know either - concludes that the man is telling the truth. But now we have an additional factor brought into their testing, the voice stress test, and I don't know anything about them at all.

COLONEL PAGANO: Well, we do.

SENATOR RUSSO: Now, the point is this: When one looks at all of these different angles of the thing, one has to be very suspect of the weight to be given your side of polygraph tests. And I am phrasing the question deliberately somewhat antagonistically to sort of show you what we are concerned about, and give you the opportunity to respond to that.

We have Lieutenant Toth a career man in the State Police, and now we have all of this other information plus the voice stress test. How do we answer that in trying to determine where in fact the truth does lie?

COLONEL PAGANO: Well, for myself as the State Police Superintendent and for the people in the legal fraternity who reviewed our record, I think we found that we had to go not just by the polygraph examination, but by the facts that we found in the case, the actual facts that I think in this investigation can best be laid out for you by Detective Mc Mahon. You have here a situation where in my judgement - and I don't know the examiners. I don't know who they used other than by name. I don't

know what their qualifications are. I would be of the opinion, that given the investigative depth that we had, they may very well have been able to frame their questions differently or come up with a different finding. You really find yourselves in a quandary, but it is no different than you find when you are in a civil case and one doctor says, in his opinion, and another doctor says, in his opinion, and they are diametrically opposed. You have to go by the facts in the case. I think that is where we can best help this Committee, by laying out the facts.

There are a number of facts here that just don't square with the allegations.

SENATOR RUSSO: Suppose you then resume---

COLONEL PAGANO: I can assure you that if there had been facts to square with the allegations, we would have taken action.

SENATOR MUSTO: The only thing I would like to add to that is, I find this polygraph situation very difficult to understand because we have a situation where law enforcement agencies, and others, me included, as far as I am concerned, are using the polygraph tests and other things to support their own conclusions. That makes a Committee very undecided.

COLONEL PAGANO: No, in our case we do use the polygraph as an investigative tool, but we use the facts that we develop to support our conclusion, and we went by

the facts in the case, because no matter what the allegation may show, and no matter how it may be embellished or built upon, the basic facts are still the basic facts, and that is what we relied on.

SENATOR MUSTO: I don't deny that. I think the Committee will give more attention to the facts than anything else. But I only point out the dilemma of the committee sitting here when facts are presented to it.

SENATOR RUSSO: You see, if we go by what you said about it being an investigative tool only, one has to wonder why we don't do something to stop this practice, even where the defendant consents, using the polygraph in court. Because it apparently has little benefit over and above the particular examiner.

COLONEL PAGANO: But the legislature in this State has already taken that step many years ago when they limited the use of the polygraph in certain areas, and it is unlike other states. We have a disorderly persons statute, and it says that the polygraph can only be used in certain conditions.

SENATOR PERSKIE: You can't make it a condition of employment.

SENATOR MUSTO: Maybe that is true in court, but here before this Committee the polygraph is being used to say he lied, he told the truth, he said half a truth, or he said all the truth.

COLONEL PAGANO: Senator, as far as our examination

is concerned, it was used for the purpose of giving lead information to the investigators or for trying to settle some conclusions that they had in their minds, but it was used after an extensive investigation by our people.

Let me run through chronologically our experience with Jellicks, so that you may be in a better position really to speak to the other State Police members who are here today. Our experience first started probably in November of 1968 when Lieutenant Simonetti and Lieutenant Decker both at separate times questioned James Jellicks at Bordentown.

SENATOR MUSTO: Is this the first time you had contact with Jellicks?

COLONEL PAGANO: This was the first time. Jellicks wrote to the Attorney General indicating that he had information that was of value to law enforcement, and the Attorney General at that time - I believe it was George Kugler - referred it to the State Police. Our people contacted him. That was back in 1968.

SENATOR PERSKIE: That was before Kugler.

COLONEL PAGANO: It was probably during Arthur Sills. It goes back to that time.

SENATOR MUSTO: Just so we have the background. I am very curious about how we get to Jellicks.

COLONEL PAGANO: We got to Jellicks in this way.

SENATOR MUSTO: Did you check anything on him?

COLONEL PAGANO: I am sure we had his background by the time we spoke to him. We knew who he was and what he was, and what his background was.

But he was questioned both by Simonetti and by Decker at Bordentown. They reported to their superiors. I believe the superior officer in charge then was a Lieutenant Graff, whom we all know, and who we all worked for. I don't recall the beginnings of the Jellicks thing myself, although I was in that area. He was transferred at the request of the State Police to the Middlesex County Workhouse, and at that location Lieutenant Decker questioned him four times. At that area, then Detective Decker came up with information from Jellicks regarding a very grandiose bookmaking scheme up in Hudson County. All the information that Jellicks gave referred to the North Jersey area. He ultimately turned that individual over to then Detective Simonetti in North Jersey. Detective Simonetti checked that information basically given then, and found that it wasn't correct.

And we knew at the outset that we were not in a situation with Jellicks that would--- Or we knew at the outset that he did lie to us, and you had to check every fact that he ever gave you very carefully before you took any action.

SENATOR RUSSO: What was he looking for? Why did he come to you?

COLONEL PAGANO: He was looking for help. Just the same as he was looking for help when he called Lieutenant Simonetti two days after he was arrested. This is his general modus operandi. As quickly as he finds himself in difficulty, he looks for someone to help him.

SENATOR MUSTO: Well, what had he done previously that he would be worthwhile helping?

SENATOR RUSSO: What kind of help was he looking for?

COLONEL PAGANO: He was involved in check frauds. He was looking for treatment to get him out of jail, looking for someone to use him as an informant to get him out of jail.

SENATOR MUSTO: And at that time it was determined that he had that value.

COLONEL PAGANO: I didn't, but the Superintendent at that time felt he was valuable enough to look to for continued use as an informant.

Jellicks was ultimately released, and he associated, after his release, with the Organized Crime Task Force Unit.

SENATOR MUSTO: What year would that be?

COLONEL PAGANO: That was in late 1968 or early 1969. I don't know, exactly, Senator. I will have to check the record. He became associated off and on with the task force unit in North Jersey. During this period

Jellicks also acts as an informant for other agencies. We don't know, or I don't know, which agencies right at this sitting, but he did produce worthwhile information for our organization on two gambling cases and on one hijacking case. But in all instances when we used Jellicks, we never relied upon his testimony, we relied upon the facts that we could develop from his testimony.

In 1970, he was involved in an Organized Crime Task Force Bureau hijacking case in central Jersey. Central Jersey at that time was being run by Detective Decker, or Detective Decker was there. Very significant, I think, in all of the testimony that we have had, this was the last time, in 1970, that Lieutenant Walter Decker ever laid eyes on James Jellicks. There were a couple of conversations by telephone during this period concurrent somewhat with the Abbatiello break-in, but contrary to what everyone has been told, Decker has never seen this man since 1970.

SENATOR PERSKIE: He was not present at his arrest?

COLONEL PAGANO: He was not present; he never saw him; he had nothing to do with him, not physically in his presence at all. And he was in contact with him only a couple of times by telephone. I think Lieutenant Decker can explain that.

In 1970 Jellicks was arrested for conspiracy by the Jersey City Police Department. I believe he was---

That was the Chrzanowski case, the shylocking case. Mr. Chrzanowski was the man who stood up before the Committee the other day and said, "I raise objection to what he is saying," or something. There was a hiatus in contact between the State Police and Jellicks from August 23, 1970 until December 17, 1974. We had no contact with him at all. He had been relocated through the federal system in the federal witness relocation program, not available to us.

On December 17, 1974, Jellicks, again, out of the blue called Lieutenant Simonetti complaining of the treatment that he had experienced allegedly in this witness relocation program, and he was looking for a job. Simonetti did---

SENATOR HAMILTON: What was the nature of his complaints with that program?

COLONEL PAGANO: He said that the feds really hadn't taken care of him, that they hadn't supported him, and I think Captain Tyrrell makes a very solid point, he made these complaints publicly. They were published complaints, and we have those complaints here and you can review them. In general, though, he just says that the feds gave him a "screwing" and they didn't treat him right. And now---

SENATOR MUSTO: But from 1970 until 1974, he was working for the feds?

COLONEL PAGANO: We had no contact with him. We can determine that, Senator, but he was in the relocation program, and out of our sight.

He did come to Simonetti and basically Simonetti will testify that his primary intent was to get the man a job because of past association.

SENATOR MUSTO: What I am curious about, when he came there in 1970, the latter part of 1974 or 1975, did we then make a check back on him to see what his past was? Or did you just accept the fact that he was---

COLONEL PAGANO: I am sure we would have had access to his record.

SENATOR MUSTO: And there was value in what he was doing?

COLONEL PAGANO: I think I will have to defer to Lieutenant Simonetti to answer the question more specifically, because I don't know. But he did contact us looking for a job. Simonetti was impressed by the fact that he could provide information. At that point Simonetti was assigned to the race track unit. He was down in Freehold, and arrangements were made for the man to get a work permit at the Freehold Raceway. Now, I am sure that is going to stimulate some question on your part, and I am prepared to answer that at the appropriate time.

SENATOR RUSSO: Well---

SENATOR SHEIL: I was concerned about the licensing procedures and everything.

COLONEL PAGANO: Contrary to what the public exposure has been recently, the law does not prohibit a person convicted of a crime from working at the racetrack. There is a rule, Rule 5:5-34, that is a Racing Commission rule that has the force of law of sorts, because the law gives them the right to promulgate the rules.

SENATOR RUSSO: I don't know whether the Committee heard that statement. Can you repeat that?

COLONEL PAGANO: The law does not prohibit a convicted offender from working at a racetrack. In fact, there are a number of people working at the racetracks today who have criminal offenses on their record. What the rule prohibits is employment of a person convicted of a crime involving moral turpitude. That, gentlemen, is a very broad field.

We review each and every application for employment at the track, and we make recommendations to the Racing Commission. And, generally speaking, the Racing Commission acts upon our recommendations because we are their security officers. We do look to prohibit people with records for arson, and certainly bookmaking, people with violent crimes on their records, and things of that sort. But we have the authority to recommend to the Commission whether an individual should or should not be licensed. Mere criminal conviction does not bar them, however.

SENATOR RUSSO: Well, let's now talk about what criminal convictions Jellicks had as of the time of his application?

COLONEL PAGANO: Checks, burglary and conspiracy.

SENATOR RUSSO: Now, are you suggesting - I don't think you are - that he was cleared properly so because---

COLONEL PAGANO: No, I am not suggesting anything at all. I am suggesting only that right at this point the decision was made that we would for the purpose of using him as an informant on the back stretch, provide him with the credentials necessary to make application for employment.

SENATOR RUSSO: Colonel, if someone simply came in for application for employment, not one of your informers or otherwise, with a record like his you would not clear it; is that correct?

COLONEL PAGANO: Not necessarily. No, I didn't say that.

SENATOR RUSSO: You would clear it? You didn't say that either.

COLONEL PAGANO: I didn't say it wouldn't be reviewed. It would be reviewed, and dependent upon his record, he may very well be recommended.

SENATOR RUSSO: But my point is this---

COLONEL PAGANO: And he also has the right to appeal.

SENATOR RUSSO: Yes, but is there any doubt but that - and maybe there is - by any test, burglary, conspiracy and fraudulent checks constitute, one or more of those three constitute, the crime of moral turpitude?

SENATOR PERSKIE: If they don't, what does?

COLONEL PAGANO: You are right, Senator.

SENATOR RUSSO: The people who are working at the Meadowlands and Freehold and so forth with criminal records today are working there because you or someone has determined they were not convicted of crimes involving moral turpitude; isn't that right?

COLONEL PAGANO: I would have to look at each one to be certain, but I will say yes.

SENATOR RUSSO: Yes, you would have never cleared them if you came to the conclusion that their criminal record involved crimes of moral turpitude. You wouldn't clear them because the statute says they shouldn't work there. I think what we are really back to is, all of this makes no difference. Jellicks should not have been cleared other than for a proper purpose - as an informant or otherwise, and I am not saying that I agree you should even for that purpose. But that is where we are, aren't we?

COLONEL PAGANO: That is right.

SENATOR RUSSO: Okay. Jellicks' record would violate this statute, nevertheless he was cleared. So, maybe now we should go on to why.

SENATOR PERSKIE: As I understand the rule of the Racing Commission, they are the ones that issue the license, and they do so in the normal course, as I understand it, upon recommendation with regard to background from you. Am I correct that in the normal course, you will provide the Racing Commission with whatever facts exist with regard to an applicant's criminal background, together with your recommendation as to whether or not that constitutes moral turpitude and whether or not that individual should be licensed; is that correct?

COLONEL PAGANO: That is correct.

SENATOR PERSKIE: All right, in this case, was all of the information with reference to Jellicks' background provided to the Racing Commission?

COLONEL PAGANO: No, it was not.

SENATOR PERSKIE: So, as far as the Racing Commission knew when they issued the license in whatever name they issued it, they were issuing it upon your recommendation and upon information that was less than complete.

COLONEL PAGANO: He was not issued a license. He was issued the identification.

SENATOR PERSKIE: So, what is the difference?

COLONEL PAGANO: Anyone coming aboard making application is given the identification because the process takes so long, and you really can't hold up the

works. Because frequently you have people moving from track to track in large numbers at one point. The license issues later on by the Racing Commission. The identification is issued by the State Police. So, the Racing Commission was not a part of this. There was no license issued. The identification did issue, and was issued by the State Police.

SENATOR PERSKIE: Well, when you say the Racing Commission was not a part of it, does that mean that no formal application for a permit or a license was ever made to the Racing Commission?

COLONEL PAGANO: Look at the last page of your booklet.

SENATOR PERSKIE: Let's put it this way, in the normal course, if I want to go to work at the Racetrack, and I submit a form of application which is submitted then to the State Police - isn't that correct?

COLONEL PAGANO: That is correct.

SENATOR PERSKIE: And the State Police will issue a card which, as I understand it, has the import - as far as the State Police is concerned - of making sure that that person is employed; is that correct.

COLONEL PAGANO: No, that is not correct. He is issued the identification immediately, and ultimately as the records catch up and the conclusion is drawn as to whether he is or whether he should or should not be recommended for employment, then and only then does he---

SENATOR PERSKIE: Okay, so then a person with that identification card is not necessarily eligible to be hired by the track?

COLONEL PAGANO: Not necessarily. Well, I shouldn't say that. He is eligible. He has made application for permanent employment, but it is temporary.

SENATOR PERSKIE: Okay, it is more or less a temporary authority.

COLONEL PAGANO: That's correct.

SENATOR PERSKIE: And in fact somebody with any kind of criminal record, moral turpitude or otherwise, could get that card and could go to work until such time as he becomes disqualified.

COLONEL PAGANO: That's right.

SENATOR PERSKIE: And how long a period of time normally intervened between when the identification card is issued and when a substantive determination is made?

COLONEL PAGANO: At that time it could have been as long as a month. I was going to say three weeks, but possibly a month.

SENATOR PERSKIE: Okay, and the Racing Commission gets into the act when the State Police are about to make a recommendation to the Commission on this particular application.

COLONEL PAGANO: That's correct.

SENATOR PERSKIE: Was that done in the Jellicks case?

COLONEL PAGANO: No.

SENATOR PERSKIE: It never got to the Racing Commission.

COLONEL PAGANO: That's correct. The application got to the Racing Commission, but we never made the recommendation. He was held really in limbo with that identification.

SENATOR PERSKIE: So he worked at the track---

COLONEL PAGANO: No, he never actually worked for the track. The contact after the issuance of the identification was made by Lieutenant Simonetti with the barn supervisor. He was merely told that a man by the name of Cusick - I believe that was the name he was using at that time - would be around looking for a job, and they recommended that he be given the job in the back stretch, where they thought they could use him.

SENATOR PERSKIE: Where approval of the Racing Commission was required.

COLONEL PAGANO: Well, it is required at a farm or wherever.

SENATOR PERSKIE: Okay, and he worked there from December to June.

COLONEL PAGANO: No, he never showed up to ask for--- He never got a job at the racetrack. He was never employed by the barn. He made contact through the barn supervisor and was referred out to Abbatiello's Farm. We lost contact with him for a short time.

SENATOR PERSKIE: Now, at Abbatiello's Farm he would not have needed the approval of the Racing Commission.

COLONEL PAGANO: At Abbatiello's Farm, eventually, he would also have needed a permit to work on a licensed farm or at the track.

SENATOR PERSKIE: Okay, from December to June he worked at the farm on the identification card without the requisite license or permit to do so.

COLONEL PAGANO: That's correct.

SENATOR PERSKIE: And that was because---

COLONEL PAGANO: The State Police were going to use him as an informant.

SENATOR PERSKIE: Well, as far as Abbatiello was concerned, he had him working at the farm, but he didn't have a license for him to do so.

COLONEL PAGANO: Not really.

SENATOR PERSKIE: Was that out of the normal course?

COLONEL PAGANO: That was out of the normal course.

SENATOR PERSKIE: And doesn't the statute provide or the regulation provide a responsibility by the employer to see to the provision of a permit or license by the employee?

COLONEL PAGANO: He was authorized to work on the farm with the strength of the identification card.

SENATOR PERSKIE: Authorized by whom and in what form?

COLONEL PAGANO: By the State Police, in the form of that identification card--- our organization, acting instead of the Racing Commission.

SENATOR PERSKIE: Well, as far as Abbatiello was concerned---

COLONEL PAGANO: As far as Abbatiello was concerned, he only saw the identification card - unless he saw the application. I don't know whether he saw that or not.

SENATOR PERSKIE: If Abbatiello only saw the identification card, if no license or permit--- What's the right word, license?

COLONEL PAGANO: License.

SENATOR PERSKIE: If no license was ever issued, by what authority did Abbatiello keep him after a month?

COLONEL PAGANO: I can't answer the question.

SENATOR PARKER: And why didn't the license follow up? Why didn't you follow through?

SENATOR RUSSO: Let's see if we can have some order here.

SENATOR PERSKIE: Let me ask you this: Is the incident that we are looking at, where somebody was working in a position that requires licensure without being licensed, is that a frequent occurrence?

COLONEL PAGANO: I don't think so. I can't answer the question, Senator. I would say probably no,

but I can't honestly answer the question. I don't think it could have occurred without our knowing it.

SENATOR PERSKIE: Let me ask you this, then, is the kind of situation wherein the State Police arranges for employment to a position that would normally require licensure, without bringing that to the attention of the Racing Commission for purposes of getting that kind of license, is that a frequent occurrence?

COLONEL PAGANO: No. To the best of my recollection, this is the only incidence where this ever occurred.

SENATOR RUSSO: Steve, no member will be limited in his questioning, but we ought to try to keep in mind here that there is no question but that this was issued contrary to the statute for a purpose that the State Police claims to be legitimate, and ---

SENATOR PERSKIE: I just want to know why, if Abbatiello had the responsibility of seeing that his employees were licensed, there was a six-month period in which it wasn't followed up?

SENATOR RUSSO: Senator Hamilton.

SENATOR HAMILTON: Colonel, the reason why he needed that identification eventually working at Abbatiello's Farm was because in connection with his responsibilities there he would have gone to the track; is that right?

COLONEL PAGANO: That's right, and that is what - I said openly in the beginning today - is the bottom line,

that he was on the back stretch from time to time.

SENATOR HAMILTON: Now, this regulation that you furnished us with does not distinguish between an application or identification card, what it proscribes is employment in any capacity; isn't that right?

COLONEL PAGANO: That's right.

SENATOR HAMILTON: So we really quibble when we talk about the identification card or we talk about the license; is that right?

COLONEL PAGANO: Or a license, right.

SENATOR HAMILTON: What is the statutory authority, if any, directing the State Police to act as - you call it - the security force for the racing industry; is that by statute, or is it something that has grown up over the years?

COLONEL PAGANO: It is by general authority of Title 53. It has been solidified recently by a change in the racing rules, which delegates the investigation of criminal matters to the State Police on behalf of the Racing Commission, and it is really something that has grown over the years.

SENATOR HAMILTON: There is no question at all about the investigation of criminal activity because that has to be within your general charge. Is there anything within that general charge that says that you shall act in any way as a screening agency for licenses or applications

for the persons to be employed?

COLONEL PAGANO: Not specifically. It says that we cooperate with other State agencies.

SENATOR HAMILTON: And for how long have you performed this function?

COLONEL PAGANO: I believe for about twenty-five, possibly thirty years.

SENATOR HAMILTON: And it is your testimony here today that to the best of your knowledge, Jellicks is the only time when the State Police has furnished someone with identification that was going to enable him to be in or upon a racetrack without having proper credentials and without being properly authorized?

COLONEL PAGANO: To the best of my knowledge, that is the only time.

SENATOR HAMILTON: At what level was the decision finally approved that he could do that?

COLONEL PAGANO: Probably by the investigation supervisor.

SENATOR HAMILTON: Which was?

COLONEL PAGANO: Major William Baum. I believe it was Major Baum, but it may have been Major Umholtz. I would have to check that.

SENATOR HAMILTON: It strikes me as peculiar. You have already identified him as someone who might have some worthwhile information, but none of whose information could be taken as gospel, all of which would have to

be verified and you knew that you were going to get a lot of untrue information along with what was true, why if the State Police had not done this kind of thing before, what was there that led you to do it in this case?

COLONEL PAGANO: It may very well have just been circumstances. If I recall correctly, his contact came right on the heels of information that we were not able to verify about the use of hard drugs by grooms, larcenies back in the stable area, and it was in no way connected, as he said, with the general probe of racing or race fixing. That was something that was entirely different. While I think we have always been concerned about any information that we might be able to pick up that would deal with race fixing. But I think that possibly circumstances led to this particular decision.

SENATOR HAMILTON: In retrospect, he was a particularly poor candidate for an informant.

COLONEL PAGANO: He may have been a poor candidate, but I think I have to stand on experience and say that no matter who the informant is, if an enforcement agency doesn't check very carefully all the information that you get from them, they will find themselves in difficulty. I think he might very well have been a special risk not recognized at that time.

SENATOR MARESSA: Colonel, is there any question in your mind that even today if you wanted to

institute a clandestine operation at a given racetrack that you would have the right to send your men in, for example, a trooper, and make up, falsify credentials and whatever else is necessary to get that man in there for the surveillance that you require?

COLONEL PAGANO: With the exception of the word right, I would say yes. I don't know if we have a right, an authority or whatever, but I believe that from time to time, depending upon the circumstances, you have a need for this kind of---

SENATOR MARESSA: You are not sure you have the authority?

COLONEL PAGANO: I wouldn't say it on the record, because I would want to research it before I say we have the right. But I believe that we would, if we had a need to get one of our undercover people in the back stretch or some place he wasn't known, we would provide him with that kind of background.

SENATOR MARESSA: And you wouldn't necessarily before doing that get the permission of the Racing Commission, would you?

COLONEL PAGANO: Not necessarily. But we work cooperatively enough with the Racing Commission that I think it would be advisable.

SENATOR MARESSA: And in this particular incidence you thought it advisable to use Jellicks, is that what you are saying?

COLONEL PAGANO: I didn't--- I shouldn't say I didn't. It was determined that it was advisable to use him there, yes.

SENATOR MARESSA: One thing I can't understand, I think you decided, or it was discovered by Simonetti in 1968 that the information he gave you about the operations in North Jersey turned out to be all lies. So here again you are using the man ---

COLONEL PAGANO: Yet he gave us other information that was correct. And this is consistent with most of the informants that you work with at this level. You can't always depend upon their word. You must conduct an investigation and act upon the facts. That is consistent with what the courts have told us about the use of informants. You know, you don't submit an affidavit or an application for a search warrant based upon the information provided by an informant, no matter how reliable he is without sufficient investigation.

SENATOR RUSSO: Colonel, do you have any idea whether or not it will be possible to complete this testimony today?

COLONEL PAGANO: I want to run through the chronology and I believe that will pretty much---

SENATOR RUSSO: We must, though, terminate at twelve o'clock. We have a Senate President that locks the doors on us and won't give us lunch.

COLONEL PAGANO: Let me run through the chronology, unless you have some other question.

All right, we got him the job---

SENATOR RUSSO: I am sorry, I meant to say that we must terminate this phase of the hearing by twelve. We will be back at two o'clock.

COLONEL PAGANO: Incidentally, the significance with Jellicks is that on February 17, 1975, when Jellicks tells Simonetti that Abbatiello is drugging horses, he provided Simonetti and Patterson with some vials that were checked and found to be nothing other than vitamins. The information that he provided about Abbatiello was checked and found valuable.

On June 12, 1975 Jellicks tells Simonetti he no longer works for Abbatiello. This is almost two months before the break-in. He complained extensively about Abbatiello, and about the fact that he had been injured by a fallen gate and we now know that he never was injured by a fallen gate as he related to Simonetti.

On June 17, 1975, Jellicks tells Simonetti about an attempt on the part of an individual by the name of Nakowski to sell a large number of hijacked televisions in Ocean County. Simonetti, being in the racing unit and at West Trenton, relayed the information through channels. It ultimately got to the central unit of organized crime where Lieutenant Decker was the Supervisor and Detective Kuyl was assigned to investigate that

information. That is the first time that Kuyl comes on the scene, in an undercover capacity to investigate the theft or investigate the hijacking of a large shipment of televisions.

On June 18, 1975, Decker phoned Jellicks using his home telephone number supplied by Simonetti. He informs Jellicks that Detective Kuyl is going to meet him and investigate the information about the hijacked televisions. Kuyl met Jellicks and at that point paid him \$20 as an informant fee. This transaction is recorded in accordance with our procedures and I believe that he gave us a receipt for the \$20.

On June 19, 1975, the television investigation proceeded. Nakowski was given a \$250 purchase fee by Kuyl - Nakowski being the individual who was later arrested. The deal falls through. We later learned that there were no televisions and that Jellicks and Nakowski had split the \$250 fee. So, we are not immuned to that either.

SENATOR RUSSO: How did you find that out?

COLONEL PAGANO: We found that out just the other day through an interview, really. We had suspected it for quite some time. We knew very shortly after that that there were no televisions, but nonetheless, Nakowski was eventually arrested by the State Police.

SENATOR HAMILTON: Colonel, in other words, the information furnished about Nakowski was the deal that

was going to go down, not one that had.

COLONEL PAGANO: No, it was going to go down--- We have every reason to believe that this was Nakowski's con. It was not Jellicks' con. Jellicks did not know about it, but he eventually got half of the \$250.

SENATOR HAMILTON: Well, wasn't the allegation that there were some stolen television sets that were going to be now sold, or televisions sets that were going to be hijacked and then sold?

COLONEL PAGANO: No, they were hijacked and available and Kuyl working undercover was given the assignment of securing one of the television sets. Had we been able to identify it, we would have set up the deal to buy the whole thing, and at that point recover the televisions and arrest the offenders. There were no television sets. The State of New Jersey lost \$250 - which is reported, and hopefully we won't lose any more of your money, Senator.

On June 23, 1975, Jellicks got the second \$20 informant fee which again is recorded and a receipt was obtained.

On July 27, 1975, the Abbatiello Farm was burglarized. This is almost two months after Jellicks was sent out of that Farm for one reason or another, fired by Abbatiello. The crime was reported to the State Police at Colts Neck, and in this particular area at that particular time, that station handled that township

as the sole police agency, and Detective Walsh or his people responded to that report. So, you see what you have here is three units of the State Police, the racetrack unit, hearing information and being involved with Jellicks, not necessarily transmitting that to the other units, and properly so. You also have the Organized Crime Task Force investigating the hijack information, and at the lower level, at the station level, you have them responding to a report of a breaking and entering. That is the third State Police unit that at that point was in one way or another involved with Jellicks. - three separate operations, their offices being far apart. And we are getting close to twelve o'clock, Senator.

SENATOR RUSSO: You can't complete your testimony at this time?

COLONEL PAGANO: No, it is going to take another couple of minutes.

SENATOR RUSSO: Okay, suppose we break now, and we will try to resume here at two o'clock very, very promptly, unless some emergency comes up, and then we will go until about five minutes to four, and then break again promptly because of the floor session. Thank you.

(Whereupon recess was taken.)

Afternoon Session

SENATOR RUSSO: Colonel Pagano, you are still on. CLINTON L. PAGANO, having previously been sworn, resumed the stand, and testified as follows:

We brought the Committee chronologically up until June 19th of 1975, when at about that time, Detective Kuyl conducted -- took the first steps in the investigation of information that Jellicks had provided regarding the hijack load of televisions.

On July 27th, probably the next most significant date, a Sunday, the Abbatiello farm, the Five Point Farm, was burglarized. That crime was reported to the State Police at Colts Neck. And, of course, I have already explained that this is the third State Police unit now involved in information provided from James Jellicks. And I emphasized before you this morning the fact that all three of these units are widely separated, although in one fashion or another interconnected by the State Police chain of command.

On July 28th of '75 - now this is the day after the burglary, on a Monday - Jellicks contacts Lieutenant Simonetti, again his informant calling in, and informs him that John Chew is involved in a check-fraud operation. Lieutenant Simonetti, again through channels to and from Division Headquarters, relays that information to Lieutenant Decker - check fraud.

The next day, Lieutenant Decker assigned Kuyl to investigate the Chew fraud. Now Kuyl has two jobs that are

going on, one going down and one coming up really.

On August, the 1st, of 1975, after several days of investigation, Detectives Trocchia and Sanders arrested John Chew on the check charges. At about Noon, Kuyl went to Jellicks' home and questioned him about withholding information because of the inconsistencies which were developing between the facts as provided by Jellicks, the information provided by Chew, and he told Jellicks at that time that "you'd better tell me everything," everything that he was involved in, because Kuyl by this time was suspicious of Jellicks.

At this point, Jellicks produced the 30.06 rifle that we have talked about earlier and said that John Chew had stolen that during the course of a burglary in Ocean County.

At the same time, Kuyl was shown some record books and medicines which Jellicks told him had been taken from the Abbatiello farm, but he didn't tell him anything more, just that these were from the Abbatiello farm. Kuyl did not take those things at that time. He returned to Edison and he began checking all the information that had been provided. He did take the 30.06 rifle, as I have already said.

He learned that there had been a breaking and entering at the Five Point Farm and he advised, through his superiors, that he suspected that possibly Jellicks might be involved in this. Kuyl was directed to seize the evidence and make arrangements for Jellicks to report to

Edison on Monday, August, the 4th. It was a Friday. The following Monday, he wanted Chew in.

Kuyl returned to Jellicks' home about six o'clock and seized the box containing five booklets and numerous containers of medicines for horses. Jellicks, at this time, told him that he had made a big mistake and had stolen the items from the Abbatiello farm with John Chew. Kuyl also ordered Jellicks to report to Edison on Monday. Mind you, they are looking at Chew for the ---

SENATOR RUSSO: Colonel, Senator Perskie would like to interrupt at this point to ask you something.

BY SENATOR PERSKIE:

Q Did I understand you to say, Colonel, that Kuyl did not take ---

A The first time that he saw them, he did not take them. But after he got back to Edison and checked the information that he had available and found that there had been a breaking and entering at the Abbatiello farm, he then went back and, on his second visit, he did pick up those books and records.

Q Not at the same time that he took the 30.06 rifle?

A No. The 30.06 was the first trip down there that morning. That evening, he picked up the rest of the items.

Q We have been supplied, I assume from you or from the Division, a copy of what purports to be a receipt issued over the purported signature of Kuyl and dated July 30, 1975. It's got markings on it "J-1 id." and then it is dated 1-4-78. I presume that was at the hearing, this Committee's hearing, that I did not attend.

A --- at this Committee's hearing. I first saw this on the evening before the first session of this Committee, which I believe was on January, the 4th. I saw this for the first time on January, the 3rd. And Detective Kuyl will testify regarding this receipt. I am in a position right now on his behalf to say that this is not his writing. This is not a State Police receipt. It is not his signature.

Q You are saying that this is not a genuine signature and he didn't sign it.

A And he didn't give this receipt. Had he given it, there would have been nothing wrong with it, other than the date. But it is not a genuine receipt.

Q No. The only reason I ask is because it is inconsistent with the facts as you have just presented them.

A Absolutely.

SENATOR RUSSO: Senator Hamilton,
do you want to make a point?

BY SENATOR HAMILTON:

Q Colonel, before you get beyond this, Sergeant Kuyl is with the Organized Crime, Central Jersey, is that right?

A That's correct. Not at the present time; he was then.

Q --- at the time that we are talking about. Was Chew known to the State Police at this point in time?

A Chew was just beginning to be known to the State Police because of the involvement in the check fraud.

The allegation in the check fraud - and substantially it was correct, if I recall - was checks in excess of \$200,000 over a multiplicity of counties. And that is why that particular unit was selected to conduct that investigation.

Q Because of the magnitude of the possible violations, that's why Organized Crime kept it. I was puzzled about that.

A That's right.

BY SENATOR RUSSO:

Q Continue, Colonel.

A Walsh was notified -- Detective Walsh was the Detective at Colts Neck -- was notified of Chew's involvement and took a statement from Chew who named two accomplices to the Abbatiello burglary, who later proved to be fictitious, and the investigation continued. But when Chew was first confronted with the information provided by Jellicks and the records and the physical evidence, he admitted it, but he said he was involved with two other persons. And Detective Walsh can describe that series of circumstances to you.

On August, the 4th, of '75, Jellicks failed to report to Edison Station and Kuyl, Walsh and the other Detectives continued their investigations. Kuyl notified Colts Neck Station and delivered the records that he picked up from -- the records and the drugs that he picked up from Jellicks to Detective Walsh. And here our receipt flow begins, the investigation proceeding. When Detective Walsh comes up, he will show you pictures of the records and the drugs. He will also show you, and probably straighten out in your mind, any doubts you may

have about the guns and which gun was which, because if you see the pictures, I am sure it will be much more ---

SENATOR PERSKIE: Mr. Chairman.

SENATOR RUSSO: Senator Perskie.

BY SENATOR PERSKIE:

Q Then Walsh did receive those books and the drugs that were allegedly taken from Abbatiello's farm?

A That's correct.

Q And he will testify as to what happened with those?

A Yes, he will. And, in addition, as the case progressed, as the investigation progressed and the rest of that property was picked up, it was ultimately given to Detective Walsh because he was a station-level Detective conducting that investigation.

BY SENATOR PARKER:

Q On that point - and I don't want to hold it up - are any of the records or any of the drugs or anything that was picked up allegedly not returned to Mr. Abbatiello?

A Not to the best of my knowledge. Ultimately, as the case was concluded, the books, records, drugs, and whatever, the jewelry, the gun, the musket - all returned to Mr. Abbatiello.

BY SENATOR PERSKIE:

Q The books and the drugs that were taken?

A Everything - that's correct.

BY SENATOR PARKER:

Q Why would -- I'm sure you wouldn't know -- but did you get any information as to why Mr. Jellicks would

sign or somebody would sign a receipt with Detective Kuyl's name?

A I haven't the slightest idea, Senator. And we have had no question situation with Jellicks since that time.

I simply say that Detective Kuyl has examined the receipt and that he says it is not his writing, not his signature.

I have no idea what that would be injected into this thing.

BY SENATOR RUSSO:

Q Go ahead.

A Jellicks failed to report to Edison Station. Kuyl and the others continued their investigation. Later that same day, Chew was confronted with the inconsistencies and he retracted the information on the two fictitious persons and admitted that he and Jellicks committed the Abbatiello burglary with the prime purpose of stealing the records and selling them. He told us that Jellicks had convinced him that there were records there that they could steal and sell.

On August, the 5th, of '75, Mr. and Mrs. Abbatiello appeared at the Colts Neck Station and identified the stolen property from their farm that was recovered at that point. Other aspects of the investigation were pursued. The investigation continued.

On August, the 6th, at 10:30 A.M., Jellicks attempted to reach Lieutenant Simonetti by phone at Division Headquarters. However, Simonetti was off duty and a message was taken by one of our clerical people, a secretary, Christine Stark. This was the first indication that we

had to my knowledge that the allegation about breaking in at the direction of the State Police really was coming about, because, to quote from the recollection of Miss Stark, she was told at that time that "Decker really screwed me. I got the books and drugs for them. If they would have told me they could have gotten it with a search warrant, I would never have done it that way, but I got to talk to Rudy. He is the only one who can help me now. Maybe he can get it reduced to disorderly." And that was the statement of Christine Stark, our Secretary.

On that same day, Walsh and Richroath, another one of our Detectives, took Chew from the Monmouth County Jail, and they went to Barnegat to the Jellicks' home where they recovered the calculator and the adding machine that were stolen from the Abbatiello farm.

At eight o'clock that night, now having been joined by Detective Kuyl, Detectives arrested Jellicks at his home on a warrant. On searching Jellicks, they found a loaded automatic pistol in his right rear pocket, this being the pistol allegedly or positively bought in Pittsburgh.

BY SENATOR MARESSA:

Q What caliber?

A It was a .25 caliber, Atra-type automatic. And I think you will be able to understand some of this a little bit better when you see the photos. There were two .38 caliber revolvers found during the course of a search of his car. They were also confiscated. They were also traced. They were also Pennsylvania purchases.

At this time, Jellicks admitted that he and Chew committed the Abbatiello burglary because he figured the Racing Commission would be interested in Abbatiello's records because to the best of his knowledge he believed Abbatiello was drugging horses. Walsh and Richroath returned Chew to the Monmouth County Jail and Kuyl lodged Jellicks in Ocean County. For the sake of the record, this is the second time again today that we have mentioned Abbatiello's name in this hearing, once during that tape, once here. We have checked this information. We have checked the allegation that Abbatiello was connected with organized crime figures. We have no information whatever to believe that there was any interconnection or that there is anything at all that should taint the name of Tony Abbatiello. And, certainly, we had no reason to believe that those records would have been records of his drugging horses.

On August, the 7th, which was a Thursday --- incidentally, this is an important point - Walsh and Richroath returned Chew to the Monmouth County Jail and Kuyl lodged Jellicks in the Ocean County Jail that night. The simple purpose of that was to separate the two because they still weren't telling all the truth on the burglaries they are involved in. Jellicks was arraigned the next day, on the 7th, in Colts Neck and Union Township Court and released on \$2500 bail. I think the total between the two townships probably should be recorded as 18 --- or as 38 hundred dollars.

On August, the 8th, of 1975, now on the heels of

the arrest, Jellicks phoned Simonetti at Division Headquarters, and that is where that tape-recorded conversation which you heard today was made. At that point, he already recanted the story that he had injected on the scene about us or our Division directing him to break into that farm.

On August, the 12th, of '75, Jellicks appeared - he was on bail - at the Freehold Raceway, at the direction of Lieutenant Simonetti, and he was interviewed. He said that he contacted the FBI the day before and they discussed his dealings with DiGilio. He also gave a handwritten statement saying that he committed the Abbatiello B & E on his own, and that is part of the record that we gave you.

On August, the 13th, Jellicks was given a polygraph examination on the DiGilio information and that is the examination that you discussed earlier this morning, Senator.

Two days later, on the 15th, he gave a formal statement on DiGilio and Verdiramo and Jellicks was now in the mode of cooperation with federal authorities.

On August, the 22nd, he appeared before the Federal Grand Jury.

On October, the 20th, of '75, interviews of Jellicks appear in the New York Times and later the Philadelphia Bulletin, and that was an article by a Miles Cunningham. He discussed the purported conspiracy to discredit the U. S. Attorney's Office on the Strike Force. Jellicks also said he wanted to get an investigation started. He wanted to get an investigation going on

federal authorities. During the course of this interview, he also complained of federal treatment, and this interview was carried in the Star Ledger. The reason that I bring this into the session is because already we have recantations now, added recantations, by Jellicks of the information that we directed him to break into the barn and do other things.

On October 24th of '75, Jellicks gave the deposition to the United States Attorney on making false tapes to be used against the FBI and the U. S. Attorney in connection with Verdirama, DiGilio and Alice and Joseph Chrzanowski, the gentleman who was in the session the other day.

On 11-3 and again in July of 1975, Jellicks appeared in Trenton in the United States District Court and on both occasions he stated that he committed the Abbatiello B & E on his own. What I am trying to say to you is that many, many times before making the allegation before this Committee, he had already recanted without any obvious pressure by the State Police.

On December 24th - and now Jellicks drops out of sight and wasn't seen again until December 24th of '76, when, after a high speed chase and an accident, the Dover Township Police Department arrested him on a warrant as a fugitive.

It wasn't until early 1977 that we began getting the allegations about the bugging and the wiretapping, alleged bugging and wiretapping. It was on January 5th of '77 when Simonetti received his first letter from

Jellicks and then a second letter on January, the 17th. And as soon as he received these letters, he immediately contacted the Internal Affairs Bureau.

On the 23rd, Jellicks wrote to him again, and again repeated these allegations and restated the State Police allegations, the B & E, and the assault by Kuyl. And it was in this letter that he first raised the issue of bugging at Abbatiello's farm for the State Police.

He wrote to me on the 24th and, on the 24th, told me of the same things: the breaking and entering, the bugging. This was the first that I, as Superintendent, learned of an allegation by Jellicks that the State Police had directed him to do any bugging. I may very well, gentlemen, have heard between the first of the month --- the 23rd of the month, the day before, of a letter that Simonetti had received and his discussions with Internal Affairs. I just don't recall.

BY SENATOR HAMILTON:

Q Do you recall when this Committee, before many of us were members of it, was considering the extension of the Wiretap Law? When was that relative to this early January, '76 time frame that you are talking about?

A It is really disjointed, I think, Senator. The Wiretap Law or the extension is three, five ---? I just can't answer the question. I will have to check that.

Q I wondered what turns on some of these ideas that he comes forward with and I wondered what he was reading about in the newspapers.

A I really don't know. I have a number of gaps in my own understanding of exactly what is being achieved or what is hoped to have been achieved. I think that it is significant to me and should be significant to the Committee, not only in your examination of me or the examination of my people, but it is significant that you look at the evidence that has been presented. And I find that may be one of the most significant aspects of the entire allegation.

You have a device that was presented to the Committee last time, allegedly having been provided James Jellicks by the State Police. Gayl, do you have that? (Device handed Colonel Pagano.)

On January 4th when you had your hearing, this was the first time that we had seen this. We knew nothing at all about this so-called bugging device; we had not seen this device. But what this is is a pick-up coil, the allegation being that this pick-up coil was used on Anthony Abbatiello's phone to record his telephone conversations. Now this coil would be placed under a telephone in Abbatiello's office, with a wire running to the tape recorder. And it is inconceivable to me to think that anyone could have his telephone conversations secretly interrupted with this device, without knowing it.

BY SENATOR RUSSO:

Q Why do you say that?

A I say that because this is in full view of anyone who is using the instrument. This couldn't be used by

Tony Abbatiello at all secretly. He has to see the device. His telephone has to be off kilter and this has got to run to a tape recorder where the tape recorder would be picking up his telephone conversation. It is inconceivable that this could have been done, either at the direction of the State Police or by anyone except the person who wants to record his own conversations.

This tape recorder was first picked up by the State Police after the Internal Affairs Bureau interviewed Jellicks about his allegations. This tape recorder was in the cellar of his home. And Detective McMahon went to his home in Barnegat and with the assistance of his wife searched through the cellar until she found it. And it was finally found in this condition, just as you see it here today. The allegation was that this tape recorder was secreted in different places in Abbatiello's office so that they could tape-record the proceedings on the Sunday morning meeting.

I say this to you: This tape recorder, to the best of our knowledge and as best we can trace it, never was the property of the New Jersey State Police. It was never in our inventory. We ran the investigation to a logical conclusion and ultimately returned it to James Jellicks, saying, "It is not ours; you may have it back." It then again reappeared through the Middlesex Prosecutor's Office to the Division of Criminal Justice and on to our Internal Affairs Bureau in consort with this wire, and this wire was supposed to have been attached in the

Abbatiello farm. Our technical people have examined it and they tell us - and they will testify before this Committee, if you so desire - that this is a technical impossibility, that this wire will not turn on and off this tape recorder which was hidden either under a couch or behind a drawer or wherever else it could have been hidden in the Abbatiello farm.

BY SENATOR RUSSO:

Q Colonel, I don't remember - did Jellicks say that it was turned on and off automatically with the telephone conversation?

A He turned it on and off downstairs with a switch.

Q Suppose that he had turned the set on downstairs, is that wire capable of carrying the transmission so that the machine would record it?

A We say, no, it is not. Had it been attached to the microphone, it would not have given you the clarity necessary, because this is telephone wire. This is wire that comes from a speaker, telephone speaker. It will not turn the recording machine on and off. It could not be stretched in that particular farm through the duct work and Detective McMahon can testify that the only way this wire or any wire could ever have been put into the room would be by drilling or through the duct work. It would not have been taken through the duct work. I think it is significant that you understand this because this is evidence that has been provided and testified to by Jellicks. It is something you can see and something you

can understand. And I am open to any questions that you may have, Senator.

SENATOR RUSSO: Before we get to the individual officers, are there any questions to the Colonel on his testimony. If not, Colonel, you will stick around won't you?

THE WITNESS: I have a meeting, but I will be back.

SENATOR RUSSO: No. It isn't necessary that you remain. I just assumed you were going to.

THE WITNESS: I will only be gone for a short few minutes. But I will be back and should there be any further questions or the press have further questions, I will respond to them later.

SENATOR RUSSO: Okay. Thank you very much, Colonel.

We would like to hear from Lieutenant Kuyl now, if we may.

THE WITNESS: And I am sure that Lieutenant Kuyl wishes he were a Lieutenant.

SENATOR RUSSO: Oh, I am sorry. What was the rank.

DETECTIVE KUYL: Detective Second Class Kuyl, sir.

SENATOR RUSSO: Detective Kuyl.

Colonel, wait a moment, there may be

questions.

SENATOR SHEIL: I didn't know whether the Colonel would have to be here to approve -- I was hoping sometime before the testimony is over that we would get Lieutenant Taft ---

SENATOR RUSSO: Toth - John Toth.

SENATOR SHEIL: --- regarding the credibility of the polygraph.

SENATOR RUSSO: He is here. He is still here, isn't he?

COLONEL PAGANO: Yes. He just went out to check something.

CHARLES AUGUST KUYL, being duly sworn as a witness, according to law, testified as follows:
BY SENATOR RUSSO:

Q Detective Kuyl, before you get into specifics, in general, I would like to start with this receipt that we have before us. I think you have seen it before. I will ask the staff to pass it down to you. Tell me - and I am referring to the receipt that we all have a copy of -- and tell me, Detective Kuyl --- Do you have a copy of it?

A Yes, sir, I do.

Q Have you ever seen that receipt before now?

A No, sir.

Q Before this very moment?

A I seen a receipt similar to this about two days ago.

Q Where was that?

A Detective McMahon showed it to me at Division Headquarters.

Q Is it the same one you have before you now?

A A copy of it, yes, sir.

Q Okay. And that receipt that you have before you now and that we have before us purportedly contains your name; isn't that right?

A That's correct, sir.

Q And incidentally, what designation do you generally put after your name when you sign something?

A Normally, Detective 2 and my full name, Charles A. Kuyl.

Q And on this particular receipt, there is a designation, abbreviated, "Detective - period - OCSP." What does that mean as far as you know?

A It would seem to me to be the Organized Crime, State Police.

Q Were you on July 30th, the date that is on that purported receipt, connected with Organized Crime in the State Police?

A Yes, sir, I was.

Q Now, is that your signature?

A No, sir.

Q And did you at any time have any discussion with Jim Cusick or Jim Forrest or whatever name he was known by of any of the items that are contained in the receipt or referred to in the receipt?

A This particular day, no, sir.

Q On any day?

A Discussion in reference to these particular articles was August 1st.

Q August, the 1st. That would be ---

A 1975.

Q Two days later.

A Yes, sir.

Q July is one of those months with 31 days as I remember. And that was pertaining to the same subject matter?

A Yes, sir.

Q And did you, in fact, on August, the 1st, receive the items that are contained or referred to in this receipt on August, the 1st?

A Yes, sir, I did.

Q You did. So, basically, this receipt, at least its contents, is substantively accurate, but in fact it is not your signature that is on it nor did you have anything to do with regard to these matters, on that date; is that correct?

A That is correct, sir.

Q Now we asked Colonel Pagano at the recess to have, if possible, here some of your reports or whatever, documents prior to the present time that would contain your signature in the manner you would normally sign it. Do you have some of those with you?

A Yes, sir, I do. (Witness produces papers.)

Q Before you get up, do you have any knowledge as to who might have signed your name to this receipt since

you testify it is not your signature?

A No, sir.

Q You never authorized anyone to sign for you?

A No, sir.

Q Nor did, in fact, anyone tell you they signed for you?

A No, sir.

Q And I think you said, in fact, two days later you did receive these goods from Cusick or Forrest, but it was two days after the date of this receipt; is that correct?

A That's correct, sir.

Q May we see those reports that you have? The receipt was given to us, as I recall, by Jellicks and it has been disputed by the State Police as being, in effect, a fraudulent receipt, and it goes particularly to the credibility of Jellicks. I thought we ought to cover it, at least to establish whether it is or is not ---

SENATOR PARKER: I have just been trying to get the connection for the receipt and what significance it might have for being one date as opposed to the other. It seems to me a red herring and it has no significance at all that I can detect, other than for credibility.

SENATOR RUSSO: Yes, which is sort of the crux of this whole thing. If we knew where the credibility lay, we would have everything resolved.

SENATOR PARKER: The crux of this here today is certainly not the crux of the investigation, as I understand the purpose of the investigation.

SENATOR RUSSO: It seems as though it was an item of evidence that we ought to ask and try to resolve.

BY SENATOR RUSSO:

Q You have given us some of your other reports, that being the yellow sheets that are before me; is that correct?

A Yes, sir.

Q And the reports that I have are dated 8-12-75 - I guess they all are - 8-16 --- no, that is Testalano --- again 3-3-77. I am sorry - there are more here. They are various dates and they contain your signature. Detective Kuyl, is it possible that you could be mistaken on the date, for whatever significance that may be, that you obtained these articles?

A Definitely not, sir. It was Friday, August 1st, 1975.

BY SENATOR HAMILTON:

Q Had there been any prior discussions about any pending turnover to you of any evidence that perhaps wasn't right at hand at that point?

A No, sir, everything took place August 1st.

Q There was no prior discussion with Jellicks about his going to give you something?

A Definitely not, sir.

BY SENATOR RUSSO:

Q We may keep those, may we not, or do you need those back?

MR. TYRRELL: Refer to your copies. You may find them already in your file. They are our file copies and we need them for further process.

SENATOR RUSSO: Could we, for the Committee's benefit so they can compare signatures if they want to, rather than take apart the big one, have this batch photo-copied and returned to you today?

MR. TYRRELL: All right. I think perhaps Detective Kuyl may want to use them in his testimony at the moment.

Q Do you need those?

A Yes.

SENATOR RUSSO: I think the Committee wants to look at them before we do that though. Anyone else?

SENATOR PARKER: There was some reflection that it looks like or may look like the Detective's handwriting. To me, it does not. I don't think we ought to characterize it at this point.

SENATOR RUSSO: I don't think any of us are capable of making that determination. I

certainly don't intend to and I don't come to a conclusion either way. I would think I could probably reasonably - and I never tried it before -- reasonably copy that signature of his if I wanted to, and so could someone else. That doesn't make it his signature. It is not so extremely different that there is no question about it nor are we able to come to the conclusion that it is the same one.

SENATOR PARKER: I just wanted to make it clear. There was some allegation that it may be and I wanted to clear that up. I think you have cleared it.

SENATOR RUSSO: But we will perhaps -- we'll photo-copy those at the end of the day if you will remember, Detective, to leave them with us. And whatever we do with them from there, I don't know.

BY SENATOR RUSSO:

Q Now, we will get right to the main points of your being here and then we will fill in details after. Did you ever strike this man?

A No, sir, definitely not.

Q And when you took him to the Ocean County Jail on the day that was referred to, what was his condition when he got there?

A His condition was excellent.

CONTINUED

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Q And did he complain of any problems of any kind at all, Detective?

A Just the fact that I arrested him.

Q Were you ever aware of any complaints he made, either while you were there or after you left, of any injuries or discomfort?

A I was not, sir.

Q When did you first learn that he claimed you beat him?

A I believe it was the latter part of February of '77, I was called in by the Internal Investigation Squad and they referred to me the particular allegation of assault and battery, etc.

Q Was that the first time you were aware of the fact that he had gone to a doctor -- complained to a doctor at the jail that he had been beaten?

A Yes, sir.

Q When did you first meet him?

A Okay. If I may, sir, go through it chronologically ---

Q Would you rather do that?

A (Continuing) --- to make a vivid picture.

Q And we will interrupt you, if we may, at points where we think, you know, questions would be significant.

A Okay. Wednesday, June 18th, of 1975, I was assigned by Lieutenant Decker to contact Jimmy Jellicks in reference to a possible subject having possession of stolen TV sets. Subject's name, at that time, I was advised was Charlie Thompson. That particular day I

believe I telephoned Jimmy Jellicks and made arrangements to meet this particular subject, Charlie Thompson, along with Jellicks, at Jellicks' house down at Barnegat. The meeting took place 11:00 A.M., June 19th, at which time we discussed myself purchasing from Charlie Thompson 50 Zenith color-console TV's valued at \$1,000 per unit; and I negotiated that I would buy the particular sets at 15 percent of the particular retail value. Upon completion of talking with Jellicks and Thompson, Thompson and I left Jimmy Jellicks' house and we went to the residence located at 15 Tiller Lane, Barnegat, New Jersey, at which time Charlie Thompson introduced me to a subject identified as John Fryer, who was later identified as John Chew. He advised me that this particular person was his partner.

I made arrangements to meet with Charlie Thompson later in the evening. The place of meeting took place at the Lacey Mall, at the Shop-Rite Center, Route 9, Lacey Township, Ocean County, New Jersey. The reason for the meeting was to pass money to Charlie Thompson as a down payment for these particular TV sets. Contact was made at approximately 7:56 [sic] P.M., at which time I turned over to Charlie Thompson \$250 in moneys. I had several Detectives in the area covering the particular transaction.

Q Fix that date again, please.

A That is June 19th.

Q --- of?

A --- '75.

Q You obtained this money from State Police funds; is that right?

A Yes, sir.

Q It was signed out in the proper manner?

A Yes, sir.

Q It is of record in the department?

A That's correct, including a copy, sir, of ---

MR. TYRRELL: You have the records, sir.

SENATOR RUSSO: We have a lot of things.

Q Go ahead.

A At this particular time, I was electronically wired up. We recorded the conversation of the particular transaction and the money was passed to Charlie Thompson and we also bargained, in addition to these particular 50 Zenith color TV's -- bargained for 300 Panasonic TV's valued at \$350 per set, for which I negotiated that I would advise I would pay him \$40 per set.

Upon completion of our negotiations, he advised that he would deliver the particular loads of stereo sets and the TV sets on Monday, June 23rd, 1975, behind the CB Diner, which is located in Toms River at Route 37 - intersection 166. We set up surveillances that particular day and Charlie Thompson and the load did not show up. Several hours later, Thompson did show up at the scene and he advised that the truck had broken down. And we arranged to meet with him the following week, which was June 30th, '75, on a Monday, again behind the CB Diner. Okay. That particular day, we set up surveillances, etc.; Charlie Thompson nor the load never showed up. So we figured at this particular time, we had been flimflamed out of \$250.

BY SENATOR MUSTO:

Q Did you do any checking as to whether or not there had been a robbery or any TV sets had been stolen?

A Yes, sir, I extensively went through the teletype messages. I contacted a number of police departments, etc.; for example, like U.S. Customs, the Waterfront Commission, etc. And there was no report of larcenies. But, on the other hand, sometimes there is a lot of loads that are stolen at various trucking terminals -- which are stolen away, where particular owners aren't even aware that the loads are disappearing from particular docks.

BY SENATOR HAMILTON:

Q Is there any precaution taken, along the same line Senator Musto is asking, at the outset of an offer to sell stolen merchandise like this to make sure that the person who you are dealing with then doesn't go out and commit an offense so they can sell the property to you?

A Well, ---

Q Was there in this case, at the outset, that inquiry made or was it made only when he didn't keep the first appointment?

A See, sir, my contact with him -- I assumed that he had possession of these particular stolen TV sets stored at a particular hijack drop, sir.

Q And based on that assumption, you, therefore, did not check to see if, in fact, there had been a recent theft?

A I did check to try to ascertain if there were any

recent thefts.

Q When did you do that relative to your June 19th contact?

A Right after that particular meeting with Charlie ---
BY SENATOR MUSTO:

Q When you were given this assignment, who gave you the assignment?

A Lieutenant Decker.

Q You don't know what Lieutenant Decker did in that regard then, as to checking whether there was any ---

A It is primarily my responsibility, sir. I checked the teletypes. I made the particular phone calls to try to ascertain if there were any sets stolen, pertaining to that particular deal; and it came back negative.

BY SENATOR PARKER:

Q My question goes to the wiretap and the tape. Did you have a court order for the tape when you taped Jellicks?

A At that particular time, sir, due to the fact that it was being placed on myself, a court order wasn't required. The Electronic Unit at the State Police wired me up and I met with Charlie Thompson.

Q I am trying to get a copy of the Wiretap -- It's my understanding right about in '75, I think, is when we were doing the adjustment in the Wiretap. And really this is of more concern to me than maybe this problem of Jellicks is, whether or not the State Police are, in effect, or may be using consensual taps, what

are equivalent to consensual taps, where you tape yourself and go out without the other person's knowledge and engage in conversation. It is my recollection that we made an adjustment in that or changed that. I just wonder, first, whether that was before the Wiretap; and, number two, under the Wiretap Law, whether you are permitted to do that.

A At that time, sir, I believe an authorization wasn't required in 1975.

Q There wasn't authorization?

A It was not required.

Q It was not required at that time. Is it -- maybe this is not a fair question here and I don't have the Act here with me -- is it now required from the Attorney General to do that?

A Yes, sir.

MEMBER OF AUDIENCE: Wait a minute.

No, it is not, not where a Police Officer is recording a ---

SENATOR RUSSO: Captain, identify yourself

CAPTAIN DENTINO: Captain Dentino, New Jersey State Police.

SENATOR RUSSO: Now say what you were saying.

CAPTAIN DENTINO: If a Police Officer is using a third party, such as an informer such as Jellicks, he would need authorization. If a Police Officer is tapping his own conversation or recording his own conversation with

another individual, that would be legal, the same as you or anybody else could do in this room.

The changes that you have made in consensual was that you made the requirement that where a Police Officer was using an informer and he was going to wire this informer up, he needed authorization from the Attorney General.

SENATOR PARKER: Not where it is a Police Officer involved?

CAPTAIN DENTINO: On a head-on-head confrontation, no.

BY SENATOR RUSSO:

Q Detective, I wonder, unless this poses problems for you - because if it does, we don't want to limit you -- I wonder if maybe we can proceed rather than going through the entire narrative from beginning to end of having the Committee questions regarding those matters based upon the information we have that they want to hear about, and then your adding to that anything you feel you want to. I think that might be better because much of what you are going to testify to ---

A --- is repetitious.

Q (Continuing) --- is repetitious and not in dispute.

SENATOR RUSSO: Does that make sense to the Committee? All right, so suppose we begin with the Committee and, based upon the

materials you have had to study, who would like to question Detective Kuy1?

Senator Hamilton.

BY SENATOR HAMILTON:

Q Detective, you said, I think, on June 18th that Jellicks complained about being arrested. I think you used that general phrase.

A June 18th?

Q June 18th.

A I believe it was August 6th.

A August 6th. What was the nature of his complaint then, other than the fact of the arrest?

A Just the fact that he claims he has aided the State Police in the past and we shouldn't really have locked him up.

Q Did he claim at that time in any way or any particular that he had acted as an agent for or with the knowledge of any State Police Officer in the burglary, the breaking and entering or the larceny?

A No, sir, he did not.

Q Only that he had been cooperative in the past and, for that reason, he was entitled to a freebie, I suppose?

A Yes, sir.

Q Did he complain any other way about the treatment that he had received at the hands of any State Police officials, either by physical mistreatment, not answering his phone calls, or not responding to his needs in any other way?

A Definitely not, sir.

BY SENATOR RUSSO:

Q Did you ever give a gun to him?

A Definitely not.

Q Did you ever know him to have a gun - not the rifle? I'm talking about a .25 caliber or something of that sort.

A The day I arrested him, we found out he had a gun.

Q And that was a .25 caliber?

A Twenty-five caliber type.

Q But you, of course, had no knowledge of you or anyone else putting him up to a burglary of the Abbatiello farm.

A Definitely not.

Q Did you ever tell him or suggest to him that he give a statement that Rudy Simonetti did something other than what, in fact, was the case?

A Definitely not.

SENATOR RUSSO: Any other members of the Committee? Senator Maressa.

BY SENATOR MARESSA:

Q As a matter of fact, Jellicks conned you, didn't he with regard to these TV sets and so forth?

A In my opinion, I think he tried to con the State Police, yes, sir.

Q All right. And you were aware shortly after your initial contact with him in June of '75 that he was a liar. Isn't that true?

A I was aware, sir, prior to June of '75?

Q No, immediately thereafter. When was it that you ascertained that he was a liar?

A During the course of my investigation, focussing in on John Chew being involved with fraud, I felt that Jimmy Jellicks was behind Chew. And on August 1st, after John Chew's arrest, I confronted Jimmy Jellicks of my particular theory, at which time he became extremely nervous and, at that particular time of day - I think it was 12:00 P.M. - he turned over to me a 30.06 scope rifle and a stolen driver's license; and he stated that, "John Chew stole a rifle from a breaking and entering and gave it to me. I was going to sell it and split the money with him." That's when I became aware that he was two-timing the New Jersey State Police.

Q And untrustworthy.

A In my opinion, yes, sir.

Q You made these reports to your superiors?

A Yes, sir.

Q And who would they be that you discussed this with?

A After recovering this particular driver's license and rifle, I contacted Detective Sergeant First Raymond Castellano at the Edison Barracks, advised him of the present situation, went to the Barracks, showed him the rifle, showed him the driver's license. And let me back-track a little bit. After Jimmy Jellicks had turned over this particular rifle and driver's license, he took me inside of a garage, at which time he showed me a case of little bottles which contained vitamin substance and several

little books. And he mentioned here that he was doing work, supposedly for somebody else. He became extremely nervous, okay? With this, I went to the Barracks, contacted by superior, Detective Sergeant First-Class Ray Castellano, showed him the rifle, showed him the driver's license, advised him that there was a case of bottles containing liquid and several books in the garage at Jimmy Jellicks' house, that something seemed not too good.

In the meantime, John Chew was in the custody of two Detectives from the Organized Crime Task Force and they were taking him to Freehold Township Police Department on a warrant they executed on Chew. Chew started relating something pertaining to Abbatiello's farm, that he may have been involved in a B & E, and everything. This is strictly hearsay now, sir. Okay?

Q In point of time, when would this be approximately?

A This would be in the afternoon, August 1st, Friday, of 1975. Subsequently Chew was turned over to Detective Walsh and advised of this particular information and, in the meantime, Detective Sergeant Castellano advised me to go back down to Jellicks' house and confiscate this particular case of merchandise, including the several books. I proceeded back to Jellicks' residence and I confiscated the particular merchandise at approximately, the same day, August 1st.

BY SENATOR RUSSO:

Q What was the merchandise?

A It contained bottles of vitamins, which I thought were drugs, and several books, which apparently was later on identified by Anthony Abbatiello as being proceeds from the B & E at his place.

Q How many books?

A Several books and records.

Q How many bottles?

A I am going to have to check my record.

Q Yes, check your records.

A The receipt which I have here is a receipt which was given to me by Detective Thomas Walsh and mentioned in it ---

Q Walsh gave you the receipt?

A Yes, sir.

Q Whose signature is on it?

A Detective Walsh.

Q In other words, he is the one who gave the receipt to --- That's a copy, I gather, of the receipt he gave to whom?

A To myself. The merchandise was turned over later on to Detective Walsh.

Q You got it from Jellicks --- Forrest?

A Okay. We're jumping around; that's the problem, okay?

MR. TYRRELL: Pardon me. This receipt is that which Detective Kuyl received from Detective Walsh in return for the recovered property when he turned it ---

SENATOR RUSSO: --- when he turned
it over to ---

MR. TYRRELL: --- Walsh.

BY SENATOR RUSSO:

Q You turned it over to Walsh. Is that right?

A No, sir, Detective Sergeant Trocchia turned it
over to Walsh. Can I go back, sir, and ---

Q Yes. Let's go to, where did you get the stuff,
when and from whom, and did you give anybody there a
receipt for it?

A All right. Six P.M., August 1st, I recovered this
particular merchandise at Jimmy Jellicks's house, at
which time, Jimmy Jellicks stated, "I made a big mistake.
I committed a breaking and entry along with John Joseph
Chew." Okay. I confiscated the merchandise. At the time,
I was working in the undercover capacity. I never kept any
State Police receipts or records in my car. I never had
a State Police radio in my car because sometimes during
the course of undercover investigations my car was
subject to search by the various people I worked with.
Okay, I was advised by Detective Sergeant Ray Castellano
to recover the merchandise and to advise Jimmy Jellicks
to report Monday to the Edison State Police Barracks. If
he would have reported Monday, then I would have officially
gave him a State Police official receipt for the particular
merchandise.

I was advised by Detective Sergeant Castellano
that he notified the Division, advised them of the
particular merchandise that we had recovered; and he

apparently spoke to Captain Dorrian. Captain Dorrian
advised Detective Sergeant Castellano that he was going
to call Detective Walsh at the Colts Neck State Police
Barracks, advise him that we have property which apparently
came from Abbatiello's farm, stolen ---

Q Where did you have that property at that point?

A Out of my --- my possession, sir.

Q See, you have gone over what we want to talk
about.

A Okay.

Q You recovered this property from Jellicks' house,
I think you said.

A Yes, sir.

Q You personally went there and got it.

A That's correct.

Q Was Jellicks there?

A Yes, sir.

Q And at the point you took this property - we'll
come to exactly what it was in a moment - did you give
him -- I assume you gave him a receipt, but not in proper
State Police form or were you saying you gave no receipt?

A I gave no receipt.

Q Okay. You gave him no receipt. Did you subsequently
give him a receipt?

A No, sir.

Q At no time, did you give him any receipt?

A No, sir.

Q Well, what did you mean before when you were

talking about, "I was working undercover so I didn't have State Police forms with me"? I thought you were referring to forms for giving a receipt.

A Well, sir, if I had the proper State Police receipt forms in my possession, I would have filled them out at Jimmy Jellicks's house.

Q Right.

A Whether he wanted to sign it or not, I would have left a copy at his house and I would have kept the original copy for myself. At that time, I didn't have no State Police receipts.

Q Well, why didn't you give him a receipt on a piece of paper, any kind of paper? As I remember from when I did a little bit of this, you always made it a point so that you couldn't be accused of anything later to give the person a receipt, hopefully, they will sign a copy of it - but to give them a receipt of exactly that which you took. It may be totally insignificant - forgive me if it is. But you gave no receipt then when you took this from Jellicks?

A I didn't, sir.

Q Nor did you at any subsequent time give him a receipt?

A No, sir, I did not.

Q Now tell us, based upon your report, not so much what Walsh said when you gave the stuff to him, what exactly did you take from Jellicks' house on August, the 1st, at 6:00 P.M.

A Okay, it was a case containing numerous bottles of what seemed like vitamins.

Q How many bottles?

A I couldn't tell you. I don't recall the exact amount, sir.

Q Does your record reflect how many bottles?

A No, sir.

Q Okay. Does the receipt to Walsh then reflect how many bottles?

A No, sir.

Q All right - numerous bottles. What else did you take from his house?

A In addition to that, I mentioned several books. On Detective Walsh's receipt it reflects five booklets.

Q Five.

A Yes, sir.

Q And were these the books that had - what in them, what contents?

A It had records pertaining to when certain particular horses were injected with these particular vitamins.

Q Okay. Did you take anything else from him or get anything else from him that night at his house?

A No, sir, just that.

Q In other words, you did not obtain a rifle.

A I obtained a rifle earlier in the day.

Q Same day?

A Yes, sir.

Q Was that the 30.06?

A Yes, sir.

Q And you also obtained some shells?

A No, sir.

Q Okay. Did you get a receipt for that or give a receipt or get a receipt, either way?

A The problem, sir, was at that time when I confiscated the rifle and the driver's license from Jimmy Jellicks, John Chew's wife was in the house. I was still working undercover and Jellicks turned over the merchandise to me without Chew's wife seeing it, and I just left the scene.

SENATOR RUSSO: Do you want to interrupt at this point, Joe, for something?

SENATOR MARESSO: You asked me if I had any question and I was questioning the man.

SENATOR RUSSO: Did I interrupt you? Forgive me.

SENATOR MARESSO: If you will permit me ---

SENATOR RUSSO: Go ahead.

BY SENATOR MARESSA:

Q My question, Detective Kuyl, particularly concerns itself with the selection of Jellicks to do the surveillance work that he was selected for back there in July of 1975; and I asked you whether or not you had made a report to your superiors --and we got into these receipts - I don't know how we got lost -- about the fact that he, in fact, had duped you or the State Police. This would be prior to the Abbatiello break-in in July of '75. You first met with him June 19th, '75, right?

A Yes, sir, that is correct.

Q That's prior - and it happened within two or three days that he made a fool out of you, so to speak, and we lost \$250, correct?

A I wouldn't say he made a fool out of me, sir. What I ---

Q How do I say it? It is in the line of business, you know.

A What I mentioned was, August 1st, 1975, a Friday, I became aware that Jimmy Jellicks was two-timing the New Jersey State Police.

Q It wasn't up until then?

A No, sir.

Q That's what I am trying to find out. Now, in other words, the initial contact was in June of 1975 - June 19th.

A That was my first contact with Jimmy Jellicks.

Q Jellicks ostensibly made the break-in of a house or whatever at the Abbatiello farm when?

A I believe the breaking and entering took place July 27th, from the State Police reports.

Q All right. So then at that point, you had not communicated any distrust of Abbatiello to any of your superiors -- not Abbatiello, I mean Jellicks?

A I did not become aware of anything until August, 1st.

Q Okay. See, because I am particularly concerned as to whether or not the State Police should have used

Jellicks. What we were able to glean from Colonel Pagano was he had an idea that he was a liar previously, but that again there were times when he wasn't. But as far as your testimony is concerned, you were not aware of anything that you should have reported to the Colonel or any of his inferiors - subordinates rather - prior to the actual date. Is that true?

A I became aware that Jimmy Jellicks was perhaps a liar August, 1st, and that's at which time I reported to my particular superiors.

Q Which is subsequent to the date in July.

A That's correct.

SENATOR MARESSA: All right. Thank you.

SENATOR RUSSO: Before we go on - hold your questions for a moment - the Committee will go into executive session for a few moments on a matter that has just come up. (Whereupon the Committee goes into executive session.)

SENATOR RUSSO: We will get started now.

Senator Maressa has one further question.

Then we will turn to Senator Parker.

BY SENATOR MARESSA:

Q Just one question: From my notes, 8-1-75, Trocchia arrests and you produced the 30.06 rifle, Kuyl shown record books and medicines, etc. That all happened on August, the 1st - is that correct - '75?

A The records were shown to who, sir?

Q This is Colonel Pagano's testimony: Kuyl shown

record books and medicine. You saw this on August 1st, according to the Colonel.

A Yes, sir, Jimmy Jellicks turned over the particular items August 1st.

Q And Kuyl sees the box and you went back later and you got the box and books, records, drugs, and so forth. Then why wasn't he arrested until August --- why was it that he wasn't arrested until August 7th?

A I was advised by my superior to confiscate the merchandise, not to arrest him, but have him report to the Edison Barracks that Monday, which I believe would be August 4th.

Q In other words, he was not arrested because you were so directed not to arrest him.

A That's correct, sir.

Q Is it possible, Detective Kuyl, that you don't write your own receipts at times? Do you have other people on any occasion write receipts for you?

A Normally, I do everything on my own, sir. I write my own receipts when I recover my merchandise.

Q Can you recall any incidence, even one singular incident, when you did not write your own receipt?

A No, sir.

SENATOR MARESSA: Thank you.

BY SENATOR RUSSO:

Q Before we go to Senator Parker, who directed you not to arrest him?

A Detective Sergeant First-Class Raymond Castellano.

Q Raymond Castellano. Did he say why he didn't want you to arrest him?

A Yes, sir, he advised me that he had spoken with Captain Dorrian ---

Q Dorrian?

A Yes, sir. (Continuing) --- Division Headquarters, and Captain Dorrian advised him for me not to arrest him, but to confiscate the merchandise and, in turn, Captain Dorrian would notify Detective Sergeant Walsh, advise him that we possessed merchandise which may have been stolen from the Abbatiello farm.

Q That's an unusual procedure, isn't it, not to have made an arrest at the time you found out he, in fact, had the stolen merchandise?

A Yes, sir.

Q And do you know what the reason was ---

A No, sir.

Q (Continuing --- why your superiors made the determination not to arrest him?

A No, sir.

Q Have you since learned what the reason was?

A No, sir.

Q Speak up.

A Well, perhaps they figured that it was a serious situation at the time, and I guess they wanted to check into particular things before giving me the go-ahead to arrest him.

Q What else do you want to tell us?

A That's it, sir.

Q Have you learned what the serious situation was?

A Yes, sir. It's been in all the newspapers.

Q What are you referring to?

A The articles pertaining to James Jellicks accusing the State Police of ---

Q No, I'm sorry. At the time, in August - in August ---

SENATOR PARKER: Between July 30 and August 7.

Q (Continuing) --- he was not arrested and there was nothing in the newspapers at that time. That wasn't the reason they told you not to arrest him, right?

A Yes, sir.

Q Well, what was the reason; either do you know or have you learned or do you have any thoughts on it?

A I wish not to comment on that, sir - my thoughts.

BY SENATOR PARKER:

Q How about your facts, not your thoughts?

A Just the idea of the fact I was advised by my superior not to arrest him, but to confiscate the merchandise.

BY SENATOR RUSSO:

Q I guess if you don't want to answer, you don't have to, but was the reason because he, in fact, either had been or was being used by law enforcement agencies, whether the State Police, U. S. Attorney, SCI, whomever, and that was the reason that they didn't want him arrested?

A Well, my personal opinion on that aspect is that I do not believe that Jimmy Jellicks was used to commit

those particular crimes at the Abbatiello horse farm, that he fabricated those particular allegations.

Q Here's the difficulty, Detective: This has received so much publicity ---

A I realize that, sir.

Q (Continuing) --- as you know. You know, when you walk out of here today, all those people with pads in front of them are going to have all kinds of speculation as to what was, in fact, on your mind that you'd rather not talk about, because obviously there is a question, as Senator Maressa asked. Here you find a man, having committed a crime, the goods on him, you recover the goods, and you don't make an arrest. And we agreed that is an unusual procedure. And you explained because your superior instructed you not to. It becomes very significant to some people, maybe this Committee, what was the reason. Do you see what the ---

A Sure. I gather what you are saying, sir.

Q But you still would rather not comment on the reason, as you understand it or think it to be?

A No, sir.

BY SENATOR PARKER:

Q Detective, I'm a little bit, maybe confused.

A May I say something, sir?

Q Go ahead.

A Maybe perhaps they wanted to check a few things out on their own to ascertain if there was perhaps something going on.

BY SENATOR RUSSO:

Q Well, is that the reason that you just had in mind a few moments ago or is that the reason that the Captain just related to you?

A The Captain did not relate that, sir.

Q You just had a discussion and then you interrupted and said you wanted to tell us something. You mean it had nothing to do with what the Captain just told you?

A The Captain just told me to say what's on your mind.

Q Okay. And that was it?

A And that's what was on my mind, yes, sir.

Q Why did you --- If all it was, Detective, is that you suspected they wanted to check a few things out, why did you hesitate to tell us about that if that was all that was on your mind?

A Due to the fact, I'm a Detective in the State Police.

Q We know that.

A I am not a Captain or a Major. (Laughter) I'm lower in the chain of command and that's the reason why I was a little hesitant. It's an honest comment on my part.

SENATOR RUSSO: I don't mean to suggest it wasn't.

BY SENATOR PARKER:

Q Let me see if I can go back and reconstruct. As I understand it, you were instructed to go down there in June or in July. When was the first time you were

instructed to go down and meet with Jellicks?

A I was advised June 18th, 1975, to meet with Jimmy Jellicks.

Q And that was in reference to the Zenith televisions?

A That's correct, sir.

Q And what was the reason that you again saw him on, I believe it was August, the 1st? First of all, was that the next time you saw Jellicks?

A No, sir. I seen him on the 19th, June 19th, and also I believe I met with him once June 23rd.

Q That's 6-23. Okay. That again I assume was when you gave him the money, the \$250 for the televisions?

A I am sorry. It wasn't June 23; it was June 30th.

Q June 30th. So you saw him on June 19th and June 30th. Was that both in relationship to the television?

A Yes, sir.

Q Okay. When did you next see him?

A That would be August 1st.

Q And it was on August 1st you went down with the tape on your body, is that correct?

A No, sir. June 19th, I was wired up electronically.

Q June, the 19th?

A Yes, sir.

Q You did not have any tape on you when you went down to see Jellicks on the 1st of August?

A No, sir, I did not.

Q Why did you go down to see him on that date? Were you sent there or did he summon you or what was the basis of your going there?

A Okay. Well, in the course of my investigations in reference to John Chew being involved in the fraud aspect, I obtained a warrant for John Chew's arrest from a Defective Hoffman from Freehold Township Police Department, in reference to three separate fraud charges involving him.

Q As opposed to the television charge?

A Yes, sir.

Q And was that an independent investigation from an outside source on Chew?

A That investigation came also through James Jellicks.

Q But that information was given by Jellicks to someone other than yourself?

A Yes, sir.

Q All right. Go ahead.

SENATOR PARKER: I want him to finish. I am trying to get the sequence straight.

A I was assigned also by Lieutenant Decker to conduct an investigation in reference to fraud involving James Chew. Apparently, James Jellicks contacted Lieutenant Decker sometime in July, and advising him that Chew was involved in some fraud cases.

Q And it was only in reference to the fraud, as opposed to the televisions or any other reason, that you went there on the 1st of August?

A It involved, the 1st of August, to arrest John Chew.

Q All right. Why did you go to Jellicks' house to arrest Chew?

A Okay. Myself, and there was two Detectives, Detective Trocchia and Detective Sanders ---

Q The three of you went?

A (Continuing) --- of the Organized Crime Task Force. They were with our service. I was working undercover at the time and I observed Chew going into James Jellicks's house. This was the morning of August 1st. The two Detectives had a warrant for John Chew's arrest. I went into the premises of Jellicks's house. I met with Chew and I advised Chew at the time, if he wanted to make \$500 -- and he said, "For what?" I said, "To drive a stolen load of TV sets." And he said, "Okay." I said, "You are going to have to go to your house and change into some work clothes to drive a particular truck."

Q This is on August, the 1st?

A August 1st, the morning of August 1st. Chew came along with me. I drove him to his house, which I believe was Tiller Drive in Barnegat. He went into the house and changed into some work clothes, at which time the two Detectives came in and executed the warrant for his arrest for fraud. He subsequently was taken to the Freehold Township Polic Department.

Q Now -- I take it you went then back to Jellicks?

A Jellicks' residence.

Q And it was then that he told you he broke into the ---

A It was, at that particular time, that I advised him - I said, "Jimmy, I believe that you are involved

with Chew in the fraud cases. I can't prove it, but if I could prove it, I would arrest you." At that time, he became extremely nervous. He showed me a 30.06 rifle and a stolen driver's license which he claimed that Chew had given to him. He told me that the rifle was stolen from a B & E in Barnegat, Chew had given him the rifle to sell, and they were going to split the money.

From there, he took me into a garage. He showed me a carton containing little bottles with vitamin substance in it and several books, which I mentioned before, and was extremely nervous. He said, "I'm doing some work for guys at the race track." And that was it.

Q Did he give you any explanation as to where he got these books?

A Later on, he admitted to me ---

Q That day?

A (Continuing) --- that day, that he made a big mistake that he and John Chew stole them from the Abbatiello horse farm.

Q So what you are telling us is that two days after or three days after the break-in - I guess it was on the 27th, that evening - that Jellicks voluntarily gave to you all of the information and items that were taken out of the Abbatiello house, is that correct?

A All the items, sir?

Q All but the tape recorder and the ---

A The only items he gave me were the carton of bottles containing the vitamin substance and five books that particular day.

Q Well, the gun actually came out of there too, did it not?

A The gun came from another location.

Q I am just going to say this, and maybe you can answer it. It is rather strange to me that a man would, quote, "illegally" break into someone's house and then voluntarily three days later, before the robbery was even really known about by you, deliver this stuff to you in person, voluntarily. Can you comment on that at all?

A He did not deliver the stuff to me voluntarily. I mean, he did not personally come to me and say, "Here, this is merchandise that I stole from the Abbatiello household."

Q No. But you were there and he knew you were an undercover agent, right?

A Yes, sir.

Q And you'd just arrested Chew and taken him out of his house over there, and you came back to his house.

A That's correct.

Q And nobody really knew, even the Police, that Abbatiello's house had been broken into and he voluntarily gives you this information. Now my question is: Why would he do that? I don't understand why he would do that. First of all, I don't understand why, number one, he would take these books out of Abbatiello's house. If he is going to break in and take the tape recorder and some other items, I could understand that. But why would he take those, number one? Number two, why within three days before anybody knew about it, would he hand them to you?

A I think the person that could answer that question as to why, number one, and why, number two, is James Jellicks.

SENATOR RUSSO: He has.

Q He has, and he said he did it because the State Police ordered him to do it and told him to do it and set him up. Our main concern here today, my main concern here, is whether or not somebody was being set up, somebody was being used by the State Police, and whether or not they were going after their evidence legally. That's my main concern. And I hope that is the main concern of everybody on this panel. And I want to know why. just does not ring true to me, sir, and I may not have as much prosecutorial experience, although, piscatorially, I may have, as my colleague next to me. It does not ring true. It doesn't make sense to me, number one, that a man would break in and take records of no benefit to him or probably anybody else, to begin with, and then three days --- two days later, two day later, 48 hours later, hand those documents over to a known Police Officer.

A That's what he did, sir.

SENATOR RUSSO: Well, there is a possible answer, isn't there?

SENATOR PARKER: There may be. I asked him to expound on it.

THE WITNESS: Jimmy Jellicks was in a nervous state and I guess he just panicked out and took me to the merchandise.

BY SENATOR PARKER:

Q What did he tell you those records were when he handed them to you?

A He told me that he had made a big mistake, that he broke into the Abbatiello horse farm with John Chew. That was it.

Q Didn't you say, "Well, what are these," when he handed them to you? "What are these?" Didn't you have any natural inclination as to what they were?

A I found out later on that ---

Q Well, why wouldn't you say, "What do I want these for?" Just because he gave them to you ---

A I wasn't aware what the particular merchandise was at the time I confiscated it.

Q And you just took it at face value without saying to him, "I am sorry, sir; what are these?"

A He advised me they were stolen merchandise from the Abbatiello horse farm, he made a big mistake, and he and John Chew broke into the horse farm.

Q And he turned over only the records and not the tape recorder or not the other items that were stolen?

A That's correct.

SENATOR RUSSO: Senator Cafiero.

BY SENATOR CAFIERO:

Q Back awhile you said that he told you he was doing some work for the boys at the track.

A Yes, sir, that was when I confiscated the 30.06 rifle and the stolen driver's license. That was like

about approximately 12 o'clock, Noon hour. He took me into the garage, showed me the particular case of bottles, and advised me that, in an extremely nervous state,--- he says, "Hey, Charles, what are you doing to me? I'm doing work for the guys at the race track."

Q Who were the guys at the track? Did you ask?

A No, I didn't.

Q See, that follows up with what Senator Parker said. He really clued you in on something there and he said you didn't express any interest as to why he was giving those items to you. He gave you the entree when he said he was doing work for the boys at the track. What do you think he meant?

A He would not elaborate ---

Q Did you ask him?

A (Continuing) --- who he was dealing with at the track or anything like that.

Q Did you ask him?

A Yes, sir, I did.

Q What did he say?

A He would not elaborate. He was in a nervous state and everything.

Q Did he ignore the question?

A He evaded the question, yes, sir.

BY SENATOR RUSSO:

Q Did you report that to your superiors?

A Yes, sir.

Q Is that in your reports?

A I have in my report here that ---

Q Is there anything in your reports specifically where you tell your superiors that he said he was working for others in State Police and that he didn't want to elaborate any further? Is there anything in your reports that say that?

A No, sir, just the fact maybe Chew made a mistake and broke into the Abbatiello horse farm.

BY SENATOR PARKER:

Q Jellicks knew that you were a Police Officer and an undercover agent working with him on trying to get information on the television and on various other items. Chew did not, but Jellicks knew you were a Police Officer, an undercover agent, and had been working with him.

A Yes, sir.

Q Why would he be nervous in conferring with you?

A When I brought up the --- When I mentioned to him that I believed that he was involved in the fraud cases with John Chew, he just started getting extremely nervous.

Q What evidence did you have that tied him to the fraud case with Chew?

A Speaking with Detective Hoffman from Freehold Township and checking the various places out which John Chew's photograph was identified as writing out checks to purchase certain merchandise often mentioned that there was a second subject involved which was sitting out in the car in the parking lot, and the description more or less fitted James Jellicks - but no photographs to be

identified on Jellicks.

Q Do you have reports or photographs of the information that Hoffman gave to you or was supplied to you with that?

A I have a photograph of Chew and I don't have Jimmy Jellicks' photograph here. It is missing from the folder. But he was supplied with those photographs.

Q And that included somebody else in the car - those photographs?

A Several photographs were shown to the people, the victims.

Q Rather than hold you up now, will you provide us with the information from Hoffman that he gave to you that led you to believe that Jellicks was tied into the fraud cases with Hoffman?

A He didn't believe that Jellicks was tied in. There was a subject which fitted Jimmy Jellicks's description in the car, but he could never be identified as Jimmy Jellicks.

Q We want the information or the description, if any, that was in any official reports with that description that led you to that belief. I assume that they can provide that to the Chairman.

A I will have to get ahold of Detective Hoffman, if he has it.

MR. TYRRELL: You are asking us to go to Freehold Township and ask them for whatever their reports are on the chance that it may contain some information ---

SENATOR PARKER: No. We want the

information, whatever you want to furnish, that led the Detective to the belief that Jellicks was involved in the fraud. That's the information we want - anything you want to supply us with.

SENATOR RUSSO: And before a final question by Senators Perskie and Maressa, we would also, since we are not finishing with the State Police aspect of this testimony today -- we would like to have some more information at the next session, particularly from those who made the decision, as to what were the reasons why Jellicks was not arrested on the day you apprehended him with the merchandise. The decision, you indicated, was made by someone above you. You are not a Major, as you said. Well, we want the Major here then, if that be possible, to tell us why not and, secondly, whether or not - and I won't pursue this now - you, in fact, determined that Jellicks was working for the State Police at the time in any capacity. I don't mean breaking in, but in any capacity. We would like to alert you to those two areas that we would like to pursue at the next session.

We are going to have just a final question or two now because the Senate goes

into session at four o'clock. I don't like to terminate this at this stage, but we have to. We will have a final question or two and then we will let you know what we are going to do.

SENATOR PARKER: I will finish with just one further question.

BY SENATOR PARKER:

Q When did Jellicks --- when did you know that Jellicks was no longer employed by Abbatiello?

A Well, number one, I never was aware that Jimmy Jellicks was ever employed at Abbatiello's whatsoever until I was confronted with the internal investigation back in the latter part of February, '77.

Q So your connection as far as knowing anything about Jellicks had nothing to do with Abbatiello, but only with the television?

A It pertained to the fraud investigation I had and the stolen TV investigation.

SENATOR RUSSO: Senator Perskie.

BY SENATOR PERSKIE:

Q You turned those books over to Walsh when you got them?

A The merchandise was given to Lieutenant Decker.

Q By you?

A By myself.

Q And how long did you have them?

A I had the merchandise over the weekend.

Q Did you read them?

A Look at them, sir?

Q Yes.

A Yes. Being a Detective, I went through the books.

Q I would imagine you did. What was in there?

A Just records indicating when certain horses were injected with vitamin shots.

Q And those books were turned over to Decker?

A Yes, sir.

Q And do you know whether or not they were later returned to Abbatiello?

A Detective Sergeant Trocchia on the request of Lieutenant Decker was advised to bring these books to the Colts Neck State Police Barracks and they were subsequently turned over to Detective Sergeant Walsh who subsequently turned them over to Anthony Abbatiello.

Q As far as you are concerned then, the books that you saw indicated records of horses being drugged.

A As best I can recollect, yes, sir.

Q Was there any indication from those records ----

A Horses being drugged?

Q I'm sorry.

A Horses being injected with vitamins.

Q I'm sorry. I meant injected. And was there anything in those records that would identify them as having been from the horses at the Abbatiello farm or couldn't you tell from that other than Jellicks' statement that he had gotten them from the Abbatiello farm? Do you know?

A No, sir.

SENATOR RUSSO: Senator Maressa - last question.

BY SENATOR MARESSA:

Q Detective, in the deposition that was given before Senator James Dugan of Jellicks, page 19, there is a dialogue here:

(Reading)

"Q When did you return the things that you had in the pillowcase? A Let's see; I turned them over to Detective Kuyl on -- that would be about August, the 3rd, or the 4th.

"Q That was about a week after the break-in? A Right. He came down to the house. I gave him the stuff and all.

"Q Who is Lieutenant Kuyl? A Detective Kuyl - he is a State Trooper, a Detective. He works for Lieutenant Decker . . ."

It goes on to say, to rush this, "that he ripped the house off and all, and everything. I told Decker and I told Smith because they wanted me to put the books back. And I told them there is no way I can put them back - there is no way I can go back to the farm."

The implication on this page is that you, Decker, whoever, when you found the stuff, said, get that stuff and put it back on the farm. What can you say with regard to that allegation?

A Jimmy Jellicks is a liar. It never took place.

SENATOR RUSSO: The next session of the Committee will be determined by the Chairman,

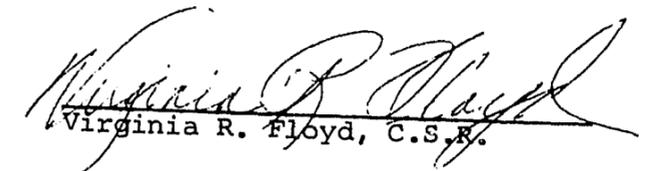
Senator Greenberg, who is hospitalized for surgery at the present time. I don't know when that next session will be when we will continue this subject matter. We will consult with Senator Greenberg as soon as he is able to, after tomorrow, and then we will reschedule the hearing, at which time we will continue with the State Police Officers, plus the additional information we have requested. Colonel, perhaps you were or weren't here. We will then proceed with the SCI officials that we are still awaiting and some other witnesses that have been mentioned earlier. That new date will be set as soon as I confer with Senator Greenberg as to whether he wants to wait until he is able to return and conduct the hearings or whether he wants the Committee to proceed in the interim. Otherwise, this hearing is adjourned.

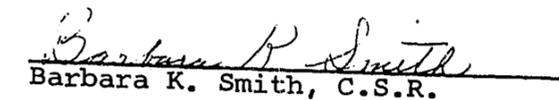
* * * *

RE: Public Hearing before Senate Judiciary Committee,
with regard to Activities of Law Enforcement
Agencies.

CERTIFICATION

WE, VIRGINIA R. FLOYD and BARBARA K. SMITH, DO
CERTIFY that the foregoing is a true and accurate
transcript of the testimony and proceedings in
the above-entitled matter.


Virginia R. Floyd, C.S.R.


Barbara K. Smith, C.S.R.

PUBLIC HEARING

before

SENATE JUDICIARY COMMITTEE

(Re: Activities of Law Enforcement Agencies)

Held:
February 24, 1978
Room 438
State House Annex
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Senator John F. Russo (Acting Chairman)
Senator Joseph A. Maressa
Senator William J. Hamilton
Senator Walter N. Sheil
Senator Barry T. Parker
Senator James S. Caifero
Senator James P. Vreeland

ALSO:

John J. Tumulty, Research Associate
Legislative Services Agency
Aide, Senate Judiciary Committee

* * *

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Rudolph Simonetti	39
Renee C. Martin	1A
Richard David Tidey	12A
Rudy Simonetti	35A
John Toth	37A
Walter Decker	53A
Raymond Castellano	59A
George Edward Smith	60A

NCJRS

MAR 17 1981

ACQUISITIONS

SENATOR JOHN F. RUSSO (Acting Chairman): We will begin the session. We have various members of the Committee in various states of transit. Because of the scheduling of the session on an off day, there are several members of the Committee who will be here late. One or two indicated they could not attend and one or two, because of illness, including Senator Greenberg, the Chairman, will not be here.

We are going to have a couple preliminary matters to dispose of and then the Committee will have to go into executive session on several things. Then we will resume with a matter or two not related particularly to the subject matter of today's hearing and then continue on with the hearing.

The first thing is to call to the Committee's attention, at the last session or the session before, as I remember, there was testimony by the witness Jellicks, among other things, that Detective Kuyl obtained goods from him, allegedly stolen goods, gave him a receipt for them on a certain day; and in the testimony of Detective Kuyl, he expressly denied that he gave such a receipt, and basically set up a rather clear-cut question of credibility that the Committee thought ought to be resolved one way or the other. The Committee then determined to have the handwriting of Detective Kuyl analyzed and compared with his handwriting on various State Police reports that the State Police furnished to us and selected a Renee C. Martin, as I understand after consultation with the State Police as to the reliability of

this expert, to do this:

She operates under the letterhead of Handwriting Consultants, Incorporated, in Princeton, 20 Nassau Street, Suite 232. The State Police cooperated by furnishing us the originals of Detective Kuyl's reports. They were furnished to Mrs. Martin, along with the receipt; and Mrs. Martin returns with a report which gives various details, but basically the conclusion is, as follows:

The report is dated February 21, 1978, and the conclusion is: "It is my considered opinion as a Document Examiner that the same person who signed the known reports" - that's Detective Kuyl in the State Police reports - "also wrote and signed the questioned document."

She concludes, in effect, that that is Detective Kuyl's signature and writing on the receipt that Jellicks claimed it was.

The Committee felt the State Police ought to have an opportunity to respond to that and Captain Tyrrell has indicated to us a preliminary report has been prepared, has furnished it to the Committee, and they would like the opportunity at a later hearing to present a detailed presentation of their expert as to why he comes to his conclusions. But needless to say and consistent with the way this entire hearing has been going, their expert directly contradicts Mrs. Martin and leaves us in the same quandry. Their expert concludes - and that is Detective Sergeant Richard Tidey, Examiner of Questioned Documents of the State Police - and it is brief: "I have examined the submitted specimens and, as a result, it is my opinion

Charles Kuyl did not sign the name 'Charles Kuyl' appearing on Speciman 1. James Forrest (James Jellicks) cannot be identified as being the author of Speciman No. 1. In the event that court testimony is required, I would like to have made available whatever original documents can be obtained."

So the State Police handwriting expert concludes that that is not in fact Detective Kuyl's signature on the document.

Neither expert will testify personally here today, but rather apparently, subject to the direction of the Chairman of the Committee, we will have a further hearing now and I don't know whether we will be getting further handwriting analyses or whether we will stop with that. That will be a decision the Committee will have to make at the proper time.

The witness Jellicks is expected here at 12:00 Noon. Am I correct, John? That's what he told you ---

MR. TUMULTY: Yes.

SENATOR RUSSO: (Continuing) --- that he would be here, that he is testifying this morning before a federal Grand Jury.

MR. TUMULTY: No, yesterday.

SENATOR RUSSO: He will be here at 12:00 Noon.

We will then go into the balance of the State Police witnesses, hopefully to finish at least that part of it.

I was under the impression that we had completed Detective Second Class Kuyl's testimony, but I am informed

Captain Tyrrell would like the opportunity to go over some more details and I think, in fairness, that opportunity ought to be allowed, although I do think the Committee had completed its questioning of him, but certainly any Committee member that wants to, will be free to proceed further.

Before we do, Senator Parker?

SENATOR PARKER: Additional information was to be furnished, was it not?

CAPTAIN TYRRELL: Detective Kuyl is able to respond to your questions about the activities of Detective Hoffman of the Freehold Township Police and himself in the preliminary investigation relative to Chew and Jellicks, which was the question you had.

SENATOR PARKER: Yes. He has had information he would like to give us today?

CAPTAIN TYRRELL: He can testify to that, yes, sir.

SENATOR PARKER: That is my recollection, that we requested it.

SENATOR RUSSO: What we will do is rather than interrupt the testimony, because we will have to very shortly, I think the Committee will go into executive session now before we begin rather than break in. Then we will proceed with Detective Kuyl as to the matters that you want to bring forth, Detective, and then hopefully with Lieutenant Simonetti, Lieutenant Decker, John Toth and Sergeant Castellano, and try to at least cover that part of it as quickly as we can. So the Committee will go into executive session for a few moments.

We will change that order. We will hear from Captain Tyrrell first with regard to the handwriting and then hear Detective Kuyl.

Gentlemen, we will go into executive session.

(Whereupon, the Committee went into executive session.)

SENATOR RUSSO: The handwriting expert that the Committee consulted will appear this afternoon. John, I will give you the two handwriting reports in order that you can make copies of them. I believe some have asked for copies. Also I would like copies of this statement, an extra seven, for the Committee members as they arrive. Most of the Committee will be here before the day is over.

We are going to interrupt the proceedings, Captain, in so far as hearing your particular concern, to take care of some matters that we deem of considerable importance that should be resolved.

We have consulted with every member of the Committee that could be reached and they will be here today, although this matter has been discussed with them.

The first thing that I want to do is read a statement, copies of which are here, of Senator Greenberg and initially apologize for its grammatical structure. It was dictated over the telephone, recorded on a tape recorder - I don't think there is anything illegal about that - holding it next to the telephone, and there just wasn't time to smooth it out. The content though I think is clear. It is as a result of papers filed yesterday under the name of the United States Attorney, Robert Del Tufo, through one

of the Assistants, in the matter of United States versus Musto. The statement of Senator Greenberg is, as follows:

"This matter came to the attention of the Judiciary Committee during last year when there was a different Judiciary Committee and a different Judiciary Committee chairman. Mr. Jellicks contacted that chairman before Senator Musto was indicted. There has been no testimony from Jellicks about Musto before our committee nor about the U.S. Attorney's office, except that he had testified that he was asked to lie by the" -- it says "the Attorney General's Office," but it should read U.S. Attorney's office --- "in a non Musto related matter. My recollection is that his answers surprised the committee, I know it did me. In any event, other people then came forward. They contacted the committee and indicated they wanted to testify about alleged abuses from the U.S. Attorney's . . . Office. Also in non Musto related matters. It was after that that I assumed the chairmanship of the Judiciary committee and I raised the question at the organization meeting of that committee whether it has jurisdiction to get into the investigation of the U.S. Attorney's Office. I still have questions concerning our authority and raised those when I met with Senator Russo during my present convalescence. I have been in the hospital for 4 weeks and I asked Senator Russo to limit the testimony at any public hearings to be held during my absence to the matter already testified by Jellicks. There has been no decision made to get into the office of an investigation of the U.S. Attorney's . . . Office nor was

there ever a discussion about the Musto matter before our committee. It is irresponsible for the U.S. Attorney's . . . Office to suggest that I am using the committee to aid Musto.

"There is no evidence that such has occurred or would occur. The U.S. Attorney refers to a newspaper article in which I am quoted as saying that people from the U.S. Attorney's Office might testify before our committee if Jellicks testified about the U.S. Attorney's Office. No decision has been made whether to permit any such testimony and the Musto matter I repeat was never even discussed as a subject for testimony.

"It would be irresponsible to take any testimony in connection with the Musto matter then pending and now pending criminal matter. It may also be irresponsible to take testimony about alleged irregularities in the U.S. Attorney's office under the present resolution authorizing the Judiciary committee to take testimony in connection with the Jellicks matter. An opinion about that question before the committee even considered it and I asked Senator Russo to request such an opinion" - there are a couple of words missing. It should read an opinion concerning that question before the committee even considered it should be had "and I asked Senator Russo to request such an opinion, since it was I who raised the jurisdictional question when the committee organized. Furthermore I advised Robert Del Tufo on the 22nd when I spoke with him while convalescing and before he filed his recent papers in connection with the Musto matter that I had already decided since Musto's

attorney had filed an affidavit during my hospitalization from Jellicks in (the) Musto matter and since I had acted as attorney for Musto and further since Jellicks was testifying before our committee on matters, although not related to Musto, that I should withdraw as a member of the committee in its consideration of any matters involving Jellicks credibility. That is still my intention. I am amazed and disturbed that under these circumstances the U.S. Attorney's office raised these questions. On the contrary, it seems to me that the Judiciary committee under my chairmanship has shown great restraint with regard to making public the complaints that it has received about law enforcement authorities."

That is the end of Senator Greenberg's statement. Each member of the Committee may wish to comment. I will begin.

Yesterday or under date of yesterday, the United States Attorney's Office, in the matter involving the United States versus Musto, filed a letter in lieu of formal brief with regard to a motion in the Musto case. And in so far as is appropriate here and by way of background, the letter, first, on page 2, the second paragraph, refers to Jellicks and one Nathan Lemler as pathological liars. I think - I tried to check this out -- I believe this is the same Jellicks whom that office used as a witness to obtain convictions in four cases, although that I am trying to determine. But, in any event, the particular paragraph that is of concern to us and rather somewhat shocked this Committee is, as follows:

"A hearing is necessitated for another reason. A continuing hearing is also in progress before the New Jersey State Senate Judiciary Committee concerning a totally unrelated matter which involves the New Jersey State Police and the New Jersey State Commission of Investigation. Mr. Jellicks is a major witness before the Committee. Defendant Musto, in his capacity as a New Jersey State Senator, is a member of the Judiciary Committee. Martin Greenberg, Esq., who is also a State Senator, is Chairman of the Judiciary Committee. Mr. Greenberg is also defendant Musto's lawyer in the above case. Though not listed of record, he has over the past four months appeared on behalf of and represented Mr. Musto in dealings with this office." And I particularly emphasize the next sentence, which I think is the crux of this entire thing. "What is distressing is the apparent intent of Messrs. Musto and Greenberg, acting ostensibly in their capacity as State Senators, to expand the Judiciary Committee hearing to encompass the within case by having Mr. Jellicks testify to the allegations presently pending before this Court."

Then there is a citation in the brief pointing to the basis for this statement that they just made, that Musto and Greenberg were expanding this hearing to encompass the Musto case, and the citation is the New York Daily News, February 21, 1978. We will comment further, but we can find nothing in that article, assuming the New York Daily News, with all due respect, were a sufficient source for such a charge -- we find nothing in it anyway, suggesting what the U.S. Attorney has suggested.

Continuing - "Aside from the obvious conflict, any such transparent attempt to take the Judiciary Committee well beyond any semblance of its legitimate jurisdiction and improperly to use it as a forum to publicize and further the Musto defense would constitute a clear perversion of power and governmental authority. It would also be an affront to the dignity and role of this Court. The effort simply cannot be countenanced. An evidentiary hearing before the Court with jurisdiction of the matter is the proper course to follow; it will also expose the outrageous and false allegations of witnesses Lemler and Jellicks for what they are."

This Committee would agree wholeheartedly with the sentences that follow the emphasized sentence because if, in fact, the suggestion that Senator Greenberg and Senator Musto were doing the things that are referred to before the footnote, we think the consequences should be visited most severely upon them.

As a result and because of its gravity, I spoke to each member of the Committee here today because I was concerned that maybe there was something going on I didn't know of. I had never once heard, throughout the executive sessions and public hearings, etc., even a mention of any witness, be it Jellicks or otherwise, having information to give this Committee concerning the Musto matter. Had that ever been mentioned, I think this Committee would have had to terminate immediately with regard to that.

There has never been a suggestion at any time by

Senator Greenberg or Senator Musto or any other Senator on the Committee that this Committee amplify its hearings to in any way include the Musto matter, directly, indirectly or otherwise.

This Committee would hope that the United States Attorney will be able to document the basis for that statement other than the reference to the New York Daily News story which doesn't seem to contain such a basis. We would hope that an office so high and people so qualified and competent would not make statements about two public officials on that basis alone. We assume there is further basis for it or at least we have to wait and see if there is because otherwise it is quite shocking and of quite concern, I think, to everybody.

The rest of the members of this Committee will be here today. I can add further that Senator Greenberg expressly instructed me in conducting these hearings, since he is the Chairman and I am only acting in his absence because of his illness, that we were not to go into the matter of the U.S. Attorney's Office at any time, until an opinion was obtained that, in fact, we had jurisdiction.

This matter was discussed before the entire Committee several weeks ago, at which time it was Senator Greenberg who raised the question that we may not have the jurisdiction to proceed with anything involving the U.S. Attorney's Office at all. Now I emphasize that because never at any time was it even thought of, of going into matters involving the

Musto matter. But involving the U.S. Attorney's Office in any manner, in any particular proceeding, Senator Greenberg felt that this Committee should not proceed until it was determined we had the authority, and he had doubts, and so instructed me in his absence that we were not to go into matters involving the U.S. Attorney's Office.

This recollection that I have just stated to you has been confirmed by each member of the Committee present. I don't think there is any question it will be confirmed by every member of the Committee.

I think with regard to the matter involving Senator Greenberg - we will have some comments in a few moments regarding Senator Musto -- but with regard to the Greenberg matter, I think that pretty well sums up my thoughts. I again say it is critical for the U.S. Attorney's Office to document the basis for the statement that Greenberg and Musto intended, attempted or suggested or anything at all, that this Committee involve itself into the Musto allegations.

We will now go to comments. Before we do, Senator Hamilton, we just read a statement by Senator Greenberg. I have added some comments. It is in reference to the letter of the U.S. Attorney's Office yesterday and I call your attention particularly to page 2, that entire paragraph (indicating), but the part where the lines are on the side where the U.S. Attorney's Office suggested that Senators Greenberg and Musto attempted to use this

Committee to get involved in the Musto matter, citing a New York News story that is in front of you, which this Committee feels does not say that, and each member of this Committee thus far has made it clear in executive session and will comment now that at no time was there ever any suggestion that this Committee, in any way go into the Musto matter. I just related the last meeting of this Committee in Room 219 where Senator Greenberg felt we should not proceed with anything dealing with the U.S. Attorney's Office until we got an opinion that we had jurisdiction, even if then. It sort of summarizes where we are now. While you look at that, I will turn to the other Committee members for comments on what has been said thus far.

Senator Parker.

SENATOR PARKER: I think it is incumbent upon each of us, each of the Senators on the Committee, who have been involved in the investigation from the beginning - and incidentally it started with the investigation of comments and matters involving Senator McGahn and senatorial courtesy last summer - that we should state for the record and, if necessary, take an appropriate affidavit or oath, which I am willing to do, and I assume the other members of the Committee are, that, number one, Senator Musto at no time ever discussed with me any matter involving his representation before the U.S. Attorney's Office, that he wanted our Committee in any way to get involved in that or to investigate it in any way because of

anything involving him, personally.

I will say that also, on behalf of Senator Greenberg, at no time did he ever make any such comments, allegations or, by innuendo infer, that he wanted to try to do this.

I concur in the comments and statements by Senator Russo in all regard.

SENATOR RUSSO: Senator Sheil.

SENATOR SHEIL: I don't want to be repetitious and take the time of the audience and the Committee, but I do want to say what our Acting Chairman, Senator Russo, and Senator Parker have stated rather succinctly about Senator Musto and Senator Greenberg I endorse completely.

SENATOR RUSSO: Senator Vreeland.

SENATOR VREELAND: Since I have been on this Committee, which has been since the latter part of January - and I have been, I guess, to every meeting and hearing that has been held - I have never heard Senator Greenberg or Senator Musto ever make any allegation or any statement relating to Senator Musto's case. And I hadn't known that there was any connection between this Committee and Senator Musto's case until I read it in the newspapers.

So I have to concur with the Acting Chairman's statement that this is true. And I would be willing to swear to that.

SENATOR RUSSO: Thank you, Senator. I think also, to complete the picture, the staff, John Tumulty and

Gayl Mazuco, were asked whether they had any knowledge of any such discussions concerning the relating of the Musto matter to this investigation, in the event that perhaps we weren't aware of it, and each member of the staff has confirmed that at absolutely no time, in any manner whatsoever, was there any such suggestion or discussion. Do I correctly state your recollection?

MR. TUMULTY: Yes.

MISS MAZUCO: Yes.

SENATOR RUSSO: Now, although you are a late arrival, Senator Hamilton, do you want to add anything to what we have said so far?

SENATOR HAMILTON: Just this, Senator Russo, I haven't completed reading either Senator Greenberg's statement or the letter from the U.S. Attorney. But in the time that I have been on the Committee, I certainly have seen nothing that would indicate any impropriety by Senator Musto, first of all, or by any member of this Committee, in any of the things that we have done. I think if we made any mistake at all, the only mistake that we have made - and I don't concede that it was a mistake - was to do the things that we have been doing in open session. It may be that we should have done them behind closed doors and then I am sure some people who might be here today would have criticized us for doing that. But I think we were properly about the State's business, exercising legitimate areas of legislative oversight in making determinations that have

got to be made with respect to the continuation of wire-tap authorization, with respect to the continuation of SCI, and general legislative oversight matters. I think the Committee has gone about that work. There has been no grandstanding. There has been, I think, responsible legislative action.

I just withhold further comment until I have had an opportunity to read the things that you have given to me. I apologize for being late. As you know, not all our schedules were cleared before the meeting was set and I did have a couple of court appearances.

SENATOR RUSSO: You indicated when the meeting was scheduled that you would have difficulty and we have had to schedule it anyway. Thank you, Senator.

On the Greenberg matter, before going to the Musto matter, are there any questions at this time?

MR. ROBERT J. GEARY: Was the Committee aware that Senator Greenberg was acting as counsel to Senator Musto prior to that letter?

SENATOR RUSSO: That question is from Bob Geary, Asbury Park Press. Bob, your question is: Was the Committee aware that Senator Greenberg was acting as counsel? I can only answer for myself. I knew Senator Greenberg was very close to Senator Musto. I knew he was advising him. I knew he was very concerned about him. Frankly, so was I. I think most of us think very highly of Billy Musto as a colleague in the Legislature. We don't, of course, know all the facts concerning his

matter, but we think of him as a person we are all very concerned about.

So I still couldn't tell you as of this moment whether he ever, in fact, was his counsel. I think though he was in quite frequent discussions with Senator Musto. Well, of course, we note today that he had a meeting with Mr. Del Tufo that I wasn't aware of. But I don't think that anyone was unaware of the fact that he was very close to Senator Musto.

I don't think that the U.S. Attorney's Office is suggesting that that in any way is improper. It certainly is not. Any one of us who is a lawyer - Senators Parker, Hamilton or myself - could have been representing Senator Musto of record. There is nothing wrong with that. The impropriety, if there is one, is that one sentence, that Musto and Greenberg were attempting to use this Committee in the Musto matter. Now that is a statement that, if true, is so totally reprehensible that I couldn't tell you how strongly I would feel about it too and how heart-broken I would be. But if it is untrue, if it is untrue, it is just as reprehensible on the part of the U.S. Attorney's Office to make such a statement if, in fact, they have no basis for it. But representing him, that's about what I know and I think probably that is generally what the Committee knows unless anyone wants to add anything further.

MR. MARK HOSENBALL: Did you say, Senator, that you had actual evidence that Senator Greenberg had

dealt with the U.S. Attorney's Office?

SENATOR RUSSO: It is in this statement.

In this statement, Senator Greenberg says he actually met with or talked to Mr. Del Tufo.

SENATOR PARKER: Could you please identify yourself for the record, whoever is making the inquiry.

MR. HOSENBALL: Mark Hosenball from the Hudson Dispatch.

MR. HARVEY FISHER: Harvey Fisher of the Bergen Record.

Has the Committee actually sought an opinion on the propriety of the Committee's looking into allegations involving the U.S. Attorney's Office?

SENATOR RUSSO: Yes.

MR. FISHER: To whom and when?

SENATOR RUSSO: Our counsel to our Committee, who was not requested at the present time to proceed, at least with any great dispatch, because we want to finish these hearings first before we even consider it, was asked as soon as possible to find out under our resolution and, otherwise, under the law, do we have jurisdiction. We don't have an answer. I am referring to Mr. Tumulty, our legal counsel, our staff ---

MR. FISHER: When was he asked this?

SENATOR RUSSO: About two weeks ago when Senator Greenberg raised the question.

You see, the Committee hasn't made a decision that even if we have authority that we want to go into

anything dealing with the U.S. Attorney's Office. The matters about the U.S. Attorney's Office came in after these hearings commenced, after Jellicks' statement on the record, and then other witnesses apparently - and I have not spoken to any myself - have contacted the staff and indicated there is such information. At that point, Senator Greenberg instructed that we do not proceed further, finish what we are doing now, and then make a decision: Do we want to go further and, if so, do we have the authority to go further? But that is something in the future. This Committee wants to get finished with the State Police and SCI and what we started out to do, and then make the decision: Do we want to go any further?

MR. FISHER: Continuing, do you know of suggestions by Committee members to members of the press in the course of these hearings, in the hallways and not necessarily in the hearing room, that allegations regarding the U.S. Attorney's Office could cause some fireworks and it may be very interesting when and if the Committee does take these up?

SENATOR RUSSO: Yes, I have heard that. And certainly I don't know if I have ever said it, but that has been my thought because some of the things I have heard concern me very much. But I don't know of any Committee member talking about any specifics because we have not furnished the specifics to the Committee members and won't unless and until we decide we have authority and want to proceed with anything dealing with the U.S.

Attorney's Office. So there are just some vague statements. It seems to me they are more detailed in the press than even we have learned of, but they have been rather general.

MR. GEARY: Senator, - Bob Geary again - can you say when the Committee learned that Mr. Jellicks might be a witness in the Musto matter?

SENATOR RUSSO: I heard it, I think, the last session. I heard orally from someone --I couldn't even tell you who - it could have been you - what I mean is that it could have been the media -- that Jellicks had contacted Musto's attorney. And I believe that was the last session before yesterday - in other words, a week ago. I have no idea what its subject matter or content was, and I still don't. But I heard some vague reference - that would be eight days ago, a week ago Thursday.

Any other questions?

MR. FISHER: What has been the consideration on whether Senator Musto should remain as a member of the Committee, at least ---

SENATOR RUSSO: I will come to that next. We will resolve that question next.

Any other questions on the Greenberg matter?

Okay, on Senator Musto, obviously this Committee, in general, does not have all of the facts or the files concerning Senator Musto's case, particularly those of us who served --- Well, I guess everybody here really has known him for some years because even Senator Sheil, a new Senator, has known him in Hudson County for many

years. I don't think probably an indictment of any fellow Senator would have caused any more concern to us than the indictment of Bill Musto because we just all have a lot of affection for Bill. But we recognize the fact that it could be that there are facts to support it; we don't know. So we had concern.

As the news reports concerning the case came out, it seemed more and more encouraging to us that maybe there was no guilt on Billy's part and that he is going to be acquitted. Billy has always believed that and I think every one of us wants to believe that.

We have had no particular discussion with Bill Musto about whether he should be on this Committee - that is, when I say this Committee, I mean for purposes of these hearings - because until yesterday, until the United States Attorney suggested that Bill Musto's case was involved with this Committee, none of us ever even heard that suggestion. So there was not one of us who made any request or suggestion to Bill that he remove himself from the Committee for these hearings.

Yesterday, the United States Attorney made the direct allegation that Senator Musto and Senator Greenberg are using this Committee to help the Musto case, an allegation that we have said, unless it is documented by more than it has been documented so far, has got to be extremely irresponsible, but --- Well, I don't want to discuss the ethics laws or anything of that sort. But it has got to be irresponsible and seriously harmful to two

individuals, without cause, if in fact there is no further documentation.

In any event, the allegation has been made and maybe the U.S. Attorney's Office can document it beyond what they have done so far. We have to await that determination. But since the allegation has been made, in executive session this morning when it was discussed with the Committee, Senator Musto felt that it would be an embarrassment to his colleagues on the Committee for him to remain for the purposes of these hearings, although he emphasizes emphatically and unequivocally that the statement by the U.S. Attorney's Office concerning him and Senator Greenberg is absolutely untrue and absolutely irresponsible. We are confident that Senator Musto will be vindicated. We do not - and I emphasize this -- we have not thus far, and I speak for the Committee as a whole, seen any evidence, any facts, to indicate that there would be a conflict for Senator Musto to remain because the only indication is a bald statement by the U.S. Attorney's Office referring to a newspaper article that doesn't seem to say what the U.S. Attorney's Office has told the court it says, or so we think.

In spite of the fact that there is in our judgment thus far on what we have no conflict, Senator Musto volunteered for the purposes of these hearings not to continue for these particular hearings, that the Committee should continue, hopefully to get at the truth on whatever matters we have authority to proceed with and whatever

matters we feel we should proceed with, but that he felt it would be an embarrassment to us, or potentially so, if he remained. He felt that we might feel we couldn't do our job the way we should in view of the allegations made by such a high law enforcement officer as the U.S. Attorney's Office. For that reason, in spite of the fact that he in no way concedes any conflict, he has agreed to step down as a member of this Committee for the purposes of these hearing.

Does any other Committee member want to comment on Senator Musto's decision?

Any questions?

MR. JOSEPH F. SULLIVAN: Wouldn't you know if he was going to use the Committee?

SENATOR RUSSO: Sure would.

MR. SULLIVAN: Then why do you say there might be something you don't know or the U.S. Attorney's Office might subpoena you?

SENATOR RUSSO: No, no. How do I know that? How do I know that? Each one of us can only speak for ourselves, Joe. And so far, the U.S. Attorney's Office has cited a news article as its basis. I emphasize again it doesn't seem to say what he suggests. I don't know that he has something he hasn't revealed yet. I don't know that tomorrow he is going to bring forth evidence that Senator Musto and Senator Greenberg talked with several of my colleagues - I wasn't there - to plan something; do you see? Only for that reason do I say that. I can tell you though that there is absolutely no basis whatsoever for

this allegation in the letter memorandum because I don't see how I could not know it if there was. I say that as strongly as I can make it, yet recognizing the fact that maybe somebody didn't tell me something, and I don't think that is the case.

MR. HOSENBALL: Does Senator Greenberg intend to remain on the Committee for these hearings?

SENATOR RUSSO: The statement on the second page suggests he is not, where he says - and you will have to bear with me on this because I told you I took it on a tape over a phone so it could be there are errors in it - but as I read it, any matters involving Jellicks' credibility before this Committee, that he should withdraw as a member of the Committee in the consideration of those matters. I would take that to mean any matters involving Jellicks directly or indirectly.

MR. HOSENBALL: Senator, it seems to me you were suggesting or threatening that if these allegations against Senator Musto and Senator Greenberg were not borne out, you would take some kind of Ethics Committee action against ---

SENATOR RUSSO: Oh, no. I specifically said I don't want to get involved in the comments on ethics. I said quite the contrary. That is not for me to decide. I don't know how else to tell you, but I am sickened by that allegation because that is a "no win" allegation. If it is true, I have got some real -- when I saw "I", I mean every one of us -- some real problems with my colleagues

in the Senate, Senators Greenberg and Musto. And if they are not true -- I spent some time in law enforcement -- and if they are not true and if this is what they are based on, I am concerned that an office that high made such an allegation about two public officials with no basis.

MR. HOSENBALL: If they are not true, does that perhaps give you more impetus to call a member of the U.S. Attorney's Office down here?

SENATOR RUSSO: I have no comment on that at all because, as I said before, I don't know whether we have jurisdiction, in the first place; in the second place, I don't know whether this Committee wants to get into it. But it would get me very upset.

MR. STUART MARQUES: Stuart Marques, from the Star Ledger. Senator Greenberg and Senator Musto are not going to resign from the Committee, are they?

SENATOR RUSSO: Oh, no; definitely not. I thought I made that clear.

MR. MARQUES: They are going to continue to do all other business, nominations and all of that?

SENATOR RUSSO: There is no reason in the world why either of them should. Otherwise, every time anyone was accused of anything, irresponsibly or not, they would have to get off. They will stay.

MR. MARQUES: Is it your understand that Senator Greenberg is actually going to remove himself from all of the hearings or just from the Jellicks part of it?

SENATOR RUSSO: I don't really know because in my discussion with him, which was late at night and was really because of the late hour pretty much limited to trying to take a tape of this, we didn't even talk about this. I was almost surprised when I read this this morning to see the word "withdraw." I don't even remember talking to him about that and I hope that this statement is not in error. I think it is correct. We will check with him further.

I would assume though that it would mean anything dealing with this investigation. Not only do I assume that, I am fearful of it.

MR. JOHN HILFERTY: John Hilferty from the Philadelphia Inquirer.

Senator Russo, do you agree with Senator Greenberg's sentiments that perhaps for the good of the Committee he should withdraw regarding any concern of Jellicks, the Jellicks matter?

SENATOR RUSSO: I don't know. Senator Greenberg is, of course, a very competent lawyer. He certainly has much more knowledge of what involvement he did have than I do. He has been in the hospital for four weeks so I have had only two conversations with him in that four weeks: one on the phone and one when I visited him. So I really can't answer that. I don't know because I don't know how much information he has more than I have. I don't know.

MR. HOSENBALL: Senator, Senator Parker suggested that you all or he take an oath saying that you never discussed with Senator Musto or Senator Greenberg the Musto matter or brought the Musto matter into these hearings. Does that mean, in effect, that you might all swear affidavits for Senator Musto's defense in this particular allegation?

SENATOR RUSSO: I have no idea about that. I can only tell you - and I will emphasize it again - that thus far every member of this Committee has confirmed absolutely and unequivocally - and I am sure we would be willing under oath to do so - that at no time has there been any discussion of the Musto matter in relation to or involving the Judiciary Committee or these hearings in any way, shape or form, directly or indirectly, privately or openly, no way. Beyond that, I don't know what to suggest.

MR. FISHER: Harvey Fisher of the Bergen Record.

You said before that you did not see any conflict if Senator Musto was to continue to remain on the Committee and involve himself in the proceedings. Now setting aside for the moment, setting aside the U.S. Attorney's allegation, you said that you knew a couple of weeks ago or you were told a couple of weeks ago that Mr. Jellicks might be appearing in some capacity on behalf of Senator Musto. Now, if Mr. Jellicks' testimony has become an integral part of this proceeding, isn't there a conflict if Senator Musto continues as a member, casting aside the U.S. Attorney's allegation?

SENATOR RUSSO: I didn't say I knew that Mr. Jellicks would be appearing as a witness in Mr. Musto's matter. I said to you I learned a week ago Thursday that Mr. Jellicks had contacted Mr. Musto's attorneys. I didn't know then - I don't know today - what he told them. I didn't know then and don't know today whether he will be a witness. I would suspect that perhaps, if one were to conclude he would in fact be a witness in that trial, then I might have to change my opinion. I have not heard that to be the case yet.

MR. FISHER: The witness giving some sort of deposition or anything in regard to the Musto case ---

SENATOR RUSSO: Without knowing what he said to them or whether he even talked to them -- the only thing I heard was that he had contacted them. But I don't know anything about its content. Maybe if I did, I would feel differently about what I said.

MR. FISHER: It is my understanding - I could be wrong - from what I have read that Mr. Jellicks filed an affidavit on behalf of Senator Musto in the Musto case.

SENATOR RUSSO: I have no knowledge personally of that. After the last session, I left directly from the session, went out of state, didn't return until the morning of the session yesterday, and haven't read a newspaper in that period in between. So if there was such a statement made public, I don't know.

MR. FISHER: If that is true, if Mr. Jellicks did file an affidavit in behalf of Senator Musto in the

Musto case before the U.S. Attorney's Office, would you consider that - and this is open to any of the Committee members -- would you consider that a possible conflict that would require Senator Musto to absent himself from these proceedings?

SENATOR RUSSO: I would be speculating because I don't ---

MR. FISHER: What is your opinion?

SENATOR RUSSO: I don't really know what the criteria are under the law for conflict. I haven't had a case to research for a long time.

MR. FISHER: I don't mean conflict in the legal sense. I am talking about the propriety of Senator Musto remaining as a member of this Committee in these proceedings when the proceedings weigh so heavily on Jellicks' testimony.

SENATOR RUSSO: I don't know. I would have to know a lot more about in what capacity he talked to them, and what information he gave them. It is all hypothetical now because Senator Musto has voluntarily absented himself from the hearings. But the interesting question you raise is something I would want to know a little more before I gave an answer, certainly before I gave one in front of so many people.

MR. GEARY: If Jellicks' credibility has become an integral part of the Musto case, has the Committee given any consideration to suspending its hearings with regard to his testimony about the State Police?

SENATOR RUSSO: I don't know. I haven't even thought about it because I don't know what part he plays in the Musto case. It is something I think we had better look into. Again, to repeat, I don't know whether he just contacted the Musto lawyers, whether he, in fact, gave an affidavit, or whether he, in fact, is going to be a witness in the Musto case. I have no knowledge at all of that. If, being hypothetical, one were to assume that he is going to be a witness in the Musto case, I think we would have to give careful consideration to that suggestion, yes.

This Committee, unlike certain law enforcement agencies, hopefully will not be doing things that will prejudice a case in the public eye.

MR. HOSENBALL: Has the Committee had any contact formally or informally with this other man mentioned in the U.S. Attorney's letter, Lemler?

SENATOR RUSSO: I have not had any contact. I never heard of him that I recall.

Any other questions?

MR. LES PLOSIA: Senator, who is the trial attorney in the Musto case handling the pre-trial? Del Tufo is not doing it personally, is he?

SENATOR PARKER: It is signed by somebody by the name of Kracov.

MR. PLOSIA: Has there been any attempt overnight to contact Mr. Del Tufo and clarify what happened in this situation? Has there been any personal contact

between yourself and Mr. Del Tufo?

SENATOR RUSSO: No, I haven't had any. I learned about this six o'clock last night or 6:30 last night. I would not make such an attempt without talking to the Committee first anyway.

MR. HOSENBALL: Is the Committee going to make any direct representation on behalf of the Committee as a body to the U.S. Attorney's Office?

SENATOR RUSSO: I have no idea until it is discussed in Committee. I would think and I would hope that the Committee would be very concerned about the accuracy of the U.S. Attorney's statement. I think we would be very, very interested in either finding out if our two colleagues acted so reprehensibly or whether there has been a slur upon the Committee that is unjustified. I think we want to know that. And I think we want to know too whether anyone might be concerned about where this Committee is going and has painted a broad brush in that regard. I don't know what those words all mean because I don't want to quite say what I'm thinking.

Any other questions? (No questions.)

Thank you. We will proceed now to continue with the hearing.

I am sorry. Did any member of the Committee have anything further to add on this subject.

We will begin with Captain Tyrrell. Captain, you were sworn before and are still under oath. I believe you requested of this Committee the opportunity to resume

your testimony and give certain additional facts.
Would you proceed.

THOMAS TYRRELL, being previously sworn as a witness, testified as follows:

Thank you very much. I think your remarks, Senator Russo concerning the quandry the Committee finds itself in with the conflicting experts' reports, in connection with this as well as the polygraph, is true. Actually, it is a unique position. What we have is the star witness against the State Police, James Jellicks, saying that the receipt was drawn by Detective Kuyl's partner and signed by Kuyl; whereas, I understand the Committee's questioned document expert has reported that the entire document was written by Detective Kuyl. We find this very difficult to believe because the body of the purported receipt is in printing of a fashion and Renee Martin did not have any samples or specimens of printing by Detective Kuyl when she made this determination. I, personally, delivered the specimens to her. Beyond that, we had a very difficult time in finding any specimens of cursive writing in the files of the State Police by Detective Kuyl since he almost never prints. All of his writing is in cursive.

SENATOR PARKER: Excuse me. Can I interrupt? Can we get a copy of that receipt? Do we have a photostatic copy of it so we can follow what you are saying?

CAPTAIN TYRRELL: I have that and also the

actual document here with me as a matter of evidence.

SENATOR PARKER: Then we can kind of follow what you are saying.

(Witness continuing) Our problem has been finding printing written by Detective Kuyl. He almost never prints. He almost always writes in cursive writing. As a matter of fact, we had to go back to his application for enlistment in the State Police in 1963 for most of our printing samples, in addition to the specimens I personally took from him. That to me presents a problem, as well as the Committee.

Beyond that, we still have the conflict between the polygraph examiners. We have stated that Jellicks, very familiar with polygraphs ---

BY SENATOR RUSSO:

Q Captain, I wonder if I might interrupt.

A Sure.

Q I certainly don't mean to restrain you at all, but this thing has been something we have anguished with for weeks and weeks and we have heard all that testimony. I don't think we really need summarize it. If there is something further you would like to add, I certainly would encourage it.

A Jellicks was arrested by the Dover Township Police on December 24th, 1976. Immediately after that, he volunteered information alleging that he knew who committed a series of bank robberies in Ocean County. The police discounted this information. Nevertheless, another agency gave a polygraph examination to Jellicks. That polygraph

examiner concluded that Jellicks had been telling the truth when he named the perpetrator of the crime. He further said that another bank robbery would be committed. The Dover Township Police staked out the site. The bank robbery did not occur. Further investigation followed and it was found that a 17-year-old youth had committed the bank robberies, having no connection with James Jellicks' suspect whom he named. Here is a demonstrated situation on which James Jellicks was able to confuse a polygraph examiner.

Therefore, we would like an opportunity for Lieutenant Toth, our Examiner, to present his credentials to this Committee and testify. We also would respectfully suggest that the polygraph examiner from the State Commission of Investigation and the examiner retained by the Asbury Park Press, Mr. John J. Valenza, have an opportunity to present their credentials to this Committee and testify as to their conclusions. That's all I have.

SENATOR RUSSO: Any questions of Captain Tyrrell at this time?

BY SENATOR PARKER:

A Just one. Do we have a copy of your State Police report, indicating that the handwriting was not that of Detective Kuyl?

SENATOR RUSSO: Yes, we do.

A I presented that earlier and I may add our examiner of questioned documents, Detective Sergeant Richard Tidey, will be in the chambers this afternoon for

you to examine personally, although he won't have the exhibits he would generally use in a court.

BY SENATOR RUSSO:

Q You gave me a copy of that report, didn't you?

A Yes, I did.

SENATOR RUSSO: We have it somewhere here.

SENATOR PARKER: Mr. Chairman, before we proceed with Lieutenant Toth and some of the others, I wonder if it would be possible to have Detective Kuyl give us a report from Hoffman and those police to finish his testimony - to finish out his testimony.

SENATOR RUSSO: We will have him on next.

Thank you, Captain.

Detective Kuyl.

C H A R L E S A U G U S T K U Y L, being previously sworn as a witness, testified as follows:

BY SENATOR RUSSO:

Q You are still under oath, Detective, and Captain Tyrrell has indicated, first of all, there were some further matters you wanted to bring to the Committee's attention.

A Yes, sir.

Q Go ahead and feel free to present then in whatever manner you wish.

A In reference to the receipt, sir, I emphatically deny that I signed such a receipt. In addition to that, any reliable person who would have access to samples of

my writing and compare it to that receipt would come to that conclusion.

Q You understand though that one expert came to a contrary conclusion.

A My opinion, sir.

Q You said "any reliable person" and I wanted you to be aware - I am sure you are ---

A Yes, sir.

Q (Continuing) --- that this Committee has obtained an expert's opinion. It doesn't mean that she is right and I don't mean to suggest we think she is right. You may well be correct. I just wanted to apprise you of that fact.

A Furthermore, the grammatical aspects of that receipt actually insult my intelligence. I wanted to bring that before the Committee. I had several English courses at Rutgers University. My professors would get very upset if they compared my writing with that.

Moreover, in conclusion, in my opinion and many other opinions, Jimmy Jellicks is a liar.

I will go on to Detective Hoffman.

BY SENATOR PARKER:

Q We would like to know --I am trying to get the testimony and the specific question that we asked. But I think we wanted to know - what was it, the Shrewsbury Police or ---

A Freehold Township Police.

Q (continuing) --- the Freehold Township Police were involved, what their investigation revealed and what

information they had about the break-in.

A With reference to the break-in or reference to fraud checks? It was with reference to fraud checks with Freehold Township.

Q Okay. Start with that first.

A Okay. I met Detective Ralph Hoffman July 30th of 1975 with reference to John Chew being involved with passing bad checks in the area of Freehold Township. We interviewed a Lucille Angle from the Radio Shack on Pond Road in Freehold Township. We showed her several photographs and she "ided" John Chew's photograph as being the subject which purchased a CB radio and wrote out a particular check. In addition to that, she mentioned that there was a subject, which fitted a similar description of James Jellicks, seated in a station wagon out in the parking lot. When I showed the photographs to Mrs. Angle, I included in there also a photograph of James Jellicks, which she did not positively identify. Detective Hoffman could corroborate some of this testimony. I did mention to Detective Hoffman that I felt that the informant that I was working with at that time may have been involved with the fraud case, but I did not disclose his name or show him the photograph. That's it.

Q Just one further question, if you know: When did the Upper Freehold Township Police investigate or first become aware of the loss of documents or the break-in in the Abbatiello house?

A That investigation was conducted, sir, in Colts

Neck Township. I believe that Detective Walsh could furnish you that particular information.

SENATOR RUSSO: Any other questions of Detective Kuy1?

SENATOR HAMILTON: Yes, just one, Mr. Chairman.

SENATOR RUSSO: Senator Hamilton.

BY SENATOR HAMILTON:

Q You made a point that was one that I had not thought of until you mentioned it, Detective. You are a high school graduate?

A Yes, sir.

Q Graduating from what high school?

A East Side High School, Paterson, New Jersey.

Q And you have had some post-secondary education?

A Yes, sir. I am a graduate of Ocean County College.

Q With an AA degree?

A Yes, sir, and also I will be graduating from Rutgers University this semester.

Q You are now in the last semester of a four-year college program or perhaps if you are taking it part time, it has taken more than four years, is that right, for the baccalaureate program?

A Yes, sir.

Q What is your major?

A Criminal justice.

Q And you have had a number of courses in English or English Literature?

A Yes, sir, several.

SENATOR HAMILTON: Thank you.

SENATOR RUSSO: Thank you, Detective.

If you should have further information that you feel you want to present, since you were the subject matter of Jellicks' testimony, you feel free to let this Committee know. We will be glad to put you back on the stand at your request any time you want.

THE WITNESS: Thank you.

SENATOR RUSSO: Lieutenant Simonetti, please.

R U D O L P H S I M O N E T T I, being duly sworn, according to law, testified as follows:

BY SENATOR RUSSO:

Q Lieutenant Simonetti, I have a couple of preliminary questions - other members may also have some - and then certainly you should feel free to proceed and tell us anything you want. But you apparently befriended James Jellicks, if that is the right word?

A Yes, I'd say.

Q About when did you first ---

A Well, I first came in contact with James Jellicks sometime in 1968. At that time, he was an inmate at Bordentown Reformatory. And I was instructed by my superiors, along with my supervisor at that time, to proceed to Bordentown Reformatory and interview James Jellicks in reference to some information he has pertaining

to organized crime up in the northern area of New Jersey. We did - we went to Bordentown and we did interview James Jellicks where he gave us an elaborate gambling operation - 25 telephones. He gave us some information in reference to a Jersey City Policeman that was murdered and the gun was supposed to have been down in the cellar. So we left and, during the interim, we investigated his information, which we found to be baseless at this time.

We then went back to him again and asked him about the information that he had given us and he repeated that it was factual and true, the 25 telephones. We went back out again and, after weeks of investigating, we come up with nothing. We couldn't verify the statement that he had given us.

Apparently later on we did confront him and he did state to us that it was a fabrication, that there was no such operation as 25 telephones.

Q Lieutenant, does that appear in a report at that time?

A No, sir.

Q It does not?

A No, sir.

Q You see, this is our problem and I am going to raise it now so as we go through your testimony --- You tell us that the man who is a witness under oath before this Committee has admitted to you that he told you lies about an elaborate gambling operation and yet you tell us that nowhere at any time in any State Police

report that this was recorded?

A Not to my knowledge.

Q You certainly prepared a report about the fact that he gave you information concerning a vast gambling scheme, didn't you?

A I don't recall at this time.

Q Isn't it normal State Police procedure that if you went to an informant, a witness or whatever, and that witness gives you information of a very large scheme, as you just described it, and it is credible enough at the time for you to go out and investigate it, you certainly would make a report, wouldn't you, that he gave you that information and that you went out and investigated it?

A No, not really. Like I stated, at that time, I don't recall now if the report was ever made on it. This is going back to 1968. But apparently there may have been personal notes during the interview.

Q Lieutenant, you weren't acting as an undercover agent at the time.

A No, sir.

Q You were sent by superiors ---

A That's right.

Q (Continuing) --- to go to Bordentown and interview a potential witness who had information about a gambling operation.

A Yes, sir.

Q Now, stop right there. Maybe I don't know State

Police procedure, but I think I do. That alone would have been in the form of a written instruction probably, wouldn't it, to you to go check this man out, with some background?

A It was not; it was verbal.

Q All right, it was verbal. In any event, you then go to Bordentown, you talk to a witness who gives you information about an elaborate gambling scheme, credible enough for you to go out and investigate it, and you say you may not have made any written report?

A That's possible, yes, sir.

Q In any event, whether you did or not, you say he later admitted to you that it was all a lie; is that right?

A A fabrication.

Q A fabrication. The same thing, isn't it? That's what you mean, is lie when you say fabrication, do you not?

A He fabricated what he told us.

Q Lieutenant Simonetti, is there any difference in your judgment between the word fabrication and a lie? If there is, just tell me so I know what language you are referring to?

A Sometimes you can fabricate a point without being malicious about lying. And there are times when you will be malicious and really lie without fabricating the point.

Q I am going to give you a caution before we go on, okay, and really I say this out of concern rather than

anything else. There are some lawyers on this Committee that spend a lot of time in courtrooms. And we are going to get along a lot better and, hopefully, the State Police will too if you just level with us. Okay?

A I am levelling with you.

Q Now did this man report to you that the information he gave you, or admit to you, was untrue?

A Yes, he did.

Q And you say you may have never recorded that in any report?

A That's right.

Q Do you know, in fact, whether you did or did not record it?

A Again I have to state that I don't recall.

Q All right. So you may have recorded this.

A It is a possibility, yes, sir.

Q Can you obtain those records for us?

A At this point in time, I don't know. This is ten years after the fact.

Q Do the State Police destroy their files of ten years of age?

A I have no idea, sir.

SENATOR RUSSO: Captain, suppose you check that for us and let the Committee know, please, whether or not the records are available.

CAPTAIN TYRRELL: It depends in what form the records would be. We have to explore.

I think Lieutenant Simonetti is correct in saying that it may not be retrievable in the event it exists.

SENATOR RUSSO: Would you though give us your usual cooperation?

CAPTAIN TYRRELL: Yes.

Q Go on, Lieutenant. You say he admitted to you then that he lied about this gambling operation. I interrupted you at that point. So you can continue.

A Yes, he did.

Q Go on. You were giving a narrative.

A After we confronted him with the so-called lies about the 25-telephone gambling operation, we called up Division Headquarters and spoke to our superior and said that apparently the information this man had given us didn't pan out. So the word back from our supervisor at Division Headquarters at the time was, "It is okay; you're going to work with him."

Q Who was that?

A Lieutenant Graff at the time.

Q Graff?

A That's right.

Q He told you to continue to work with the man after he gave you information twice apparently that turned out to be totally a fabrication or whatever it was?

A The rationalization there was that the man did have other information about improprieties going on up in Northern Jersey. That is why we eventually worked with him.

Q Okay. Go ahead.

A I don't recall how or when he was released from jail. I had nothing to do with that. Then he did appear up at the Hackensack- Little Falls Station where we were quartered at the time. And we had worked with him on a couple of gambling cases and a couple of hijacking cases. It was either up to 1970 or 1971 when he was involved with the Federal Bureau of Investigation on a loan shark case. That was the last time we had worked with him.

Q Did you continue though to have contact with him after that?

A After he left - after he was taken into the federal custody program - I don't believe I had any contact with him, other than once he may have called me from Pittsburgh while he was under the program.

Q So from 1971 until very recently, you had no contact with him?

A From either '70 or '71 when he was taken into the custody program until December 17th, 1974 -- I received a telephone call from him down at Division Headquarters. At this time he had informed me that he had left the custody program and was back in New Jersey and was looking for work. And I told him --- Actually he wanted me to obtain employment for him. I told him at this time I had no connection and I was unable to.

From December 17th, 1974, to the middle of February when we obtained him--- when we did obtain employment for

him, he called me and he came down to see me at Division Headquarters and begged for me to obtain employment for him for the simple reason he wanted to go straight again - he had a wife and two children to support. In February of '75, we obtained employment for him.

Q At the subject matter of his testimony at Freehold?

A Not at Tony Abbatiello's track -- farm. Prior to that, we were having feedback about improprieties going on at the back side of Freehold Raceway - that's the stable area - and we were trying to get an undercover man, a State Policeman, back there; but due to priority commitments and man-power commitments, we were unable to do so. And Jellicks was available and through a contact we thought we had obtained employment for him at Freehold Raceway, but by accident he ended up on Tony Abbatiello's farm.

Q You obtained a job for him because you wanted to use him as an undercover man. Yet, unless I missed something in your testimony, all he did was tell you lies up to then.

A Up to when?

Q Up until that time. Had he ever given you any valuable information or information that turned out to be true and correct so that it would make him reliable?

A If I can repeat, as I testified before, I said after the first incident where he told us about the 25 telephones, which didn't pan out, which he did state later

on to me that it was a lie. But I did testify that we worked on with him in a couple of gambling cases and a couple of hijack cases; and, at that point in time, his information was reliable.

Q I see. Okay. In any event, he went to work -- you thought it was at the track - and you actually got him a card that in effect covered up his criminal record.

A I'd like to clarify that point, Senator. When he was hired -- when he was hired, he filled out the application on his own. As a matter of fact, the name he used, James Cusick, at that time, I believe was his legal name. That was the name that was given to him by the federal government under the Federal Custody Protection Plan. At no time was he told to use any other name than the name he was using. The application was filled out by himself. Who he was with, I don't know. As a matter of fact, I learned later on that the two references he had given on the application was myself and a Detective Patterson. At no time did we give him a fake identification card.

Q Are you telling me or are you telling this Committee, Lieutenant, that the State Police did not, in fact - I don't know what the word is, whether it be maneuver or what - to get this fellow an identification card in spite of his criminal record?

A No, sir.

Q You are not telling me that?

A I am telling you we had nothing to do with it. He went on his own.

Q Strictly on his own?

A On his own.

Q Were you here at the last hearing?

A Yes, I was.

Q Did you hear the testimony of your ---

A Yes, I did.

Q And you still want to stay with what you just said, that you had nothing -- that the State Police had nothing to do with his getting this identification card when he should not have otherwise have gotten it because of his criminal record?

A We obtained employment for him. Accidentally, he ended up on Abbatiello's farm. When he signed and made out his application, we did not know. He done this on his own. He filled out the application without no coaching or instructions from anybody. And the identification card he got was under his legal name at that time, James Cusick.

Q You did hear the testimony --- Excuse me. (Senator Russo confers with Mr. Tyrrell.) In any event, after you helped him get the job, did you have contacts with him following that?

A Yes, sir, he had called me up a few times after the 17th of February where he told me that he was employed by Abbatiello on the 17th of February and that he was happy in his work. And I said to him, "What are you doing on the Abbatiello farm? You are supposed to be on the back side of Freehold." He said, it doesn't make

any difference because his duties with Abbatiello entailed that he did go to the back side and deliver hay and feed for Tony Abbatiello's horses, which suited our purpose also because as long as he was on the back side, he could get the information that we were seeking for us.

He had called a number of times, stating that he did want to see me, and I told him if he had any information to pass it on to the Detective at the track, but he insisted on seeing me.

Q Let me interrupt you there.

A Yes, sir.

Q Were you aware of the fact that there was, or even heard any such thing, any friction between the unit you were with and the unit Detective Kuyl was with at any time?

A No, sir.

Q Never?

A No, sir.

Q Not at all?

A No, sir.

Q Then he called you on the occasion that you --- Incidentally, he called you on various occasions during this period of time?

A Yes, sir.

Q Were they all recorded?

A No, sir.

Q Any of them recorded other than the one that was played here?

A They were not recorded. There was one recorded on June 2, 1975, when I finally consented to go down to Freehold and listen to what he had to say.

Q Is that the one we heard the other day?

A No, sir, that was August 8th.

Q So you recorded one in June?

A Yes, sir.

Q There were other conversations both before and after the June date, weren't there?

A After June, sir.

Q After June. You didn't record them?

A After June I did, yes, sir.

Q All of them?

A August ---

Q Was there any between June and August?

A Not to my knowledge.

BY SENATOR PARKER:

Q Excuse me. On that point - that you personally, yourself had, as opposed to Lieutenant Kuyl or Sergeant Kuyl?

A As to what, Senator?

Q Conversations with Jellicks.

SENATOR RUSSO: He said that he had none.

BY SENATOR RUSSO:

Q We are talking about you, yourself, telephone conversations with Jellicks. You had one in June and you had one in August.

A I had telephone conversations with Jellicks from February till June.

Q You did not record any of those.

A No, sir.

Q Then in June you recorded one.

A June 2, he insisted he wanted to see me. So on June 2, I met him at Freehold Raceway, along with Detective Patterson. And during this interview, we taped him.

Q Why did you tape him?

A A lot of times they get a little squeamish when you take out a pad and start writing. This way here, if he did have some important information to give us, we just didn't want to miss it.

Q Did you tape him when you went down to Bordentown and he told you about this big gambling operation?

A No, sir.

Q Well, you see, that doesn't make sense to us. All of a sudden you tape him. Yet he is talking to you about the same kind of things, namely, criminal activity that he was talking about back in the 1960's. But suddenly you taped him.

A Back in 1968, we weren't too familiar or had in our possession or for use at that time tape recorders.

Q Okay. In any event, you taped him on this occasion because he said he had information. Was the tape recorder out in the open?

A No, sir.

Q Body tape?

A No. I hid it. It was a regular tape recorder.

Q But you hid it.

A I hid it on top of the filing cabinet.

Q He didn't know you were recording him?

A No, sir.

Q And who was present at that time?

A Sergeant Patterson.

Q Did the Sergeant know about the tape recorder being there?

A Yes, he did.

Q Do you have a copy of that tape?

A Yes, sir, I believe the Captain has it.

CAPTAIN TYRRELL: If you want it,
you can have it.

Q That was June, nineteen seventy ---

A --- seventy-five.

Q Did you then talk to him any more personally or on the phone between June and August?

A Yes, I did.

Q When?

A On June 12th.

Q Did you record that?

A I don't recall if I did or not, sir.

Q June 12th, 1975' ---

A Yes, sir.

Q --- in this matter, and you don't recall whether you taped that?

A No, I don't recall, sir.

Q Would your records indicate whether you did or not?

A May I refresh my memory on my records?

Q Certainly. Take your time.

A The report I have on June 12th doesn't state if I taped him or not, but ---

Q May I see the report? (Witness hands Senator Russo report.)

CAPTAIN TYRRELL: You have a copy of
that report, Senator.

Q In any event, he called you on June 15th ---

SENATOR PARKER: June 12th.

Q --- June 12th, is it? Was that the 12th, Lieutenant?

A Yes, sir.

Q --- June 12th and you apparently did not record it.

A No, sir.

Q Okay. When did he next call you?

A June 18th.

Q June 18th.

A Yes, sir.

Q Did you record that one?

A I don't recall if I did and I don't have it on my report.

Q No notation on your report that you recorded him and you certainly know where any tape or anything would be at the present time if, in fact, you did?

A That's right.

Q When did you next talk to him on the phone?

A August 8th, at 1:55 P.M.

Q And did you record that one?

CONTINUED

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A Yes, I did.

Q That's the one we heard played here?

A Yes, I did.

Q Here he calls you two times in June. You don't record them apparently. But then in August he calls you and you record it. Why?

A Well, the explanation there is, when he called me June 12th, I was at the office and when I picked up the phone he was on the other end.

Q Right.

A And I don't have a tape recorder or a suction cup, or whatever have you, to tape a conversation right on the spot.

Q Then why did you tell me a few minutes ago that you didn't know if you recorded him?

A I just don't. You asked me a question and I ---

Q The fact is you didn't record him because you were out of the office and didn't have equipment.

A I don't recall if I taped him or not.

Q Well, if you didn't have equipment to tape him outside the office, then how could you have recorded him?

A I still don't recall if I taped him or not.

Q Lieutenant, you told us that you didn't know if you recorded him or taped him. Then you told us a couple of minutes later that the reason you taped him in August and not the other two times was because the other two times you were out of the office and you didn't have equipment to record him. Isn't that right?

A I was in the office when the telephone call came in.

Q Let's start all over again. In August, he called you and you recorded him.

A Yes, I did.

Q And you were in the office.

A When he called, yes, I was expecting his call.

Q And I then asked you, "Why didn't you record him on the two June telephone calls?" You did in August, but you apparently didn't in June - why not?

A Why not in June?

Q Yes, in June.

A I don't recall if I taped him or not.

Q Well, why do you recall taping him in August?

A Because I was ordered to tape him in August.

Q All right - okay. And if you were ordered to tape him, you can remember and you can locate the tape; but if you weren't ordered, you don't know whether you taped him or not?

A August 8th, at 1:55 P.M., I taped James Jellicks because I was instructed by my supervisor to tape the conversation.

Q If you taped him in June, where would those tapes be?

A If I taped him, the Captain would have to have the tapes.

SENATOR RUSSO: Captain, are there such tapes in existence for the June calls?

CAPTAIN TYRRELL: We only have the one prior tape of the 12th of June; and, of course, that is available to you. Lieutenant Simonetti noted on his reports where he made a tape recording.

SENATOR RUSSO: And if there is no notation on the reports, wouldn't it be a fair inference that there was no recording?

CAPTAIN TYRRELL: That was our assumption. He may have made other tapes, but we are not aware of them.

May I say when he is dealing with an informant, very often Detectives make a tape and destroy it if it doesn't have anything and don't even make a report about it.

BY SENATOR RUSSO:

Q Do you, in fact, know whether or not you made any other tapes, other than that one which we have just referred to?

A I made one on June 2nd on the interview.

Q And this one in August.

A I know I made one on August, the 8th, and then subsequent to the 8th, I made others.

Q Let me ask you this; When he called you in August ---

A Yes, sir.

Q (Continuing) --- he was being recorded from the moment he got you on the phone, wasn't he?

A Yes, sir.

Q Did you know he was calling?

A At that morning I was out of the office. I had an appointment that morning and I didn't come back to Division Headquarters until after 1:00 P.M. And when I walked into the office, my superior said to me, "You're getting a telephone call from Jellicks today and you'd better tape it."

Q Who is that?

A Captain Pagano, at the time.

Q Okay. The present Colonel.

A Yes, sir.

Q Did Captain Pagano tell you why he wanted Jellicks taped on that occasion?

A No, sir.

Q Did you know why?

A I assume why.

Q Why?

A Because he was involved in a breaking and entering.

Q How did you know that at the time?

A Because on August 7th, I received a telephone call from Sergeant Walsh that night that they had just arraigned James Jellicks on the breaking and entering charge.

Q In any event, that was the call that was played -- the tape that was played here the other day ---

A Yes, sir.

Q (Continuing) --- in which you said to him, "Why did you do this," and he explained it, right?

A Yes, sir.

Q Did you read his newspaper comments since then where he says that he knew he was being recorded, it was all planned, and that you wanted him to do this to get the State Police off the hook, or whatever - words to that effect? Did you read those comments?

A I read the articles; yes, I did.

Q And they are not true, are they?

A Definitely not, sir. May I add there was no dialogue between James Jellicks and myself from June 18th up until August 8th, at 1:55 P.M. As a matter of fact, the last time I spoke to Jellicks was on June, the 18th.
BY SENATOR PARKER:

Q In this regard, Detective Kuyl indicated that it was on August 1st that the information was delivered to him, the records, and the items were delivered to him by Jellicks. After that, what was the purpose --- you already knew at that time or the State Police knew that he had broken in and taken these items. What was the purpose of taping him on the 8th if you already knew the information and Detective Kuyl had already obtained the evidence and information that he had, and had related it to Detective Kuyl?

A All I can testify to is what I testified to before. I was ordered to tape him on that date. As to why, I don't know.

Q You did not know that Detective Kuyl had obtained the evidence that was taken out of Abbatiello's home?

A No, I did not.

Q Where in the P, O and E or the framework of the State Police was Detective Kuyl in reference to your position?

A Detective Kuyl at that time was working for the Organized Crime Task Force Bureau at Edison.

Q Which is different from your ---

A From my bureau, yes, sir.

Q And your bureau was what, sir?

A Criminal Investigation Bureau.

CAPTAIN TYRRELL: Senator, we have an abstract of the organization to answer that question for you.

SENATOR PARKER: I was just wondering why he was not aware of the information seven days later.

CAPTAIN TYRRELL: He was far removed from that operation. We will explain to you that there are three separate operations, widely separated physically; and, as a matter of fact, there was what we think is good communication with one flaw. We missed one bit of information and we can explain it with that diagram.

BY SENATOR PARKER:

Q Now I understood you to indicate that you had taped him after the 8th of August on some other occasions when you conferred with him after that.

A Yes, sir.

Q Did you know at that time that he had turned over the information to Lieutenant Kuy1 or Detective Kuy1? I keep wanting to promote him. Maybe he will be promoted after this.

A I believe maybe subsequent to August 8th - that may have surfaced on some of the conversations I did have with him and it may be on the tapes.

Q On any of those tapes and at those times, were you instructed to take the tape?

A Subsequent to August 8th?

Q Yes.

A No, sir. I kept on taping him because he was giving us information with reference to organized crime and it was easier to tape and maintain than it is to write because if you wrote, you would never be able to keep up with what he was telling us because Jimmy is quite a fast talker. He is a rapid speaker.

Q When was he taken into custody by the State Police for breaking into the Abbattiello home?

A I have no idea.

SENATOR RUSSO: Any other Committee member have any questions?

SENATOR PARKER: I just wanted the dates, the additional dates.

Q I just wondered why you continued to confer with him, especially on matters of organized crime. And you continued to tape him for how long?

A Up until, I believe, October of 1975. At this time, I think he did leave again. He was taken back by the Federal Bureau of Investigation under the federal custody program. Like I stated, he would call me. I never initiated the calls. He would always initiate the calls to me. And the information he did give pertained to organized crime. And I think the best action at that time was to record everything he was telling me - was to tape it. This way here you wouldn't miss what he was telling you, as opposed to, if you would write it down, there were things you would miss.

Q Well, do you know whether he, in fact, had been charged and was out on bail or was out on his own "recog" or whether he had not been charged at all by the State Police at that time?

A Yes, sir, he was. That I knew. I knew he was charged and he was out on bail.

SENATOR RUSSO: Okay. Any other questions of Lieutenant Simonetti?

SENATOR HAMILTON: Yes.

SENATOR RUSSO: Senator Hamilton. Senator, before you begin, I will have to take a phone call. So you complete this and we will adjourn for one hour after the Senator completes his questioning and try to start right on time because we are going to go today until we finish if we have to put you under call. We have to complete this matter.

So proceed, Senator, and then we will adjourn.

BY SENATOR HAMILTON:

Q Lieutenant, at the time we are talking about, which began in 1968, continuing at least up until 1975, with breaks, Jellicks was your informant, wasn't he?

A I was --- I think at this time I was more like a father figure to him. He did confide in me. But in 1968, I was not the supervisor of the unit at that time.

Q I understand that. And I think that father business comes through in some of the things that we have previously heard here. But when a law enforcement officer has an informant, in fact, he belongs to a particular law enforcement officer, doesn't he?

A Not necessarily, sir.

Q Usually?

A It all depends. Usually, yes, but at this time Jimmy - we passed him along the unit because he would give you gambling information and he would give you hijacking information. I, myself, never worked on a case with Jimmy.

Q I understand that. But what it all came back to with this father figure or whatever it might have been, he was your informant, wasn't he?

A Yes. I knew him the best and he confided in me more than anybody else.

Q The only area I want to go into is this business about him getting on the track. I want to try to understand

that because it is very unclear in my mind right now. He indicated he wanted work, is that right?

A Yes, sir.

Q Did he specifically indicate that he wanted to work at the track?

A No, sir.

Q That was your idea, because of the lack of undercover State Police personnel, to get on the back side of the track. Is that right?

A Yes, sir.

Q So you knew that there was going to be an effort made to license him to work in or around the track, is that right?

A Yes, sir.

Q What was the first thing that you did to start that ball rolling, that process started?

A For him to obtain employment?

Q Yes, sir.

A Was to make a contact.

Q With someone at the track?

A Yes, sir.

Q I suppose a source of yours.

A Not a source of mine.

Q I am not going to ask you who that was, but you contacted someone in some authority at the track, "Have you got an opening"?

A Right.

Q Now, what is the next step that you know happened?

A The next step that we knew happened, that he was going to be hired for employment.

Q And he needed certain credentials in order for that to happen, is that right?

A Yes, sir.

Q What, if anything, did you do with respect to him starting the process of obtaining those credentials?

A Nothing, sir. We just handed him over to the contact.

Q You gave him to somebody at the track?

A Yes, sir.

Q And you knew he was using the name Cusick?

A Yes, sir.

Q You knew he had an extensive criminal record?

A Well, you say ---

Q You knew he had a criminal record.

A The reports that I read in the paper, the paper says 3 pages, but I don't see 3 pages at all. I see 3 pages, but not for crimes.

Q You knew he had been involved in law violations?

A Yes, sir.

Q At that time, were you familiar with any of the racing rules and regulations or the statutes with respect to the kinds of persons that could work at a race track?

A Yes, sir.

Q So you were aware in general terms that he was not under ordinary circumstances a person who could legitimately qualify to work at the track.

A I wouldn't say that, sir.

Q You thought he could?

A Yes, sir.

Q Now, who took his fingerprints?

A I believe an inspector from the Racing Commission.

Q Were you present?

A No, sir.

Q Other than giving the forms to him, did you have anything further to do with his getting identification to work at the track?

A I never gave the forms to him. He obtained them through the Commission.

Q You weren't physically present at that time?

A No, sir.

Q You told him who to go see; is that right?

A No, sir.

Q What did you tell him?

A Nothing.

Q You said you made the arrangements for him in some way to get the application forms.

A No, I did not.

Q What did you do?

A I made the arrangements for him to have employment at Freehold.

Q And you knew that from that he would have to submit certain applications.

A Yes, sir.

Q When did you learn that, in fact, he had some kind of credentials?

A A month or so after he filled out his application at Freehold Raceway.

Q What was your understanding at that time of the bar on persons who had been involved in law violations from obtaining employment at the track?

A Title 5 stipulates that anyone convicted of a crime of moral turpitude ---

Q That was your understanding?

A That's the law.

Q I believe it is the regulation, isn't it?

A It's the law under Title 5.

Q What was the nature of the convictions that you knew he had at that point in time?

A Larceny of auto, bad checks. He had one rape charge which was discharged against him. Other than larceny of the auto and a conspiracy in 1970 ---

Q Conspiracy for what?

A I don't know. There was no disposition on the rap sheet.

Q And you didn't feel that those offenses involved moral turpitude?

A Not in this permissive society today - no, sir.

Q Did you ask anyone about that?

A No, sir.

Q You made the judgment. In fact, you really wanted to get him on there in case he could provide worthwhile information.

A That's right.

Q And the legitimacy or non-legitimacy of his

documentation was not uppermost in your mind.

A No, sir.

Q You said one other thing - and I will terminate the questioning so far as I am concerned -- you said that you wanted to get him at the track. I am sure that is so. You said, by mistake, he ended up at Abbatiello's. Again, I don't want you to compromise any source you had with the track, but can you tell us the process by which that mistake occurred; and, if it is not a confidential source, was it somebody in the State Police that made the mistake?

A No, sir.

Q Can you give us the process of what happened as you now understand it?

A I don't know as of this date what happened, how he ended up on Tony's farm.

Q Pardon.

A I don't know how he ended up on Tony's farm as of this date.

I would like to say, at no time, was Mr. Abbatiello ever the target or the subject of any investigation.

Q I think Colonel Pagano covered that when he was here. Did you contact anyone else, either before or after Mr. Jellicks obtained his credentials, relative to his application?

A Not to my knowledge, sir.

Q You didn't speak to anyone who might have reviewed his fingerprints or compared his fingerprints with other fingerprints on file?

A His fingerprints -- after he was fingerprinted, I obtained a copy of his prints. The prints were given to me.

Q What did you do with them?

A We held on to them.

Q Were they submitted to Division Headquarters?

A No, they were not.

Q So they were not compared against other fingerprints?

A No, sir.

Q Do you have any specific authorization to do that?

A Yes, sir.

Q Where does that authorization come from?

A From my superiors.

Q In this case, that was who?

A Captain Pagano and Major Baum.

Q They knew that you were holding out fingerprints because if the fingerprints went through, it would show that the fingerprints were that of a man whose name on other records was Jellicks.

A The main purpose for holding the prints out was to protect the individual.

Q To protect, Mr. Jellicks?

A Yes, sir.

SENATOR HAMILTON: Thank you, Lieutenant.

BY SENATOR MARESSA:

Q Lieutenant, I think you testified that you didn't know or have anything to do with Jellicks's release

from prison, is that right?

A Yes, sir.

Q Was it generally known throughout the Department that you were the person closest to Jellicks?

A Yes, sir.

Q --- your relationship was the closest. Did the SCI or any representative of the SCI at any time contact you relative to any information about Jellicks?

A No, sir.

Q Actually, Lieutenant, should someone from the SCI have subsequent to his release from jail contacted you, what would your opinion of Jellicks have been to the representative of the SCI with regard to credibility at that point in time?

A At that point, I would have to answer that statement in all honesty, that prior to 1975, as far as I knew James Jellicks, to me, he was credible.

Q I'm sorry. I didn't hear that.

A Prior to 1975, his testimony - his information - was credible. I'd have to say at that time he was a credible informant.

Q What was the date of his release from the Camden County Jail?

A I don't know, sir.

CAPTAIN TYRRELL: This past year - it was October 8th, something like that, that he went to Middlesex County investigation.

SENATOR MARESSA: '76.

CAPTAIN TYRRELL: '77.

Q You misunderstood my question then, Lieutenant. My question is: If someone from the SCI had questioned you, seeking your opinion with respect to his credibility subsequent to his release from the Camden County Jail, what would your opinion have been?

A My opinion -- I wouldn't be able to offer any comment on that until after all this is resolved. Then I will comment on it.

Q You still don't understand my question.

A Yes, I understand what you are saying.

Q In October of '77 he was released from the Camden County Jail and, as far as I know - at least the testimony before this Committee is that he went to the SCI or somebody from the SCI went to him. And there were some statements made that involved the State Police. And as far as I can understand, to this date at least, no one from the SCI contacted anybody in the State Police to determine the legitimacy or the accuracy or reliability of Mr. Jellicks. Now what I am trying to determine from you, sir, is: Subsequent to his release in '77, should someone from the SCI have contacted you or your Department, I would assume that since you are the person generally known to be the closest to Jellicks - and sought an opinion from you regarding his credibility, what would that opinion have been?

A Subsequent to October, '77, if I was asked an opinion of him, I'd have to answer that in two stages. Prior to '75, it was credible; after '75 on to the present

date, I am just as confused as everybody else is.

Q I don't know what is so difficult about the question, Lieutenant. If you received a telephone call from somebody in the SCI subsequent to October of '77 and they asked you, "What about this Jellicks? You know he has told a story? Can we believe him," aren't you going to answer that question?

A No, I won't answer it.

Q To the SCI representative, I mean - you would not answer?

A I wouldn't comment on that question.

Q You wouldn't?

A No.

Q Can you explain why? I don't understand why.

A I just got done explaining. I said, prior to '75, if I was asked - if they would put that question in two parts: "Prior to 1975, what was your opinion of James Jellicks," I would say he was credible. Subsequent to '75, I couldn't offer a comment. I won't comment on it. Because of what I have read in the paper and I've read what was going on, it's impossible for me at this time to comment on it, to be honest and comment on it.

Q So your answer would have been then, no comment?

A Subsequent to '75.

Q I have pinpointed the date three times.

A I've said this three times, Senator. I have said it prior to '75 three times. I said, subsequent to '75, three more times, I won't comment on it.

Q You won't or wouldn't? I am giving you a hypothetical question.

A I won't - I wouldn't - or I won't comment on it because I don't know what all the facts in the case are after 1975. Prior to '75, his testimony - his information - was credible.

Q I am just going to try it one more time. It is November of 1977. My name is Joe Rodriguez. I call you up and I say, "We have got some information from Mr. Jellicks and it involves a lot of people, including the State Police. What do you know about this guy? Do you think we ought to believe him? Is he credible?" Now is your answer that you would tell Mr. Rodriguez at that point in time, no comment?

A First of all, I would have to find out if the other person on the other end of the phone was Mr. Rodriguez.

Q All right. Let's assume that you did that - you verified it.

A When I verified it, I'd still say, "I'm sorry, Commissioner. I can't comment. I am unable at this time to comment on his credibility subsequent to 1975."

SENATOR MARESSA: All right. Thank you very much.

BY SENATOR HAMILTON:

Q Lieutenant, what you are really saying is, whether it is before or after '75, there are times based on your experience when James Jellicks told the truth.

A Yes, sir.

Q And there are other times when he didn't tell the

truth. Is that right?

A In '68, with the 25 telephones, he wasn't telling the truth. Subsequent to that, he told us the truth. His testimony - his information - was credible. Prior to 1975 --- I mean, subsequent to '75, I can't honestly make a determination on it, Senator.

Q I don't think on any given event maybe anybody can make an absolute determination. But the fact of the matter is there are times when you believed him to have been very credible. Is that right?

A Yes, sir.

Q And there are other times when he was not credible.

A Yes, sir.

Q You would take Sergeant Kuyll's version of this receipt over Jim Jellicks' version of this receipt today, wouldn't you?

A No, sir, because I don't know all the facts.

SENATOR HAMILTON: Sorry, Sergeant.
Thank you, Lieutenant.

SENATOR RUSSO: We are going to break now, resume at 2:30 and stay until we have to.

(Recess for Lunch)

AFTERNOON SESSION:

SENATOR RUSSO: We will hear at this time testimony from Ms. Martin.

R E N E E C. M A R T I N, having been sworn, testified as follows:

BY SENATOR RUSSO:

Q Is it Ms., Miss, or Mrs.?

A I answer to every and all of them. It is Mrs.

Q Mrs. Martin, do you have by any chance with you a summary of your background and training?

A Yes, I do.

Q It might save some time if we have that.

A This is a very poor copy, incidentally.

Q Now, Mrs. Martin, this indicates that your business is under the name of Handwriting Consultants, Incorporated, in Princeton; is that correct?

A Yes, sir.

Q And you have had more than twenty-five years of experience in analyzing handwriting. And you are the author of several books.

A Yes, sir.

Q And you have testified in court on many occasions; is that correct?

A Yes, sir.

Q And that is in both criminal and civil suits and so forth?

A Yes, sir.

Q And you are a member of various organizations dealing with your field. For example, the International

Association for Identification, American Association of Handwriting Analysts, National Association for Script Evaluation, World Association of Document Examiners, et cetera; is that right?

A Yes, sir.

Q You have been an instructor of Handwriting Analysis, a guest instructor at various colleges and universities, including Princeton, Ursinus and so forth; is that right?

A Yes, sir.

Q I just wanted to sort of get some outline of your background - and I am sort of glossing this over - for the record. Can we please have this marked for identification.

(Whereupon document was marked M-1 for identification.)

BY SENATOR RUSSO:

Q Mrs. Martin, you were given a receipt purportedly signed by Charles Kuyl and asked to make an analysis of the writing on the receipt and the signature; is that correct?

A Yes.

Q And as a result of that, under the date of February 21, 1978, you gave us a report in which you concluded in your judgement that the same person--- Excuse me, let me go back. You were also given a number of State Police reports that were signed by Charles Kuyl, and you were asked to compare those signatures on those reports with the signature and the writing on the receipt; is that right?

A Yes, sir.

Q And you concluded that the same person who signed the reports that I mentioned, the State Police reports, also wrote and signed the questioned document; is that correct?

A Yes, sir.

Q Let me ask you this, Mrs. Martin. You had these comparative signatures, or known quantities, and you compared that with the signature Charles Kuyl on the receipt; is that right?

A Yes, sir, that's right.

Q And you concluded they were written by the same person.

A Yes, sir.

Q You also concluded, though, that the content of the receipt was written by the same person?

A There were certain variations in the printed matter that resembled certain variations in Detective Kuyl's actual valid writing, as well as--- Well, that is it, basically, the content, the hand lettering of the body of the note.

Q Well, wasn't it necessary - since the body of the note was printed - for you to have samples of Detective Kuyl's printing?

A I did request them.

Q You did not get them, though?

A No, sir.

Q Well, how were you able to conclude that the printed material was done by Detective Kuyl when you

had no sample of his printing from which to compare?

A I don't remember my exact terminology. Would you refresh my memory and then maybe I can tell you.

Q You mean the conclusion that I read?

A Yes.

Q Do you have a copy of your report before you?

A No, actually I did not have time to go to my office today to get my files.

Q We will give you a copy.

A Thank you. It just says, "Similarities in the questioned document in the handlettered portion to the known signature of Charles A. Kuyl." And then, if I remember correctly, in my letter to Lieutenant Tyrrell, I did request further materials, hand lettering and handwriting of Detective Kuyl.

Q Well, let me start then this way. The signatures on the reports, were they written by the same person who signed this receipt, in your expert opinion?

A The signatures on the report, yes, sir.

Q They were. I ask you then another question; the body of the report, where it was printed, was that written by the same person who signed the receipt and also signed the other reports?

A I can only answer that that is very, very strongly evident, and the answer is, yes. Okay, I wished to have blow-ups made. I had requested them, so that if I should have to come to testify, I would show you what I meant. To talk to you is not the same. You know, they say a picture

is worth a thousand words.

Q And I might say in fairness to you that you did tell this Committee through our staff that you would much prefer to have the blow-ups and so forth.

A Oh, yes.

Q And we asked you to come anyway because we did want to get your opinion as to how you could compare printing with writing, today, anyway, and if necessary, we could have you back again, but we did want to at least get some basis---

A Well, the original question was whether the signature is the same person. The answer is yes, in my opinion, very definitely. There were certain aspects - and I don't have them in front of me. I can't even talk about it intelligently - of the printed notations that resembled certain parts of the known signatures of Detective Kuyl. That is all I can say until I see everything in front of me; I can't even say that it was "a" or "z". I will need the rest of it.

First of all, I will need the original.

CAPTAIN TYRRELL: I have the original.

MRS. MARTIN: And then if I may, I would like to also have the original documents that I had compared against.

SENATOR RUSSO: Do you have those handy, Captain?

CAPTIAN TYRRELL: They are in the possession of Sergeant Tidey.

SENATOR RUSSO: Is he here?

CAPTAIN TYRRELL: Yes, sir.

SENATOR RUSSO: Can he pass those up?

CAPTAIN TYRRELL: Yes. He also has one photograph that might be helpful to you, Mrs. Martin.

SENATOR RUSSO: You have handed us the original. And you say the Sergeant has the reports, and he is here?

CAPTAIN TYRRELL: Yes, sir.

SENATOR RUSSO: Could we have those passed up to the witness? Go ahead, Mrs. Martin.

MRS. MARTIN: If you will ask me a question, I will answer it.

BY SENATOR RUSSO:

Q Stay just for a moment with the printed matter. The Committee has raised a question as to how you are able to conclude that the same person who wrote the signatures on the reports and on this receipt is also the same person who printed the matter in the body of the document.

A What I like to do, again, normally is with blow-ups. Occasionally, I use what I call overlays, which are the acetate overlays that most school children are familiar with. You may be familiar with them as well. With the blow-ups you would blow up the document two, four, or eight times magnification and then lay over the questioned document in transparency over the known signatures. Now, I did this using pretty much strong sunlight. I have a light box in the office. You can use it yourself. You can do it yourself.

You can see, first of all, the slant of the

questioned document resembles very closely but is not the same exactly as the known signatures. Then you have the follow through, the base line, which is the line that is formed by the bottoms of all the letters, and you see how the person would normally make the connections, and in the questioned document, the connection between the capital "C" and the "h" is identical to all the connections of all the known documents. That same "h" incidentally is shown in several places, and obviously I did not list it in my letter, in my report, but in the name John and in the name, Cheet, the letter "h" is there. In addition, the letter "h" shows up in other places, in the word "which" on the fourth line down, and there are two "h's" - the first "h" is more closely resembling to the signature "h." It is basically, when we learn to write in school, you are supposed to bring the stroke down after you have made the loop and bring it directly back up, right over the original stroke and then go into the hump formation.

Mr. Charles Kuyl makes almost a "u" shaped formation in his signature. The "u" shaped formation is begun in the questioned signature. This "u" shaped formation is very evident in the printed formations on the body of the note, and this is only one point that I found. Okay, I would rather have the blow-ups to be able to discuss it with you more.

SENATOR RUSSO: Do any members of the committee have any questions?

BY SENATOR PARKER:

Q Can you determine from - and I don't know whether this is within your expertise or not, but it appears that it may be - that whether that was done with the same instrument, both the signature and the body of the receipt?

A I did not examine it for that. I would have to examine it further.

Q Can you tell from your observation here today without detail?

A It would resemble the same pen. It looks like black ball point pen in both instances, but again I would have to examine it further.

Q Is there any way that you can tell as to wthe time? Is there any radiographic or other types of tests that you can put the ball point pen through, or the paper, that would determine whether or not the printed part of the receipt is done at the same time as the signature?

A There is no known test that I know of, let's put it this way. There may be a test existing that I don't know of that can tell you this.

SENATOR RUSSO: Senator Maressa.

BY SENATOR MARESSA:

Q Can you determine whether or not there was an effort on the part of anyone to disguise his or her handwriting?

A Yes, sir.

Q Is that your opinion, that there was an effort to disguise it or imitate someone else's signature?

A There was a definite effort to disguise the writing. In the capital "K" in the name Kuyl, the known writing has a curved stroke that goes down very close to the base line, and the base line, again, being the bottom of the writing. In the questioned document, that stroke was made first, but then changed. It was made into the usual school form kind of printed "K" in order to cover the fact that the original stroke had been made, the original.

Also, in the "y" in Kuyl, the beginning of the top part of the "y" the "u" part of the "y" follows the pattern exactly in the known "y" and then is changed deliberately in the question, but the pattern is definitely there in the questioned document.

Q You have been doing this for about twenty-five years?

A Something like that.

Q Can you give us an indication as to the percentage of accuracy that a handwriting expert like yourself has?

A I am not a statistician. I have no figures at all for you.

Q Have you at any time in your career proved to be mistaken in your opinion?

A I am one of those funny people who has never been told when I was wrong. So I can't even say that I have been told that I was wrong. In other words, nobody has come back to me and said that I was wrong.

Q You have no idea of the extent of the accuracy of your opinion?

A I can only hope that it was 100%, but I don't know. I can't really answer that question.

BY SENATOR RUSSO:

Q If I wanted to really forge that signature and really worked at it, I don't necessarily mean me, but if I really worked on it and really practiced it and practiced it and worked on it, might I be able to write that signature in such a way that you would conclude it was the same person writing it?

A Probably not. You know, there is nothing absolute. But probably.

Q How about tracing?

A A tracing is easier to show than it would be if you tried to copy it and do it naturally. It is very, very difficult to do another person's handwriting. Of course, a handwriting is as individual as a fingerprint. And what you are doing when you are doing somebody else's handwriting is you are taking off your own personality and putting on that other person's personality, and your personality doesn't like it, so you are fighting against yourself to start with, so that when you are trying to work somebody else's handwriting it is very difficult.

BY SENATOR MARESSA:

Q In other words, you then believe in handwriting analysis, the kind they do on the boardwalk?

A Not like they do on the boardwalk, no way.

SENATOR RUSSO: Any other questions?

Senator Sheil.

BY SENATOR SHEIL:

Q When you say you haven't been told that you were wrong, has it been documented in court that you have been correct?

A I am terribly sorry, I don't follow you.

Q Has it been verified that you have been correct?

A Oh, yes, my clients have won cases. Of course, my clients have sometimes lost cases. But you don't know what really goes into the conclusion.

SENATOR MARESSA: I think he means a subsequent confession.

MRS. MARTIN: I had one very dramatic happening which is really like something you would see on television where I did testify that the person whose handwriting it was supposed to be it was not. The gentleman who had presented the document was placed on the stand after I was and asked, "Is this the person's signature," and the gentleman said, "No, I had somebody else write it for me." And this is very unusual. One does not get that kind of corroboration.

SENATOR RUSSO: Any other questions? Mrs. Martin, would you remain available for a while, please.

MRS. MARTIN: Yes.

SENATOR RUSSO: I think, in order to keep,

this in context, we will have Sergeant Tidey testify.

Sergeant, will you step forward, please.

R I C H A R D D A V I D T I D E Y, having been duly sworn, testified as follows:

BY SENATOR RUSSO:

Q Sergeant Tidey, do you happen to have a resume of your background with you?

A No, sir, I do not.

Q Could you then briefly give us your background and your training and experience in the particular field of handwriting analysis?

A Yes, sir. I was assigned to the State Police Laboratory on June 1, 1967, specifically to the Questioned Document Unit. This unit is responsible for the receiving of various pieces of evidence that come in from the police departments throughout the State of New Jersey relative to identifications of handwriting, printing, typewriting, paper, ink, generally anywhere there is a question about a document.

I received on the job training from June of '67 until October of 1969. In 1970, I was placed in charge of the document examination unit, and I have been in that position since that time. I have testified in every county court in the State of New Jersey. I started testifying in document matters in 1969, and I have testified approximately 250 times since 1969 relative to document examination in the various fields that I have covered.

Q Are you a member of any organization dealing with handwriting analysis of the type that we just referred to with Mrs. Martin?

A Not specifically with one dealing strictly with handwriting, but I am a member of the New Jersey State Identification Association and also the International Association which is comprised of not only documents examiners but other people involved in the field of examination and identification.

Q Now, you also made an examination of these same documents that Mrs. Martin testified about; is that right?

A Yes, sir, I did.

Q And did you come to a conclusion as to whether or not the signature "Charles Kuyl" was written by the same person who wrote the signature "Charles Kuyl" on the known documents, the State Police reports?

A Yes, sir.

Q What was your conclusion?

A It was my conclusion that the person who prepared the known writings of Charles Kuyl - and at that time I had a total of 14 signatures - did not prepare the questioned Charles Kuyl signature on the questioned receipt.

Q And why did you conclude that?

A This is based on the fact that in order to make an identification you must have present significant points

of similarity that exist between the known and the questioned writing. And in this particular case, while there is some basic similarity - I feel this is very limited - the dissimilarities totally outweigh the similarities.

Q So am I correct, you do not only conclude that the same person did not write both, but you in fact specifically reach a conclusion that the same person did not write both.

A That is correct, sir.

Q And with regard to the body of the letter, what conclusion did you come to in that regard, the body of the receipt?

A In regards to the body, I had additional specimens that were submitted for comparison which I had with me today, which include not only signatures but known printings and other handwriting of Charles Kuyl to use for the comparison. And based on the comparisons and the printings I found, again, as with the signature, the dissimilarities totally outnumber any of the similarities that are present, and based on my experience and many thousands of cases that I have worked on, it is my opinion that Charles Kuyl did not prepare any portion of the writing on that questioned document, whether it is the date, the body, or the signature.

Q Sergeant let me ask you a question that would totally be disallowed in court, but we have a little wider

latitude here. You just heard Mrs. Martin who read her credentials, and I assume you even know her, and know of her---

A Yes, sir, I do.

Q She has training and experience in the field, as you do. And she has testified, quite emphatically, that it is the same person who wrote both the signature and the body - it is the same person on the receipt as the person who wrote the report. In other words, she is very specific and very clear and unquestionably in her mind, it is the same person who wrote all of this, Charles Kuyl, okay, and you have come forward and have said the same person didn't do it. Can you help us and explain how we can in our mind resolve that difference? Is there-- Perhaps I should have asked her the same question, and I may afterwards, but how do we, knowing nothing about handwriting, resolve this difference between two experts in the field?

A All right, let's deal strictly with the signature to start off with. With the signature we have the cursive style of writing and then the signature, Charles Kuyl. So that we have in the known writing Charles Kuyl and in the questioned writing Charles Kuyl, what we have to do is to follow the entire writing line that is used to produce both the known and the questioned, wherever the pen starts, wherever it starts, wherever it hesitates, wherever it lifts off the paper, this must be noted.

And we are looking for the same things in the known writing. In this particular case, there are so many dissimilarities, not only to the size, but to the letter forms, that in my opinion there are no points of similarity present there whatsoever. In order to make an identification you must have similarities present. You must also realize that a human being is not a machine, and every time you produce a writing there is going to be a variation, and this is a natural variation that occurs in everyone's writing, and this occurs in the known writings that were presented of Charles Kuyl.

But no where in these variations do we have anything that in my opinion can be related to the questioned signature. I have a photograph here which shows the fourteen signatures - the fourteen known, I'm sorry - and the single ' questioned signature, then if you wish, I could point out, going through all of the letters, the many differences that are present between them.

Q You see, my question is a little broader than that. I understand that these are your bases for coming to a conclusion, but the thing that puzzled me, and I am sure my colleagues, is here she, Mrs. Martin who has many, many years in the field - as you do - and we have to assume that both of you are well qualified, she says that there are almost no dissimilarities. There are so many similarities that it is the same person. And then five minutes later another well qualified person says, all you have to do is look at it, and there are no

similarities. Can you understand our quandary? Can you help us to resolve it? Is there any explanation?

A The only thing I agree with, as far as Mrs. Martin is concerned, is that if we had photographic enlargements and charts, it would be very easy to point out what I feel are dissimilarities, and what she probably feels are similarities. This is the way I really think it should be done, so everyone can observe the entire writing line. Unfortunately because of the time problem neither one of us had the opportunity to do that, but certainly if you wish this to be done, it could be done at a later time, and we can go into more detail.

Q Basically what you are saying is that if you both have these large charts we might - one of you then might agree with the other?

A I don't know whether she is going to agree with me, but in my opinion, none of those writings were done by Mr. Kuyl. And this would also include the printing. I just discussed the signatures and in order to make an accurate comparison, you must compare handwriting with handwriting, and hand printing with hand printing because of the different ways that they are prepared. And in my opinion, there is no way that someone could look at Charles A. Kuyl's signature in a cursive style looking at just the last letter "l" and then go to the printed letter "l" on the questioned document and see any points of similarity at all. It is totally different. There is

no way that a comparison can be made with that. It wasn't until I had access to valid printings of Mr. Kuyl that I could make these letter to letter comparisons, find the numerous differences, and in my opinion be able to state that it was not prepared by him.

Q Printings you have for Mr. Kuyl were made when?

A We have several years in a time span. He was requested, as far as I know, to prepare the text of the questioned document in both a printed form and a cursive form. Also submitted were other miscellaneous documents, one was on an envelope---

Q I would like to get the dates when he prepared those printings that you used for comparison. How long ago?

SENATOR RUSSO: While you are doing that, I might ask the Captain, Mrs. Martin says she asked for samples of printing, but never got them.

CAPTAIN TYRRELL: Yes, if you recall the time frame was very difficult. The fact is, we were able to come up with the printing samples at about noon. I gave them to Sergeant Tidey just before noon. He didn't have much time. That is when we got them. That is yesterday. And we will give Mrs. Martin everything that she requests. As a matter of fact, we will provide the hall for her use.

SENATOR RUSSO: Okay. Perhaps instead of you going through all that, maybe the Captain

can tell us. Do you know when these printings were made?

CAPTAIN TYRRELL: Yes, the first one is the State Police application in 1963. As I said, Kuyl rarely prints, so we had some problem. As a matter of fact, his returns on the back of search warrants are in cursive writing. We did find a couple of printing examples in 1975, a couple of other miscellaneous dates. I personally dictated the two specimens in both cursive and printing yesterday morning. So we span that time frame.

BY SENATOR PARKER:

Q Sergeant, on the first page of your report, not only did you not conclude that it was not Charles Kuyl's signature, but you also determined that it was not the printing or signature of James Jellicks.

A Yes, sir.

Q Then this question comes to mind, who did prepare it? I know you, as a handwriting expert, may not be able to pull that one out of the air, but maybe the Captain can answer that, because neither of those two did it, where did it come from and why in fact is it even in the file?

A To answer your first question, I have no idea who prepared it---

SENATOR RUSSO: Now, excuse me, Barry, unless I am mistaken, that wasn't in the State Police file.

CAPTAIN TYRRELL: No, we never had that.

SENATOR RUSSO: Jellicks produced that.

CAPTAIN TYRRELL: Jellicks produced that directly to this Committee very late in the game.

SENATOR RUSSO: It would have been very strange if it was in the State Police file. I think the Captain probably would have left by now. It was not in their file. Jellicks gave that to this Committee.

CAPTAIN TYRRELL: And the Committee gave it to me. We have not had it that long. I think I can respond to the Senator's question. We don't know who did it, but we do have some comments in that regard in connection with the "MO" used by Jellicks in his check frauds. The fact is, so his handwriting wouldn't be identified on the fraudulent checks, he had others write for him.

SENATOR PARKER: Let me ask one further question, and maybe this should be directed to Sergeant Kuyl. Is the list accurate, as to the items that were turned over?

SENATOR RUSSO: Sergeant Kuyl, I think you testified last time about this.

SERGEANT KUYL: No, sir. The items that were confiscated on August 1 from Jimmy Jellicks, I believe, consisted of five books and an

assortment of viles with vitamins. There were no needles and it also mentions ammunition. There was no ammunition in the case.

SENATOR RUSSO: Thank you. Are there any further questions of this witness?

BY SENATOR HAMILTON:

Q Sergeant, you reaffirmed your opinion to Senator Parker that neither Mr. Jellicks nor Sergeant Kuyl wrote the name "Charles Kuyl" on the questioned document.

A That's correct.

Q Is your opinion equally strong with respect to both of those negative opinions?

A I'm sorry, I don't follow what you are saying.

Q Are you equally as confident that Sergeant Kuyl did not write it as you are that Jim Jellicks did not write it?

A Yes, I am, in particular with the printing because the printing of Mr. Jellicks, I had numerous pages, literally thousands of different letters to compare. I did not have a lot of writing that could be compared having Mr. Jellicks sign the name "Charles Kuyl." So in regards to the printing, I would say, I am sure that was not done by Mr. Jellicks.

In regards to the signature, because there is some overwriting involved, and because there may be some slowness within that particular signature, it may not be a normal

writing of the person responsible for that writing preparation, but again, to be able to definitely exclude, I would say that I could not do that.

Q So that your opinion that Sergeant Kuyl did not sign the questioned document is much stronger than your opinion that Mr. Jellicks did not sign it?

A That's correct.

Q Now, did you have anything at all to do with the receipt of the questioned exhibit other than receiving the request for examination?

A No, sir, I first saw a copy and then the original was provided the other day to me.

Q Other than having received the copy, you don't know anything about the preparation of the request for examination of evidence?

A The request for one?

Q Yes.

A Well, the only thing I can say on that is, that type of form must be submitted before I can accept the case in. That acts as a receipt. I assign the lab number to it. I make sure I understand what is to be done in case something is left out of the document, as far as the questioned or the known writing, or something.

Q Did you get that on January 21st of this year?

A I will have to refer to my form.

Q That is the stamped date that shows on the copy that I have.

A Yes, that was received by me on January 31, 1978, and also the laboratory number 5863 was also placed on that document by me.

Q The number at the top, 5-77-H, does that have any significance at all?

A That was on the document when I received it.

Q I only ask about it because of the brief history of the case. It starts out, "Received from confidential source." I think I am again probably asking you a question that is beyond the scope of your knowledge---

DETECTIVE MC MAHON: I made out the application, sir. The 5-77-H is the internal investigation number, and Mr. Jellicks made his initial complaint to the Superintendent of impropriety by members of the State Police, and that was the internal investigation number assigned to that case.

As for the confidentiality and the briefness on various blocks that I submitted in there as per normal, an internal investigations can keep the information as brief as possible.

SENATOR HAMILTON: I have no quarrel with the briefness, but since we all knew where it ostensibly came from, I was puzzled by the confidential source reference. Is that SOP?

DETECTIVE MC MAHON: Yes, sir, it is SOP because this is an open document. It is an internal investigation, and we don't like to have names

or places or locations of anybody until the investigation is complete. Because in internal affairs we investigate members of the organization and in order not to malign anybody unjustly we keep it as secretive as possible.

SENATOR HAMILTON: I am satisfied with that information, but I was puzzled until I had it. Let me ask Sergeant Tidey another question.

BY SENATOR HAMILTON:

Q When you look at a questioned document, you are looking for similarities and dissimilarities; is that right?

A Yes, sir.

Q Do you count them when you get finished?

A In certain cases, yes, sir.

Q Is your judgement, when you get finished with it, totally quantitative, totally qualitative or some of each?

A This would depend on the case. It depends on whether there is a possibility that a person is trying to disguise or change their writing, the possibility of some kind of a physical or mental problem, whether the person is taking drugs or alcohol, which may have affected their writing at one time, and then another writing it would not. But basically we are looking for unique, significant similarities without the presence of any unexplainable differences. And if we can establish that,

then we can make an identification. There is no set number because we can make an identification with a signature with only maybe eight or ten letters and perhaps only have eight significant points of similarity in comparison to maybe a large paragraph of writing where we have literally hundreds of different letters written over, whether it is capital or small letter or numbers.

Q I understand that you don't have to have any given number. What I am asking or at least attempting to ask is, when you get finished --- I suppose there are some letters that are neutral, that you say are neither --- or maybe there are not. Are all elements, that is, all letters, either similar or dissimilar or are some neutral?

A No, there are some that are neutral because of the writing habit. My letter "l" may look something like somebody else's letter "l" but we are not just comparing one. We are comparing everything that is available, and it is a combination of these similarities, how unique or significant they are and also, how much weight do we put on differences? Are they different because it is a totally different letter or is it a variation of a particular letter that only crops up in a person's handwriting from time to time?

Q Can you tell us, in this particular examination, how many elements of similarity and dissimilarity you counted?

A I was working on that to try to get a total number and unfortunately I cannot give you that number now.

Q Can you give us an approximate number?

A I am not done with it, but I find at least 35 points of dissimilarity present between all of the known and questioned writings and there are certain limited points of similarity. I have perhaps 3 or 4 letters that are in my opinion similar in construction and in size.

Q So that of the elements that you looked at, you are really talking about a 90/10 split of dissimilarities to similarities?

A That is correct, sir.

Q And to go back to the question I asked before, and I probably didn't let you answer, is your judgement totally quantitative, that is, when you reach a certain point - and I am sure 90/10 would satisfy - does that end it, or is there a qualitative element as well? That is, does the degree of similarity or dissimilarity weigh in the equation somewhere?

A Well, I am not completely done, so I don't know what the total number is going to be. I am sure that there will be certain letters that are similar. But dealing with the possibility that we have in everyone's writing of accidental similarities, the weight that I

put on these in comparison to the weight of the significant dissimilarities, then this is what we can do with that particular opinion.

SENATOR HAMILTON: Thank you, sir.

SENATOR RUSSO: Senator Vreeland.

BY SENATOR VREELAND:

Q Sergeant, in your opinion, up to date, and you haven't had that much time as you pointed out, do you think there was a definite effort made in this document to disguise or camouflage?

A In regards to the body of the letter itself, I do not feel that there was any attempt at disguise or change. I think this is a natural writing and we are dealing with a normal variation present within that particular writing.

In the comparison of the signature itself, in the signature "Charles Kuy1" there is an overwriting in the letter "a" in Charles. There is also a minute extra line in the ending stroke of the "s" in Charles. The capital letter "K" also has additional writings in the particular area. This is, in my opinion, something that would not be normal unless there was some specific problem with a pen or paper or something else happening. I cannot give you a specific reason as to why these particular writings happened, but because they are there, there must be some weight put to this, and because of the extra writing line, this tells me now that there is not as much

speed involved with it, because the person is going back and writing over it.

Q Then are you concluding or am I to conclude that the signature you think was a very deliberate attempt at forgery?

A Well, first of all, you have to explain what forgery is. If a person is going to just sit down and write somebody else's signature, they might not have had any access to any writing. On the other hand, if somebody wants to copy your writing - which is what most forgers do - they use one signature as a guide and sit down and practice writing that until they can get it down pretty good, and then execute it on a particular document.

Because of the differences present, I do not feel that anyone had access to Charles Kuyl's signature, and has tried to simulate that writing in any way, because in my opinion, almost anybody who is capable of writing would come much closer to the known writing of Charles Kuyl than what we have represented in the questioned document.

BY SENATOR RUSSO:

Q You are suggesting that someone other than Charles Kuyl signed that, and that he signed that without ever having seen Charles Kuyl's signature before?

A That is correct.

Q May I see the two documents, the receipt and the known---

A I have a photograph which may make it a little bit easier. In the photograph it shows 14 of the known signatures.

The single signature at the bottom is the questioned signature. And I am stating in my opinion, based on that questioned signature, there is in my opinion no attempt to copy the known writing of Charles Kuyl in preparing that. And I am basing it not only on those 14 signatures, but on the other groups of signatures written and used in the past that are very similar to that particular writing.

In other words, if someone was going to copy that, they could see that letter "c" and there is a definite loop, so that is the first thing you are going to copy. You may not be able to do it exactly, but you are going to start it in generally the same position, and then follow through to the "H" the "A" the "R", "L", "E", "S," and the same with the "Kuyl." The ending "l" in Kuyl is somewhat significant. It is a rather large loop and each one is a slight variation, and, again, anybody who wanted to copy that would be able to come a lot closer to that than the other letter "L" that we have on the questioned document.

SENATOR RUSSO: Are there any other questions of this witness? Would you stick around a few minutes, Sergeant.

Mrs. Martin, could you come back up.

RENEE C. MARTIN, previously sworn:

BY SENATOR RUSSO:

Q In fairness to you we are going to ask you the

same question that we asked the Sergeant. We have two qualified people, experts in the field of analysis. One finds almost no similarities, and the other finds almost no dissimilarities examining the same document. Can you give us any explanation that might help us?

A If I may, I don't believe I said there were almost no dissimilarities.

Q Okay.

A I think perhaps if I could pick up on the last statement that Detective Tidey made about the fact that there are fewer apparent similarities, if somebody had actually gone out and decided that they were going to copy Charles A. Kuyl, he would have done a much better job of it. I will agree with that.

However, when somebody is going to try to change their writing, they will deliberately not copy their regular writing. They will deliberately change it. There were several points that were deliberate changes. I believe I mentioned a couple of them, the "h" and the "K", also the "y" that began exactly like Detective Kuyl's writing and then in the midstream were changed.

If you will look at the reverse of the questioned document which you have in front of you, and you would use a side lighting, you would see - and I am talking about the back of the document - that the original stroke on the "K" especially the "K" is not shown by the

amendment, the correction, which changed the "K" from what is Detective Charles Kuyl's writing to another style of writing, and this followed through. On the back of that document you can see the pressures of where the emphasis was made, and the emphasis was made on the changes, to make it dissimilar to the writing.

Now, when somebody is going to write their writing, they will write in a normal pressure. If there is a correction or a change, they will add more pressure. This is one of the things that made me come to the conclusion that it was indeed his writing.

SENATOR RUSSO: Senator Vreeland.

BY SENATOR VREELAND:

Q The same question that the Sergeant answered, then, you, in your opinion, would say that the main body, the printing, was not disguised in any way.

A I don't believe so. But, again, I would have to look at other writings. You know, to be perfectly honest, I said in my letter there are similarities. I didn't say they are identical.

Q And then the signature in your opinion - how would you rate that?

A I would say that it was changed. It was a deliberately falsified signature.

SENATOR PARKER: Mr. Chairman, I wonder if we could get the police report which we had involving the Jellicks matter.

SENATOR RUSSO: The thick book you mean?

SENATOR PARKER: Yes, maybe it was in the thick book. Are they the originals there?

CAPTAIN TYRRELL: These are the originals here. It is a snap-out folder.

SENATOR PARKER: Were these the ones that we looked at?

CAPTAIN TYRRELL: These were the originals of the carbon copies you looked at.

SENATOR PARKER: Okay. Are they the same the ones that were given to Mrs. Martin, as well as to Detective Tidey?

CAPTAIN TYRRELL: Yes, sir.

SENATOR PARKER: So they are all the same. Thank you. I guess that is all we have.

Detective Kuyl, please.

CHARLES A. KUYL, previously sworn.

BY SENATOR PARKER:

Q If I recall your testimony, you indicated that in fact you gave Jellicks a receipt.

A No, sir.

Q You never given him any receipt for any material at all?

A No, sir.

Q Is it not customary State Police procedures, or just good police procedures, to always give a receipt for any evidence which is obtained?

A Sir, in the case of Jimmy Jellicks, I was working undercover at the time. I explained this in the previous testimony. I had an undercover car. I did not have any State Police paraphenalia in the car. From time to time, when I worked undercover with certain particular criminals, my car and my person have been subject to search.

Q I don't know that you answered the question.

A Well, I did not have the proper material to give a receipt. If he would have shown up at the Edison Barracks August 4, that particular day I would have given him a State Police official form to sign.

Q Now, my question is, isn't it normal police procedure, when you take evidence from someone, that you give them a receipt?

A If I would have had a State Police official receipt in my possession, I would have gladly written him out a receipt and given it to him that particular day.

Q I don't know that I have still gotten an answer to my question.

A Well, what I am trying to say, sir, is, I was working undercover at the time. I had an undercover car, and I did not have any State Police official receipts in my possession, nothing whatsoever in the particular undercover car.

Q I understand that. First of all, Jellicks knew that you were undercover. He had been working with you

for some period of time, so there was no question about whether he knew or didn't know that you were an undercover agent at that time. Is that correct?

A He knew I was an undercover agent, yes, sir.

Q And when you got back to the barracks that day, isn't it normal police procedure for you to write out a receipt or a memorandum indicating that you had received evidence in a particular case from someone?

A I so stated in my investigative report. I did not give him a receipt. Perhaps I should have given him a receipt, but I did not.

Q And that was in your report as prepared on the first?

A I don't recall. I believe I made the report out several days after the first of August.

SENATOR PARKER: May I have a copy of that report showing the items. I want to compare it with the items in the receipt.

BY SENATOR HAMILTON:

Q While we are doing that, I would like to pursue Senator Parker's line of inquiry. Conceding without question that your undercover capacity and the absence of the usual materials that you use may be a valid reason for not having given a receipt, is it standard practice, considerations of that kind aside, to give a receipt when evidence is received from any source?

A Sir, on certain occasions if I have proper material

available I would give a receipt. Other times---

Q I am asking for the usual practice, absent unusual considerations. What is the usual procedure? Do you give a receipt?

A Yes, sir.

Q That is all I want to know. Okay, thank you.

SENATOR RUSSO: I think, Senator Parker, you wanted to ask Lieutenant Simonetti a question before the next witness?

SENATOR PARKER: Yes.

RUDY SIMONETTI, previously sworn.

BY SENATOR PARKER:

Q We have the dates that you gave us, and we got down to August 8, 1975. Can you tell us when the last time was that you conferred with Jellicks?

A The last date of what year?

Q Well, the last date, period.

A Most recently maybe a month ago.

Q And, well, a month ago, can you tell us what type of conversation, or inquiry, or whatever, what transpired, and what was the basis of it, and if you can, give us the date of that?

A Well, there was no basis for it whatsoever. He just happened to locate me where I am stationed, up at the Meadowlands, and he called me up there, and it was just a general conversation that he and I had, rehashing all that is being rehashed now. That is about all.

Q That was done by phone, was it?

A Yes, sir.

Q And he called you up there?

A Yes, sir.

Q I assume that was within the last month. It was after the investigation of this had started and he was involved; is that correct?

A Yes, sir.

Q Was there any particular purpose to his call? Did he request anything of you?

A Well, either at that time, or the time before--- He didn't want to come before this Committee.

Q He did not want to come before this Committee?

A That is what he told me. I told him that at this time I had read in the paper where you people were going to subpoena him, and I said, "You have no recourse but you have to appear because you are going to be subpoenaed." He did state that he was going to take off and go up to New York State, he doesn't have to answer the subpoena. I told him, "Since you have been served in New Jersey, you are going to have to answer the subpoena. "

He then made reference about the SCI, they came to him, he didn't go to them. It was just a general conversation that he and I had.

Q And prior to that, when had you conferred with him, as best you can recall?

A Well, it is hard to say, because every now and then

he would locate me somewhere, and he would call me, and we would just have a general discussion; that is all.

Q You can't recall the dates?

A No, sir, I don't even document them anymore.

Q Well, are you still with the State Police?

A Yes, sir.

BY SENATOR HAMILTON:

Q In the last three months, how many such calls have you gotten, to the best of your recollection?

A About two or three.

Q At different places where he has tracked you down?

A Generally at the Meadowlands, because I have been at the Meadowlands for the last two or three months.

Q You didn't record those conversations, or even make a memo of them?

A No, sir. I believe one I made a--- He did make mention of Mr. Genton, telling him to go--- that Genton was going to set him up with some news T. V. telecaster on Channel Five, Metromedia, or something to that effect.

Q And of the two or three that you recall there being, where does that fit? Was that the first or the middle, or the most recent?

A No, that was, I would say, about in between.

SENATOR HAMILTON: Thank you.

SENATOR RUSSO: Thank you, Lieutenant.

We have Lieutenant Toth next.

J O H N T O T H, having been duly sworn, testified as follows:

BY SENATOR RUSSO:

Q Lieutenant, you obviously are in the middle of another quandary that we have - the many that are in this - namely the lie detector, polygraph test. And you administered a test to Jellicks in this matter in which you - and I won't have you go through all the details unless any other members of the Committee want to, they certainly may, but I worked with you for many years, and I have little doubt about your capability and your experience, and your qualifications - came to the conclusion that Mr. Jellicks was not telling the truth. On the same token, we have heard testimony that a polygraph examiner for the SCI, Bruce Best, administered one or more tests to the same man, the same general subject matter, and concluded directly opposite your findings. Polygraph examiners are no different than handwriting analysts. He concluded that the witness was telling the truth.

We have all seen newspaper accounts of a further polygraph examiner, hired by the Asbury Park Press, giving a test to the same man on the the same general subject, and he concluded contrary to you and similarly to Best that the man was telling the truth.

A John J. Valenza.

Q Are you familiar with both of these men?

A Yes, sir.

Q And I gather both of them are trained polygraph operators?

A No, sir.

Q They are not. Okay, we will come back to that. Then there was also a voice stress test given by someone, who concluded again that the man was telling the truth. I guess really we can start with your comment. You corrected my assumption that all of you were qualified examiners - although I don't know the other two men - and you suggested that one or both may perhaps not be. Would you elaborate on that?

A Well, first of all, I would like to say that with the polygraph examiners, Mr. Bruce Best of the SCI is a trained polygraph examiner. He has received formal training. The other gentleman, Mr. John J. Valenza, I happen to be a charter member of the American Polygraph Association which sort of governs and guides the ethics and the rules and regulations for polygraph examiners. Mr. Valenza made application to become an affiliate member with our association. An affiliate member is one who is an interested person in polygraphy, whether he be a designer of instruments or just have a general interest. You can then become an affiliate member. This is what Mr. Valenza is.

I do know that he received on-the-job training from a department store security firm. That is why he is not--- He has never received any formal training in the polygraph, but he has done polygraph work. I believe that the differences in our opinion - and I will address myself strictly to Mr. Best, because he is a trained

examiner - is the fact that I don't believe that Mr. Best has had the experience with this type of person such as James Jellicks. Mr. Jellicks is a very, very unusual person. I think that I am very fortunate, or maybe unfortunate, that he is the third person that I have come across with his mental behavior - I think would be the best way to explain it.

He is the type of person who is a professional informant. And many times this type of person, when the well runs dry, will put water in it and spill it. And there is no fact to it, but when they do this, they take certain amounts of truth and they encircle it with lies, and this is what Mr. Jellicks did in this case.

Sure he was at the Freehold Racetrack, and sure he did work at the Abbatiello Farm, so those things are all fact, and he did in fact break in to the Abbatiello Farm with John Chew, but the other things that he added, I can't actually say why he did it, but I am sure there was a motive. They are not true. Again, here, I think possibly Mr. Best has not had the experience of coming across this type of person.

I know the first one that I came across, maybe you gentlemen would recall it, because the three of them are very famous. Because it seems that every time something like this comes up it sort of gets in the headlines. The first one was when Lillian Reese was indicted along with John Burkery. They were very famous people in Philadelphia, because they had an informant in Atlantic County who went

before the Atlantic County Grand Jury and gave hours and hours of testimony, drew diagrams in the Grand Jury, and passed polygraph examinations - and in Mr. Parker's county, I was called later to conduct examinations upon Mr. Russell.

Q Mr. Russell?

A Robert Russell. I found him to have the same condition as Mr. Jellicks. Not being a psychologist, I can only say that he possesses all the traits of a pathological liar. But I think too many people--- My definition of a pathological liar is not the one that many people say, a person who keeps lying and believes that he is lying. In my opinion, a true pathological liar is a person who will lie even though the truth would benefit him more, and this is the case in all these types of people, and this is what I find.

Here we found that Russell took several facts that were true and then put the players in there, when in fact none of it was true, none of his story was true.

The second one that I had, again, is the same type of person, professional informer, his name was John Florio. We all remember Martin Hess, the federal informant that was blown up in Cherry Hill. Here they indicted 11 people as a result of his testimony. In this case also, this subject was an informant for many, many police agencies, and he too passed certain polygraph

examinations. I happened to be called in by the U. S. Attorney in Philadelphia to conduct examinations to verify this, and it started with one point, and I ended up running test after test after test, and we finally found out that his entire story was a fabrication and that all these cases were slowly nul-crossed, all 11, because there was nothing there.

The James Jellicks case, I feel, is the same. It is my opinion, and I feel very strong about my opinion, I am certain that he is not telling the truth.

Q Lieutenant Toth, I think, perhaps, one thing that comes to mind that I think I ought to tell the Committee about, in evaluating this particular aspect of the testimony, and you may have forgotten about this, but I may well not be unbiased, because I once took a lie detector test.

A That's right.

Q You gave it to me.

A That's right.

Q When I was a Prosecutor. I wanted to see if the thing really worked, and I think for the Committee's benefit, just to illustrate at least that one experience, for what it's worth, it wasn't dealing with something of emotional significance. It was dealing with numbers on ten cards that you gave me. You told me to pick out one and then when you asked each number you told me to answer no, and one of them would be a lie, and there was no emotional significance to it at all. It was just a test

in the Sheriff's Office in Ocean County, and I thought sure I beat you, and then you showed me the graph, and why I didn't beat you and how you knew which number it was. But I think the point, though, that is made by perhaps these hearings is that since they don't all have your experience and training that basically we have to consider the polygraph, overall, rather unreliable, because it is going to depend entirely on who the operator is. It may well be that we are prepared to accept, by way of assumption only, for this discussion, a John Toth polygraph but not someone else's. This case illustrates that point.

A I believe that is not quite true, Senator. I think one of the problems we had, especially in law enforcement, we have a very unique situation in the State Police, in that our polygraph examiners are polygraph examiners, and they do it every day, as you know. You will probably find that in most law enforcement agencies, polygraph examiners conduct tests one day, and the next day they serve warrants and then they are investigating a B & E and then they come back and run another polygraph test.

Q Let me interrupt you by making another illustration that I think makes my point, if I may. I can recall a homicide, where the call went to you to try to get you to run that test, but you were away, and it was a State Police examiner that did come, and I won't mention a name,

who came to a very definite conclusion that this was the man. And it became clear beyond any doubt that it wasn't the man. So we are not just talking about somebody who is--- I am talking here about another trained operator not with your experience or abilities, perhaps, but in the same field and with the same organization.

A Well, again, here I hate to go into that, but I don't think we can abolish the medical profession, and I am sure many doctors are trained, and I know quite a few doctors that I would not go to for certain things. And I also believe there are many attorneys I would not go to for certain things.

Q You don't mean anyone up here.

A Absolutely not. But I don't think that we are going to do away with either one of those professions. I think the polygraph field is valid. The polygraph test is valid, but I do feel that it is still in its infancy, and that I do have to agree that you must weigh very heavily the qualifications and number one, and most important, the experience. Because that is the big thing.

Q It is really at the present stage of development, now --- Am I correct, Lieutenant, it is merely an investigative tool?

A That is its greatest value. It is an investigative tool.

SENATOR RUSSO: Okay, thank you. Does anyone have anything further?

BY SENATOR PARKER:

Q Lieutenant, it is my understanding that a pathological liar can fool the examiner and the polygraph?

A You never fool the polygraph. Let's start with that. A pathological liar can sometimes fool a polygraph examiner. You have to be very careful. This too is very sad, but I think in our profession in law enforcement, we like to take shortcuts, and we like to do things fast, and that is something you can't do with a polygraph examination. You must take your time. Many times before you even strap the instrument on the subject, the pre-test interview could last anywhere from --- All of mine last at least forty-five minutes, and sometimes as much as three or four hours. There is an awful lot that goes into it, Senator.

Q But the question that--- It has been my understanding that a pathological liar is one who lies either voluntarily or involuntarily and it would not show on "either the polygraph or the examiner."

A Well, I could give you an example of what I did with Robert Russell. You would be very familiar. You remember the Egner murder---

Q Do I.

A Okay, well, I had Robert Russell tell me that he was involved in that, and I had everyone of these pathological liars tell me that they were involved in something that I knew for a fact that they were not

involved in. There is a lot more to the polygraph than just turning on the instrument and running the test. That is why I always feel that the true definition is that he is a person who will lie even though the truth would benefit him more.

Also, with the pathological liar, or the person who possesses those traits, you would find that they would be clinging to one person many times; they like them.

Q Like Simonetti?

A Yes.

Q They rely on them?

A Yes, they lean towards one person many times. You will find that with everyone. We had that with Robert Russell. He leaned towards a man who was running for the Senate. He was in the Atlantic County Prosecutor's Office. It is not that that person is doing anything at all wrong. It is just that they become attached, and you will find that in their works.

Q But in your experience with these pathological liars, is it true or not true that they can fool one or more examiners and or machine?

A Absolutely.

Q Is it possible that you were fooled in this particular case?

A No, sir.

SENATOR RUSSO: Senator Maressa.

BY SENATOR MARESSA:

Q Two short questions. Is a voice stress test more accurate than the polygraph?

A Well, we in the polygraph field do not rely or believe in the voice stress test alone. I have cases documented. In fact, I had one. I don't know if I brought it with me. We just had one recently. Any time you are measuring any type of physiological change, when you take one, it is rare that you can come up consistently with an accurate interpretation.

With the voice stress you are dealing with one thing, the voice box, its stress, changing of the frequency and nothing more. Now, you are going back to Senator Parker and his question about the pathological liar. Sometimes --- I can give a good example here. We had a demonstration given to us at headquarters on the voice stress. Being a polygraph examiner, they tried to give us a demonstration, six of us. We didn't stress on anything, on known lies. So, that alone by itself is of no value, and a person of this type, like Mr. Jellicks, I would say, it would be useless.

Q Just one more question. If the two other examiners deliberately arrived at a conclusion, for whatever reason, just arrived at a conclusion opposite to yours, if for no other reason, and were to submit to a polygraph given by you, could you determine that? In other words, it is

the old idea of giving the examiner a test.

A In other words, could I tell if they fabricated the results of a test?

Q I think it is getting fashionable today, and I have heard many, many times, they will say, yes, I will have my client submit to a lie detector test, or even an individual without an attorney, but he also includes in that agreement that the examiner will be given a test by a polygrapher of the choice of the individual being examined.

So in this particular incidence, if we have gotten this Mr. Valenza, and he would agree to a test being given to him by you, could you determine if in fact he did - and I am not saying that he did - there was any deliberate attempt on his part to conclude something that really wasn't in the graph or anything else? Could you determine that?

A Well, first of all, I don't think that he did that. At least I don't believe so, and I should certainly hope that he isn't, being a businessman. I have really never done anything like that, and I certainly wouldn't subscribe to anything like that. I just believe that---

First of all, I believe - and I don't want to throw out any disparaging remarks towards Mr. Valenza, because I have never met him. I don't know him. I only spoke to the people in New York who do know him. I don't believe he has any experience and certainly he is not a trained examiner. Mr. Best, I believe it is just a case of him ---

Personally, he didn't have the entire case available to him. I don't believe he had all the case facts before he ran a test, and secondly, I just don't think he has that much experience.

I would like to also comment that the examiner prior to Mr. Best who worked with the SCI constantly consulted with me, on all examinations, or I should say on many, many examinations, because he had problems.

SENATOR MAPESSA: Thank you.

SENATOR RUSSO: Senator Hamilton.

BY SENATOR HAMILTON:

Q Lieutenant Toth, what was the date of the test that you gave to Mr. Jellicks?

A March 3, 1977.

Q When did you first meet him?

A March 3, 1977.

Q In what form did you receive information about Mr. Jellicks other than the information you received from him on March 3?

A I was totally briefed by Detective Mc Mahon.

Q Orally or in writing?

A Both.

Q Do you remember what it was that you saw that was in writing?

A Oh, many, many reports.

Q Was Mr. Jellicks characterized by Sergeant Mc Mahon to you in any fashion?

A No, sir.

Q What kind of reports did you see?

A Well, they were regular State Police reports outlining the investigation, what they had done, who they had interviewed, when Mr. Jellicks made certain statements, where they went, the facts that they received and so forth.

Q So that you were aware of a controversy as to what was a true version as between Mr. Jellicks and what Sergeant Kuyl and other officers of the State Police said about the same set of facts?

A Many of them.

Q And are they a part of the file you have before you now?

A No, sir.

Q They are materials that you reviewed and gave back to Sergeant Mc Mahon.

A I just saw them on March 3 -- before March 3.

Q Do you know whether any of that similar kind of information was made available to Mr. Valenza or Mr. Best?

A I have no knowledge.

SENATOR HAMILTON: Thank you.

BY SENATOR PARKER:

Q Just one thing further, Lieutenant. Did you take any polygraph examinations of any of the police officers involved in this?

A In this case, no, sir.

SENATOR PARKER: Thank you.

SENATOR RUSSO: Senator Sheil.

BY SENATOR SHEIL:

Q Two quick points. In your opinion, if someone is lying - I have heard reports that if they take some kind of a drug or tranquilizer they could pass the test---

A That is a cop out for inexperienced examiners. There is nothing you can take. If you take an excessive amount of anything a good examiner can spot that on any test. It will affect it, there is no question about it, but you are not going to beat any examiner like that.

Q Now, conversely, do you recall a case a few years ago when Mayor Rizzo of Philadelphia took the polygraph? I think most people might have thought that he was telling the truth, or he wouldn't have asked for the lie detector test. Of course, as you recall, he failed the test. Conversely, is it your opinion that somebody telling the truth can actually fail the test?

A I would like to answer that by saying I have conducted many examinations that some examiners in Philadelphia have conducted, and I am also very familiar with Warren Holmes, the one who gave the test to Mayor Rizzo, and he is unquestionably a true expert in the field.

Q Are you saying then that it is ever possible? I don't think you answered my question. You told me about some expert. Now, do you think it is possible that someone who is telling the truth sometimes could fail the test?

A Are you asking me if someone takes the examination

to determine if they are telling the truth, and that the examiner will say that he is lying?

Q Yes, it may show up that way, but he may be telling the truth.

A Well, let me say this to begin with, I probably haven't made myself clear as far as just what the polygraph is, and the Lieutenant mentioned this, so that I would explain this, if I haven't.

Let's look at the word "polygraph." It is a Greek word. "Poly" means many, and "graph" means writings. It means many writings. That is all this inanimate object is. It is a medical instrument. That is what it was originally made for. It records physiological changes. It records changes in the blood pressure, the pulse rate, breathing, and what we call the galvanic graph which records the electro-dermal response, sweat gland activity.

Now, this is all that the instrument does. But it operates almost like a computer. It is the questions that you ask of the subject. You ask a question, and it goes in the ear, back in the central nervous system, and now the para-sympathetic or the sympathetic system takes over. One slows you down and the other speeds you up, and now everything in your body begins to work. You print a picture. You write these things on a chart. It is the same thing as an X-ray, and the same thing as an electrocardiogram. Now you must have a trained, experienced person read it. I think all of us have gone

and had X-rays taken. You have had doctors read them, and you have had one doctor say one thing and another doctor say another thing. But I have had that experience, and whenever I have an X-ray taken, I am going to make sure there is somebody there that I have full faith in, and I think that answers the question that Senator Russo asked.

Yes, it is very important. The examiner is 95% of the examination. That particular piece of metal that you have in front of you to record is only 5% of the test. So there is a lot more than just the person reacting to something. It is what the examiner sees.

Q There are other factors, and like you say, for example, if you had an attractive woman giving the test, some fellow may be affected by that. (Laughter.)

A We do that to a recruit class. We put pictures of an accident in front of them, from Playboy, and we see the reaction.

SENATOR RUSSO: I think that covers Lieutenant Toth. Thank you very much, Lieutenant. We have a couple of brief witnesses, hopefully, and we can wrap up the State Police aspect of this matter.

Lieutenant Decker.

W A L T E R D E C K E R, having been duly sworn testified as follows:

BY SENATOR RUSSO:

Q Lieutenant Decker, the only problem is, it has

been so long since I reviewed your participation in this matter that I have forgotten now what part you played in this. Would you tell us what part you played in the Jellicks matter?

A Yes, sir. Back in 1968 I received a letter that had been written by James Jellicks which had come to the Attorney General's Office via channels to my office which was at Hightstown at the time in the Organized Crime section. I personally went to the Bordentown Reformatory and spoke to Jellicks.

I got into a very elaborate discussion concerning specific places that he had concerning gambling information.

Q That is the same occasion that Lieutenant Simonetti referred to; is that right?

A I went initially. Not with Lieutenant Simonetti. I did not take any notes because it was very general, the conversation, and plus the fact that Jellicks asked me not to take any notes because of the situation that inmates were passing all the time and he didn't want someone seeing that I was writing notes and figuring he was talking to the police in that respect.

The next time I had occasion to meet Jellicks was at the Middlesex County Workhouse.

Q When was that?

A Later on in the year of 1968. He was there pending a few cases that he had against him in Edison Township concerning some worthless checks charges. Through me and the Middlesex County Prosecutor's Office, the charges

against him in Edison, he wound up paying a fine and he walked, and he was on the street and he was going to be used by the State Police as an informant. He was turned over to, more or less, Lieutenant Simonetti of the north region.

The next occasion I had to see James Jellicks was in 1971; it would be January, involving a hijack case where he supplied information to us where my unit recovered over \$100,000 worth of televisions that were hijacked out of a warehouse in Kearny. And from that date that I saw him in 1971, I have never seen him since to this day. I did receive a telephone call from Captain King on June 18, 1975, in regards to Jimmy Jellicks giving information to Lieutenant Simonetti regarding his knowledge of some hijacked T. V. sets where a particular individual by the name of Charlie knew where they were stashed. I was given a telephone number to call. I called this number, and it was in Barnegat, New Jersey. I spoke to James Jellicks, and he stated that he did have information on some stolen T. V.'s and he would be willing to cooperate and get one of my men in contact with this individual and we possibly could recover a stolen hijacked load.

In my conversation with him, he did mention that he had a number of problems while he was under the Federal program. He delved into a little information concerning an incident that happened in Pittsburgh where there was some kind of shoot out with marshals and himself, and somebody tried to kill him.

And I also related to him that I had read an account in the paper in 1974 about him that he was making charges against the federal relocation program, that they were not paying him and he was very upset about the matter.

I advised him that I would have Detective Kuyl from my unit call him the following day. That would be June 19th, which Detective Kuyl did call him and make arrangements for a meeting with Jellicks to be introduced to the subject known as Charlie.

A number of days after that, I can't recall the exact day, I supplied Detective Kuyl with some monies to make a buy. I believe the amount was \$250, and Detective Kuyl was going to meet the individual and get a T. V. set. The reason why we were going to buy this T. V. set was so we could get some serial numbers off the T. V. set to ascertain where this particular load came from and then we would have dealt further and made an arrest on this particular individual that was going to sell us a set. Well, as the Committee knows by now, we got taken for \$250. It was a sweet job.

The next time was I think on June 30th, I myself was involved in a stake out down at the C. B. Diner in Toms River. We were going to attempt to get the load in and it never came. And then for sure we knew we were taken for the \$250.

During the month of July, I had gone on vacation the week of July 14th, and I also had gone on vacation the week of the 25th of July and returned on August 4th. On

August 4th I returned to my office which was now located in Edison, New Jersey, and upon entering my office I observed a brown box lying on the floor and there were some record books and in looking at it, it looked like boxes of vitamins. Detective Kuyl then advised me of the circumstances involved in this recovery, that Jellicks had given him this box and he had kept it at his house over the weekend and had just brought it into the office a few moments before my arrival. He told me that Jellicks had admitted to him that he committed the B & E at the Abbatiello Farm, and I recall that I said, "He is an informant but we are not going to condone anybody committing a crime like this." I sent him out with the drugs and the books over to the Colts Neck station, due to the fact that Colts Neck station investigated the breaking and entering. The purpose for that was to have the Detective in charge of Colts Neck show the particular articles to Mr. Abbatiello to ascertain definitely if this was part of the proceeds of the breaking and entering.

Subsequently, I understand that Mr. Abbatiello was not available the following day. It would be August the fifth, and on August the sixth he did identify these particular items as being stolen from his farm, and therefore the Detective signed a complaint against Jellicks for breaking and entering, and in the meantime Detective Kuyl continued his investigation on the recovery of the 30-06 that had been given to him

by Jellicks, he ascertained where the crime was committed, in Union Township, and on the sixth day he also signed a complaint for possession of stolen property and, I believe, there was a driver's license charge also for being stolen.

Q Does that bring it up to date?

A Yes, sir.

SENATOR RUSSO: Thank you, Lieutenant. Are there any questions from anyone else? It is either very late, or you are getting off very easy.

LIEUTENANT DECKER: I would just like to make one other statement, Senator Russo. Detective Kuyl works for me, and in the ten years that I have been in supervision, he is one of the best detectives I ever had under my command, and through his efforts, the reports reveal that he arrested Chew for the big conspiracy involving the checks, and also through his effort Jellicks was arrested.

SENATOR RUSSO: Thank you very much, Lieutenant.

Captain, does Sergeant Castellano have any new information to add or is it just general---

CAPTAIN TYRRELL: He is here at the Committee's request to confirm that he issued the

instruction to Kuyl not to arrest Jellicks.

SENATOR RUSSO: Oh, yes, okay. We better have him briefly, Sergeant.

RAYMOND CASTELLANO, having been duly sworn, testified as follows:

BY SENATOR RUSSO:

Q Sergeant Castellano, as I recall, I think the reason we wanted to hear from you is, there was some concern on the part of the Committee when Sergeant Kuyl testified at a previous hearing as to why an arrest of Jellicks was not made when Sergeant Kuyl first found him with the goods, you might say. And he had indicated he had instructions, as I recall, from his superior not to make an arrest, and I gather you are the superior.

A Yes.

Q Can you tell us your recollection of that event?

A Well, I had received on that day information that Jellicks may have been working in an informant capacity. That was one reason. Secondly, we had not properly identified him, and the proceeds that were allegedly taken from the Abbatiello Farm. I instructed Detective Kuyl to confiscate the alleged stolen property and advise Jellicks to be at the Edison Station on that following Monday morning, and for Kuyl to bring that evidence to the Edison Station.

Q And then at some later point did you make an instruction to arrest him?

A Yes, sir.

Q When was that?

A This was after the proceeds were properly identified.

Q And following the identification of the proceeds then he was instructed to make the arrest?

A Well, that was done by the Colts Neck station detectives.

SENATOR RUSSO: Okay, any question? If not, thank you very much, Sergeant.

I think we had Lieutenant Smith, and I believe then that is the last witness that we will get to today. I believe that concludes the State Police witnesses.

G E O R G E E D W A R D S M I T H, having been duly sworn, testified as follows:

BY SENATOR RUSSO:

Q Lieutenant Smith, would you tell us of your involvement in the Jellicks matter?

A Actually no involvement at all, Senators.

Q Good.

A I am a little surprised I wasn't called before this body, but I asked permission to come before you today to get a few things straightened out. As you know, my name has been bantered about in the paper by Mr. Jellicks since probably January 4th or somewhere about then.

Actually, in all my life I have only met Mr. Jellicks on three different occasions that I can recall. In the year 1975 I was a Lieutenant in the New Jersey State Police

as I am now in charge of the racetrack unit. At that time I had my main office at the Monmouth Park Racetrack. I had two detectives stationed at that time, I believe, at the Freehold Raceway, which was operating at the same time. That would be Detective Jack Hall, and Detective Harry Patterson. At times, it required me to go over to cover on days if they had two men off or if they had court cases or anything else, I would appear to take their place at Freehold.

On the first occasion I met Mr. Jellicks, I was sitting in the State Police office, and there was a knock at the door and I told him to enter, and he walked in and identified himself and asked for Detective Harry Patterson. He told me that he had been working as an informant for Harry Patterson. I told him he was off that day. And he said, "May I talk to Lieutenant Simonetti?" I told him that he was at Division Headquarters apparently, and he said, "I have that number; I can reach him if I want." And he left.

Sometime later, again in the summer of 1975, I came back to replace somebody at the Freehold Raceway, and when I entered the office, I found in the corner behind the second desk or second office a large quantity of boxes, drugs, boxes, bottles and so forth, addressed to the Five Points Farm, which is actually Anthony Abbatiello's. Curiosity got the better of me, and I went through these boxes and I found them to be nothing

else but medicines that were used around the horses, sir; nothing that we prohibited. While I was looking through these things, in walks James Jellicks again. So he said, "I see you found all the drugs." I said, "What drugs?" He said, "Well, these are the drugs that Tony Abbatiello uses to hit the horses." So I got into a little controversy with the man. I said, "No, they are not drugs that would hit the horses. They are vitamin supplements, vitamins, endomycins, and steroids, and things like that which are normally found around horses." He said, "Well, he changes the bottles and he puts these other things in." I said, "No, I disbelieve you completely." I then said, "What are you doing here?" He said, "Well, I brought them here for Harry Patterson." I said, "All right; it is perfectly all right."

He then asked where he could reach Harry, and I told him I couldn't reach him that he was off that day, or wherever he might be. He then asked for Lieutenant Simonetti. I told him that I was sorry I didn't know where he was at the time - he was possibly at Division Headquarters, and then he left.

BY SENATOR PARKER:

Q What date was that?

A Sir, the only way I can say is, I believe it was the summer of 1975.

BY SENATOR SHEIL:

Q I thought you said July.

A It might possibly be July, in that period.

BY SENATOR PARKER:

Q Before the break-in.

A I believe so, sir. I know so, in fact. Well, the third time---

Q He had these boxes before the break-in?

A I could not exactly say the exact date, sir, but I do know they were in that office, some boxes of drugs, bottles and such.

Q What happened to them?

A The next time I seen Detective Harry Patterson, I instructed him that if this was evidence, to mark it; if not, get rid of it out of the office, because I expected an inspection from Major Baum. I said, "If it is indeed any type of evidence, I want you to mark it in, or if not, destroy it and get it off the premises."

Q Did it leave the premises?

A Yes, sir.

Q Where did it go, back to Abbatiello?

A I wish I knew, sir. I have no idea. On the third occasion and the last occasion---

SENATOR RUSSO: I think maybe if you can get to the point that you want to clear up about the allegations concerning you, we would be very happy.

LIEUTENANT SMITH: I am very close to it, Senator.

SENATOR RUSSO: But as you get closer, you may wish you hadn't come up.

LIEUTENANT SMITH: No, I am not ashamed of anything, sir.

SENATOR RUSSO: I didn't mean to suggest that you would be.

LIEUTENANT SMITH: I am here to tell you the truth and you are going to get the truth.

BY SENATOR RUSSO:

Q Okay, go ahead.

A The third and last time I ever saw Mr. Jellicks, I was waiting for a John J. Maguire, who is the harness track security, ex-FBI man, to come into my office, and in walked Mr. Jellicks. At this time after going through the regular procedures of asking for Harry and for Simonetti he then said, "Look, I would like to work for you." I said, "Well, you are not going to work for me. You are working for someone else, and I would prefer not to have you work for me." He said, "I will tell you what I will do for you, if you let me work for you, I will set somebody up for you." And with that I got a little enraged and I said, "Okay, out." I said certain words, and I put him out the door.

BY SENATOR PARKER:

Q When was this? What time period?

A Just about a week or so--- I am talking about the time before, sir. It is in very close proximity to that time.

Q So it would be some time in July also.

A Right.

DETECTIVE MC MAHON: The latter part of June and the first part of July, sir.

LIEUTENANT SMITH: It would be sometime in there. I put him out quite fast, out of the office, to such an extent that the agent coming in wanted to know why I was so excited. I told him, "This man came in and he offered to set somebody up on the track, if I would let him work for me." That was the only time in my life that I ever had anything to do with Mr. Jellicks. I have never been out of that office with Mr. Jellicks. I have never been anywhere with him. I have offered to take a polygraph on that, or anything you people can think of to prove these things. I have had nothing to do with Mr. Jellicks whatsoever. I had nothing to do with the licensing of Mr. Jellicks. I never knew he was licensed, although I am in charge of that detail. He became licensed at the Freehold Raceway, and I found later on that he had been working for Tony Abbatiello, and if there was anyone that I would be looking for, I would never look for Tony Abbatiello to be a crooked race man. He is a wonderful man. He has helped me on numerous occasions in the past ten or fifteen years on the racetracks in straightening out things that should be straightened out on the

paces. But I have never met this man Jellicks other than the three occasions that I just stated to you, sir.

SENATOR RUSSO: Thank you very much, Lieutenant Smith.

SENATOR PARKER: Now, for the riddle. This is not a question of you, Lieutenant Smith, because obviously you don't know. I am wondering what happened, why these boxes and these things were in your place at the end of June and early July, and--- Number one, how did they get back to Abbatiello's house, and why did he break in and take them out again?

CAPTAIN TYRRELL: The fact is that Jellicks has been making these allegations to the Detectives that Abbatiello was hitting horses and they took it with a grain of salt because the information just didn't jibe. They said, of course, if you have proof of this, go ahead. What he did was he took the viles of medicine and vitamins, et cetera, from the track. They were in the garbage is what happened. He brought them in to this track office, and they were given to Detective-Sergeant Harry Patterson. He didn't believe him either; however, they went to the vet, confirmed that they were harmless, and they threw them away.

SENATOR PARKER: So then he broke in and took another set later on?

CAPTAIN TYRRELL: It was his job to burn the garbage, and that is where he got them.

SENATOR SHEIL: Captain, did he tell you that is where he got them, or are you just assuming that?

CAPTAIN TYRRELL: No, he told us.

SENATOR SHEIL: You believe him then. (Laughter).

CAPTAIN TYRRELL: I hesitate to say it, but we have a key nose for garbage.

SENATOR RUSSO: Lieutenant Simonetti has something to say.

LIEUTENANT SIMONETTI: Maybe I can clear up the question about these bottles. All these bottles were empty bottles. Part of Jellicks duties at the Abbatiello Farm was to burn the bottles. On June 2nd, when we interviewed Jellicks at Freehold, when I taped him on this interview, he stated on the tape that they were hitting the horses at Abbatiello's Farm. And we said to him, "What proof do you have?" He said, "Well, it is part of my duties to burn the empty drug bottles, and I have them in the car in a plastic bag." So we said, "Okay, bring them in. Let's see what you have."

He brought them in to the office, and we went over them, and we saw no drugs. We saw

vitamins and proper medication, and we kept them there, so Detective Patterson could check them out further with the veterinarian. But after we did check them out, they were thrown out. They weren't brought back to the Abbatiello Farm at all.

SENATOR RUSSO: Thank you, Lieutenant. Senator Hamilton of Lieutenant Smith.

BY SENATOR HAMILTON:

Q Lieutenant Smith, after you saw these things in the corner, and you told Sergeant Patterson to either label them or get rid of them, when did they move, and what do you know about where they went?

A Sir, I came back probably a week or two after that, and they were gone.

Q So that is not an office you were in on a daily basis?

A No, this is a satellite office. That is what it was, sir.

Q Did you ever ask Sergeant Patterson any more about it?

A No, sir, I didn't. I would also like to state that I have never - as Mr. Jellicks has stated - offered any guns or implements or anything else to him, at any time, wiretap equipment, which he has made statements about. I am jumping six and a half foot walls very easily, and not being bionic, I can't do those things.

SENATOR RUSSO: Anything further?

SENATOR CAFIERO: I have a question for Lieutenant Smith.

BY SENATOR CAFIERO:

Q Did you say that all those permits came through you or were supposed to come through you?

A What would happen is, anyone wishing to be licensed at a racetrack first must obtain a position. Upon getting a promise of position, he then makes out an application. He must place the name of the party who is hiring him on the application, and that party must place him on his list. We call this list a trainer's list. When this is completely done, he then sends it to the Racing Commission Personnel. If it says anything about a criminal arrest on the back, it is stopped right there, and it is brought to members of the racetrack unit to talk to the individual.

When there is nothing, like this, he wrote "No, No," all the way down, it is then approved by Judge Greenberg, the State Steward at Freehold.

Q So then he got the permit?

A Then he got the permit to work, sir.

Q So they accept as gospel every form that comes in if it says, "No, no, no?"

A The second thing we check on, sir, is the set of fingerprints. When a man makes out an application like this, a set of federal prints is made out and also a State print. The State print is sent to the State Bureau

of Identification. The Federal print is sent to the FBI in Washington. If there is any kickback or any criminal background, these are sent to my office, and then we evaluate them there. A lot of times they will write down no, no, no, and also we find that the man has a lengthy criminal record, and we will then recommend to the Racing Commission that their license be denied.

Q So it has come back clean?

A I never received the fingerprints, sir.

Q So you never processed the application any further than the permit; is that it?

A I never saw any prints, sir.

SENATOR CAFIERO: Thank you.

BY SENATOR HAMILTON:

Q You might have the answer to this question. Mr. Jellicks, it appears, went through the Federal Witness Relocation Program. Assuming that he had answered no, and the prints had gone through, from your understanding, would his criminal record tied to different fingerprints have emerged from either the State Police records or FBI records?

A They would have, sir.

Q In other words, the new identity doesn't cover all ties to the past, if the fingerprints are the same.

A I don't believe so, no.

Q Have you had any personal experience with that, or is that just your understanding?

A No, sir, I have had people come back---- In fact, I had one. I heard they were cut off, but I have had one down at the Garden State a few years back, a very short time ago, maybe two years ago, where a man claimed to be on the Federal Witness Program.

Q And you still had his record?

A Yes, it came back that the man was involved. But he got involved again in 1976, the same thing, up in New York State, the same gentleman.

SENATOR MARESSA: I have a question to ask Sergeant Castellano. Sergeant, you are the individual that directed Kuyl not to make the arrest.

SERGEANT CASTELLANO: Yes, sir.

SENATOR MARESSA: And you didn't make any reference to the question of a receipt. Now, maybe you can help us. It is still lingering as to why Detective Kuyl didn't give a receipt for this stuff that he had taken from Jellicks.

SERGEANT CASTELLAN: Well, as Detective Kuyl stated, he was acting in an undercover capacity. He didn't have any of that equipment with him. Jellicks could have gotten a receipt had he come to the Edison Station on that Monday morning. He failed to appear.

SENATOR MARESSA: And this is the way

it normally would be handled; is that right?
His superior would tell him to do that?

SERGEANT CASTELLANO: Well, normally, the undercover man doesn't intend to arrest his informant when he is out there working with the guy. So he didn't go out there that day with the intention of serving Jellicks with a receipt for anything. So he wouldn't have one.

SENATOR MARESSA: He wasn't going to arrest him, or he wasn't going to act in any arm's length capacity.

SERGEANT CASTELLANO: That's right.

SENATOR MARESSA: Thank you.

SENATOR RUSSO: You know, the interesting final comment on this, and this receipt thing that we talked about, and certainly to me is, we have gotten involved in a very specific issue of credibility between Sergeant Kuyl and Jellicks on the matter that, when you come right down to it, is almost insignificant, because there is nothing in that receipt that is beneficial to Jellicks, from what we have heard, and one wonders, for example, why Jellicks would forge Sergeant Kuyl's name to that receipt--- Like, it almost never really mattered. If in fact he got this stuff, if Sergeant Kuyl got it from Jellicks, and gave a

receipt, it wouldn't prove a thing, anyway. There is a difference in a couple days with the date. The receipt is dated July 31st, and Sergeant Kuyl says, "Well, I saw him two days later." That doesn't mean too much, either. I am puzzled and have been throughout - but for the fact that one of these fellows, and I have to say that because I don't know who is telling the truth, and I don't mean to inject anything, one of them is just plain lying on who wrote that, yet it doesn't seem to make much difference. If they both agreed, it still wouldn't change anything, but it just goes to credibility.

SENATOR PARKER: Well, the whole question of credibility - and I think the whole purpose of the inquiry - is to try to determine and try as representatives of the public, having some oversight over the SCI and the State Police, and the Attorney General's Office, to look into some aspects possibly for legislation, number one, and whether the SCI should be continued, number two - and wiretapping, the whole methods of the operation of the police. This is the concern to us. I think the reason we went into it in such detail is that we felt that there may have been some discrepancies in the testimony and in the chain and sequence of events that piqued our

curiosity. And I might say that as far as my recollection of this concern, most of the curiosity was piqued by your own testimony, the comments and statements that were made that we maybe didn't understand in the sequence or chain of events.

But I think we ought to make it clear, and I think the Chairman and the rest of the Committee, if I am speaking out of turn, will indicate that our main concern is the methods of operation of the State Police, the way they handle the various tools that we in the Legislature have given to them to work with - some maybe we haven't. But we are concerned mostly about the normal police procedures. As far as the SCI is concerned, I think in fact it was admitted that Genton sent Jellicks to Scott which seems to be out of the framework or extra-judicial or unusual to say the least in the investigatory process, and these are what we are trying to get at, and why we asked these questions. So maybe we did dwell a little too much in trying to get into the credibility aspect, because we are looking at your procedures exactly under a microscope.

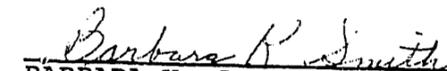
SENATOR RUSSO: Thank you. That is the end of our public hearing today.

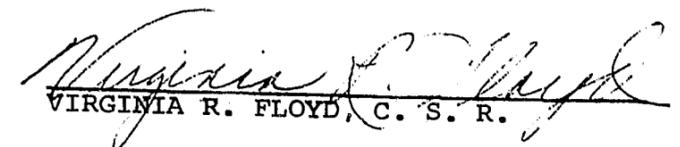
* * * *

RE: Activities of Law Enforcement Agencies

CERTIFICATION

WE, BARBARA K. SMITH and VIRGINIA R. FLOYD, DO CERTIFY that the foregoing is a true and accurate transcript of the testimony and proceedings in the above-entitled matter.


BARBARA K. SMITH, C.S.R.


VIRGINIA R. FLOYD, C. S. R.

CONTINUED

5 OF 7

Volume V

PUBLIC HEARING

before

SENATE JUDICIARY COMMITTEE

(RE: Activities of Law Enforcement Agencies)

Held:
March 20, 1978
Room 438
State House Annex
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Senator John F. Russo (Acting Chairman)
Senator Joseph A. Maressa
Senator William J. Hamilton, Jr.
Senator Walter N. Sheil
Senator Steven P. Perskie
Senator James S. Caifero

ALSO:
John J. Tumulty, Research Associate
Legislative Services Agency
Aide, Senate Judiciary Committee

* * * * *

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Michael R. Siavage Executive Director State Commission of Investigation	2
Bruce Cornell Best	80
George Sahlin	92
Richard Tidey	100

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SENATOR JOHN F. RUSSO (Chairman): We will begin the proceedings. Preliminarily, because some of the members of the Committee came on after the initial hearings began, the primary concern is the question of cooperation between the State Police and the SCI. That is what led to these hearings originally. There has been testimony given by the State Police. We have not had an opportunity to hear from the SCI; that is, we were not able to schedule them before today, so primarily we are going to go into some of the allegations that have been made thus far.

In addition to that, we will then give the State Commission of Investigation the opportunity to add any further statements concerning the subject matter of these hearings. There were requests extended to all four Commissioners of the SCI. It is my understanding that two, or perhaps three, are available--- Two are here besides Mr. Rodriguez. Who could not make it?

MR. SIAVAGE: There is one vacancy.

SENATOR RUSSO: That's right. That explains that one missing person. We will hear from Mr. Rodriguez and Mr. Siavage today, and we also have Agents Sahlin and Best. Agent Best is the agent who administered the polygraph examination. You will recall that the polygraph examination given to Mr. Jellicks by Mr. Best concluded that Mr. Jellicks was telling the truth on the same general subject matter that Lieutenant Toth concluded Mr. Jellicks was not telling

the truth. We heard from Mr. Toth at our last hearing, and we will hear from Mr. Best today.

We will begin with Chairman Rodriguez. Even though some witnesses have been sworn before, they will be re-sworn in each instance.

J O S E P H H. R O D R I G U E Z, sworn.

M I C H A E L R. S I A V A G E, sworn.

SENATOR RUSSO: Both Mr. Rodriguez and Mr. Siavage have been sworn. Mr. Rodriguez, the first matter that we have discussed at these hearings, as you know, is the question of cooperation between the two agencies, yours and the State Police. There was some suggestion that the SCI demonstrated a sensitivity with regard to a justification for its continued existence and expansion.

Has there ever been any discussion in the SCI with regard to a policy of cooperation or lack of cooperation with the State Police?

MR. RODRIGUEZ: Yes, I think we have had ongoing conversations with respect to cooperation with the State Police.

SENATOR RUSSO: Has there ever been any suggestion or discussion in the SCI with regard to any lack of cooperation with the State Police?

MR. RODRIGUEZ: The SCI has never taken the position that it would not cooperate with the State Police

or have any discussion, the conclusions which would be that there should be no cooperation.

SENATOR RUSSO: You recall the testimony, I think, of Colonel Pagano. I believe you were present when he testified.

MR. RODRIGUEZ: Yes.

SENATOR RUSSO: And you will recall, he expressed some considerable chagrin that at the time of a meeting between you and he you never mentioned having a certain report. I think it involved the Lordi matter. Can you direct some remarks to that? Tell us what your recollection of that was, and whether or not you had such a report, and if so why it wasn't mentioned to the Colonel during these discussions.

MR. RODRIGUEZ: I think what the Colonel was making reference to was a comment that I made during a meeting with the Attorney General, where we were discussing other matters, and that came up rather tangentially. I think it came about as a result of the Attorney General bringing to my attention a newspaper article, written in one of the local newspapers in South Jersey, that indicated that there was a certain lack of professionalism in the SCI. My comment to him at that time was, that was an unfair characterization, just as it would be unfair for me to suggest that there was a lack of professionalism in the Attorney General's Office for the fact that a certain report had also found its way

in the newspaper, and that was the full extent of my comment at that time.

SENATOR RUSSO: Well, you did have in your possession at the time of this discussion the particular report in question?

MR. RODRIGUEZ: I most certainly did.

SENATOR RUSSO: And is there any reason why you did not make Colonel Pagano or anyone in the State Police aware of your possession of that report?

MR. RODRIGUEZ: Yes.

SENATOR RUSSO: Why?

MR. RODRIGUEZ: Well, number one, the report was voluntarily given to me on October 20th sometime in the morning. At that time I came to Trenton---

SENATOR RUSSO: Who gave it to you?

MR. RODRIGUEZ: Well, that matter is now, as I understand, being considered by the Attorney General's Office with respect to some potential criminality.

SENATOR RUSSO: You mean in the giving of the report to you?

MR. RODRIGUEZ: Yes. I understand he has the whole matter under investigation. I could only assure you that when the facts are fully made public that at no time could it ever be considered that the SCI did anything wrong in receiving the report. It was submitted to us quite voluntarily.

SENATOR RUSSO: Well, I am not clear as to why you

feel you cannot make known to us by whom or from whom you obtained this report voluntarily or otherwise, and you say voluntarily, and we accept that.

MR. RODRIGUEZ: Sir, only because I have been advised by the Attorney General that there is an investigation, I mean, with respect to that entire matter. I would have no hesitancy, on his approval, to tell you where I have received it.

SENATOR RUSSO: Well, the Attorney General has told you that there is an investigation pending, but he has not in any way, assuming he could, instructed you you could not reveal that information, has he?

MR. RODRIGUEZ: Senator, I can only say that the atmosphere surrounding the entire matter of this so-called report would make it somewhat, say, irresponsible on my part. He has never told me not to, but I can assure you that on the slightest suggestion that it wouldn't impede his investigation, I would have no hesitation in telling you where I received it.

SENATOR RUSSO: Well, it seems as though you are making an assumption, though, first that it might impede his investigation, and you want him in effect to say it would not. I have trouble with your reluctance to answer. You are not subject to his jurisdiction, as I understand the law. And you are to ours. You are a creature of the Legislature, and it seems to me as though this Committee is entitled to that information.

SENATOR PERSKIE: How could the statement by you as to the identity of the person who gave you the report conceivably impede an investigation?

MR. RODRIGUEZ: Senator, only because each time the SCI is involved in an investigation and there are certain disclosures, we usually hear the comment that it has impeded something - usually an investigation.

SENATOR PERSKIE: How could your acknowledgement of who gave you that report impede the investigation into the circumstances of how that report came to your possession? How could it do anything other than to further the investigation?

MR. RODRIGUEZ: I really don't know the answer to that. All I know is that many times when they are in an investigation, and not knowing how they are going about their investigation, I normally receive the information that any disclosure would be impeding their investigation.

SENATOR PERSKIE: Have you received such information with regard to this?

MR. RODRIGUEZ: No direct statement that I was not to disclose it.

SENATOR RUSSO: You have indicated that your concern is that you would be criticized for impeding an investigation, that it has happened in the past because of revealing information, but if you were to reveal that information at the request and direction of this Committee,

you would certainly then no longer be subject to such criticism, would you?

MR. RODRIGUEZ: Senator, may I say this, there will be many times that I will be called upon to respond - I'm sure. Where there will be a certain amount of regret in giving an answer because I recognize that where answers are essential to this Committee, it can be viewed by some, and unfortunately, it may be viewed by some members of our society and the tax paying public, that it goes toward the weakening of confidence in agencies that I feel in today's society so critically there must be confidence. But at the direction of this Committee, I am prepared to answer any question.

SENATOR RUSSO: Including that one.

MR. RODRIGUEZ: After those preliminary statements, including that one.

SENATOR PERSKIE: All right, I move the Committee direct him to answer the question.

SENATOR RUSSO: Is there anyone on the Committee who feels we should not direct him to answer the question?

SENATOR MARESSA: I move that he be directed to answer the question by the Chair.

SENATOR PERSKIE: I second that motion.

SENATOR RUSSO: I don't know if we are proceeding properly, but this is as good a vehicle as any. Senator Maressa, you move that we do direct an answer to the question. Senator Sheil?

SENATOR SHEIL: I think he should be directed to answer the question.

SENATOR HAMILTON: Mr. Chairman, as I understand the witness, he will answer it at our request.

SENATOR RUSSO: Let's make sure the Committee is thinking unanimously on this. How do you feel?

SENATOR HAMILTON: I would like to have an answer.

SENATOR CAFIERO: Yes, agreed.

SENATOR RUSSO: So, Mr. Rodriguez, we would like to have the information.

MR. RODRIGUEZ: Senator, before I answer, may I say that I am being directed, even though it would only take a few moments to determine from the Attorney General if he would wish me to answer the question.

SENATOR RUSSO: This Committee wishes you to answer the question now.

MR. RODRIGUEZ: Senator, I received it from a member of the Judiciary Committee.

SENATOR RUSSO: Who was that?

MR. RODRIGUEZ: It came from the office of Senator Bateman.

SENATOR RUSSO: What was the date?

MR. RODRIGUEZ: I received it on October 20th.

SENATOR RUSSO: And how did you determine it was from Senator Bateman's office?

MR. RODRIGUEZ: Because it was delivered to me with the conversation that it was from Senator Bateman's office.

SENATOR RUSSO: And with whom did you have the conversation?

MR. RODRIGUEZ: The direct conversation was with one Walter Peters.

SENATOR RUSSO: Who is Walter Peters?

MR. RODRIGUEZ: He was at that time an aide to Senator Bateman.

SENATOR RUSSO: I am sorry, can you tell me once more the date on which this occurred?

MR. RODRIGUEZ: October 20, 1977.

SENATOR RUSSO: And where was it delivered?

MR. RODRIGUEZ: It was delivered to me in Cherry Hill.

SENATOR RUSSO: Where in Cherry Hill?

MR. RODRIGUEZ: As I recall, it was a restaurant. I was on my way to the Commission offices where we were going to take the testimony of Angelo Bruno at the time.

SENATOR RUSSO: And how did the meeting come about?

MR. RODRIGUEZ: I was asked if I could be present at this restaurant, whereupon there was information---

SENATOR RUSSO: Who asked you?

MR. RODRIGUEZ: Mr. Peters.

SENATOR RUSSO: Did Mr. Peters call you, or---

MR. RODRIGUEZ: Yes.

SENATOR RUSSO: He telephoned you?

MR. RODRIGUEZ: Yes.

SENATOR RUSSO: Where were you when he telephoned you?

MR. RODRIGUEZ: I was home. It was the night before. I guess it was on the 19th.

SENATOR RUSSO: And did you know Mr. Peters before that?

MR. RODRIGUEZ: Yes.

SENATOR RUSSO: You did. How did you know him?

MR. RODRIGUEZ: We went to school together.

SENATOR RUSSO: And he called you in your capacity as Chairman of the SCI?

MR. RODRIGUEZ: Yes.

SENATOR RUSSO: And what did he tell you when he called you?

MR. RODRIGUEZ: That he had information for me. He wanted me to receive it. And I told him that the earliest I could do it was Thursday morning on my way to the SCI office.

SENATOR RUSSO: Did he say what the information was?

MR. RODRIGUEZ: At the time, I think he suggested it was a report he wanted me to read.

SENATOR RUSSO: Did he say what the subject matter was or who it involved?

MR. RODRIGUEZ: As I recall, it wasn't clear as to what it was until we actually sat down and had the conversation.

SENATOR RUSSO: And then you met him in this restaurant. Was anyone else present?

MR. RODRIGUEZ: No.

SENATOR RUSSO: Just you and he?

MR. RODRIGUEZ: Yes.

SENATOR RUSSO: Tell us what the conversation was, and what took place step by step?

MR. RODRIGUEZ: The conversation essentially was one that there had come to the attention of the Senator some information which---

SENATOR RUSSO: Meaning Senator Bateman.

MR. RODRIGUEZ: Senator Bateman. In the view of some, it was information that should have been disclosed at some earlier time, and that because they were in the throes of some political activity, they wanted to put it in the hands of an agency they felt had the power and the responsibility of doing something about it, if there was in fact something that should be done.

It was delivered to me. It was specifically understood at that time, essentially through statements that I made, after I recognized what it was, that at no time would the Commission embroil itself in a political situation. I would seal it in concrete until after the election and then present it to the Commission, to see if anything legitimately would be done by them.

SENATOR RUSSO: And is that pledge the reason why you didn't reveal it to Colonel Pagano, even?

MR. RODRIGUEZ: Absolutely. As a matter of fact,

October 20th we took testimony of Angelo Bruno, and there was only one other Commissioner present. Immediately after that, I started a trial here in Mercer County that lasted approximately two weeks. The meeting with the Attorney General's Office was one where I had to leave some trial involvement in order to appear briefly in the morning, and my response was simply because of what I viewed to be an attack upon the professionalism of the SCI.

The very first meeting after the election, would be the meeting of the 10th of November, is when I disclosed it to the Commission that I had in fact received this report. It had been placed in the safe until after the election. It was agreed at that time that I should make contact with the Attorney General and advise him that I had the report, which I did. As a result of that conversation, the report was transmitted to the Attorney General, and it has been in his possession since then.

SENATOR RUSSO: Did you ever determine, or were you ever told by Mr. Peters or anyone else, how Mr. Peters or the Bateman office got this report?

MR. RODRIGUEZ: No.

SENATOR RUSSO: Did you ever ask?

MR. RODRIGUEZ: No.

SENATOR RUSSO: Was there ever any discussion with regard to Senator Bateman's awareness of the presence of this report?

MR. RODRIGUEZ: Only I was advised that it was at

his direction that I was receiving it.

SENATOR RUSSO: At Senator Bateman's direction?

MR. RODRIGUEZ: Yes.

SENATOR RUSSO: Was it your understanding from this discussion that the purpose in transmitting this report to you on October 20th was for a political purpose, involving the gubernatorial campaign?

MR. RODRIGUEZ: No, I accepted at face value that they wanted to place it in the hands of an agency that they thought was responsible enough to do something about it, if in fact there was anything to be done.

I made it very clear, and it was clear to them that it was not to be part of any political activity, because I had been struggling for four years to keep the Commission from being embroiled in politics. And this was certainly one that had all the indications that it could be danger. I said I would seal it in concrete until after the election.

SENATOR RUSSO: Was that something that you suggested? Or did they request of you that you not use it?

MR. RODRIGUEZ: It was also contained in their request, that they did not want it to be embroiled in the campaign.

SENATOR RUSSO: Is that what Mr. Peters told you?

MR. RODRIGUEZ: Yes.

SENATOR RUSSO: Did Senator Bateman ever tell you that?

MR. RODRIGUEZ: I had no conversation with Senator Bateman at that time.

SENATOR RUSSO: At any time?

MR. RODRIGUEZ: At a later time.

SENATOR RUSSO: When was that?

MR. RODRIGUEZ: I forget the exact date. It was only when I indicated to the Senator that, through the suggestion of the Commission, and the conversations with the Attorney General, that we would cooperate in what was viewed by the Attorney General's Office to be a criminal investigation.

The Commission does have the responsibility to protect sources also.

SENATOR RUSSO: I perhaps didn't follow you correctly, but you stated, or I understood you to state earlier, that they called you, Peters called you, and was turning this over to you at the meeting of October 28th with the knowledge or suggestion of Senator Bateman, and that you determined that you would not do anything with it until after the election, and then in more recent questions you suggested, or at least I got the impression that this was also the Bateman office suggestion.

Now, exactly what was discussed with regard to the report?

MR. RODRIGUEZ: The agreement that came out of the meeting---

SENATOR RUSSO: Not the result. You get a call on

the 19th that you meet Mr. Peters on the 20th at a restaurant, because he has some report. You meet with him, you and he alone. He shows you the report, I assume, right?

MR. RODRIGUEZ: Right.

SENATOR RUSSO: Now, at that point, who mentions about holding it until after the election or not holding it?

MR. RODRIGUEZ: I am sure I for one mentioned it. Now, to put it in the proper context, it was Mr. Peters' suggestion to me that the reason it was being given was because there was a certain amount of confusion, as I understood it, even within the Judiciary Committee, and that it had no place in politics. But it is something that if it was to be viewed independently should be.

We walked away from there, and I can't say that he took it from what I said, or I took it from what he said, but it was certainly the understanding of both that it was not to be embroiled in a political campaign, and that I would seal it in concrete until after the election.

SENATOR PERSKIE: Mr. Rodriguez, do you recall during approximately that time, there were some comments in the newspapers with reference to the allegations about the sufficiency of the investigation into that appointment, and questions specifically regarding Mr. Lordi and some alleged activities from the past. Do you recall that?

MR. RODRIGUEZ: I do.

SENATOR PERSKIE: Do you recall whether or not your meeting on the 20th was before or after those allegations appeared in the media?

MR. RODRIGUEZ: I am not quite certain. I think it was about the same time that there was some confusion with respect to that.

SENATOR PERSKIE: So you don't specifically recall, for example, whether at the time you received this report on the morning of the 20th you had had occasion to see any comments in the media with general reference to the same subject?

MR. RODRIGUEZ: No, I don't recall specifically. I think that would depend on when the matters were first presented to the Committee that would create the suggestion in his mind. But I am not aware of the specific chronology as of October 20th. I know there was a great deal said about that time, and it may be immediately thereafter.

SENATOR PERSKIE: Do you recall any portion of the discussion on the morning of the 20th with Mr. Peters that might have related to any media attention to this subject?

MR. RODRIGUEZ: No, the media was one thing I did not discuss with him. It was not part of our conversation, because that is the very thing I would not permit our Commission to be embroiled in.

SENATOR PERSKIE: I understand, but for example, in your discussion about what you were going to do with it, do you recall anything that would have --- For example, if theoretically the media coverage on that had been two or three days prior, you might have in the course of that kind of a conversation have said, "Well, I don't want this thing to become embroiled more, to further complicate what is already in the newspaper." You don't recall anything like that, do you?

MR. RODRIGUEZ: No, I don't.

SENATOR RUSSO: What puzzles me - and my memory might be incorrect - wasn't in fact the existence of this report, the fact that there was such a report in existence, made an issue in the campaign by the Bateman camp before the election?

MR. RODRIGUEZ: As I recall, the report was not. There were certain statements made, but I don't think---

SENATOR PERSKIE: What I think was a matter of record was the substance of it rather than the fact that the report was there.

SENATOR RUSSO: Senator Hamilton.

SENATOR HAMILTON: When you saw the substance of the report, did it come as new information to you, or was it something you already had an awareness of, of some sort?

MR. RODRIGUEZ: Is the "you" referring to me personally or the Commission?

SENATOR HAMILTON: You personally.

MR. RODRIGUEZ: No, there are many things in there that I was unaware of.

SENATOR HAMILTON: Was the general subject matter about the Lordi background investigation, was that information new to you when you looked at this report?

MR. RODRIGUEZ: Yes.

SENATOR HAMILTON: Did that tend to make you believe that it did not get into the public media up until that point in time?

MR. RODRIGUEZ: Well, when you say new, I did not know. Now, there are conversations that are out in the media, and then conversation. I don't know the legitimacy or the truth of the allegations. Now, I don't recall whether some of the statements had already been in the press. I am not aware of that. In fact, I think the first newspaper that broke that was a North Jersey newspaper to which I don't have immediate access. After discussions with the Executive Director, certain things were made more clear to me, but to me personally, no.

SENATOR HAMILTON: I think what all the members of the Committee are trying to find out is if this information came to you at a time before or after some report of it was in the media?

MR. RODRIGUEZ: I think it came immediately before, only from my sense, and one of the reasons I was directed to it was because there was a contribution to the report

by a former member of the SCI, and it was assumed that I knew the contents of that, which I did not.

SENATOR PERSKIE: You made the distinction, in response to Senator Hamilton's question, about whether you personally had any knowledge or awareness or whether the Commission did. Do you know whether or not the Commission or Mr. Siavage or anybody else associated with the Commission had access to the substance of that report prior to when you received it?

MR. RODRIGUEZ: I don't know whether this is information the Executive Director had. It would not be contained in a report. Maybe there were circumstances that the Commission might have been aware of. It is the Executive Director who I think participated in part of the four-way check. It was back in 1972, I believe, even before I got to the Commission, so there was never any personal contact between myself and the participant in the four way. Our Executive Director is very new. I don't know how much of that information he might have known independently, but there were, at that time conversations, and I can't recall exactly whether I read them or heard them, but there had been some discussions prior to that about some sensitivity with respect to information that the Judiciary Committee received.

SENATOR PERSKIE: Mr. Rodriguez, is it fair to say that a receipt by you or the Commission of what is commonly known as a four-way report incident to a nominee or an official of state government is unusual?

Do you recall having received any other such report in the past?

MR. RODRIGUEZ: We have never received a four-way independent of the normal channels of the Commission. We, of course, have access to four-ways on our own agents where we do participate with the Attorney General in reading four-way checks. They are usually of our own men.

SENATOR RUSSO: Well, the answer to that question is it is highly unusual. It is the only time it has ever happened.

MR. RODRIGUEZ: In my experience at the Commission.

SENATOR RUSSO: That is the only time it has ever happened to your knowledge before you ever got on the Commission, and in fact it is a very unusual thing for you or the Commission to receive a four-way check, because it is a highly confidential document; isn't that correct?

MR. RODRIGUEZ: As you frame it, of course, we participate a great deal with the Attorney General in the creation of four-way checks, but in this method, yes, it is the first time to my experience.

SENATOR RUSSO: And when you received this report it was a matter, was it not - I say this at the risk of characterizing your reaction - that somewhat shocked you, that someone else, let alone your agency, would have a copy of a four-way check?

MR. RODRIGUEZ: I think that is a fair characterization, although I really don't know how legitimate it would be for a member of the

Judiciary Committee to have a copy of the four-way check.

SENATOR RUSSO: Just for your information, we have never seen one, and still haven't. You are ahead of us.

SENATOR PERSKIE: And we have to vote on them.

SENATOR RUSSO: In fact, that has been a subject of discussion as to whether or not some members of the Committee felt we should be entitled to see those. I personally don't think we should. But, in any event, we have never seen one.

Are there any other questions on this subject before we get on to other areas?

SENATOR MARESSA: Yes. As a matter of fact, Commissioner, when you received this file and you saw that it contained a four-way check, one that had been made by the State Police, did you immediately contact the State Police and tell them that you had it?

MR. RODRIGUEZ: No.

SENATOR MARESSA: I don't understand that. Why not?

MR. RODRIGUEZ: Senator, I think this is where perhaps we get to where I view what my responsibilities might be as Chairman of the Commission. When information comes to us, no matter how sensitive, I think before I do anything with it on my own, I should at least have a conversation with the other Commissioners. That is exactly what we are all about, and I wanted to wait until

we had all the Commissioners present, because any action I take, and any action any of the other Commissioners take, the reputation of the other three rides with it, and this I viewed as such a sensitive matter that whatever the Commission did with it, it had to be with the full consent of the entire Commission and not something that I would decide to do on my own.

SENATOR RUSSO: But that's not why you waited. You waited, correct me if I am wrong, because you felt that a matter such as this should not be involved in a political campaign and you determined not to do anything with it, including discussing it with the other Commissioners, until after the election.

MR. RODRIGUEZ: True.

SENATOR RUSSO: Should you have made that determination unilaterally?

MR. RODRIGUEZ: Whether I should or not, I don't know, but I am willing to take the entire responsibility for having made it, because I viewed what was at stake as something critically more important than to run unilaterally or prematurely with a report, rather than wait the election and then present it to the entire Commission, which I did.

SENATOR MARESSA: I am concerned. For example, Commissioner, all the State Police people who have testified before us testified freely without Counsel, and unhaltingly and so forth - not that you are in any way not being

spontaneous - but whose decision was it that you should have Counsel when you were testifying today?

You are an attorney at law, as a matter of record; isn't that so?

MR. RODRIGUEZ: Well, Senator, I think the last time we were here, Colonel Pagano sat with a few aides, only in the event that there was a question that might more properly be answered by someone else. I don't want you to view Mr. Siavage in that respect.

SENATOR MARESSA: Well, is he or isn't he?

MR. RODRIGUEZ: No, he is here as the Executive Director of the SCI.

MR. SIAVAGE: I have been sworn, Senator.

SENATOR RUSSO: Mr. Siavage asked if we would have any objection to him being present to confer with Mr. Rodriguez, as did the State Police officials, and I advised him not so long as Mr. Siavage was also sworn.

SENATOR MARESSA: Okay. Back to my question; four-way checks are made by the State Police. They are highly confidential. We know that. Walt Peters, the Republican leader from Camden County, contacts you and says, "I have a file." You look at the file and you see it is one of the confidential reports in a very, very important position, or sensitive position, the Lordi nomination. I would seem to believe that you would take a look at it, and call up Pagano right away and say, "Hey, you know, we have one of your four-way checks here."

Or I would think you would call up Bill Hyland or somebody in the AG's Office or in the State Police. Instead of that, you say you went to the whole Committee and you advised the whole Committee you had this report. And ---

SENATOR PERSKIE: No, as I understand it, he held it until November 10th. On November 10th he discussed it with the Commission, and they instructed him to then tell the Attorney General, which he did, I believe, on the 14th.

SENATOR MARESSA: Okay. As far as I am concerned, that makes the matter even more questionable, in my mind, if you will permit me for saying that. I would like to see a cooperation. A little later on we are going to get into the TV question and the Jellicks matter. Why didn't you immediately notify - and I really don't understand this, instead of waiting all this time - the State Police that somehow their four-way check had gotten into the hands of Senator Bateman, for example?

MR. RODRIGUEZ: It all depends on how I view the mission of the SCI, and what I think my responsibility as one of four members might be with that Commission. I think when there is suggested in our mandate that we be independent that I should not unilaterally run out with any information without first clearing it with the other Commissioners.

The only delay was because I viewed that the very thing that would be damning to the Commission would be to try to surface prematurely in some campaign that would be so destructive to our mission that it would give us very

little reason or credibility to exist in the future. That was at stake, as far as I saw, and I refuse to yield our credibility when it was only a matter of a couple of weeks before election. And if there was a legitimate concern, that might be continued to be voiced by the Judiciary Committee. There might be a legitimate place for legitimate view by the SCI. I didn't want to make all those judgements at the very beginning. So I held the four-way until after the election, until I could discuss it with the other Commissioners.

SENATOR RUSSO: One last question. You received a matter or a document that was extremely sensitive. You knew it was very unusual, not only unusual but unheard of. I still am puzzled. Why didn't you contact the other Commissioners immediately for a joint determination as to what should be done? Why was it necessary to wait until November 10th? It was a matter that obviously must have seemed critically important to you, and I am not questioning your judgement in doing what you did on this, but I wonder, though, since there are four of you, why it was not a joint judgement of the four Commissioners rather than your own to wait until after the election or wait almost three weeks or more before talking to them about it?

MR. RODRIGUEZ: Well, as part of that judgement was the fact that I was actively engaged in a medical malpractice case here in Mercer County, and it took two

weeks to try. It happened to be the two weeks before the election. The jury returned on the day before the election. I was before Judge Harvey Moore at the time, and then we were to the election. So I felt that for everybody's sanity, including my own, because I was so heavily engaged, that my unilateral judgement to hold it until after the election, that waiting until November 10th, would certainly do no harm with the magnitude of what was being suggested to me at the delivery of that report.

SENATOR MARESSA: One other question, Mr. Chairman. Would you feel that by communicating the information that you had gotten, the file, to Mr. Pagano or Mr. Hyland would be tantamount to publicizing it in any way? Couldn't you talk to them in confidence? Don't you on occasion on many matters talk to them in confidence?

MR. RODRIGUEZ: Yes, usually when information is conveyed, it is conveyed as a result of an agreement reached by the Commissioners on that specific subject matter, and the conveyance is done as a result of an action taken in our minutes.

SENATOR MARESSA: In other words, you are saying that a communication of the fact that you had obtained this file, and the manner that you had obtained it in, to Mr. Hyland or Mr. Pagano would not in effect have made it public? Isn't that true? So that you could have done that?

MR. RODRIGUEZ: Well, I guess what was really going through my mind at the time, there are always so many suggestions of leaks, potentials of leaks, and sources of leaks, that this was one that was not going to leak on the SCI. So I held it.

SENATOR RUSSO: What was the date of your meeting with Colonel Pagano?

MR. RODRIGUEZ: October 27th.

SENATOR RUSSO: So that the bottom line of that issue then, it is in fact true that at the time you met with the Colonel, you had this information in your possession and you did not reveal it to him at that time; is that correct?

MR. RODRIGUEZ: Right.

SENATOR RUSSO: But the reason was, as you said, it was, in your judgement, unfair just before a political campaign to in any way let this out, so you determined you wouldn't mention it to anyone at all including him for fear that it would then become public, and you thought that would be the improper thing to happen. That is the reason why you in fact did not mention to Colonel Pagano on the 27th that you did have this information.

MR. RODRIGUEZ: Even though the Commissioners were present at that time, we still didn't have the four present, even at the meeting of the 27th.

SENATOR RUSSO: Okay. We will leave that area.

SENATOR PERSKIE: I have a question. You may have seen, from prior testimony before this Committee, that Colonel Pagano has testified that on or about June 22, 1977, you received a letter from an attorney in Atlantic City which states in part, and I quote, "...information has come to my attention that the State Commission of Investigation is presently conducting a surveillance in the cities of Margate and Longport in an attempt to embarrass the New Jersey State Police, and to show that the State Police are not on the ball and doing their job in the Atlantic City area. You can rest assured a statement made by me as above indicated has complete credibility. Their purpose would be to hold public hearings on the 25th, 26th, and 27th of July to bring out this information which I am about to relay to you."

You did in fact hold the public hearings in Trenton sometime in the neighborhood of the end of July, 1977---

MR. RODRIGUEZ: In August.

SENATOR PERSKIE: Was there in fact sometime in the period prior to June 22, 1977, an investigation undertaken by the SCI or a surveillance in the cities of Margate and Longport?

MR. RODRIGUEZ: Sometime about that time there was a surveillance by the SCI involving suspected members of organized crime in a potential purchase of a business in that area that we were surveilling.

SENATOR PERSKIE: Do you have any idea how that information, the fact of the surveillance, would have come to Mr. Mc Gahn on or about the 20th or 21st of June, 1977?

MR. RODRIGUEZ: I have never been told how he received it directly. I have my own suspicion.

SENATOR PERSKIE: Since the publication of that letter to Colonel Pagano, which is sometime ago, have you or has the Commission undertaken any inquiry to determine how that fact of that surveillance would come to be in his possession?

MR. RODRIGUEZ: We did not. It was our view that if that information were made available, as we were told it was, that there was potential criminal involvement, and we made the referral to the Attorney General's Office for further investigation.

SENATOR PERSKIE: You say you were told how that information was made available? That means you were told by somebody as to how Mc Gahn got that information?

MR. RODRIGUEZ: No, I was never told directly how he received it. I was given the information that was contained in that memorandum that you were reading.

SENATOR PERSKIE: You were given the information that Mc Gahn at that time knew of a surveillance?

MR. RODRIGUEZ: Yes, essentially.

SENATOR PERSKIE: Did you ever undertake any effort to find out how he knew?

MR. RODRIGUEZ: Well, as I say, that was referred to the Attorney General's Office.

SENATOR PERSKIE: When?

MR. RODRIGUEZ: Immediately after our being advised of that information.

SENATOR PERSKIE: When were you advised of it?

MR. RODRIGUEZ: On or about June 12th.

SENATOR PERSKIE: Ten days before that letter was received?

MR. SIAVAGE: I am sorry, that is wrong. We had a conversation with Colonel Pagano the day after we got that Mc Gahn letter, and that's when we were informed of it.

SENATOR PERSKIE: That was the first you knew that the fact of your surveillance was in his possession?

MR. RODRIGUEZ: Yes.

SENATOR PERSKIE: It is safe to say, is it not, that typically in conducting a surveillance the integrity of that process is substantially impaired when the fact of the surveillance becomes known?

MR. RODRIGUEZ: Absolutely.

SENATOR PERSKIE: Then it is fair to say, is it not, that when you received information that the fact of that surveillance was known at least to a member of the bar of Atlantic City that you considered the surveillance compromised?

MR. RODRIGUEZ: I think we viewed that if in fact

it was as well known as it was indicated to us that that surveillance would be compromised depending on the person who would find out, whether he would then disclose it to the target for the investigation. So, there is always another step that might be missing.

SENATOR PERSKIE: Other than the individual agents of the Commission, members of the Commission, and those members of the Commission's staff directly related to that surveillance, who would have had knowledge of the fact of the surveillance?

MR. RODRIGUEZ: The only people who should have had knowledge of that specific surveillance would have been the agents and the Executive Director of the Commission, and then the results of the surveillance made known to the Commission.

SENATOR PERSKIE: No, let's leave the results out of it for the moment. I am talking about the fact of the surveillance. Who would have had, in the normal course, access to that fact?

MR. RODRIGUEZ: It should have only been the agents and the Executive Director.

SENATOR PERSKIE: Not even the members of the Commission?

MR. RODRIGUEZ: I just said, or the members of the Commission, depending on the results. They may know that something is taking place, but may not know it in specific detail until the report comes back.

SENATOR PERSKIE: So it is fair to say that Mr. Mc Gahn got his information from one of the members of the Commission, the Executive Director, or one of the agents?

MR. SIAVAGE: Senator, I don't think it is fair to say that. This is an ongoing criminal investigation. It has been going on for some nine months now, and to characterize it as beginning with a certain group of people and then to say that that beginning group was the only group where by the information could have gone out is to mischaracterize it.

SENATOR PERSKIE: How would you describe it?

MR. SIAVAGE: Well, there are a number of people, and to all those people that you have just mentioned, who are interfaced with in their daily lives and in their working lives, and to say that those people are the only ones or have to be the beginning of some kind of disclosure of information is again misleading.

SENATOR PERSKIE: Is there another possibility?

MR. SIAVAGE: There are several possibilities.

SENATOR PERSKIE: Such as.

MR. SIAVAGE: A break-in to Commission headquarters.

SENATOR PERSKIE: Has there been any reported break-in in Commission headquarters in the six months prior to June 22, 1977?

MR. SIAVAGE: No, there hasn't been.

SENATOR PERSKIE: What else?

MR. SIAVAGE: People who were actually involved in the surveillance. They could get cooperation from people who were involved in the surveillance themselves. The surveillance would have been blown on the site. There could have been police officers who saw Commission agents down there, or there could have been people in that meeting ---

SENATOR PERSKIE: People, I'm sorry--- What?

MR. SIAVAGE: There could have been people at that same meeting who picked up the fact that they were being surveilled. The surveillance could have been blown at that point, and that information could have been transferred.

SENATOR PERSKIE: Mr. Siavage, in view of the fact that the Mc Gahn information, quote, unquote, included not only the fact of the surveillance but his judgement as to the purpose of the surveillance - and which judgement I don't necessarily ascribe to the organization - isn't it more than likely that that information came from somebody associated with the Commission? Would you like me to repeat the question?

MR. SIAVAGE: No, I think I understand the question. I think the motivation of all the people involved in the Mc Gahn memo, I won't decide upon at this moment, but I can see as many other reasons that this

could have been put in those terms, as you suggest. In other words, there is another way to look at it, or several other ways to look at it. I don't think it means that it automatically indicates the source of the information.

SENATOR PERSKIE: I don't think it automatically indicates the source, but doesn't it suggest that the source of the information must have been related to the Commission itself?

Let me put the question another way. Are you concerned - and really I am addressing this to both of you - about the fact that apparently your investigation in that incident was compromised? And if you are--- Well, are you?

MR. SIAVAGE: We were concerned enough to transfer it to the State Police.

SENATOR PERSKIE: Well, let me ask you this, then, have you done anything institutionally to address what apparently is a problem - apart from the reference to the State Police and the Attorney General to deal with whatever the consequences of that particular incident were, what if anything have you done to prevent a recurrence of that kind of situation?

MR. SIAVAGE: First of all, we don't know that that situation was based upon any lacking of procedures of the Commission. Other than to re-emphasize those procedures, we have done nothing.

SENATOR PERSKIE: I am sorry, I had trouble hearing you.

MR. SIAVAGE: There are certain procedures whereby our agents conduct themselves in the field and whereby surveillances are conducted, and whereby our information is maintained. Those procedures haven't been changed, because we felt that they were sufficient. By the same token, any kind of procedure like that, with the four-way check or a surveillance, can be compromised occasionally. We have done nothing but to re-emphasize those procedures.

SENATOR PERSKIE: Let me get it straight. You are really confusing me. If you have an investigation into the possibility of criminal elements being involved in some commercial way, the fact that that investigation is compromised by its being put out into a sector where theoretically it doesn't belong, and apart from referring it to the Attorney General, you have done nothing to prevent it from happening again?

MR. SIAVAGE: No, I said apart from re-emphasizing the usual procedures of the Commission, we have done nothing more.

SENATOR PERSKIE: What procedure?

MR. SIAVAGE: The procedure for maintenance of our information.

SENATOR PERSKIE: Well, isn't it clear to you

that those procedures at least as of June 22, 1977 didn't work?

MR. SIAVAGE: It is clear to me that at least on one occasion there may have been a compromising of that information. To say that it is possible to effect the situations in those procedures in such a way is to totally rule out that situation, for time in memorial, to me is impossible.

SENATOR PERSKIE: Did you ask Mr. Mc Gahn where he got the information?

MR. SIAVAGE: No, we did not.

SENATOR PERSKIE: Why not?

MR. SIAVAGE: Because we thought that the best thing to do would be to refer it to a criminal investigating agency. Because we felt that a crime may have been committed.

SENATOR PERSKIE: Is it part of your charter to maintain a professional investigative operation to bring to your attention, and consequently to ours, and to any other law enforcement agencies along the way that may be relevant, facts necessary to protect the public interest and the laws of the State?

MR. SIAVAGE: Yes.

SENATOR PERSKIE: And don't you consider that your capacity to fulfill that charter is substantially impaired by a procedure that doesn't allow you the comfort of security and the integrity of your investigative process?

MR. SIAVAGE: I am comfortable today, Senator, as well as I can be, as comfortable as any one law enforcement agency in the State can be, all of whom have from time to time had leaks of information.

SENATOR PERSKIE: You express that comfort in spite of the fact that you tell me that you don't have the faintest idea how he got that information?

MR. SIAVAGE: I don't know the results of the State Police investigation.

SENATOR PERSKIE: And therefore you don't have the faintest idea how he got the information?

MR. SIAVAGE: I have my own ideas, and they are the subject of interviews with State Police people who are investigating this.

SENATOR PERSKIE: Well, do those ideas relate to any present personnel in the Commission?

MR. SIAVAGE: Certainly not.

SENATOR PERSKIE: Was the investigation that was undertaken in the area in question in any way related to an effort to embarrass the State Police and to show that they were not on the ball and doing their job in Atlantic City?

MR. RODRIGUEZ: Never.

SENATOR PERSKIE: Do you have any reason, or do you have any concept of how that kind of a suggestion could have been made as the purpose for the investigation?

MR. RODRIGUEZ: Again, I have my suspicion as to how a statement like that would be made, and I think we

have to not forget the source of the statement. I have no question.- never has this Commission in any of its investigations or considerations attempted to embarrass the State Police.

SENATOR PERSKIE: Are you aware of the fact - and I am sure you are - that in previous testimony to this Committee that statement has been made, and there were a number of possible suggestions for a rationale. Do you recall having read that?

MR. RODRIGUEZ: I recall reading, again, as a result of what I thought was a personal conversation that I was having with a very high source in the State Police. As to what my internal thinkings were, which would be unfair to characterize them as definite conclusions---

SENATOR PERSKIE: I don't mean that.

MR. RODRIGUEZ: But I did have that discussion with Colonel Pagano, yes.

SENATOR PERSKIE: Do you recall hearing about previous testimony before this Committee with reference to an interview of two former employees or agents of the Commission who suggested the possibility of three different reasons or rationales for the generalized conclusion of the unofficial working policy of non-cooperation with the State Police?

MR. RODRIGUEZ: Yes, I heard that.

SENATOR PERSKIE: And those three reasons would have been, first, the sensitivity on behalf of the Commission regarding the justification for its existence

in general with a mind towards the fact that that charter expires next year, and secondly the failure of the Commission to link Resorts International to mob influence and, thirdly, a general dissatisfaction with the role of the Commission in the regulation and policing and investigation of the emerging casino industry; do you recall that?

MR. RODRIGUEZ: Yes.

SENATOR PERSKIE: Do you have any comment with respect to any one of those three grounds--- Well, let's take them in order. Is the Commission concerned with the general sensitivity on the part of the Commission regarding a sound justification for their continued existence and expansion. This concern may have been accentuated by the Governor's past position that perhaps the State Commission of Investigation function should be ending.

MR. RODRIGUEZ: Absolutely not. I think you have to go back a little bit into the perspective. We were asked to look into tAtlantic City by the Governor.

SENATOR PERSKIE: When?

MR. RODRIGUEZ: Shortly after the passage of the referendum, and we were doing that, and I think it is incumbent upon us to do it to the best of our ability, so we were doing it.

SENATOR PERSKIE: Okay, that brings me to the last point that I wanted to ask about, which is the second

point of this proposed rationale, the failure of the State Commission of investigation to link Resorts International to mob influence. You say you were asked by the Governor to look into the Atlantic City situation after the referendum. Now, that would be the November, 1976 referendum?

MR. RODRIGUEZ: Yes.

SENATOR PERSKIE: As opposed to the '74?

MR. RODRIGUEZ: Yes.

SENATOR PERSKIE: Did you in fact conduct any type of inquiry or investigation prior to the referendum with reference to that general area?

MR. RODRIGUEZ: Yes.

SENATOR PERSKIE: Did you in fact also conduct an inquiry with respect specifically to Resorts International?

MR. RODRIGUEZ: Yes.

SENATOR PERSKIE: And was there any discussion in the Commission--- When was that inquiry conducted?

MR. RODRIGUEZ: I believe it was around September and October. The beginning of the summer leading up to the referendum.

SENATOR PERSKIE: Was there any discussion in the Commission related to a determination to reach a specific result in that investigation prior to the election?

MR. RODRIGUEZ: No.

SENATOR PERSKIE: Was there any determination made officially or unofficially by the Commission with respect

to how that investigation would come out before it was undertaken?

MR. RODRIGUEZ: No. I think any investigation with a pre-determined idea would attack the very integrity of the investigation.

SENATOR PERSKIE: Was there any sense of concern on the Commission with reference to what is called the failure of the Commission to link Resorts International to mob influence?

MR. RODRIGUEZ: No.

SENATOR RUSSO: Mr. Rodriguez, Mr. Jellicks testified that on September 20, 1977, his statement was taken by several of your agents at your office, your law firm office, in Camden. Were you present at that time?

MR. RODRIGUEZ: Yes and no. I was present when he was first brought into the office on September 20th. When I was introduced to him, and the other two agents that were with him, being my agents, I directed them to where the coffee was, and I went about my business in preparing the trial.

SENATOR RUSSO: Mr. Jellicks testified that on that occasion you made a remark generally to this effect, not necessarily specifically, after being advised about the State Police, "It is about time that their little white castle crumbled."

MR. RODRIGUEZ: I heard that.

SENATOR RUSSO: Did you make that remark?

MR. RODRIGUEZ: Absolutely not.

SENATOR RUSSO: Or anything even resembling that one way or another, directly or indirectly?

MR. RODRIGUEZ: Nothing resembling that, because I think, you know--- Here is a matter of my credibility, I would guess. Because there is no direct way of proving it. I would be appalled at anyone's suggestion that we would do that, because the Commission is a fact-finding agency by statute and it has to complement law enforcement agencies, not by words, but complement in power. The only way that we could be effective through referrals is to agencies that are prosecutorial, and in the whole context of law enforcement, people have to have confidence in the entire structure.

I have been speaking for four years, and I say the State has systems in place that are better than any other State in the union, yet we still get the bad rap, and it may be because we continue to find, or because we are looking more aggressively than anyone else. Never would I try to damn an institution.

Now, he came back on the 21st. The 21st I was in Trenton. I happened to have a meeting with a Deputy Attorney General at the Department of Health, and again it pertained to the trial that I was about to try. I didn't return back to my office until late, and they had already concluded with Mr. Jellicks, and I had no conversation with him then.

SENATOR RUSSO: Mr. Rodriguez, are you aware of any investigations that are underway in the SCI of any legislators?

MR. RODRIGUEZ: Absolutely none.

SENATOR RUSSO: Were there any discussions about investigations of legislators, and I am referring now to the testimony of the several former agents who indicated there was talk around the office that there were in fact some investigations being undertaken - and I use the word "investigation" in a broad sense - of legislators?

MR. RODRIGUEZ: If you are referring to the agents, two of whom I fired, let me simply say that one of them was there from the inception of the Commission, and long before I was. If we had any files that he didn't know the existence of, we are only sixteen men, everyone having access to the information. If he has never seen them, I submit to you that not only do they not exist, but it is a figment of his imagination.

SENATOR RUSSO: With regard to the Marvin Scott Channel Five episode, did you know that Genton had given Mr. Jellicks Marvin Scott's name and telephone number?

MR. RODRIGUEZ: Absolutely not.

SENATOR RUSSO: When did you first learn that?

MR. RODRIGUEZ: I first learned of it shortly after this Committee was inquiring. That was when this issue first came up. It was never brought to my attention even by the agent. When I questioned him, it was much

as he testified here, he hadn't given it that much thought, as a result of what he claimed the circumstances of the investigations were, or the conversations.

But let me simply say with respect to that, again, and like I say, I have full knowledge that it is my credibility - and as an Attorney and an officer of the court under oath, I certainly know the sanctions that can be brought upon anyone for perjury, and if someone in my position representing the SCI was to perjure himself, I think this Committee should take every action against him that the law requires and allows, but also Mr. Jellicks said to you on December 9th that I confirmed that he knew the Marvin Scott situation, and when pressed for the time, he said approximately three weeks ago that I answered the 6767 number of the Commission. I think everyone present here knows that when they call that number I never answer it and I never take statements from an informant. But three weeks from December 9th placed me in Bermuda. Let's say he was mistaken by another week - it was Thanksgiving, or prior to Thanksgiving. I was not in the Commission office from the 10th of December forward, so November 10th was the last time I was at the Commission office, and that is when we discussed that other document.

So, he was pretty clear on his judgement when he was targeting people. On December 9th, I think his memory should be pretty sharp. He placed it in the time span of three weeks. I was in Bermuda, and I

represent to you that I wasn't in the Commission office from November 10, 1977 on down to our first meeting of December 1st. So, again, I say to you that it is my credibility that is on the line, but fortunately there are those circumstances that are a matter of record.

SENATOR RUSSO: Incidentally, my notes, just to complete the picture, indicate that he referred to his call and he said he spoke to you as coming on one occasion after November 2nd, and my notes do not reflect how far after, and he doesn't say - according to these notes - that you answered the phone, but rather he called and asked for Genton who was not present, and he was then connected with Rodriguez according to these notes. So, unless they do not accurately reflect the transcript, according to these notes, if they are accurate, he doesn't say you answered the phone number, but rather after asking for Genton, he was then connected with you. This is what he says, and I don't mean it is correct or incorrect.

MR. RODRIGUEZ: That is true, Senator, with respect to asking for Genton, and then that I would even pick up a call that comes in for Genton that doesn't ask for me is impossible. But the last question on the bottom of page 38 of his transcript, "This conversation with Rodriguez was about three weeks ago?" Answer, "yes."

SENATOR PERSKIE: The date of that transcript was when?

MR. RODRIGUEZ: Well, the hearing was December 9th.

SENATOR PERSKIE: That would make it somewhere around the 20th of November, allegedly, that that call was made?

MR. RODRIGUEZ: Yes, three weeks from December 9th I was in Bermuda, and I was not there---

SENATOR PERSKIE: Three weeks prior to December 9th would be the 18th of November.

MR. RODRIGUEZ: That's right, and I think that was during the time of our State Bar convention in Bermuda. But the last meeting that I was at the Commission was November 10th.

SENATOR RUSSO: I have a couple questions for Mr. Siavage while you are there, and first, Mr. Siavage, you did in fact authorize a payment of \$50 by check to Jellicks on November 1st?

MR. SIAVAGE: That's correct.

SENATOR RUSSO: Why did you authorize that payment to Jellicks?

MR. SIAVAGE: Counsel Genton came to my office as is required to explain the need for informant money at the time. He told me that what he wanted to talk to Jellicks about did not relate to the substantive matter that was eventually referred to the State Police, but instead involved organized crime information and a relationship to organized crime in Atlantic City. For that reason I authorized him to pay that money.

SENATOR RUSSO: On October 27th you referred the Jellicks matter to the Attorney General's office.

MR. SIAVAGE: That's correct.

SENATOR RUSSO: Well, Mr. Siavage, doesn't it strike you as kind of risky - or whatever - that here is somebody that is now involved with the Division of Criminal Justice and you are authorizing a payment to him?

MR. SIAVAGE: Involved with the Division of Criminal Justice in what way?

SENATOR RUSSO: The matter that you referred to them.

MR. SIAVAGE: No, my judgement on it was this, Senator, and I can recall it quite well because I think I also discussed it with the Commissioners. I told them that in my judgement as a law enforcement officer it was not simply wise to cut Mr. Jellicks off, quote, unquote. That he should be slowly severed from the Commission, and advised rather easily what we planned to do with the information which was referred back to the Attorney General. As a matter of fact, I was a bit concerned that he might react in an erratic manner when we informed him that we were referring the matter back to the people that he was complaining about.

SENATOR RUSSO: Were you aware of the Marvin Scott matter with Agent Genton?

MR. SIAVAGE: No, sir.

SENATOR RUSSO: Did you learn of it any sooner than Chairman Rodriguez did?

MR. SIAVAGE: No, sir.

SENATOR RUSSO: I gather you were totally unaware of the Lordi report being delivered by the Bateman office to Chairman Rodriguez until after November 10th?

MR. SIAVAGE: That is incorrect. I was aware of it before the other Commissioners were aware of it when Commissioner Rodriguez placed it in the safe at the Commission office.

SENATOR RUSSO: When was that?

MR. SIAVAGE: That was October 26th, on or about, 1977.

SENATOR RUSSO: He told you what he was putting in there?

MR. SIAVAGE: That's right.

SENATOR RUSSO: Did you look at it?

MR. SIAVAGE: No, I sealed it with tape, dated it, and put my initials on it, knew what the contents were, discussed it with Chairman Rodriguez for a short time and concurred in his judgement to keep it where it was until subsequent to the election.

SENATOR RUSSO: Did you report this information to the other Commissioners?

MR. SIAVAGE: No, because Chairman Rodriguez reported to me that he wanted to deal with it with all four Commissioners present, face to face.

SENATOR RUSSO: Let me ask you one broad question in regard to this. Does the Chairman have any more

authority than any Commissioner in the operation of the SCI?

MR. SIAVAGE: In my judgement he does not. Certainly statutorially he does not. Practically speaking, however, what happens often is that the public perceives the Chairman to be the leader of the Commission and therefore the lightning rod for information such as this, and other information, so that he usually receives most of the information that comes to the Commission through the Commissioners themselves.

SENATOR RUSSO: Are there any other questions of either Mr. Siavage or Mr. Rodriguez, at this time, although if we do terminate the questioning at this time, it will be with the understanding they will remain.

SENATOR HAMILTON: I just have one. Mr. Chairman, do your present rules and regulations or procedures establish any guidelines or any limits for an agent or attorney of the Commission to contact the media with respect to official business?

MR. RODRIGUEZ: Yes, sir, I think it is the clear policy of our Commission that the agents are not to be intermediaries with the media in any form whatsoever, and that any pronouncement from the Commission should emanate from the Commission itself after the consent of the other Commissioners.

SENATOR HAMILTON: Is that a policy or procedure that is written down?

MR. RODRIGUEZ: I have never read it because I don't read all the policies that are there. I would refer this to the Executive Director.

MR. SIAVAGE: I can review it. Senator, there is a specific memo in that regard issued about three and a half years ago which I re-emphasized approximately a year ago that provides that no member of the Commission can discuss any matter of Commission business with the press without the prior approval of the Commission or the Executive Director with the exclusion of attorneys who have just handled the matter in court, leaving the courtroom for public information to transfer about the case to a newspaper reporter. That is the only exception.

SENATOR HAMILTON: How is that policy provided to the employees?

MR. SIAVAGE: They are given that information when they come.

SENATOR HAMILTON: They are given a copy of it?

MR. RODRIGUEZ: Yes.

SENATOR HAMILTON: How long had Mr. Genton been with you?

MR. SIAVAGE: He had been with us approximately two years, I believe. I am not sure.

SENATOR HAMILTON: Since the public exposure of the effort to put Mr. Jellicks in touch with Marvin Scott, have you taken any steps to reaffirm or to tighten up that policy?

MR. SIAVAGE: Yes, the memo has been re-issued. It has been re-emphasized in another memo since that time.

SENATOR HAMILTON: Has it been discussed at any staff meeting?

MR. SIAVAGE: I can't recall that it has, no.

SENATOR HAMILTON: I suspect that will? My colleagues and I feel that has been the most disturbing revelation, regardless of the motivation for it, whether it was to embarrass anybody or not. It is very, very disturbing to think that it could happen. Of course, an underling can only do something that superiors want him to do, but the fact that it could happen is most distressing to me. I would hope that every step is taken not only in the indoctrination of new personnel but that it is discussed as a code of ethics, because that's what I consider it to be.

SENATOR RUSSO: Is Mr. Genton still with your Commission?

MR. RODRIGUEZ: No, sir, Mr. Genton has voluntarily withdrawn from the Commission to undertake private practice.

SENATOR MARESSA: Senator, I just want to go on record to echo the remarks of Senator Hamilton. I too felt that was outrageous, if in fact it is true.

SENATOR HAMILTON: He admitted it.

SENATOR MARESSA: Well, I just want to go on record as echoing Senator Hamilton's remarks.

MR. RODRIGUEZ: I think Mr. Genton was courageous enough to admit his activity and he himself characterized it as a lack of discretion.

SENATOR PERSKIE: Mr. Chairman, on that same point, I also echo Mr. Hamilton's remarks. The thing that bothers me is the same thing that bothered me before, although I suspect he might have another explanation for the other incident that we didn't go into. You said you circulated two memoranda, following which Mr. Genton committed his indiscretion. And you have chosen to deal with it by issuing another memorandum. It would seem to me that you have some type of showing that the memorandum route doesn't work. Now, I am not a law enforcement officer, nor have I ever been associated with an agency, but it would seem to me that if you have a procedure to deal with these things and the procedure fails, that you ought to change the procedure.

I don't understand. You two have said that you did that in this case, and in the other instance, other than perhaps a change in personnel, I didn't understand that either.

MR. SIAVAGE: What we are talking about is simply a question of whether that policy is sufficiently communicated to the staff, which is all you can do, Senator. You can't follow them around in a car

and make sure they don't talk to a reporter. What Senator Hamilton said was---

SENATOR PERSKIE: This isn't exactly talking to a reporter. This is not quite the same thing as somebody bumping into somebody in the hall and casually and carelessly saying something he shouldn't. This is a little different.

MR. SIAVAGE: Can I continue?

SENATOR PERSKIE: I am sorry.

MR. SIAVAGE: Senator Hamilton said, have you suggested that in a staff meeting. And I said that I cannot recall that I have. I have, however, communicated beyond those memoranda with staff people concerning that policy and I would suggest that if you got every member of the Commission staff up here today, and asked them the question of what the Commission policy on the matter is, each and every one of them would know it.

SENATOR PERSKIE: I would hope so.

SENATOR HAMILTON: Mr. Siavage and Chairman Rodriguez, would it be of assistance to you maintaining the confidentiality of the SCI to have this legislature provide some other appropriate sanction for unauthorized disclosure for official business coming before the Commission, and if your answer is in the affirmative, I will ask the Committee Aide to see if we could put it that way, and if it's in the negative, I might do that anyway.

SENATOR PERSKIE: Therefore, it doesn't matter what your answer is.

MR. RODRIGUEZ: Well, let me say this, and I appreciate the spirit in which it is being offered, but under Section 15 it is a violation to disclose information from the Commission, unless it is with the approval of the Commissioners. This goes right back to the essence of one Commissioner being handed a sensitive document.

Before any disclosures are made from the Commission, it calls for a vote of the Commission under a statute. As Chairman, I have no greater right than anyone else. I may exercise a little judgement here or there, but certainly not ---

With respect to how we try to hold ourselves out even to our agents, when we did determine there was a violation and a conflict of interest situation with the Commission, we dealt with it sternly in less than twenty-four hours. That is the position I take, because I think I must protect the integrity of the Commission, as much as every individual there should also. But if one is out there and does something that we are not aware of, when we become aware of it, we will deal with it even though it was indicated to me that it was too harsh to do it the way we did with a conflict of interest. It happened to be an agent who was there for some time, and I think a lot of the suggestions that have been made to this Commission could very well have come from that agent. And I say if they are fact, they should be provable fact,

but as long as they stay in the realm of rumor, I suggest to you that they are not true.

SENATOR HAMILTON: I think the position I am taking - and I think Senator Perskie is taking the same position - is we have asked what happened when you learned about this, and you have told us that Mr. Genton voluntarily left his employment. You did not indicate to us that any sanctions were imposed upon him by way of loss of employment, reprimand, or otherwise. For what all now say and what you agree was a greivous sense of misjudgement, a terrible judgement, and it is that lack or that unawareness that something was appropriate is of concern to me. That is why I suggested perhaps we ought to help, if you need help, and if not perhaps in our oversight capacity we ought to provide some measure of sanction when those unauthorized disclosures occur. I hope they will never occur again. But that may well be a deterrent.

SENATOR PERSKIE: Let me just underscore that. Senator, you do exactly understand my concern, and I share it. Again, I bring it back to the other incident. I am still distressed that there has not been a flurry of activity at the Commission level to deal with the question of the leak, and I don't understand that.

MR. RODRIGUEZ: Well, it depends on what you mean by flurry of activity. I think we took immediate and direct action in doing what we did.- asking for a criminal investigation ---

SENATOR PERSKIE: That was how long ago?

MR. RODRIGUEZ: About eight months ago. Unless perhaps you are suggesting that we still remain vulnerable to the possible source of that leak?

SENATOR PERSKIE: Mr. Chairman, in view of the fact that you are here today on March 20th and you cannot tell me how that leak occurred, of course, you are still vulnerable. How can it not be? Unless you know what happened, and you have taken some step to correct it, how can you not be vulnerable tomorrow?

MR. SIAVAGE: Senator, I would think that if Colonel Pagano's investigative unit, which is investigating the case, found that the leak came from the receptionist who normally tells everyone everything that is going on at the Commission, that he might well have a responsibility to let us know.

SENATOR PERSKIE: I don't question that at all, but the fact of the matter is as of today you don't know.

MR. SIAVAGE: That's right.

SENATOR PERSKIE: Therefore, you cannot stand here and tell me that you are secure from a leak. You cannot tell me that tomorrow the investigation you are doing today that I don't know about won't be on my desk, because you don't know how it got on Mc Gahn's.

MR. RODRIGUEZ: Senator, that is certainly true, and I hope I would have a quick answer to solve leaks that come from almost every agency in State government, but unfortunately I don't. We are doing everything in our

power to be sure it doesn't happen again.

SENATOR PERSKIE: What? I asked earlier and---

MR. RODRIGUEZ: Well, okay, I think that you had to walk - not to be corny - in my shoes for that twenty-four hours before we took the action we did on that conflict of interest situation.

And I think when you confront the men who have been loyal to you--- And, again, we only have fourteen people, so you don't have to call a staff meeting of a couple of hundred. I can walk down that hall and have an informal conversation with every one, and say to them, "Look, if you feel we are playing games, you drop the dime. If I catch you playing games, I drop the dime." Not to be in an adversary sense, but there is a strong sense of loyalty. I talk to every one of those people. When we took the action we took on the other three agents, I don't think we have to say more than to say no gamesmanship, because if we find it, they know we will deal with it. Of course, we took the best action we could in that situation.

I feel comfortable that it will not come from the same source, but can it come from another source? I think even Federal Government is vulnerable to something that could happen in the future.

SENATOR PERSKIE: Do you feel comfortable that you know what that source was?

MR. RODRIGUEZ: I personally feel comfortable that whatever should come from that investigation certainly will not taint any of the members who are still present on this Commission.

SENATOR RUSSO: What was the date that you learned of the Genton Channel Five incident, approximate date?

MR. RODRIGUEZ: One of two occasions. If the press report of the Jellicks deposition preceded our receipt of the deposition, it was the press report of the deposition. If we received the deposition before the press report, when we read it in Jellicks' deposition.

SENATOR RUSSO: The deposition was when?

MR. RODRIGUEZ: December 9th.

SENATOR RUSSO: When did Mr. Genton resign?

MR. RODRIGUEZ: It was effective as of March 17th.

SENATOR RUSSO: When did he make known that he was going to resign? How much before?

MR. RODRIGUEZ: Approximately one hour before he testified before this Judiciary Committee.

SENATOR RUSSO: December 9th?

MR. RODRIGUEZ: No, before he testified before this Judiciary Committee.

SENATOR RUSSO: That would be January 4th. And he resigned effective two and a half months later?

MR. RODRIGUEZ: No, no, he had a discussion with me where he essentially regretted the fact that I was

embroiled in something that he fully felt - after the full telling of the circumstances --- where this individual is cast in some light as not ever dreaming of going to the media unless someone insists, that he felt that he was going to go to the media and made some suggestion. I think it is well known that Mr. Jellicks has quite a going conversation with the media ever since he has been going to the media.

SENATOR RUSSO: That is not my question. At least by December 9th, or before that, you know that one of your agents suggested that Jellicks go to Channel Five with this quote, unquote, expose of statements, right?

Did you ever to this day do anything about that?

MR. RODRIGUEZ: I personally had a conversation with Mr. Genton, and it went along the lines of what he testified here, where he conceded it was an indiscretion. It was discussed by the Commissioners, and the Commission had not taken final action on the result of that testimony.

SENATOR RUSSO: Well--- The answer to my question is no. You or the Commission never took any disciplinary action against this man to this present day.

MR. RODRIGUEZ: True.

SENATOR RUSSO: And it wasn't for at least a month later or close to a month later that he finally said he was going to resign, right? It was January 4th.

So for a month you know about this. You know about this - and everybody agrees it is, as you call it - indiscretion, and I call it a lot worse than that. It is really the crux of this whole bit about cooperation or lack of cooperation between the two agencies. Now, you have denied under oath any knowledge of that, or that the SCI had any part in that and so forth. And, okay, I am not questioning that. But now as an observer - and I include this Committee - I am trying to make determinations about where the truth lies, and most of the time, who knows where it is. We never find out.

But here is a fellow that makes a rather reprehensible suggestion, and nobody in the Commission does a damn thing about it, until finally he says in January a month later he is going to resign, and then stays on two and a half months more besides that, almost suggesting that he would have been there forever if it was up to the Commission. This is what we find hard to grasp. He did this thing, and nobody did anything about it, and still haven't.

MR. RODRIGUEZ: I think the way you state it is improper, because there were conversations.

SENATOR RUSSO: The way I stated it or what you did?

MR. RODRIGUEZ: No, the way you stated it. Because when there are ongoing discussions and conversations

about what, if anything, should be done is not fair to characterize it as willing to do nothing.

SENATOR RUSSO: Well, did you in fact do anything other than talk about it?

MR. RODRIGUEZ: In fact, the Commission never came to the point where it had to make a decision because there was a voluntary withdrawal by the agent.

SENATOR RUSSO: Let me ask you this, then, what action did the Commission discuss then? When you say the Commission you are speaking of four members. What actually did you discuss during that month until he said he was going to resign?

MR. RODRIGUEZ: What, if anything, the Commissioners would do about it. What the action of the Commission would be.

SENATOR RUSSO: Well, that is what I want to know. What were the alternatives you discussed?

MR. RODRIGUEZ: Well, the alternatives would be from a reprimand to a suspension to a firing.

SENATOR RUSSO: That was discussed during that period of time.

MR. RODRIGUEZ: No decision was reached.

SENATOR RUSSO: I have a few questions for Mr. Siavage now. Mr. Siavage, did you make any recommendations to the Commissioners during this period of time or at any time as to what action should be taken with regard to Mr. Genton?

MR. SIAVAGE: I participated in discussions, Senator. And probably gave my views to the Commissioners. I think it would be inappropriate to say that I made a strong recommendation for anything.

SENATOR RUSSO: Did you make a weak recommendation?

MR. SIAVAGE: Well, I had my own views on it.

SENATOR RUSSO: Did you make those views known? And if so, what were they?

MR. SIAVAGE: I thought that it was a serious matter that would have to be dealt with in the most serious way.

SENATOR RUSSO: What did you mean by that?

MR. SIAVAGE: I felt that perhaps Mr. Genton should be asked to leave.

SENATOR RUSSO: You made that known to the Commission?

MR. SIAVAGE: Yes.

SENATOR RUSSO: Approximately when?

MR. SIAVAGE: At some point during that one-month period. There were several conversations, Senator. I don't know when that came out.

SENATOR RUSSO: Well, what was the Commission's reaction to your suggestion?

MR. SIAVAGE: I think it would be unfair to say that I got any reaction from them, either positive or negative.

SENATOR RUSSO: What Commissioners were present during this discussion?

MR. SIAVAGE: All of the Commissioners.

SENATOR RUSSO: All four of them?

MR. SIAVAGE: That's right.

SENATOR PERSKIE: Mr. Chairman, may I? He submitted, I gather, orally the intention to leave on January 4th before he came to the Committee?

MR. SIAVAGE: That's right.

SENATOR PERSKIE: And then he left on March 17th?

MR. SIAVAGE: That's right.

SENATOR PERSKIE: And during the period from January 4th to March 17th he continued to serve as a counsel to the Commission?

MR. SIAVAGE: That's right.

SENATOR PERSKIE: Is there any particular reason why, after having submitted a resignation under those circumstances, he was permitted to do that?

MR. SIAVAGE: Senator, we could have--- I was going to say before, we could have not allowed Mr. Genton to resign voluntarily, and we could have also said to him, we would like you to clean out your desk today. It was our judgment that we chose not to do that, and he was given that amount of time.

SENATOR PERSKIE: Did you suggest that your collective decision as to what to do about it would be inconsistent with your personal recommendations to the Commission as to the seriousness of the incident?

MR. SIAVAGE: No.

SENATOR PERSKIE: You did not?

MR. SIAVAGE: No.

SENATOR PERSKIE: Between December 9th and January 4th you determined it was a serious enough incident that he should be asked to resign and from January 4th to March 17th it wasn't serious enough to ask him to leave?

MR. SIAVAGE: I don't think that is particularly an inconsistent position to take. I think what that means is - that position - I felt the act itself was strong enough, perhaps, to take the position to ask Mr. Genton to resign, but I did not feel that it was so serious that he be asked to resign immediately and that I could not feel comfortable with him in the office for six weeks.

SENATOR PERSKIE: Well, it is more like ten weeks and this in view of the fact that the issue at stake was a compromise of the integrity of the secrecy of the Commission's proceedings.

You see, I find the disturbing thing in this, the common thread in this, and the reason I keep coming back is, there is all kinds of information that keeps coming out, whether it goes to Marvin Scott or Pat Mc Gahn or anybody else, and I really don't understand why you people aren't as concerned about that as I am.

SENATOR RUSSO: You see, that is the answer. That is the nub of this whole thing. If it was this one

isolated incident, one silly investigator or counsel makes one stupid suggestion, okay, even though it involves perhaps embarrassing the State Police through the media, if that was all we had here, you would think, well, the guy needed time to find another job and all that business---

MR. SIAVAGE: Instead it is two.

SENATOR RUSSO: And with the fire you have been under with these various things, one has to wonder, after all of this has hit the fan, so to speak, after the first hearing now we have an admission by this man that he in effect attempted to embarrass the State Police through the media, and you are being awfully kind and awfully nice to him, and it has to cause problems in everyone's mind, including ours.

MR. RODRIGUEZ: Yes, of course, let me simply say this - and we have been talking about it here somewhat indirectly, but let's try to talk about it as directly as possible. You keep talking about potential embarrassment to the Commission, information to a Mr. Mc Gahn. That investigation was closed for over a year, and again that investigation had put somewhat of a political spin to the ball. We knew what that meant, but yet that never emanated from us; it emanated from others.

When you get to the four-way check, after knowing how dangerous it is to approach anything that has a spin

to it, your instincts are somewhat sharpened again. But everything we seem to be talking about surround those two types of situations where, of course, independent judgment has to be shown. With respect to how we dealt with him, it is a Commission judgment. Now, I think if all four of the Commissioners were here, and the three others, I think they are men of judgement. They are men that did not arrive at a definite conclusion yet. We were concerned with what took place, and only time would have determined how we would have done it, but you are not talking about an agent who simply runs around spilling off at the mouth. You are talking about a man who was caught in a situation, and attempted to describe it, to the best of his ability, as a lack of discretion, he called it; I concur with his determination.

The Commission was going to deal with that. We just hadn't yet. It was taking time, but I respect the men who sit with me on the Commission, and I don't like the suggestion that there was anything subverting the integrity of the other three, although I am the only one sitting here attempting to respond for them. But it had to be a Commission determination.

SENATOR PERSKIE: You don't think that your integrity as an investigative agency is subverted by the public perception that anything that happens in that Commission is out on the street? You don't think that directly relates to your capacity to do your job?

MR. RODRIGUEZ: I don't think the public perceives that that is what is taking place.

SENATOR PERSKIE: Then, Mr. Rodriguez, I suggest that you come out and talk to the public. The public perceives, as I understand it, that the agency is shot full of holes.

MR. RODRIGUEZ: No, I think that the only thing the public would be aware of is that there was one member of the citizenry of Atlantic City who was doing an awful lot of talking, and you have to remember that he was actually questioned by the Commission. Unless you also suggest that we make some---

SENATOR PERSKIE: Wait a minute, I asked you, I think, if you asked him where he got the information, and you said, "No."

MR. RODRIGUEZ: No, no, no, I am making reference as to why there might be some feeling by someone outside to make comments with respect to the Commission.

SENATOR PERSKIE: My point was, you are law enforcement and that's your strong suit, and I know a little bit about public perception, and so does everyone else up here, and when you have somebody who writes a letter - I don't care who he is - to the State Police evidencing knowledge of an ongoing investigation by the State Commission of Investigation, and when in another incident - and I don't pretend that there is any connection, except conceptually - you have a member of the State Police, as you call it, and I call it a representative or agent

or an attorney of the Commission, involved in an instance where he in effect sets up a contact with the news media, now, to me, that is a substantial compromise of the public's trust and confidence in the agency as a law enforcement and fact-finding agency. It may not be by you, but it is mby me, and I would represent to you that it is also to a tremendous number of other people, and I would think that you would concur, I am sure, that a good portion of your credibility and a good portion of your effectiveness must come from the public perception and public confidence and trust that the people have in you as an effective agency. And that is presumably why you conducted the hearings that you conducted last August.

I see you nodding, and for the record, you are nodding.

MR. RODRIGUEZ: Nodding in the affirmative.

SENATOR PERSKIE: And I would think - and again I hate to keep coming back to the same thing, and I am sure Senator Hamilton wants to make essentially the same point - the public's perception of the job that you are doing and the integrity of the entire process is affected every time some information that shouldn't be in the public domain from you is in the public domain and it is further affected to the extent that you can sit here today and indicate; as you have, that with the

exception of reinstating memoranda and with the possibility of firing somebody along the way, it still is potentially the same situation.

MR. RODRIGUEZ: I only say that because when it finally boils down, you are dealing with human beings and they have to understand what it is you have said. I never know when the situation may come about where someone thinks he has sufficient information that could lead to something like a Watergate. That is the individual's judgement that he makes. Do we tell them not to disclose? Do we tell them the Commission will take action? Absolutely.

But your question seems to go--- Can we guarantee it won't happen.

SENATOR PERSKIE: No, no, my question seems to go, what, in view of the fact that you have been compromised, have you specifically done about it? All I have heard so far is that Genton was allowed to resign after three months and that the Attorney General may or may not have something nine months later with respect to what happened in the Atlantic City instance. That is my point.

MR. RODRIGUEZ: Well, I could almost make that rhetorical.

SENATOR PERSKIE: I gather that you feel that the Commission feels that it has a sense of where that information might have come from, and it feels somewhat

comfortable because the individuals are no longer associated with the Commission. That is the theme I am getting from you.

But the fact of the matter is, as a fact-finding and as a law enforcement and as an investigative agency, you don't have anything, as I understand it, to back that up except your judgment. You don't have any--- You haven't called anybody to testify. You haven't made an affirmative effort to go out and get the facts. You have asked the Attorney General to do it. I am not saying the Attorney General isn't doing his job. I don't know what he is doing. And if it is an ongoing investigation, I have no right to know. But the fact of the matter is, you have a responsibility to the public and to the Legislature to assure us that your capacity to get this job done is unimpaired. And I for one don't have it today.

MR. RODRIGUEZ: No, I think that in order to cloak the entire matter with proper credibility it would be to let the Attorney General do it, rather than us attempting to investigate ourselves, which, no matter what the end result would be, would leave some serious thought in anyone's mind as to whether we did a proper job on ourselves.

SENATOR PERSKIE: And that may well be the case, and in which case, if I were the Commission or its Chairman, I would have been - I would respectfully

suggest - belaboring the Attorney General to the effect that my effectiveness and that of my organization was substantially impaired, unless he was able to assure me, with or without criminal prosecution of somebody along the way, that this was the answer. This is how it happened, and this is why it isn't going to happen again. Even if I don't know that as a member of the public, you should. And you should be belaboring the Attorney General to achieve that information.

MR. RODRIGUEZ: I would hope that he would eventually give us the answer.

SENATOR PERSKIE: Eventually isn't good enough.

MR. RODRIGUEZ: It is not like we have not continued to be concerned as to what their findings are, but I feel comfortable that that situation does no longer exist in the Commission.

SENATOR HAMILTON: Chairman Rodriguez, or Mr. Siavage, as the case may be, prior to Mr. Genton's disclosure before his testimony on January 4th of this year, had he been asked by you Mr. Siavage or by you Mr. Chairman, or anyone else to your knowledge, as to whether or not he had in fact in anyway disclosed or made it possible for Mr. Jellicks to disclose information to Marvin Scott?

MR. SIAVAGE: He had been asked by me shortly - I think the day the disclosure was made in the newspaper after the information came out of this Committee that

Mr. Jellicks testified in Executive Session to.

SENATOR HAMILTON: What was the answer?

MR. SIAVAGE: He admitted it to me.

SENATOR HAMILTON: That was how much prior to January 4th?

MR. SIAVAGE: I forget when the newspaper story came out about this Executive Session of Jellicks before this Committee. It would be after December 9th. I don't know how many weeks it took.

SENATOR HAMILTON: So that you would know well before January 4th that he was the source of a possible contact between Jellicks and Scott?

MR. SIAVAGE: That's correct.

SENATOR HAMILTON: So, on January 4th, based upon that he stated that he intended to leave.

MR. SIAVAGE: That's right.

SENATOR HAMILTON: After he made his intention known to you, from this date of January 4th on, was he given any new assignments in connection with his work as an attorney?

MR. SIAVAGE: No.

SENATOR HAMILTON: He was wrapping up what he had been working on before?

MR. SIAVAGE: That's right.

SENATOR HAMILTON: Was that by a specific direction from you?

MR. SIAVAGE: Well, I did not specifically direct him to not start anything new. He simply did not start

anything new because the work is funneled through me. So I didn't give him anything.

SENATOR HAMILTON: You had control over that.

MR. SIAVAGE: That's correct.

SENATOR HAMILTON: Whether you said anything to him or not.

MR. SIAVAGE: That's correct.

SENATOR HAMILTON: Prior to this disclosure by him to you, after the matter got to the media, had there ever been any complaints to you about his judgment either with respect to the media or with respect to his work or attitudes towards other law enforcement agencies?

MR. SIAVAGE: Are you directing that to me, Senator?

SENATOR HAMILTON: Yes.

MR. SIAVAGE: I think it is fair to say that the answer to that question is yes.

SENATOR HAMILTON: Were those prior complaints with respect to disclosures or were they with respect to his ability to work with other agencies?

MR. SIAVAGE: There were other matters.

SENATOR HAMILTON: Does that go to the investigation of the Camden area about the adequacy of the State Police or local police investigations?

MR. SIAVAGE: Yes, sir, and I might add we might have had the same complaint of whoever the attorney was handling that investigation, because of the nature

of the investigation. I don't necessarily tend to think that those complaints came about because Mr. Genton was the attorney. I think they may have been made about any attorney because of the sensitive nature of that investigation.

SENATOR HAMILTON: Was that matter ever discussed with the predecessor of Mr. Genton or the Executive Director Halston?

MR. SIAVAGE: Yes, it was.

SENATOR HAMILTON: Was there anything done with respect to Mr. Genton's activities in that earlier investigation? Did you make any determination that no supervisory action was necessary, or did you caution him or what?

MR. SIAVAGE: We made a determination that no supervisory action was necessary because we think we understood why the complaints were being made.

SENATOR HAMILTON: So then from your point of view, this episode with Marvin Scott would have been the first clearly documented lack of judgment or unsatisfactory or questionable performance by Mr. Genton?

MR. SIAVAGE: That's correct.

SENATOR MARESSA: Can I just ask a question? Commissioner, is it your opinion that our State Police Department is the best in the whole United States?

MR. RODRIGUEZ: Senator, let me put it this way: I have nothing but the greatest confidence in the State

Police in the State of New Jersey, and it is my opinion that they are the best State Police outfit not only in the United States, but in the world. I must also recognize that this Commission has a responsibility mandated by statute that in the event an individual of the State Police happens to go wrong, we may have a responsibility to look at it.

That fortunately has not been the case. But I do believe we have a State Police that everyone should be confident in. That is why I would be the last to try to destroy it as an institution.

SENATOR MARESSA: That is particularly the reason I am asking these questions. When you find, for example, in this case that Jellicks says that he was asked to do something by the State Police that was unlawful, when you get something like that, do you contact the State Police or what do you do?

MR. RODRIGUEZ: Let's take it out of the context of the State Police. Let's take it out of some other agency. When you receive complaints about an agency, the Commission goes into a preliminary inquiry to determine the credibility of the complaints, and there will be many times that it would be improper to simply run to that agency and say, "Look what is being said about you." That is the judgement our Commission has to make. So there are times when we don't go to the agency, but we continue our preliminary inquiry. We had

pre-parole investigations where we went into the prison system. There are other times when after you view it you determine whether or not it is within the mission of your agency, and then you make a determination of a referral. But you simply don't become a switchboard for complaining people against agencies by referring them right to that agency. It calls for a judgmental process between the call and the referral. And we think we have functioned in that atmosphere very well.

SENATOR MARESSA: All right, the State Police gives Jellicks a lie detector test, right, and they say he is a liar; he is not telling the truth. Why did you find it necessary to also give a lie detector test?

MR. SIAVAGE: I think we found out later that Mr. Jellicks had been given a lie detector test by the State Police prior to ours; however, we didn't know that at the time and the reason for the polygraph at that point was to decide whether his allegations had enough veracity to even consider referring them to the State Police in the first place.

In other words, they were so unusual and out of bounds that we thought we used the polygraph as an instrument to try to determine whether those allegations were true.

SENATOR RUSSO: Did Jellicks tell you the State Police gave him a lie detector test?

MR. SIAVAGE: I think he may have, Senator.

SENATOR RUSSO: And you still gave him one?

MR. SIAVAGE: Yes.

SENATOR RUSSO: Did he tell you what the results of it were?

MR. SIAVAGE: I don't know whether he did or not. I think he may have told the polygraph operator who is going to appear before you today.

SENATOR RUSSO: Did you know what the results were?

MR. SIAVAGE: If the polygraph operator knew, we knew.

SENATOR MARESSA: You see, what I am trying to find out is, are you deliberately trying to show up the State Police? That is the way it looks sometimes to a third party.

MR. RODRIGUEZ: No, absolutely not. See, there again it goes right to the essence of the thing. If someone came to us and said, "There is a chief of police down in "X" township who has just taken a bribe." You don't run to that chief and say, "Guess what, chief? Somebody is suggesting you took a bribe."

On the other hand, you don't want to make any ripples that will get into the media from somebody who is completely lying to you. So it takes a certain amount of --- You have to sift it through, see what the credibility

pieces are, and then you make your determination as to what you are going to do. The mere fact that you listen to a complaint doesn't mean you are attempting to embarrass the person that that person is complaining against. After we massaged the information, we took it to the Attorney General. What was the reaction of embarrassment? Simply the listening? Once we stop ourselves from listening, we are aborting our entire mission. All we did was listen, submit to a lie detector test, attempt to determine what was credible, and then made the referral ourselves.

So, where are we now looking to embarrass? We would have held it all ourselves.

SENATOR RUSSO: We understand that, because we are in the same position. We felt we should listen. The more we listen, the more we read in the media that we are trying to embarrass you, the State Police, the U.S. Attorney's Office, according to which paper you want to read. The Bergen Record says all of them.

I find some sympathy in what you just said to us.

MR. RODRIGUEZ: Senator, I think what the answer to everyone, including the media, should be is the legitimacy of the reaction to what it is you have listened to. And I think you have to be measured by your action. That is why I always try to say that the Commission should not be engaged in throwing mud at one another, but look

at our actions and measure us by our record. Simply, I want to stand on our record, and not our self-serving declarations. Unfortunately, we must respond to some very delicate questions - unfortunate questions - and some misunderstandings. We are trying to do it to the best of our ability.

SENATOR RUSSO: Thank you. I think we can go on to Agent Best now. Remain available, if you will. We will try to complete these hearings before 7 P.M.

Agent Best.

BRUCE CORNELL BEST, called as a witness, being duly sworn according to law, testified as follows:

BY SENATOR RUSSO:

Q Agent Best, you are the polygraph operator with the State Police, among other things?

A No, sir, with the State Commission of Investigation.

Q What did I say?

A State Police.

Q You are the one who administered the particular polygraph test that we have talked about to Mr. Jellicks?

A Yes, sir.

Q What was the date you gave him that test?

A That was September 21st, 1977.

Q And why did you give him the test? Was it your determination or did someone direct you to?

A Well, I was requested to give a polygraph examination by the Commission.

Q By whom?

A The Commission.

Q The Commission?

A Yes.

Q Well, who? The Commission doesn't speak.

A Mr. Siavage, Mr. Genton, who was my counsel --- team leader. So, specifically, Mr. Siavage and Mr. Genton.

Q At the time you gave him the test, were you aware of the fact that he had already been administered a test by

the State Police?

A Well, he said he had been administered a test by the State Police.

Q Did he tell you the result?

A First he said he passed and then he said he had failed, and then he didn't know. But I assumed, since he was in jail, that he had failed the test.

Q Did he tell you who gave him the test?

A He didn't know the name of the officer, except to say that he was a Lieutenant.

Q And did you know who gave him the test?

A No, I did not.

Q Do you know Lieutenant Toth?

A Yes, I do.

Q Now what is your training so far as giving polygraph examinations as of the time you gave this test?

A I attended the National Training Center of Lie Detection in January of 1973. Subsequent to that, I attended four seminars, four weekly seminars, at the National Training Center. In addition to that, I have received training at individual daily seminars, the sum total of which were five, including the numerical scoring of charts, polygraph research, and other training methods.

Q Have you worked as a polygraph operator for any other agencies other than the SCI?

A Yes, I have.

Q With whom?

A The Hudson County Prosecutor's Office.

Q What years?

A Between 1973 and 1977.

Q And were you the polygraph examiner in that office during that period?

A Well, for two years, I was one of two examiners; and then for two years, I was the only examiner.

Q How many polygraph examinations would you say you administered prior to this one?

A 240. I'm sorry, 242.

Q And how many times did you testify in court?

A Six occasions.

Q Now you know Lieutenant Toth?

A Yes, I do.

Q Can you tell us in your judgment his reputation and his ability in this field from what you know of him?

A Well, I know of him as the Commander of the State Police Polygraph Unit and also as having conducted speaking tours at various seminars. I was at one seminar that he spoke in New York City. I believe it was 1974 or '75.

Q Have you ever taken any courses under him?

A Any courses under him?

Q Or lectures or seminars?

A I listened to a lecture that he gave in 1974 concerning the team method of conducting polygraph examinations.

Q The obvious question, of course, to us ---
Incidentally, you gave this exam to Jellicks and you found him to be telling the truth?

A That's correct.

Q And you are aware of the fact it was the same subject matter that Lieutenant Toth gave him the exam on and found him to be lying?

A I don't know what the subject matter of Lieutenant Toth's examination was.

Q You haven't seen the report?

A No, I have not.

Q Can you explain to us, assuming for the moment the same subject matter --- how can we reconcile in our mind the fact that one polygraph operator, you, gave him a test and found him to be telling the truth and another one, Toth, gave him one and found him to be lying?

A Well, assuming that we both asked the same questions somebody has to be wrong. I don't know what the questions he asked was. I don't know what the ---

Q Do you have your report?

A Yes, I do. (Witness hands Senator Russo report.)

Q This is your report.

BY SENATOR CAFIERO:

Q Wouldn't it be possible for the same operator, asking the same questions of the same subject on different occasions, that he could come up with a different conclusion?

A I wouldn't think so; he shouldn't unless there were conditions ---

Q The subject would never react differently on different occasions?

A Unless there were conditions that existed on one occasion that didn't exist on the other. If an

examiner gave two tests, assuming that one test wasn't indefinite, he should come up with the same opinion on each test.

Q There are no personality characteristics that an individual could have that would give different results to the same examiner on different occasions on the same subject matter?

A Well, of course, if a person is a psychoneurotic or a psychotic, of course he could. But assuming that a person is normal and has no mental abnormalities ---

Q Would you put Jellicks in that, quote, "normal" category?

A Well, up until the time I tested him, I would; but there have been articles in the paper that indicate that there may be some changing of testimony and that sort of thing, which may also contribute to it. But the information I had available to me at that time, which was considerable, was that he was a normal individual. This includes a prior test conducted in another county that he was confirmed to be telling the truth, and that information independently corroborated.

BY SENATOR RUSSO:

Q Mr. Best, if you could, I would like you to step up here a moment and I am going to ask you to refer to the questions you asked in the lie detector and I am going to show you the questions Lieutenant Toth asked, and ask you, with the exception that he may have asked an additional question or two on another matter, whether or not basically we are dealing with virtually the same

questions or same types of questions? Those are Lieutenant Toth's on the right and those are yours. Well, I'll tell you, as we look at them, let me read them in the record.

Under the Best exam, the question: "Did Lieutenant Smith really give you the keys to the Five Point Farm office? Answer: Yes.

"Question: At Five Point Farm, did Lieutenant Smith really tell you to plant that illegal tape recorder? Answer: Yes.

"Question: Are you deliberately trying to frame Lieutenant Smith for something you know he did not do? Answer: No.

"Question: From Five Point Farm, did Lieutenant Smith really promise you \$250 to steal those drug books? Answer: Yes."

Those are your questions, his answers, and your exam found him to be telling the truth on all four of those questions, is that right?

A Yes.

Q Now let's look at Lieutenant Toth's questions, which are:

"Question: Were you working for Lieutenant Smith, as you say?" Jellicks' answer: "Yes."

"Question: Did Lieutenant Smith go with you on three occasions to break into Abbatiello's? Answer: Yes.

"Question: Did Lieutenant Decker meet with you and copy the records from Abbatiello's, as you say? Answer: Yes.

"Question: Did Lieutenant Smith give you a tape recorder, as you say? Answer: Yes.

"Question: Did you make up any part of the story about Lieutenant Smith and Lieutenant Decker to help in your sentencing? Answer: No.

"Question: Did Detective Kuyl beat you, as you say? Answer: Yes.

"Question: Did you get \$125 from Lieutenant Smith to break into Abbatiello's farm? Answer: Yes."

And on those occasions, Lieutenant Toth concluded they were lies.

Now would you not say we have basically covered, even though not word for word, the same ---

SENATOR PERSKI: We have a problem.

Q (Continuing) --- the same subject matter?

A No, I would not.

Q Then explain it to us, if you will.

A I think the only question where there appears to be a conflict is: "Did Lieutenant Smith give you a tape recorder, as you say?" My question was: "At Five Point Farm, did Lieutenant Smith really tell you to plant that illegal tape recorder?" That's the only place I can see of close conflict. Other than that, there is no conflict.

BY SENATOR PERSKIE:

Q Also on the question of money. This question says -- Best's question says: "From Five Point Farm, did Lieutenant Smith really promise you \$250 to steal those

drug books? Answer: Yes." Toth says: "Did you get \$125 from . . . Smith to break into Abbatiello's farm?"

BY SENATOR RUSSO:

Q And he said, "Yes." Your feeling then as a polygraph examiner is that there is no inconsistency between your results and Toth's?

A I see no inconsistency, no; and this is the first time I have seen the questions. I have heard in the papers that we had conflicts and that there was a rivalry, but this is the first I have seen, and I see no conflict.

Q So then you feel that the answers to the questions he gave you were truthful?

A That's my opinion.

Q Did you give him more than one test?

A I gave two criminal - two specific issue tests. There were two sensitivity tests and one "yes" test in which the answers are reversed. He is asked to lie to the crime questions.

Q All at the same time?

A No, individually.

Q All the same day?

A Yes, sir.

Q And all occasions, it showed Jellicks to be telling the truth?

A Yes, sir.

BY SENATOR MARESSA:

Q Mr. Best, you indicated that you performed some 242 examination?

A Prior to Jellicks. He was the 243rd.

Q Prior to Jellicks. Now, on those occasions, would you consult with the State Police concerning your findings?

A On the 242 other occasions?

Q Yes.

A Yes, I would. In fact, I have had other occasions in which I tested individuals that other examiners had tested. And on those occasions ---

Q Go into that in a little more detail. What was the extent of that cooperation on those occasions?

A Well, they were matters that were not concerning an internal matter, as this. In other words, it was an individual who was making a charge that he was incarcerated because he had cooperated or had done something illegal. There was a possibility that an investigation could ensue as a result of my polygraph examination. So, therefore, there was no contact prior to the examination, prior to us making a preliminary check of the individual's information.

Q In most of these other examinations, who would you deal with particularly in the State Police? Wouldn't you make your findings known to the State Police?

A I think I must have missed a point. You are talking about the State Police. I have never had an opportunity prior to this to test anyone who had been tested by the State Police before.

Q I know that. I understand that. But I am saying on these other 240 some, or whatever, you gave polygraph examinations.

A Yes, sir, I did.

Q Did you do that in cooperation with the State Police?

A I have given three tests since I have been with the SCI. The other 240 tests took place while I was an Examiner for the Hudson County Prosecutor's Office. Those tests were conducted in connection with cases that were before the Hudson County Prosecutor's Office.

Q Now the other three tests, when you gave those for the SCI, did you make your findings known to the State Police?

A For the SCI?

Q Yes.

A There was no need. They didn't concern the State Police.

Q Well, in dealing with the Hudson County Prosecutor's Office, would you deal with the State Police - make your findings known to them?

A There was no need to. I was conducting polygraph examinations for the Hudson County Prosecutor's Office. My report and my opinion was given to the Hudson County Prosecutor's Office.

Q But there would be no contact at all with the State Police polygraph team, for example?

A There was no need to. We had no need to give them anything that we were conducting at the Hudson County Prosecutor's Office.

Q I noticed on your report that it was marked "confidential."

A Yes, sir.

Q Is that right?

A Yes.

Q Who did you give this report to?

A This report went to the Executive Director.

Q Mr. Siavage?

A That's correct. I might add that all polygraph reports that I prepare are marked "confidential," whether with the Hudson County Prosecutor's Office or with the SCI.

Q Would you know how the media got hold of it?

A I don't think the media did get hold of it, sir.

Q Well, it was common knowledge that the matter was known to the public - it was in all the newspapers - that you had given a polygraph examination and found the man to be truthful.

A Well, as far as I know, that information came through Mr. Jellicks and through Mr. Dugan's -- testimony that was given through Senator Dugan's office.

Q Is that your information?

A I can assume that's the way it came about. I saw it in the newspaper, I guess, at the same time you did.

Q Would you consider yourself to have less training and experience than Lieutenant Toth?

A Of course - he has been in the field longer than I have. He has conducted more examinations. Yes, I consider myself less experienced.

Q Have you ever known Lieutenant Toth to be inaccurate?

A Sir, I don't know anything about Lieutenant Toth's accuracy or have any information concerning polygraph examinations that he has conducted. I haven't sought that information out and I didn't know about it before.

Q Have you had any other occasions to test Mr. Jellicks other than that one time?

A No, sir.

SENATOR MARESSA: I have no other questions.

BY SENATOR HAMILTON:

Q Mr. Best, is it practice to give someone the outcome of their polygraph examination?

A Yes.

Q And did you in this particular case?

A Yes, I did.

Q And that would account for Mr. Jellicks being able to, if in fact he did, state that he had taken a polygraph administered by an SCI agent and that he passed it?

A Yes, sir.

Q Senator Russo began to ask you a question before. I don't really want to explore all the lines that Senator Maressa did. But he was asking you about Lieutenant Toth's reputation and you told us about some specific acts. In fact, does he enjoy an excellent reputation as a polygraph expert in the profession?

A Yes, he does.

Q I don't mean to demean your credentials at all when I ask that question, but I think that Senator Russo began to ask that and I don't think he followed through all the way on it. Thank you.

SENATOR RUSSO: Thank you, Mr. Best, and also there should be no suggestion or implication that this Committee doesn't deem you also qualified. We are sort of in a position as lawyers are in cases where there are experts on both sides and we know nothing about the subject. And you two maybe don't disagree, I don't know. But I don't want to suggest that we demean your qualifications either.

I have no further questions of you at this time. Does any member of the Committee? If not, thank you very much.

GEORGE SAHLIN, called as a witness, being duly sworn, according to law, testified as follows:

BY SENATOR RUSSO:

Q Mr. Sahlin, you worked with Mr. Genton on the Jellicks' matter, is that correct?

A Yes, Senator, I did.

Q As an agent with the SCI.

A Yes, sir.

Q What initially caused you to seek out Jellicks when he was in prison in Camden?

A This was a result of speaking to a confidential source on September 13th, 1977, in which I was advised that Mr. Forrest or Mr. Jellicks was housed in the Camden County Sheriff's Department Work Release Facility, that he had reported and uncovered large-scale food thefts within the Sheriff's Department facilities, that he had given this

information to the Internal Affairs Unit of the Sheriff's Department, that he was being threatened by guards as a result of it, and other information concerning other improprieties -- alleged improprieties -- within the Sheriff's Department.

I was also advised that Mr. Jellicks would be receiving an early release and, if I cared to speak to him, that I should do so as soon as possible or else he would be gone.

As a result of that, on September, the 15th, I spoke to Executive Director Siavage, briefed him as to the information that I had received and I requested to interview Mr. Jellicks, and that request was granted.

Q Now in February, '77, did you contact Captain Dentino of the State Police and attempt to have him dissuade Colonel Paganò from contacting then Executive Director Holstein with regard to SCI activities in Camden County?

A Well, in my view -- in my view, that is not totally accurate as I recall it. It dealt with a different issue. I had been invited by Camden detectives to participate in an interview of a source that they had who had information on organized crime in South Jersey. I went along with them with that interview. During that interview, the subject who we were speaking to came out with some allegations about the State Police which I thought were outrageous. I did not believe what he was saying. It was hearsay information on his part. There

CONTINUED

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were three interrelated situations.

The subject had thrown the name out of a trooper who he claimed he knew very well. AS a result of -- when we left the subject's home, I asked Detective Aaronsberg who had also informed me that he knew this trooper --- I felt uncomfortable with the information that was being given to me. I felt that I should attempt to speak to that particular trooper who this subject said he knew very well. I wanted to get a handle on the source of this information.

Detective Aaronsberg advised me that he would contact me and see if we could have an informal meet. Several days later, I was informed that that trooper would be unable to make it because of shifts or his car problems or something or other. I was in no particular --- I didn't feel it was urgent to talk to him, but I hoped to somewhere down the line.

During that same time frame, within a week, I was informed by the Chief of Police in Camden that he was being questioned by State Policemen concerning his detectives and myself, attempting -- something to the effect that we were trying to investigate the State Police. I was also informed that same thing by Sergeant Pugh, who was the other Camden Policeman who was at that conversation we had with the subject.

I became somewhat upset with this because I felt that a crisis was evolving. I did not say anything to the Camden officers, but I took it upon myself to call Captain Dentino, who, incidentally, I have known

for many, many years and I have a very high regard for him. The State Police were very helpful to us in Camden when I was a Camden policeman. I worked with them for many years. I valued him as a friend and also as somewhat of a mentor in many areas of police work. I called him up and I asked to see him. I went to his home and I felt very uncomfortable over it because the allegations, as I say, I felt were absurd. We discussed it.

I had told him that I had spoken to Mr. Genton on the day after the interview and I told Mr. Genton that I thought the information was outrageous and that we shouldn't put that kind of information on a report form, and Mr. Genton agreed with me, in view of the type of allegations involved where there was no substance to them, in my view.

During that conversation with Captain Dentino, we also discussed old times and other things, the fact that I had been involved in criminal justice type investigations of sudden deaths. He informed me that the Colonel had received some information - and I am not too clear now as to the exact context in which it was stated - but that we were trying to dig up dirt or something to that effect. I assured him that we were not and that was not my motive at all.

I told him that I didn't think that Mr. Holstein, who at the time was our Executive Director -- I didn't think he'd appreciate the fact that I was at Dentino's house, quite frankly. And this was my concern.

Several weeks later, I was called in by the Executive

Director, Holstein, who asked me what was going on in Camden in regards to the Camden policemen, and I ran the allegation by him. I told him I felt that the allegation was preposterous and that I didn't feel that we should put that type of information in report form - incidentally, which I never did.

I felt a little uncomfortable over that fact and I don't believe I told Mr. Holstein that I had been to Dentino's house. I thought that the issue had been resolved until we were here on the first day of the session when this came up.

Several days later, I called Detective Aaronsberg on the phone and I asked him to attempt to think back during that period of time, and if there was anything that I had implied or stated to him or any feelings that he might have had that I was attempting to get information on the State Police. He said, no, it was not, that he could not remember anything of that nature. He also informed me - and I didn't know this until I spoke to Detective Aaronsberg on that Friday -- was the fact that the trooper who I wanted to talk to informally to get a handle on the subject was the one who had suggested to Aaronsberg to see this particular individual.

I only feel possibly - and I don't know this to be a fact --- it is just my feeling that possibly the trooper got, not expecting me to be there, feeling that he gave this information to Aaronsberg and Pugn and that they would handle it; and when SCI became involved, that

he might have thought something other than what I had intended to talk to him about. That's the best explanation that I have to it.

Now, what I felt a little surprised at was that my motives were misinterpreted, I feel, by Captain Dentino. I thought I had made myself clear; apparently, I didn't. If that is the case, I can only apologize. But I did not actively seek or attempt to embarrass the State Police in any shape, way or form. I have too much respect for Captain Dentino and the State Police to do that type of thing.

Q Were you present when Genton gave Scott's name to Jellicks?

A No, sir, I was not. I read where Mr. Jellicks alleges that I was, as well as many other things that he said that I did which are totally untrue and, in fact, can be checked out quite easily by checking with the Camden County Sheriff's Department log book which I signed in on three occasions and he claims thirty occasions that I was down there. And the phone calls to our office were by and large instituted by him.

BY SENATOR PERSKIE:

Q As far as you are concerned and without directly relating to the lie detector test, which specifically doesn't have anything to do with this question -- as far as you are concerned, a good portion of what Jellicks had to say regarding all of that circumstance is not truthful?

A That's correct. I can state this: I received a call from him on the 17th of October, which he attempted to get hold of Mr. Genton who was out of the office, and then he asked for me and he asked for some money. I went in to see the Executive Director and I was authorized to make a \$20 payment to him. I called him back, told him that I was able to get \$20. I arranged to meet with him at the Howard Johnson's on Route 1 and the Route 18 Extension. And I saw him from approximately, from 6:00 P.M. to approximately five or ten after six, and I left.

BY SENATOR RUSSO:

Q What was the money for?

A Well, he called up. He related that he was almost down and out and he was waiting for a job of some type, and he needed some money.

Q If you didn't believe most of what he said, why did you ---

A Well, are we referring now to what aspect of this? Unless I misunderstood, I thought you were referring to what he said about what he said to Senator Dugan. He makes direct statements in there which I know are not to be true.

Q Maybe I misunderstood Senator Perskie's question or your answer. But did you basically feel that Jellicks was in general telling the truth or were there just times when he was and times when he wasn't?

A Well, it is a very hard question to answer because I felt that through the years you make those decisions based upon an investigation, which I never had an opportunity

to conduct. He made a lot of allegations, an entire litany of them. Now if I had a chance to either corroborate them in full or in part or find them to be fallacies, I don't know. All I know is what he told me, I repeated them to my supervisors. We took statements from him; he was put on a polygraph.

BY SENATOR PERSKIE:

Q On how many occasions did he manage to contact you and ask you for money?

A Just that once.

Q That was the only time?

A That's all.

Q Do you know of other occasions where he specifically asked other representatives of the Commission for money?

A Yes, one more time, to Mr. Genton.

Q The fifty dollars?

A That was fifty dollars, I believe. That was on the 2nd of November.

Q And this was on account of, I gather from what you have just said, general maintenance and support?

A Well, Mr. Jellicks was asserting at that time that he had other information concerning Atlantic City and other things at the race track, and so forth and so on.

Q Which race track?

A Race tracks, I'm sorry. --- that he knew trainers or something or other and he had some type of other information. I didn't get too involved in that aspect of it with him. In fact, when his phone calls to our office started to swing to his attempts to get an early

release, I had asked Mr. Genton if he wouldn't mind speaking to him so that I wouldn't have to answer questions of law, which I am not trained to do so. And it was at that time when he started to speak to Mr. Genton on an almost daily basis. He would be calling continually with panic calls of one kind or another.

SENATOR RUSSO: Any other questions of Agent Sahlin? (No questions.) Thank you, Mr. Sahlin.

Does the SCI have anything further that you really want to present other than what we have covered?

MR. SIAVAGE: No, sir.

SENATOR RUSSO: Thank you, Mr. Siavage. Captain, how long will the testimony of the handwriting witness take?

CAPTAIN TYRRELL: It will probably be very brief.

SENATOR RUSSO: All right. Then let's proceed with that. Mr. Tidey has been sworn.

Incidentally, the expert the Committee retained was also requested to be here today, but could not because of a conflict. We may or may not proceed with that testimony. That will be a decision the Committee will have to make in the future.

R I C H A R D T I D E Y, being previously sworn, testified as follows:

SENATOR RUSSO: As you get your papers

together, to bring this thing up to date - and I think you were all present - as you will recall, there was testimony by two handwriting experts; this witness being the one connected with the State Police, who concluded that it was not the signature of Lieutenant Kuyl on the receipt that Jellicks gave the Committee; and the witness retained by the Committee, who indicated that it was.

SENATOR CAFIERO: A tie-breaker.

SENATOR RUSSO: No, not a tie-breaker. It's the next step.

SENATOR PERSKIE: The same witness who had previously ---

SENATOR RUSSO: The same witness who testified that it was not and he has some further testimony.

SENATOR PERSKIE: This is in the nature of a rebuttal?

SENATOR RUSSO: No. He indicated at the time that he had some further tests to run, as I recall. Am I right, Mr. Tidey?

THE WITNESS: Yes. Most of my testimony is going to be the same as my prior testimony. The only thing I have available today are ---

SENATOR RUSSO: We would hope it wouldn't be. We would hope you would only supplement your prior testimony with whatever is necessary to go beyond that. We don't want you to repeat it all. We are familiar with it and, of course,

we have the transcript. We are familiar with your testimony that, based upon the reasons you gave at the time, you concluded that it was not Mr. Kuyl's signature. So we don't want you to go through it all again. We are only availing you this opportunity at the request of the State Police for you to present additional testimony to supplement or corroborate, or whatever, that which you did earlier. We would rather you not go through it again.

THE WITNESS:

All right. Then, taking that into consideration, my testimony then is going to be very short because what I would be able to do is reiterate what I have already stated before, that in my opinion the known writings of Mr. Jellicks do not compare to any of the writing on the questioned receipt that is in question, that in my opinion, the body of the letter was not prepared by Detective Kuyl, and that the signature at the base of that receipt was also not prepared by Detective Kuyl.

The only thing that I have done today was to present photographs with individual cut-outs of letters to go into more detail, if you felt it was necessary, to point out the numerous points of dissimilarity that I was able to find between the known and the questioned writings.

BY SENATOR RUSSO:

Q Well, you pointed out numerous points of dissimilarity at the last hearing.

A Yes, sir.

Q Are there additional ones to those you pointed out?

A No, I believe that you had asked me if I had a total. And I, at that time, did not have a specific total. I believe I estimated somewhere near 30 and now we are closer to 36 or 37, dealing strictly with the letter formation dissimilarities.

Q And basically what you have here, in addition to the total, are the photographs?

A Yes, sir.

BY SENATOR PERSKIE:

Q Mr. Tidey, you will forgive me; I wasn't present for your last testimony. You might have covered some of this. If you have, just indicate it. When you are trying to analyze whether a person has authored or written a given sample, what is the process that you bring to bear to deal with a case where somebody will make a conscious and deliberate effort to write something in a way that is notably different from the way he normally does it, for the purpose of disguising his authorship?

SENATOR RUSSO: That was covered, wasn't it?

THE WITNESS: Yes, sir.

SENATOR PERSKIE: I will then find it from the transcript.

BY SENATOR HAMILTON:

Q How many points of similarity did you find to go with the 36 points of dissimilarity?

A I don't really find any significant points of

similarity that I would feel that were done by the same person. I think what we have is an accidental similarity that happens in all handwriting, especially in printing where you have a basic form of a printed letter A or B where any number of people could have the same basic form. So there are some similarities between the known writings of Detective Kuyl's printing and some of the basic forms on some of the letters on the questioned receipt. But, in my opinion, these are only accidental similarities and not because it was done by Detective Kuyl.

Q That is because it must be a subjective evaluation?

A Yes, sir.

Q How many are there, regardless of whether it was accidental or whether it is because they were, in fact, written by the same person --- how many points of similarity?

A I believe there were about 5 or 6 that I found that could be compared.

Q As against 36 identifiable dissimilarities?

A Yes, sir. And this is based now just on the writing alone. When you go to compare the margin, the indentations, the size of the writing, the slant of the writing, the poor spelling, the misspelled words, which are not actually part of the comparison as far as a letter-to-letter comparison - but we are also able to make these kinds of comparisons - now the number would be closer to probably 40 dissimilarities when all are taken into consideration.

SENATOR RUSSO: Any other questions of the witness? (No questions.)

Did you want to have your photographs marked in evidence?

THE WITNESS: Yes, I would, if that would be all right. I would have to explain what they represent so that it would be on the record.

THE WITNESS:

The first photograph I have is an 8 by 10 photograph, which shows cut-outs of a combination of the known signatures which appear on various reports that were prepared by Detective Kuyl and signed by him, and the single signature at the bottom is the signature that is on the questioned receipt. The documents were photographed. From the photographs, the particular signatures were cut out and they have been placed into this photograph. And the purpose of this is to show the dissimilarities that appear between Detective Kuyl's known writing and the questioned writing as it appears on the receipt.

I would also like to point out that other signatures were used on reports and applications that go back into 1963 and those signatures, with only just the normal variations, are the same as represented in the upper part of this photograph.

(Received and marked Exhibit SP-1.)

The second photograph I have is another 8 by 10 photograph. In this particular case, we are now not dealing with the actual signatures, but we are dealing with individual letters. Again the questioned document was photographed and miscellaneous individual letters were cut out and removed from that photograph. The same was done with numerous known writings that I had that were the admitted writing of Detective Kuyl. These documents included request writings and other miscellaneous non-request writings or what is referred to as unsolicited writings, which also go back to 1963 and include up until this year, 1978.

What I have done is arranged in two columns in this photograph, a column under the word "known" - k-n-o-w-n - and all of the individual letters that are under the "known" represent the known writings and letters as prepared by Detective Kuyl.

Immediately adjacent to that is the heading "questioned" and the "questioned" represents the various portions of the questioned document and the miscellaneous letters that were cut out. So that, just to give you one short example, on the upper left we have the "known" and we have three letter H's that are prepared by Detective Kuyl. Adjacent to that, we have two letter H's that appear in "questioned." So that we are dealing with a "known" in the question on the left side; then also on the right side, we have the same thing. So we are actually able to make a letter-to-letter comparison by

comparing the "known" and the "questioned," and that is what is represented in this photograph.

(Received and marked Exhibit SP-2.)

Those are the only two photographs I have. I do have larger ones because I anticipated possibly going into more detail. But they represent nothing more than the information in the 8 by 10's that you have.

BY SENATOR PERSKIE:

Q On this Number 2 that you have just handed us, you have three dates down at the bottom. What do they represent?

A All right. On the left, you have July 30th, 1975.

Q Right.

A That was part of a request writing where Detective Kuyl prepared the question test.

Q At your request?

A It was not done at my request, but through the State Police, yes.

Q With respect to this particular inquiry.

A Yes, sir. Then beneath that is the date, July 1960, when this was taken from other older documents that were made available to me.

Q In his known handwriting?

A Yes, sir.

Q And then July 30, 1975, was the writing questioned.

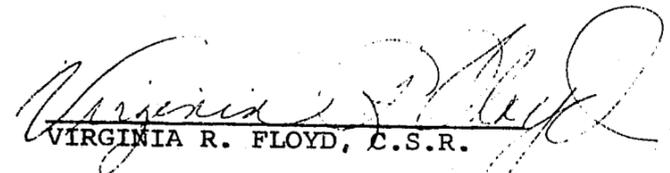
A Yes, that represents the date in the upper right-hand corner of the questioned document.

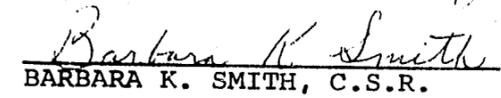
SENATOR RUSSO: Thank you. I guess that completes what we have to do now, in which case that concludes this hearing and we will stand in recess. Thank you.

RE: Activities of Law Enforcement Agencies

CERTIFICATION

WE, VIRGINIA R. FLOYD and BARBARA K. SMITH, DO CERTIFY that the foregoing is a true and accurate transcript of the testimony and proceedings in the above-entitled matter.


VIRGINIA R. FLOYD, C.S.R.


BARBARA K. SMITH, C.S.R.

END