

BEFORE THE SENATE OF THE STATE OF ARIZONA
SITTING AS A COURT OF IMPEACHMENT

In the Matter of the)
Impeachment of:)
)
EVAN MECHAM, Governor)
of the State of Arizona.)

Phoenix, Arizona
March 10, 1988
9:02 a.m.

VOLUME 9

BEFORE THE HONORABLE FRANK X. GORDON,
PRESIDING OFFICER

For the Board of Managers: Storey & Ross
By William P. French, Esq.
and
Brown & Bain
By Paul Eckstein, Esq.

For the Respondent: Jerris Leonard, Esq.
and
Craft & Loesch
By Winfred O. Craft, Jr., Esq.

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I N D E X

| <u>WITNESS</u> | <u>DIR</u> | <u>CR</u> | <u>REDIR</u> | <u>RECR</u> | <u>VOIR DIRE</u> |
|-------------------|------------|-----------|--------------|-------------|----------------------|
| BURKE, RICHARD K. | 1735 | 1747 | 1755 | | |
| SMITH, KENNETH V. | 1810 | 1844 | | | |
| FIELDS, TERRI E. | 1873 | 1895 | | | |
| RUSSELL, RAYMOND | 1916 | 1958 | 1966 | | |

E X H I B I T S

| <u>NO.</u> | <u>DESCRIPTION</u> | <u>IN EVIDENCE</u> |
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Phoenix, Arizona
March 10, 1988
9:02 a.m.

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THE PRESIDING OFFICER: Thank you, ladies and gentlemen. The Court of Impeachment is reconvened. Show the presence of the majority of the Members of the Board of Managers, their counsel.

Where is the third member of the Board of Managers? Yes, right there, their counsel, counsel for the respondent.

The clerk will now call the roll.

THE CLERK: Senator Alston?

SENATOR ALSTON: Present.

THE CLERK: Senator Brewer?

SENATOR BREWER: Present.

THE CLERK: Senator Corpstein?

SENATOR CORPSTEIN: Here.

THE CLERK: Senator De Long?

SENATOR DE LONG: Present.

THE CLERK: Senator Gabaldon?

SENATOR GABALDON: Here.

THE CLERK: Senator Gutierrez?

SENATOR GUTIERREZ: Present.

THE CLERK: Senator Hardt?

SENATOR HARDT: Here.

THE CLERK: Senator Hays?

1 SENATOR HAYS: Here.

2 THE CLERK: Senator Henderson?

3 SENATOR HENDERSON: Here.

4 THE CLERK: Senator Higuera?

5 SENATOR HIGUERA: Here.

6 THE CLERK: Senator Hill?

7 Senator Kay?

8 SENATOR KAY: Here.

9 THE CLERK: Senator Kunasek?

10 SENATOR KUNASEK: Here.

11 THE CLERK: Senator Lunn?

12 SENATOR LUNN: Here.

13 THE CLERK: Senator MacDonald?

14 SENATOR MacDONALD: Present.

15 THE CLERK: Senator Mawhinney?

16 SENATOR MAWHINNEY: Present.

17 THE CLERK: Senator Osborn?

18 SENATOR OSBORN: Present.

19 THE CLERK: Senator Pena?

20 SENATOR PENA: Here.

21 THE CLERK: Senator Rios?

22 SENATOR RIOS: Present.

23 THE CLERK: Senator Runyan?

24 Senator Sossaman?

25 SENATOR SOSSAMAN: Here.

1 THE CLERK: Senator Steiner?

2 SENATOR STEINER: Here.

3 THE CLERK: Senator Stephens?

4 SENATOR STEPHENS: Here.

5 THE CLERK: Senator Stump?

6 SENATOR STUMP: Present.

7 THE CLERK: Senator Taylor?

8 SENATOR TAYLOR: Here.

9 THE CLERK: Senator Todd?

10 SENATOR TODD: Here.

11 THE CLERK: Senator Usdane?

12 SENATOR USDANE: Here.

13 THE CLERK: Senator Walker?

14 SENATOR WALKER: Here.

15 THE CLERK: Senator West?

16 SENATOR WEST: Present.

17 THE CLERK: Senator Wright?

18 SENATOR WRIGHT: Here.

19 THE CLERK: Senator Hill?

20 SENATOR HILL: Here.

21 THE PRESIDING OFFICER: Senator Usdane, do you have
22 a motion?

23 SENATOR USDANE: Mr. Presiding Officer, I move that
24 Senator Runyan be excused from attending today's
25 proceedings.

1 THE PRESIDING OFFICER: Under Rule 19, that
2 requires a two-thirds majority of the Senators to approve
3 Senator Runyan's absence, his excusal.

4 All those in favor signify by saying "aye."
5 All those opposed say "no." The "ayes" appear to have it.
6 They do have it, and it's so ordered.

7 The roll indicates that there are 29 Senators
8 present, one absent and excused.

9 We have no motions this morning. Therefore,
10 we'll proceed directly to the continued examination of Dr.
11 Burke, if he will resume the stand.

12
13 RICHARD K. BURKE,
14 a witness herein, after having been previously duly sworn,
15 was examined and testified as follows:

16
17 THE PRESIDING OFFICER: Dr. Burke, I'll merely
18 remind you that you're still under oath, sir.

19 THE WITNESS: Yes, Your Honor.

20
21 CONTINUED DIRECT EXAMINATION

22 BY MR. CRAFT:

23 Q. Mr. Presiding Officer, ladies and gentlemen
24 of the Court of Impeachment, Doctor Burke.

25 I think yesterday as we were concluding, I

1 had asked you a question relating to what you thought the
2 proper procedure was going to be followed when the
3 Governor instructed that this matter be looked into by the
4 Department of Administration in conjunction with
5 Lieutenant Beau Johnson. You were about to answer that
6 question, I think, Dr. Burke.

7 A. Well, as I remember, and I think I've said
8 before, I felt like the DPS already had basically reported
9 to it, and that it would go forward with what I considered
10 to be a standard police investigation, that I thought the
11 matter going to the Department of Administration would
12 also be handled as a proper investigative internal
13 investigation involving an employee.

14 I assumed that they would both. In effect,
15 there would be dual investigations, and that they would
16 communicate with each other in regard to what each one was
17 doing, each one of the two departments. They are
18 co-departments of the government, and the communication,
19 at least from my standpoint, should be from department
20 head to department head, or it could be one of the
21 deputies or assistants who are talking to each other.

22 In effect, I feel like DPS should communicate
23 with DOA in regard to what DOA had discovered on its
24 investigation, and vice versa, and that notification
25 should be given to both parties of any change from a

1 normal procedure. And I assumed it was going forward in
2 that way.

3 Q. And was this assumption well placed?

4 A. Well, in retrospect, I guess it was not in
5 terms of the communication between them, because they
6 obviously did not.

7 Q. Was there somebody else that you thought
8 should be in the loop with regard to communicating?

9 A. Well, I think the Governor should always be
10 notified if it involves basically highly visible aides, as
11 in this case, one aide still on the payroll, and one
12 former aide.

13 Q. Dr. Burke, there's been a great deal of
14 questioning, and I know from the jury as well as from
15 counsel, with regard to the question of whether anybody
16 instructed that Donna Carlson be notified.

17 Why did you not instruct someone to notify
18 Donna Carlson when you knew about this on Friday, about
19 noonish, of November 13th, 1987?

20 A. Well, as I've already indicated, I felt the
21 matter was in the hands of DOA, and in the hands of DPS,
22 and that DPS was basically the police investigation.
23 That's normal procedure for them, too, I would assume, to
24 notify.

25 Q. Did you think at the time that the

1 seriousness of the -- did you grasp from the conversation
2 with Lieutenant Johnson that the matter was of such a
3 gravity that that should have been done right away, based
4 upon what he told you?

5 A. Well, I -- you know, I again would say it was
6 in their hands by a report to him. There should be an
7 evaluation of whether or not there was an immediate
8 threat, or whether it was a long-term threat.

9 Again, this would be a misevaluation, as far
10 as I was concerned. If there was feeling that there was
11 an immediate threat, I would have assumed that an arrest
12 would take place, as well as a warning to the potential
13 victim.

14 Q. And at the time this conversation took place
15 and you were informed by Lieutenant Johnson, had that
16 evaluation, that police evaluation taken place, to the
17 best of your knowledge?

18 A. I did not get that impression at that time.

19 Q. Dr. Burke, are you familiar with the
20 appointments process on the ninth floor of the Governor's
21 office?

22 A. Well, I'm familiar with it in terms of the
23 most recent appointment process, after I joined the staff.
24 I'm not familiar with anything prior to that time, no.

25 Q. At any time when you were Chief of Staff, did

1 anyone tell you that a criteria for filling positions that
2 were appointed positions made by the Governor of this
3 State, by Governor Mecham, were conditioned upon campaign
4 contributions?

5 A. No.

6 Q. At any time when you were Chief of staff, did
7 anyone show you a list of campaign workers who had
8 assisted the Governor during his gubernatorial campaign
9 and tell you that you should select people for high
10 positions based upon seeing a list like this?

11 MR. FRENCH: Mr. Presiding Officer, leading,
12 suggestive.

13 THE PRESIDING OFFICER: Overruled. You may answer.

14 THE WITNESS: I've lost track.

15 BY MR. CRAFT:

16 Q. Did you ever see a list of campaign
17 contributors?

18 A. No.

19 Q. Dr. Burke, when you first came on board
20 during that first week, or I guess that was the week of
21 the 9th of November -- is that accurate?

22 A. Well, as I recall, I came on on the 10th, in
23 the afternoon of the 10th, and then the 11th was a
24 holiday, as I recall. And so really I guess I came in on
25 basically the 12th.

1 Q. Was one of the first things that you tried to
2 do was to establish a working relationship with the
3 Attorney General's Office?

4 A. Yes.

5 Q. And why did you do that?

6 A. Well, because I felt that it was necessary in
7 terms of establishing an ongoing working relationship. We
8 certainly, on all legal matters, basically we depend upon
9 the Attorney General.

10 Q. But why was that necessary to do as one of
11 your first orders of business?

12 A. Well, I felt like, you know, just in
13 observing the political scene, there were certainly
14 strained relations between the Governor's office and the
15 Attorney General. There were strained relationships
16 basically, to a certain extent, with the legislature.

17 And those were my primary responsibilities,
18 was to basically -- responsibilities were to establish a
19 good working relationship with the legislature and with
20 the administration, and the administrative agencies, which
21 would include not only the Attorney General, but basically
22 the Secretary of State, Department of Public Instruction,
23 and all of the various departments and agencies. And
24 that's what I devoted myself to, principally, during the
25 time I was there.

1 Q. And when you took over that position, was the
2 Attorney General targeting the Governor of the State in a
3 grand jury proceeding that was looking at potential
4 wrongdoing relative to a campaign loan?

5 A. Well, as I remember, the grand jury
6 investigation was going on, yes.

7 Q. Did you establish communications during that
8 week with the Attorney General's Office?

9 A. I don't remember specifically when it was
10 done, but it was done very early during the days I was
11 there. I had a personal visit with Attorney General
12 Corbin, whom I had known for years back.

13 Q. And did you --

14 A. And along with some of his assistants.

15 Q. And did you ask him to work with you and the
16 Governor's office in establishing good communications?

17 A. Yes. And we had a very cordial meeting, no
18 problem. And during the time I was there, I worked with
19 Mr. Corbin's office. We had a very good relationship.

20 Q. And both of you committed to one another to
21 open lines of communications?

22 A. Yes.

23 Q. Were you aware that there was another
24 difficulty with regard to the Attorney General's Office
25 relative to the Governor retaining his own counsel?

1 A. Well, I think that's been a problem in regard
2 to not just the Governor, but a number of agencies in
3 regard to having an available legal counsel of their own.
4 I think it's been a subject matter of debate here in the
5 legislature from time to time.

6 Q. Could you tell us what the nature of that
7 particular problem was?

8 A. Well, I think from time to time it's a
9 question of getting legal counsel on matters that do not
10 involve litigation, but simply an opinion about whether to
11 do this, that, or the other. I think it's a kind of
12 problem that can exist in individual agencies, as well as
13 at the Governor's office.

14 There is no office of -- you know, many
15 Governors have basically an office of legal counsel, just
16 like the President of the United States does. And we do
17 not have that here, and that's been a subject -- I don't
18 know, I don't know of a great deal of controversy, but
19 certainly a subject of debate and discussion.

20 Q. Pursuant to statute, is the Governor
21 required, if he has legal counsel, to get it from the
22 Attorney General?

23 A. As far as I know, yes.

24 MR. FRENCH: Excuse me, Mr. Burke. Mr. Presiding
25 Officer, I object, materiality.

1 MR. CRAFT: Your Honor, I'm attempting to lay the
2 ground --

3 THE PRESIDING OFFICER: Overruled. You may answer.

4 MR. CRAFT: Thank you.

5 THE WITNESS: I think I already answered.

6 MR. CRAFT: I'm sorry. I didn't hear the answer.

7 THE PRESIDING OFFICER: I didn't, either, Dr.

8 Burke. Go ahead and give your answer.

9 THE WITNESS: My answer, as I recall, was yes.
10 Maybe you need to repeat the question.

11 MR. CRAFT: Maybe I do, Dr. Burke, and I thank you.
12 I need all the help I can get.

13 Would you repeat the question, please?

14 (Question read.)

15 BY MR. CRAFT:

16 Q. And the answer, you said, was yes?

17 A. Yes. I don't know whether it's statutory. I
18 haven't looked up the statute, but I assume it is
19 statutory.

20 Q. Did the Governor have a lawyer on his staff
21 at the time you took over as Chief of Staff?

22 A. Well, you were on his staff.

23 Q. Serving in the capacity of an attorney, and
24 as a representative for the Governor in legal matters?

25 A. No, not as such. And I remember discussion

1 of that when I came on, and I would not serve in that
2 capacity informally.

3 Q. So if the Governor --

4 A. Formally, as I understand it, and, boy, it's
5 purely an understanding, as I understand it, the Governor
6 is not authorized to have legal counsel, per se, as a part
7 of his staff.

8 Q. So if he wanted to get an answer to a
9 question that might have a bearing on crimes being
10 committed or any other legal question, he'd have to go to
11 the Attorney General to get it?

12 A. General, yes.

13 Q. Dr. Burke, are you aware of any facts which
14 would support a contention that the reason for the
15 Governor's remarks to Colonel Milstead in that telephone
16 conversation on Sunday, November 15th, were in order to
17 protect Lee Watkins in any way?

18 A. Restate your question, Mr. Craft.

19 Q. Are you aware of any facts which would
20 support a contention that the Governor, on Sunday,
21 November 15th, in his telephone conversation with Colonel
22 Milstead, was attempting to protect Lee Watkins by
23 anything that he said?

24 A. I am not personally aware of any facts, no.

25 Q. Are you aware of any facts which were not

1 relevant to that telephone conversation which would lead
2 you to believe that Governor Mechem at any time was
3 attempting to protect Mr. Lee Watkins?

4 A. No.

5 Q. During the time that you were Chief of Staff,
6 did you meet Mr. Watkins personally?

7 A. Yes. I don't recall that at this particular
8 time that I had met him.

9 Q. Did Mr. Watkins --

10 A. I did not know him prior to this time,
11 either.

12 Q. Did Mr. Watkins, during the time that you
13 were Chief of Staff, participate on the ninth floor in
14 policy-making?

15 A. Not to my knowledge, no.

16 Q. Did Mr. Watkins attend meetings of the staff
17 during that time period?

18 A. No.

19 Q. Was Mr. Watkins, Mr. Lee Watkins, relieved of
20 his employment when you were Chief of staff?

21 A. Well, he was relieved at this particular
22 time. He was put on administrative leave, yes.

23 Q. Was his employment terminated working for the
24 State of Arizona and the Governor?

25 A. Yes, later on -- well, actually in this

1 calendar year.

2 Q. This was 19 --

3 A. January, I suppose.

4 Q. In January.

5 Can you tell us what led to his being
6 relieved of his job?

7 A. You mean the permanent termination?

8 Q. Yes.

9 A. As I recall, it had to do with a
10 misrepresentation in an insurance application, which was
11 revealed whenever it was.

12 Q. And did you relieve him?

13 A. Did I personally do it?

14 Q. Did you order him to be relieved?

15 A. No. That actual order of that type had to
16 come from the Governor or from the Department of
17 Administration, Mr. Hawkins.

18 Q. Who actually fired him?

19 A. I think Mr. Hawkins actually did the formal
20 firing. That doesn't mean that I didn't make
21 recommendations from time to time.

22 Q. Did other people make recommendations, as
23 well?

24 A. Yes.

25 Q. Were there several on the ninth floor that

1 made recommendations?

2 A. Yes.

3 MR. CRAFT: One moment, Your Honor.

4 (Discussion off the record.)

5 BY MR. CRAFT:

6 Q. In addition to you, Dr. Burke, at the time,
7 who else recommended that Mr. Watkins be relieved?

8 A. Well, you, for one, and --

9 MR. CRAFT: I have no further questions.

10 THE PRESIDING OFFICER: Mr. French, you may take
11 the witness on cross-examination.

12 MR. FRENCH: Thank you, Mr. Presiding Officer.

13

14 CROSS-EXAMINATION

15 BY MR. FRENCH:

16 Q. How are you, Mr. Burke?

17 A. Fine.

18 Q. Do you prefer to be called Dr. Burke or Mr.
19 Burke?

20 A. It doesn't make any difference; Dick,
21 Richard.

22 Q. Mr. Burke, did you recommend that Mr. Watkins
23 be fired after you heard about the threat on the life of
24 Donna Carlson?

25 A. Well, I recommend that he be put on

1 administrative leave pending any further investigation.

2 Q. Whether it be administrative leave or fired,
3 you wanted him out of the office, didn't you?

4 A. Yes, sir.

5 Q. I'm going to be asking you some specific
6 questions, Mr. Burke, and if at any time you don't
7 understand the question, would you tell me that and I'll
8 rephrase it?

9 A. Certainly.

10 Q. And is it fair for me to an assume, then, if
11 you answered the question, that you understood it?

12 A. Yes, sir.

13 Q. You've known Mr. Craft for some time, have
14 you not?

15 A. Yes, sir.

16 Q. In fact, when you were U.S. Attorney for the
17 District of Arizona, he worked for you; is that correct?

18 A. Yes, he was an Assistant U.S. Attorney.

19 Q. And that goes back how many years?

20 A. Well, it would be '69, '70, roughly, '71.

21 Q. And when Mr. Craft became associated with the
22 administration, he had quite a bit to do with your
23 becoming involved as a member of the administration; is
24 that correct?

25 A. You mean here?

1 Q. Yes, sir.

2 A. Yes.

3 Q. When Lieutenant Beau Johnson first told you
4 about the threat on the life of Donna Carlson, you
5 considered it to be a serious matter, didn't you?

6 A. Yes.

7 Q. Nobody had to tell you, Mr. Burke, that such
8 a threat constituted a possible felony, did they?

9 A. No, sir.

10 Q. You agree, do you not, that Lieutenant Beau
11 Johnson reporting the threat to his supervisor, the
12 Department of Public Safety, was proper on his part, don't
13 you?

14 A. Yes, I do.

15 Q. You also agree that Peggy Griffith's
16 reporting of the threat to the Department of Public Safety
17 was proper conduct on her part, don't you?

18 A. Yes.

19 Q. A threat on the life of a person should be
20 reported to a law enforcement agency, should it not?

21 A. Yes.

22 Q. Now, Peggy Griffith called you on Friday, the
23 13th, and you called her back when you got to your home in
24 Prescott, and at that time she told you, did she not, that
25 the Attorney General's Office was involved in the threat

1 matter; isn't that correct?

2 A. I think she told me that somebody from the
3 Attorney General's Office had called her, yes.

4 Q. And you remember that, don't you?

5 A. (No response.)

6 Q. In that same phone call, Mr. Burke, you
7 assured Peggy Griffith that she had done the right thing
8 in reporting the threat to the Department of Public
9 Safety, didn't you?

10 A. Yes, as I recall, I did.

11 Q. You would agree, would you not, that everyone
12 at the meeting in the Governor's office, yourself, Mr.
13 Craft, and the Governor, considered this threat to be a
14 serious matter?

15 A. Yes.

16 Q. And it --

17 A. You know, I think we would -- my approach to
18 it, Mr. French, would be, it wouldn't have been there if
19 at least Mr. Johnson -- Lieutenant Johnson and Officer
20 Martinez had not considered it to be serious.

21 Q. And you considered it to be serious?

22 A. Yes.

23 Q. And from your impression, the Governor
24 considered it to be serious, didn't he?

25 A. Yes.

1 Q. Do you agree that if someone tried to stop
2 you from telling the truth to a grand jury by intimidating
3 you, that that would not only be improper, but it would be
4 unlawful?

5 A. Yes.

6 Q. Now, on November 13th, Friday, the Governor
7 knew that there had been a threat by Watkins to Peggy
8 Griffith in regard to Donna Carlson?

9 A. Yes.

10 Q. On that same day, the Governor knew the
11 threat involved bodily harm to Donna Carlson, correct?

12 A. I assume that the word "bodily harm" got into
13 there, but, you know, I don't remember that specifically.
14 But at least serious harm, yes, and I think just simply
15 from a threat, we would assume bodily harm.

16 Q. Mr. Burke, you would assume that it would be
17 normal or standard operating procedure for the Department
18 of Public Safety to cooperate with the Attorney General's
19 Office in such a matter as this threat; correct?

20 A. Yes.

21 Q. Mr. Burke, you would never advise a
22 Department of Public Service Officer to do anything other
23 than his sworn duty, would you?

24 A. No.

25 Q. You never considered this threat of bodily

1 harm to Donna Carlson to be simply a personnel matter, did
2 you?

3 A. Well, from my superficial knowledge of it,
4 I -- it could have been, but I took it at face value.
5 That is, that they considered it a serious threat, that
6 is, that Lieutenant Johnson and Officer Martinez did, and
7 certainly involved possible crime. As far as I was
8 concerned, it required further investigation by both, no
9 question about that.

10 Q. Let me ask the question again, Mr. Burke.

11 A. Surely.

12 Q. You never considered the threat of bodily
13 harm to Donna Carlson to be solely a personnel matter, did
14 you?

15 A. No, no.

16 Q. You felt it should be a matter that should be
17 reported --

18 A. Yes.

19 Q. -- to a law enforcement agency?

20 A. Yes. And I considered that that was done
21 when it was reported to Officer Martinez and Lieutenant
22 Johnson.

23 Q. From your experience, Mr. Burke, if a threat
24 were made, the normal procedure would be to investigate
25 the matter before notifying the intended victim; isn't

1 that true?

2 A. Well, at least do a preliminary
3 investigation.

4 Q. Do you see anything wrong, Mr. Burke, with
5 Colonel Milstead informing the Governor that he was taking
6 the matter to the Attorney General's Office?

7 A. I see nothing wrong with that. I -- my only
8 comment would be the communication with the Governor
9 should have been sooner than it was.

10 Q. Mr. Burke, it is true, is it not, that it
11 would be Colonel Milstead's responsibility to report this
12 situation to the proper authorities, and the Governor
13 would not have the authority to stop it; isn't that true?

14 A. My impression of law enforcement, certainly,
15 that would be true.

16 Q. During your years as the U.S. Attorney for
17 the District of Arizona, did you ever, under any
18 circumstances, Mr. Burke, tell or order any FBI agent not
19 to report a crime to the Department of Justice?

20 A. No.

21 Q. You would not do that, would you?

22 A. No.

23 Q. Do you, Mr. Burke, know of any law, any
24 statute, any regulation, or even a policy, that gives a
25 Governor, or for that matter, any other person, the right

1 to, or the right even to attempt, to impede or obstruct
2 any criminal investigation?

3 A. No.

4 Q. You agree with me, do you not, Mr. Burke,
5 that no man, no man stands above the law?

6 A. Yes.

7 Q. Mr. Burke, let me give you a hypothetical
8 situation.

9 November 15th, Sunday, you're in charge of
10 this state. Say the Governor is out of town. You're
11 Chief of Staff. It's around noon, and you get a call from
12 Ralph Milstead, Department of Public Safety, and he says,
13 in substance, to you, "Mr. Burke, the Attorney General's
14 Office has contacted me regarding this threat on Donna
15 Carlson's life. They want to get statements from Officer
16 Martinez, and they want to get a statement from Lieutenant
17 Beau Johnson concerning this matter."

18 Would you, under any circumstances, Mr.
19 Burke, tell Mr. Milstead, "I don't want Frank or Beau
20 giving any statements to the Attorney General"? Would you
21 say that?

22 A. No.

23 Q. Would you say this: "Don't tell the Attorney
24 General anything"?

25 A. No.

1 Q. Would you say this to Colonel Milstead:
2 "Never. Don't give him any help"?

3 A. No.

4 MR. FRENCH: Thank you.

5 THE PRESIDING OFFICER: Redirect.
6

7 REDIRECT EXAMINATION

8 BY MR. CRAFT:

9 Q. Dr. Burke, is there a difference between a
10 formal investigation and an inquiry on behalf of a police
11 agency?

12 A. Well, I don't know. You know, it's a matter
13 of terminology, Mr. Craft. To me, there's a preliminary
14 investigation and then there's a full-scale investigation.
15 And if you were to ask me where do you draw the line, I'll
16 be darned if I know. But you do make at least initial
17 inquiry to see if there's any substance or possible
18 substance to an allegation.

19 Q. At the time this issue of the parties that
20 were involved came to your attention on Friday, Mr.
21 Watkins and Mrs. Griffith, both of whom had been highly
22 visible in the administration, did you believe that the
23 way in which it could be handled might have some serious
24 impact of a political nature?

25 MR. FRENCH: Objection; beyond the cross.

1 THE PRESIDING OFFICER: Sustained.

2 BY MR. CRAFT:

3 Q. Do you believe that there was a duty on the
4 part of Director Milstead to inform the Governor that a
5 formal investigation was underway on behalf of not only
6 the Department of Public Safety, but the Attorney
7 General's Office?

8 A. Yes.

9 MR. FRENCH: Mr. Presiding Officer, again, object;
10 beyond the cross.

11 THE PRESIDING OFFICER: Overruled. You may answer
12 that.

13 THE WITNESS: I think I did. Yes.

14 BY MR. CRAFT:

15 Q. Do you think there was a duty on the part of
16 the Attorney General of the State to inform the Governor
17 of the State that he was conducting an investigation on
18 this threat, and do you think that that should have come
19 on Friday?

20 A. Well, I think that once DPS turned the matter
21 over to the Attorney General, which again, I'm simply
22 going on what I've read in the papers, and/or heard
23 here -- I haven't heard all of the testimony here -- and
24 that is, that basically it was turned over to the Attorney
25 General's Office on Friday, and I would say it was an

1 obligation of DPS, not necessarily Director Milstead, but
2 of somebody at DPS to notify the Governor, but also to
3 notify Max Hawkins, whether they liked him or didn't like
4 him or not. He was the department head who had
5 supervision over this particular employee.

6 I felt, as I've said before, that is standard
7 procedure and should have been done. Why it wasn't done,
8 I have no earthly idea.

9 Q. You had said earlier on cross that you
10 believed that the conversation between Director Milstead
11 and the Governor should have taken place sooner, and now
12 you're also saying that you believe that when it should
13 have taken place sooner, that somebody, if it wasn't
14 Director Milstead, should have told the Governor. Is that
15 accurate?

16 MR. FRENCH: Mr. Presiding Officer, that's leading.
17 Mr. Craft is now testifying, and I object.

18 THE PRESIDING OFFICER: Sustained.

19 BY MR. CRAFT:

20 Q. Dr. Burke, you were asked questions from Mr.
21 French relative to the things that constitute impeding and
22 obstructing. Is it your opinion that to obstruct or to
23 impede or to delay requires knowledge on the part of the
24 person who is alleged to be obstructing, impeding, or
25 delaying?

1 A. I think that's a matter of law, that
2 knowledge, scienter, intention, what have you, is required
3 generally.

4 Q. And in the hypothetical that Mr. French gave
5 you, if you were not aware at the time you were being
6 informed by Colonel Milstead, if you were not informed
7 that there was another investigation, either formal or
8 informal, which was being conducted, would that have an
9 impact at all on how your reaction might be?

10 A. Well, obviously I think how you react, how I
11 react, how you react, how Mr. French reacts, how the
12 Governor reacts, is dependent upon your own perspective.
13 There's no question about it. My perspective would be my
14 perspective.

15 Q. And in jobs of Chief of Staff and in jobs to
16 the Governor and in jobs to the Attorney General and in a
17 job of Director of Public Safety, these are highly
18 political jobs, are they not, highest political positions?

19 A. Well, the department heads generally are,
20 yes. Is that what you're talking about?

21 Q. Yes. And is there a --

22 A. Political appointees, at least.

23 Q. Is there a general rule and policy that there
24 is an attempt on the part of those leaders of government
25 to keep each other informed so that they are not

1 blindsided?

2 A. I would hope so.

3 Q. And based upon what you know of the
4 circumstances relative to that conversation, is there a
5 reason why you think someone could be agitated to find out
6 on Sunday about the circumstances of an involvement that
7 he was unaware of?

8 A. I could understand why the Governor would be
9 agitated, yes.

10 Q. At the time --

11 A. And I assume he was.

12 Q. Pardon?

13 A. I assume he was.

14 Q. Do you think he had good cause?

15 A. Well, from his perspective would be different
16 from mine. From his perspective, I would say yes, he had
17 reason to be agitated.

18 Q. And do you think at that time that there was
19 efficient execution of government occurring?

20 A. I don't understand that particular question.

21 Q. Do you think at the time that the Governor
22 heard this, that he believed that the procedures and
23 processes were working and functioning properly?

24 A. Well, I can't get into the Governor's mind,
25 you know, as to what particular things were there. It's

1 obvious there was some friction between the Governor and
2 the Attorney General. That's well-known. It's obvious
3 from what you've heard here that there was some friction
4 between the Governor and Colonel Milstead. And, you know,
5 those factors are obviously going to influence what he
6 says and what he does.

7 Q. Do you think if there had been communication
8 between the Attorney General, the Governor, and the
9 Director of DPS, and the Director of the Department of
10 Public Administration, by Friday, Saturday, or Sunday,
11 that we'd be here talking about this issue today?

12 A. Well, I think if communications had been done
13 on Friday, you would not be here, no.

14 Q. At the time the threat was related to you by
15 Lieutenant Johnson, did you consider the alleged criminal
16 act to be the threat?

17 A. Yes.

18 Q. Did you think at that time that it also was
19 an intimidation of a grand jury witness at that time?

20 A. I guess I didn't think about that
21 particularly, but they were both involved before, or at
22 least potential witnesses, before the grand jury.

23 Q. Were you cognizant of the grand jury aspect
24 of this at that time?

25 A. In general. It did not stand out in my mind.

1 As you know, I just had come on. I was really more
2 concerned, I guess, in putting my time into getting the
3 office organized, getting moved down here to Phoenix over
4 the weekend. That's why a lot of these things just seemed
5 to run all together as far as my recall is concerned.

6 Q. Did you have, on Friday, a conversation with
7 the Governor with regard to a grand jury interference
8 matter?

9 A. On Friday?

10 Q. Yes.

11 A. No.

12 Q. Did you on Monday?

13 A. No.

14 Q. And did you any time during that weekend?

15 A. Not that I recall.

16 MR. CRAFT: Thank you. No further questions.

17 THE PRESIDING OFFICER: May this witness be excused
18 subject to call -- oh, I'm sorry. I'm about to do it
19 again.

20 Senator Kay, then Senator Brewer, then
21 Senator Higuera.

22 SENATOR KAY: Thank you.

23 Dr. Burke, you testified yesterday that when
24 Lieutenant Johnson -- you were at that meeting -- informed
25 the Governor of the threat, the entire meeting took about

1 two minutes?

2 THE WITNESS: Yes, sir.

3 SENATOR KAY: Today on cross-examination by Mr.
4 French, you indicated that you had the impression that the
5 Governor realized that it was a threat.

6 Could you tell the Court what it was that
7 gave you the impression that the Governor felt that it was
8 a serious threat?

9 THE WITNESS: Well, I think the matter is in the
10 context of rather he treated it as purely a personnel
11 matter, or treated it lightly. I did not get the
12 impression that he treated it lightly at all.

13 My impression, simply from what was said and
14 what he said was, this should be taken to Mr. Hawkins for
15 further investigation.

16 SENATOR KAY: But aside from his saying that it
17 should go to Mr. Hawkins, he didn't comment specifically
18 otherwise as to what he thought the degree of the threat
19 was, or whether it was serious or not?

20 THE WITNESS: No, no, not that I recall at all.

21 SENATOR KAY: Thank you, sir.

22 THE PRESIDING OFFICER: Senator Brewer.

23 SENATOR BREWER: Thank you, Mr. Presiding Officer.

24 Mr. Burke, in your judgment, or your opinion,
25 do you feel the statement by the Governor, "If you're

1 asking for my permission, you don't have it," and, "I
2 don't want Frank or Beau giving any statement to the
3 Attorney General," in your opinion or your judgment, was
4 that obstruction of justice?

5 THE WITNESS: Well, I don't think I should comment
6 directly upon that. I would simply say, again, the
7 Governor, from his perspective, would have a very
8 different view of that and possibly I would.

9 SENATOR BREWER: Thank you.

10 THE PRESIDING OFFICER: Senator Higuera.

11 SENATOR HIGUERA: Thank you, Mr. Presiding Officer.

12 Mr. Burke, I have four or five questions I'd
13 like to ask you.

14 Mr. Burke, is there any place in federal
15 statutes or state criminal statutes that distinguishes the
16 difference between a long-term threat and an immediate
17 threat?

18 THE WITNESS: I'm sorry. I'm not hearing that
19 well. Maybe it's my age.

20 SENATOR HIGUERA: No, it isn't. It's just that we
21 accomodated the press, but we forgot to accomodate the
22 folks up there. Maybe that can be taken care of in the
23 near future.

24 Mr. Burke, is there any place in federal
25 criminal statutes or state criminal statutes that

1 distinguish the difference between a long-term threat and
2 an immediate threat? You used those terms in your
3 testimony this morning.

4 THE WITNESS: Not in terms of the statute itself.
5 I think what I was commenting upon, Senator, was that if
6 there is an immediate threat, that is, an immediate threat
7 of harm, why, the person who is making that threat should
8 be arrested. That's really what I was commenting upon,
9 rather than the statute itself.

10 SENATOR HIGUERA: Mr. Burke, did you ever hear, or
11 were you present during your brief employment in the
12 Governor's office, where Mr. Craft gave the Governor any
13 legal advice on this matter before us, or any other
14 matter?

15 THE WITNESS: Not that I recall, no, not legal
16 advice.

17 SENATOR HIGUERA: Thank you. I have another one.

18 Mr. Burke, did you and Mr. Craft discuss the
19 Carlson threat report with the Governor after Lieutenant
20 Johnson left the room?

21 THE WITNESS: No. As a matter of fact, shortly
22 thereafter, we went down to lunch with some other members
23 of the staff and simply had a normal kind of visit.

24 SENATOR HIGUERA: Did you discuss the Carlson
25 threat with those members of the staff during lunch?

1 THE WITNESS: No, as I recall, we did not.

2 SENATOR HIGUERA: Thank you. I have a last
3 question, Mr. Burke.

4 During one of your first questions yesterday,
5 there was a question posed to you, and that was: "What
6 did Lieutenant Johnson tell you?"

7 And you answered: "Well, his first contact
8 with me, late morning on November 13th, as I recall," and
9 you went on to say, "and let me say before you all, in
10 terms of recall, this is some time ago, and I would make
11 no representation of being able to recall specific words
12 or phrases that I used or that he used, or anybody else
13 used."

14 That seems to me that --

15 THE WITNESS: That's correct.

16 SENATOR HIGUERA: I understood that maybe we might
17 not get it clear from testimony, or what did you mean by
18 that opening statement before you began to testify
19 yesterday?

20 THE WITNESS: Well, basically that I cannot give
21 you direct quotes of conversations that have taken place
22 that long ago. I did not take any notes of any of these
23 things that we have talked about here, and so it would be
24 presumptuous of me to assume that I did give direct quotes
25 concerning what I said or what anybody else said. I can

1 simply give substance, and that's what I've tried to do.

2 SENATOR HIGUERA: Thank you very much, sir.

3 THE PRESIDING OFFICER: Senator Usdane was next.

4 SENATOR USDANE: Mr. Presiding Officer, Dr. Burke,
5 I have a series of questions. And rather than to go over
6 them, I'd like to see if I can state them and then you can
7 just answer whether that is as you testified or not.

8 First let me say that we had conversations,
9 Dr. Burke, in the Governor's office regarding the fact
10 that you were new, you and I personally, and other leaders
11 of the legislature, regarding advice to the Governor in
12 order to protect him in your Chief of Staff status; is
13 that correct?

14 THE WITNESS: Yes.

15 SENATOR USDANE: Dr. Burke, knowing that you were
16 brand new in coming on, you knew that there were serious
17 problems between department people, directors, and others;
18 is that correct?

19 THE WITNESS: I knew. I didn't know the specifics,
20 but I knew there were problems, which is I suppose one of
21 the reasons I was there.

22 SENATOR USDANE: Okay, good. Yes, I agree.

23 Doctor, in terms of these next three or four,
24 I'm just going to tell you what I think I heard you say in
25 order to ask the balance of the questions.

1 The meeting at approximately noon on November
2 13th in the Governor's office, the following people were
3 present: Yourself, Governor Mecham, Lieutenant Johnson,
4 and Fred Craft; is that correct?

5 THE WITNESS: Yes, as I recall. And Mr. Smith may
6 have been there for part of the conversation. I'm not
7 sure.

8 SENATOR USDANE: Doctor, at that meeting,
9 Lieutenant Johnson, in your presence, described for
10 Governor Mecham the threat that had allegedly been made on
11 Donna Carlson's life; is that correct?

12 THE WITNESS: Yes.

13 SENATOR USDANE: But I understand you testified
14 that you didn't hear the exact wording, but you did
15 testify that you clearly understood that he was reporting
16 a threat to her life; is that correct?

17 THE WITNESS: Yes, that's correct, that it was a
18 serious threat. Maybe -- I don't remember a threat of
19 life or bodily harm, but I certainly took it as a serious
20 threat. It wasn't a threat of tiddledywinks, or
21 something.

22 SENATOR USDANE: Doctor, in that meeting, did you
23 advise the Governor that in your opinion a crime had
24 possibly been committed?

25 THE WITNESS: No, I made no comments of that type,

1 as I recall.

2 SENATOR USDANE: Doctor, did you think that at any
3 point in time in the next couple days, you made that
4 comment to the Governor?

5 THE WITNESS: I may have, you know, on the
6 following Monday or Tuesday, but I think all of us assumed
7 that it was a crime, or a potential crime. Otherwise, it
8 wouldn't have been reported to us.

9 SENATOR USDANE: Okay. Doctor, Mr. Presiding
10 Officer. Doctor, then if I understand your testimony now,
11 you assumed the Governor assumed it was a crime?

12 THE WITNESS: Yes, a potential crime.

13 SENATOR USDANE: Yes. Thank you, potential crime.

14 Doctor, did you discuss this matter with Fred
15 Craft the day of November 13th?

16 THE WITNESS: I don't recall that we had any
17 further discussion over it.

18 SENATOR USDANE: Okay.

19 THE WITNESS: I talked to Mr. Craft fairly often,
20 so -- during that period of time.

21 SENATOR USDANE: Surely. Mr. Presiding Officer,
22 Doctor, when you received the subpoena on Monday morning,
23 did you tell the Governor you had received one?

24 THE WITNESS: I can't remember whether I saw him
25 before I went to the grand jury or not.

1 SENATOR USDANE: I think you mentioned that you
2 spoke with --

3 THE WITNESS: It was fairly early in the day.

4 SENATOR USDANE: I'm sorry.

5 THE WITNESS: No, that's quite all right.

6 SENATOR USDANE: Doctor, I think you said that you
7 knew that Peggy Griffith had one, and you had spoken with
8 her?

9 THE WITNESS: Yes.

10 SENATOR USDANE: Was she the only other person that
11 you spoke to about that subpoena?

12 THE WITNESS: Well, I didn't speak to her about the
13 subpoena. She came by the office before she went down
14 there.

15 SENATOR USDANE: I see. Thank you.

16 Doctor, after you returned from the grand
17 jury, did you discuss with the Governor any of the issues
18 concerning the threat, other than grand jury testimony?

19 THE WITNESS: Well, I did not discuss my grand jury
20 testimony, which he knew and I knew, too, would be
21 improper.

22 At some stage along that time, I don't
23 remember whether it was later on that day or when it was,
24 I did discuss, mention to him that I was surprised to find
25 that -- which I had just found out, that Beau and Officer

1 Martinez had been transferred.

2 SENATOR USDANE: I see.

3 Were you advised, Doctor, prior to the 6:00
4 p.m. Monday evening meeting with the Governor on TV with
5 Cameron Harper, about that discussion to be taking place?

6 THE WITNESS: I'm sorry. I missed part of it,
7 Senator.

8 SENATOR USDANE: Okay. Let me rephrase it.

9 Doctor, were you advised that the Governor
10 was going to be on TV Monday night with Cameron Harper?

11 THE WITNESS: Yes. And as you probably know,
12 Senator, I have opposed all of those appearances.

13 SENATOR USDANE: Yes, Doctor. I'm aware of that,
14 and probably in good judgment that you had. Doctor, just
15 a couple more.

16 Since, Doctor, you determined on Friday at
17 noon that this was a serious matter and a possible crime
18 had been committed, would you please explain what steps
19 you took in conversations you had to determine whether
20 this matter was being handled as a serious criminal
21 matter?

22 THE WITNESS: Well, I think I have stated I assumed
23 all along that it was being handled in what I considered
24 to be proper police procedure, that is, that an
25 investigation internally would have been done by Mr.

1 Hawkins, that a police investigation would have been done
2 by the Department of Public Safety.

3 SENATOR USDANE: Yes, Doctor. Thank you. I
4 understand.

5 And did you discuss that with the Governor,
6 that there were -- that there would probably be two
7 separate investigations?

8 THE WITNESS: I did not discuss that with him at
9 that particular time, no. Like at noon --

10 SENATOR USDANE: At any time?

11 THE WITNESS: No, I did not.

12 SENATOR USDANE: At any time, sir?

13 THE WITNESS: I had assumed that he would assume
14 that, as well.

15 SENATOR USDANE: I see.

16 Doctor, do you believe that the transfer of
17 Lieutenant Johnson from the Governor's staff, in terms of
18 security, was done because of his reporting the incident
19 to his superior officer?

20 THE WITNESS: He told me, when I inquired about it,
21 as I indicated a moment ago, the Governor told me, in
22 effect, there were some other reasons, and that it was not
23 purely this, and that he actually had not asked for
24 Officer Martinez to be transferred at all.

25 SENATOR USDANE: Thank you very much, Doctor.

1 THE PRESIDING OFFICER: Senator Walker.

2 SENATOR WALKER: Dr. Burke, I believe earlier you
3 testified that you were in the room with the Governor when
4 Lieutenant Johnson told him about the Watkins threat, and
5 you also testified that Mr. Craft was in that same room?

6 THE WITNESS: Yes.

7 SENATOR WALKER: And you also testified that you
8 didn't remember verbatim the conversations that went on?

9 THE WITNESS: That's correct.

10 SENATOR WALKER: But do you remember Mr. Craft
11 saying to the effect of, "Governor, you need to distance
12 yourself from this"?

13 THE WITNESS: I know that's been testified to
14 before, and I specifically do not remember that, although
15 I would not have considered it unusual for him to say
16 that.

17 SENATOR WALKER: Dr. Burke, why wouldn't you, why
18 wouldn't you have considered it unusual?

19 THE WITNESS: Well, because this is the kind of
20 internal matter that the Governor certainly should not be
21 personally investigating at all. It's a police
22 investigation.

23 SENATOR WALKER: I understand.

24 Dr. Burke, I believe you testified earlier
25 that someone, probably from DPS or the Attorney General's

1 Office, should have notified the Governor that an Attorney
2 General's investigation was going on; is that correct?

3 THE WITNESS: Yes. I said that if the DPS was not
4 going to do it themselves, they certainly should have
5 notified the Governor.

6 And as far as that goes, if they were doing
7 it themselves, they should have, in my opinion, notified
8 the Governor as to what progress they've made and given
9 him a report on the matter.

10 SENATOR WALKER: Now, my question is: When you
11 spoke with Peggy Griffith, and she told you that someone
12 from the Attorney General's Office called her, did you not
13 feel that you had an obligation to notify the Governor
14 that the Attorney General was investigating the threat and
15 that there might be some possible embarrassment to him?

16 THE WITNESS: Well, I interpreted, basically, and
17 here again, I'm relying on substance, as to what he said.
18 It didn't tell me, in effect, that DPS was not doing an
19 investigation.

20 Let me just give you an example. If I, as
21 U.S. Attorney, was working with the FBI, the fact that I
22 was working with them on a particular case would not mean
23 that the FBI was not doing the investigation. So I simply
24 didn't take it in that light at all.

25 SENATOR WALKER: I understand your answer.

1 But, Dr. Burke, didn't you feel you needed to
2 let the Governor know that the Attorney General's Office
3 was investigating the matter?

4 THE WITNESS: No, I did not take it in that light,
5 as I said.

6 SENATOR WALKER: You didn't feel that there may be
7 some possible embarrassment for the Governor?

8 THE WITNESS: I'm sorry?

9 SENATOR WALKER: You didn't feel that the Attorney
10 General investigating the matter might possibly embarrass
11 the Governor?

12 THE WITNESS: No, I simply didn't take it in that
13 light at that particular time. I did not.

14 SENATOR WALKER: So I take it you took it as simply
15 a possible criminal --

16 THE WITNESS: Ordinary criminal investigation was
17 going on, yes.

18 SENATOR WALKER: And that there was nothing wrong
19 with DPS having been involved in the investigation?

20 THE WITNESS: No, nothing wrong with having the
21 Attorney General involved in it. It simply, as I said,
22 was a breakdown in the communication.

23 SENATOR WALKER: Just simply a routine procedure?

24 THE WITNESS: As far as I was concerned, yes.

25 SENATOR WALKER: Thank you.

1 THE PRESIDING OFFICER: Senator Lunn is next.

2 SENATOR LUNN: Thank you, Mr. Presiding Officer.

3 Dr. Burke, let me just clarify. Is your
4 testimony that you had no conversations beyond the initial
5 report from Lieutenant Johnson to yourself and Mr. Craft
6 and the Governor about this matter, that you had no
7 additional conversations with the Governor on Friday,
8 Saturday --

9 THE WITNESS: Not on that particular day, no.

10 SENATOR LUNN: -- Saturday or Sunday?

11 THE WITNESS: Not that I recall on Saturday or
12 Sunday, no.

13 SENATOR LUNN: How did you, Dr. Burke, learn of the
14 conversation that took place between Colonel Milstead and
15 Governor Mecham on Sunday? Did you learn about it on
16 Sunday?

17 THE WITNESS: No, I learned about it after the --
18 after my appearance before the grand jury.

19 SENATOR LUNN: Do you recall how you learned about
20 it? Did you learn about it --

21 THE WITNESS: Well, I learned about the substance,
22 the basics of Lieutenant Johnson and Officer Martinez,
23 from my conversation with them down at the courthouse.

24 SENATOR LUNN: When Mr. French, on
25 cross-examination, asked you a series of questions,

1 hypothetical questions, putting yourself in the place of
2 the Governor, and then his questions basically
3 incorporated elements of Colonel Milstead's recollections
4 of comments that the Governor made to him during that
5 Sunday conversation, and Mr. French asked you whether you
6 would ever have made those comments, and you answered no
7 to each of the comments that he recited, is your answer
8 no, Dr. Burke, on those questions, whether or not you had
9 knowledge of an Attorney General's investigation prior to
10 that phone call?

11 THE WITNESS: Well, I guess you're asking me a
12 hypothetical again, and I think my response would be
13 generally as it was to him. And that is, that from my
14 perspective, and my perspective only, I would not put
15 myself with the same perspective as the Governor had.

16 From my perspective, the matter between the
17 Attorney General and DPS, there's nothing unusual about
18 that at all.

19 SENATOR LUNN: Did you --

20 THE WITNESS: Like I said, it's like the U.S.
21 Attorney working with the FBI. I don't have any problem
22 with that at all.

23 SENATOR LUNN: Do you think it's wrong for the
24 Governor of this State to direct the Director of the
25 Department of Public Safety not to cooperate with the

1 Attorney General's Office on a criminal matter?

2 THE WITNESS: Well, I don't really think I should
3 comment on that.

4 SENATOR LUNN: Did you watch the Cameron Harper
5 interview on Monday night, November 16th?

6 THE WITNESS: I think I saw it on TV.

7 SENATOR LUNN: And you recall that ten-minute
8 segment of that slightly more than half-hour interview in
9 which Cameron Harper asked the Governor specifically about
10 the matter of the threat?

11 THE WITNESS: Well, in general, yes, I recall it.

12 SENATOR LUNN: I'm going to ask you your
13 recollection of your impression of the Governor's answers
14 to Mr. Harper's questions at that time.

15 Given your knowledge of what the Governor
16 knew about this threat, threat conversation on Friday,
17 whatever may have happened subsequent to that, was it your
18 impression that the Governor answered those questions
19 truthfully?

20 THE WITNESS: Well, again, I think that, you know,
21 it would be unfair for me to comment upon that directly.
22 Let me say that as I remember that particular interview,
23 television appearance, it was supposed to be restricted to
24 the matter of the Wolfson loan, and at least that was the
25 Governor's understanding. And I think he got quite upset

1 when it shifted gears into this other matter.

2 In terms of what I knew, that what the
3 Governor knew about the matter, his response in saying
4 that he knew little about the matter would be correct.

5 SENATOR LUNN: Thank you.

6 THE PRESIDING OFFICER: Next is Senator Mawhinney.

7 SENATOR MAWHINNEY: Mr. Presiding Officer, Dr.
8 Burke, when the meeting in the office on Friday, the 13th,
9 occurred, between you and all the other gentlemen, when
10 you advised the Governor of the threat, was there any
11 other business going on?

12 Generally in a Governor's meeting, there are
13 five or six subjects, everybody trying to get in, get out,
14 get something done.

15 Was this the only subject, the prime focus,
16 so everybody was focused in on this one issue?

17 THE WITNESS: Well, at that particular moment in
18 time, yes. There was not another meeting going on at that
19 particular time, no.

20 SENATOR MAWHINNEY: So everybody in the room was
21 focused in on this report from Lieutenant Johnson?

22 THE WITNESS: Well, basically the report from
23 Lieutenant Johnson, yeah.

24 SENATOR MAWHINNEY: And you walked out of the room
25 confident in your own mind that we had two investigations

1 going on, that there was a Department of Public Safety
2 investigation and then there was an internal one just as
3 you would expect to have occurred in --

4 THE WITNESS: Later on, yes.

5 SENATOR MAWHINNEY: Sure. You said something about
6 we wouldn't be here if it hadn't been for a failure in
7 communications; in other words, if they had been able to
8 take care of, on Friday, at that meeting, the things that
9 went on on Sunday. And I'm not sure from what I've heard
10 so far whether that's true.

11 The question that I wonder about is, had you
12 been -- and I know you're dealing with hypotheticals, and
13 that's unfortunate, but that's the best we can do here,
14 I'm afraid -- but had you been in the office with Mr.
15 Craft and the Governor and Lieutenant Johnson and Mr.
16 Smith, and the Governor, and had the Governor at that
17 time, instead of on Sunday, but at that time said, "I
18 don't want this to go to the Attorney General. I want
19 this kept right here. I want it to be handled as a
20 personnel matter, a family spat. I want Max Hawkins to
21 take care of this, and that's where I want it to stop,"
22 what would your reaction have been, sir?

23 THE WITNESS: Well, my reaction would have been
24 that was improper. And he did not say that at all.

25 SENATOR MAWHINNEY: That's correct, he did not, at

1 least at that time, certainly did not say that.

2 You're an Officer of the Court, sir, correct?

3 THE WITNESS: I beg your pardon?

4 SENATOR MAWHINNEY: You're an Officer of the Court;
5 isn't that correct?

6 THE WITNESS: Yes, I guess so.

7 SENATOR MAWHINNEY: We don't really know what that
8 means here, because most of us are not lawyers.

9 THE WITNESS: I'm not sure I know what that means,
10 either. Let's ask the Judge.

11 SENATOR MAWHINNEY: I'm sure the Judge would tell
12 us at length.

13 THE PRESIDING OFFICER: I don't have to answer
14 questions, except under Rule 22, and that hasn't been
15 invoked at this time. Thank you.

16 SENATOR MAWHINNEY: I guess one of the things I
17 always thought it meant, that if you, as an Officer of the
18 Court, as an attorney, a member of the Chief of Staff,
19 became aware of a felony, that you had an obligation to
20 ensure that that was reported to the proper authorities.
21 Is that correct?

22 THE WITNESS: Yes, that would be my impression.

23 SENATOR MAWHINNEY: So if what happened or if what
24 has been alleged to have happened on Sunday, that is, that
25 the Governor said, "We're not going to deal with this.

1 We're not going to talk to the Attorney General. We're
2 not going to let it out of right here in our own little
3 hands," then as an Officer of the Court, you would have
4 been required to take some action; is that correct?

5 THE WITNESS: As I understand your question, yes.

6 SENATOR MAWHINNEY: What would have been, with your
7 knowledge and background in state government and federal
8 government, what action would you have taken if that
9 occurred? Where would you have gone for help if this
10 situation had occurred?

11 THE WITNESS: Well, again, I'm having a little bit
12 of difficulty understanding your question, Senator. Let
13 me just put it in my own words.

14 As far as I was concerned, I think, as I've
15 said before, the Department of Public Safety, in my own
16 opinion, was already doing or should have been doing their
17 own investigation, and that's entirely proper, and it is
18 proper for them to do it.

19 I think I said if they were turning the
20 investigation over to another agency, that's perfectly
21 normal, too, to turn it over to the Attorney General or,
22 as I've mentioned, if it's federal, which I'm more
23 familiar with, for the FBI to bring it to the U.S.
24 Attorney.

25 Then I think at that point, it's simply a

1 matter of policy, procedure, courtesy, whatever you want
2 to call it, that you notify that department head who is
3 involved, in this case it would be Max Hawkins, and notify
4 the government.

5 SENATOR MAWHINNEY: Certainly. It's a policy.
6 It's a courtesy. It's the best way of doing things.

7 THE WITNESS: That's right.

8 SENATOR MAWHINNEY: But you it doesn't change, does
9 it, the fact a felony was committed, it had to be reported
10 to the local law enforcement agency?

11 THE WITNESS: No. And as far as I'm concerned, it
12 was done once it was reported to Officer Martinez.

13 SENATOR MAWHINNEY: Okay. So the fact that the
14 Department of Public Safety worked with the Attorney
15 General is either not unusual or not strange.

16 THE WITNESS: No.

17 SENATOR MAWHINNEY: The only thing that you have is
18 a concern that protocol wasn't followed in that the
19 Governor wasn't notified earlier?

20 THE WITNESS: Right.

21 SENATOR MAWHINNEY: By the Department of Public
22 Safety or the Attorney General?

23 THE WITNESS: That's true.

24 SENATOR MAWHINNEY: Okay, sir. Now, we heard
25 testimony earlier from Mrs. Griffith that she wanted to

1 come and talk to the Governor. She wanted to tell the
2 Governor on Friday morning about this. I believe she said
3 she had an appointment for another matter, but she
4 couldn't get in.

5 Are you aware of any circumstances that would
6 have prevented her from getting in to see the Governor
7 that morning?

8 THE WITNESS: No, I'm not familiar with that at
9 all.

10 SENATOR MAWHINNEY: Was it clear to you when you
11 went to the meeting on Friday, the 13th, that this was the
12 first time that the Governor and his staff had heard of
13 this matter?

14 THE WITNESS: As far as I know, yes.

15 SENATOR MAWHINNEY: Yes, okay. Thank you very
16 much, Doctor.

17 THE PRESIDING OFFICER: Senator Stephens is next.

18 SENATOR STEPHENS: Thank you, Mr. Presiding
19 Officer.

20 Dr. Burke, you've testified that Max Hawkins
21 was given responsibility for carrying out the
22 investigation, the internal investigation; is that
23 correct?

24 THE WITNESS: Yes.

25 SENATOR STEPHENS: Have you ever seen any final

1 report issued by Max Hawkins, or even a preliminary
2 report, indicating what the results of that internal
3 investigation were?

4 THE WITNESS: No. I think much later on, very
5 recently, why, he maybe had a press release, or something
6 relating to it, but this was much later, not at that time.

7 SENATOR STEPHENS: Well, Dr. Burke, you've had a
8 lot of administrative experience throughout your career in
9 public service.

10 Do you find that a bit odd, that from an
11 incident that had been reported in the press and
12 widespread publicity associated with the incident and with
13 the controversy about whether there was an investigation
14 or a cover-up, or whatever, do you find it odd that there
15 wasn't any follow-up, that there wasn't an investigation
16 report?

17 THE WITNESS: Yes, in terms of written reports on
18 both sides, I find it unusual that they were not done and
19 not done basically on the spot. This is the usual kind of
20 thing.

21 I found it odd in retrospect that there were
22 not written statements taken by both DPS and by DOA.

23 SENATOR STEPHENS: Dr. Burke, you've stated before
24 that when you came aboard in mid-November, that the
25 Director of the Department of Administration did not

1 report through the Chief of Staff, but rather reported
2 directly to the Governor; is that correct?

3 THE WITNESS: That's correct.

4 SENATOR STEPHENS: So essentially, Dr. Burke, the
5 only person Max Hawkins would have reported to in terms of
6 the investigation, if there were any results, would be the
7 Governor directly?

8 THE WITNESS: It would be the Governor, that's
9 correct.

10 SENATOR STEPHENS: Thank you.

11 THE PRESIDING OFFICER: Senator Osborn is next.

12 SENATOR OSBORN: Thank you, Mr. Presiding Officer.

13 Dr. Burke, directing your attention to the
14 weekend beginning Friday, November 13th, at any time on
15 that weekend prior to Monday, November 16th, were you
16 aware that Donna Carlson was a witness or might have been
17 a witness in a grand jury proceeding?

18 THE WITNESS: I suppose I was generally, yes, in
19 terms of public information.

20 SENATOR OSBORN: And, Dr. Burke, do you recall
21 whether you discussed that with the Governor or conveyed
22 that information to him at any time after Lieutenant
23 Johnson's visit to the Governor, and prior to Director
24 Milstead's telephone call at noon on Sunday to the
25 Governor?

1 THE WITNESS: I don't recall that I did. I would
2 not have thought it would be necessary, because he
3 certainly knew Mrs. Carlson, and as a matter of fact, I
4 didn't.

5 SENATOR OSBORN: I see. Thank you.

6 THE PRESIDING OFFICER: Senator Gutierrez.

7 SENATOR GUTIERREZ: Thank you, Mr. Presiding
8 Officer.

9 Dr. Burke, let me go back to a question that
10 Senator Lunn asked, and that was regarding the Cameron
11 Harper interview which many, many Arizonans saw on Monday.
12 He asked you, I believe, to at least characterize, or to
13 at least in your own words what the Governor had said
14 during that interview regarding a threat. And I believe
15 you said something to the effect, which is very consistent
16 with what the Governor said at one point in the interview,
17 and that was something to this effect, this is Governor
18 Mecham: "No, I told you that I know little or nothing
19 about what you're talking about."

20 I believe your response was very consistent
21 and very similar to the Governor's response; is that
22 correct?

23 THE WITNESS: Well, I said from my perspective to
24 say that I knew very little about it would be true.

25 SENATOR GUTIERREZ: Okay. However, and we have a

1 transcript --

2 THE WITNESS: That doesn't mean that I didn't know
3 there was a threat. I did know there was a threat.

4 SENATOR GUTIERREZ: No --

5 THE WITNESS: If this is what he was referring to a
6 moment ago, I didn't have any written reports, or
7 anything.

8 SENATOR GUTIERREZ: No, but we are going to the
9 Governor's response about his knowledge of the threat.
10 And you just indicated, and it was consistent with what
11 the Governor said, that is, he knew little or nothing.

12 However, Mr. Burke, if I may read to you
13 other parts of the transcript which was, I believe,
14 entered into testimony, and we saw a little bit of that
15 ten-minute film clip.

16 "HARPER: Did you know about that threat?

17 "GOVERNOR MECHAM: No, I didn't."

18 Is that consistent with what --

19 THE WITNESS: That response is not consistent with
20 what followed or what preceded it.

21 SENATOR GUTIERREZ: Let me go through again. This
22 is another section:

23 "HARPER: Yeah, I would like to -- I'd like
24 to know if you or anyone on your staff was informed
25 that the threat had been made?

1 "MECHAM: Perhaps my Chief of Staff was.

2 "HARPER: But you weren't?

3 "MECHAM: I was not."

4 Mr. Burke, is that consistent?

5 THE WITNESS: No.

6 SENATOR GUTIERREZ: One final question. You
7 indicated during the testimony that it was against your
8 recommendation, against your suggestion that the Governor
9 in fact appear on television on that Monday; is that
10 correct?

11 THE WITNESS: Yes, sir.

12 SENATOR GUTIERREZ: Why were you recommending, or
13 why did you recommend that the Governor not appear on
14 shows, either -- I assume television shows similar to
15 this?

16 THE WITNESS: I always felt as a matter of
17 political advice to the Governor that the Governor did not
18 do well on any shows of this nature. And so I recommended
19 not only against that one, I recommended against Ted
20 Koppel. I recommended against every single one.

21 SENATOR GUTIERREZ: Thank you, Mr. Burke.

22 THE PRESIDING OFFICER: Any other questions by
23 Senators?

24 We have two more, then. Senator De Long
25 first.

1 SENATOR DE LONG: Thank you, Mr. Presiding Officer.

2 Dr. Burke, did the Governor direct the firing
3 of Lee Watkins?

4 THE WITNESS: I'm sure -- you mean in January, or
5 whenever it occurred?

6 Yes, as I recall, the Governor told Mr.
7 Hawkins that he should be fired.

8 SENATOR DE LONG: Dr. Burke, we heard testimony
9 earlier that Mr. Hawkins actually hired Mr. Watkins into
10 that job in the Department of Administration.

11 Is there any reason that you can think of why
12 the Governor would suddenly intervene?

13 THE WITNESS: I beg your pardon?

14 SENATOR DE LONG: Why would the Governor intervene
15 if he had not hired Mr. Watkins into the job at the
16 Department of Administration? Do you know?

17 THE WITNESS: No, other than I would consider that
18 to be normal procedure for the Governor to recommend to a
19 department head if there was somebody there that he felt
20 like should be dismissed or terminated, he would do it.

21 SENATOR DE LONG: Dr. Burke, in your tenure from
22 November to January, I think you testified, did you at any
23 time conclude that the Governor had a special interest in
24 the shall we say career in state government of Lee
25 Watkins?

1 THE WITNESS: Well, obviously Lee Watkins was an
2 aide and was a person that he had confidence in, for at
3 least a long period of time. As has been indicated
4 earlier, there were recommendations from some of us that
5 Mr. Watkins should have been terminated prior to the time
6 he was.

7 SENATOR DE LONG: And, Dr. Burke, I'd like to then
8 draw your attention to Monday, when you returned from
9 testifying with the grand jury.

10 At any subsequent date, did you discuss the
11 Sunday conversation with the Governor?

12 THE WITNESS: The what?

13 SENATOR DE LONG: The Sunday conversation with
14 Colonel Milstead. You said you learned about that at the
15 grand jury?

16 THE WITNESS: Yes, at a later date, I'm sure, you
17 know, we talked about some of the substance of it.

18 SENATOR DE LONG: Could you, Dr. Burke, tell the
19 jury the context of that conversation?

20 THE WITNESS: Well, as I mentioned, it was largely,
21 in the first place, had to do with Mr. Johnson and Mr.
22 Martinez in terms of, you know, that I felt like they were
23 doing their duty. I told them that, and I did, and that I
24 didn't see any reason for them to be transferred.

25 And I think, as I had said before, the

1 Governor said, well, he didn't ask for Officer Martinez,
2 but he did ask for Johnson to be transferred because of
3 some other matters, which he didn't go into with me.

4 Other than the context of that, and that he
5 obviously was upset about the fact that he did not know it
6 had gone to the Attorney General prior to the call of Mr.
7 Milstead, we did not have any detailed discussion of it at
8 all.

9 SENATOR DE LONG: Thank you, sir.

10 THE PRESIDING OFFICER: Senator Kunasek.

11 SENATOR KUNASEK: Thank you, Mr. Presiding Officer.

12 Dr. Burke, I'm going to try and develop some
13 information and knowledge for my own edification. And in
14 view of the fact that none of us in this body are members
15 of the bar, I just want to get some for my own background.

16 We know, members of this body, the long
17 objection that the Attorney General's Office has had
18 toward providing any agency of the state with their own
19 legal advice. You commented that neither you nor Mr.
20 Craft were on the Governor's staff to provide legal
21 advice.

22 Had the Governor been refused by the Attorney
23 General the ability to hire an attorney for legal advice?

24 THE WITNESS: Yes, in terms of, as I understand it,
25 there had been a request for an office of legal counsel,

1 which as far as I know, would have to come through this
2 body, as well, to permit that.

3 SENATOR KUNASEK: You knew of that --

4 THE WITNESS: Now, he has assigned, as I understand
5 it, Senator, he has assigned particular attorneys to work
6 with the Office of the Governor, just as they have with
7 other agencies. And in our particular case, at least
8 since I've -- well, after I went up there, there was such
9 assignment, and that was the contact that I usually made,
10 Jessica, who was here recently, was the contact that I had
11 with the Attorney General's Office. Although, Mr. Corbin
12 and I know each other and we've been friends, so our lines
13 of communication were open, too.

14 SENATOR KUNASEK: In view of that stance and that
15 position that the Attorney General does act as the
16 attorney for various agencies, and in this case, the
17 Governor, does that establish a lawyer-client privilege?

18 THE WITNESS: Well, in some instances, I suppose it
19 would.

20 SENATOR KUNASEK: And could you, for my own
21 edification, describe what the lawyer-client privilege is?

22 THE WITNESS: Oh, my. Well, basically it's that
23 communications between the client and the lawyer are
24 confidential, and that that privilege, just in brief
25 substance, that that privilege actually belongs to the

1 client, not to the lawyer. That is, the client is the one
2 who would have to waive that privileged communication.

3 SENATOR KUNASEK: Does that relationship then,
4 perhaps, if not in the privilege area, does that
5 relationship provide for a two-way communication, either
6 as a result of that privilege or as a result of any other
7 canons of legal ethics?

8 THE WITNESS: Well, the thought of it is that it
9 promotes open, free, candid communication between the two.
10 This is the idea behind the privilege.

11 Judge Gordon will correct me here when I go
12 astray, I trust.

13 THE PRESIDING OFFICER: No, I won't, Dr. Burke.

14 SENATOR KUNASEK: We've had testimony by Peggy
15 Griffith, and I recall earlier in your testimony you said
16 that the Attorney General's Office apparently was aware
17 Friday afternoon, or Friday evening, in view of the
18 telephone call that was made from the Attorney General's
19 Office to Mrs. Griffith; is that correct?

20 THE WITNESS: Well, as I understood the earlier
21 testimony, and what she said, yes.

22 SENATOR KUNASEK: Would that then have been an
23 opportune time for the Attorney General to perhaps notify
24 the Governor --

25 THE WITNESS: Yes.

1 SENATOR KUNASEK: -- that since there was a
2 question, that if the Attorney General felt there was a
3 conflict, that he should have advised his client to seek
4 other counsel?

5 THE WITNESS: Well, I guess I'm not following you
6 completely, Senator. But I felt like, as I've said
7 before, there was an obligation to notify the Governor
8 when the Attorney General actually entered into the
9 investigative end of the matter.

10 SENATOR KUNASEK: To --

11 THE WITNESS: Is that responsive to your question?

12 SENATOR KUNASEK: Yes.

13 To your knowledge, has the Attorney General
14 ever notified the Governor on a personal basis that he was
15 investigating this matter?

16 THE WITNESS: Not that I specifically know of
17 myself, no.

18 SENATOR KUNASEK: Then do you feel that if the
19 Attorney General had notified the Governor in a timely
20 manner, that there was an investigation that he was
21 conducting, that the Governor, perhaps at the famous
22 interview that we've all heard referred to a number of
23 times, would have answered the way he did?

24 THE WITNESS: I don't know whether to say yes or
25 no. I guess it's because of the way you phrased the

1 question.

2 I think if there had been a timely
3 notification of the Governor, as I've said, I don't think
4 we would be here discussing this.

5 SENATOR KUNASEK: That was my last question, and
6 you've just answered it.

7 Thank you very much.

8 THE PRESIDING OFFICER: Senator Higuera.

9 SENATOR HIGUERA: Thank you, Mr. Presiding Officer.
10 I just have one question for Mr. Burke.

11 Mr. Burke, you did you and the Governor have
12 any conversation regarding the Ralph Milstead call?

13 THE WITNESS: No.

14 SENATOR HIGUERA: And I'll be very specific.
15 Between 12 o'clock noon and the Cameron Harper interview?

16 THE WITNESS: Not that I recall. Now, we did talk
17 about it sometime after I had been to the grand jury but,
18 you know, I can't be specific about it. I don't remember
19 just when that was.

20 SENATOR HIGUERA: Thank you.

21 THE WITNESS: Sometime probably that following week
22 or day, but I don't recall that we discussed it with any
23 reference to the Cameron Harper matter. Because at that
24 particular time, the general understanding was that was
25 going to deal with the Wolfson loan.

1 SENATOR HIGUERA: Mr. Presiding Officer, I was
2 going to stop with just one question, but I'm not talking
3 about the Cameron Harper matter. I'm talking about what
4 Ralph Milstead advised the Governor of, and that was that
5 he was going to visit the Attorney General's Office along
6 with two officers.

7 Was that discussion that Governor -- did the
8 Governor tell you, advise you, between Milstead's call and
9 the Cameron Harper interview, did the Governor tell you
10 that Mr. Milstead had called him?

11 THE WITNESS: Well, I think, as I mentioned
12 earlier -- now, if -- I'm trying to get into the right
13 time frame.

14 After I found out that Lieutenant Johnson and
15 Officer Martinez had been transferred, I did take that up
16 with him, and that was a result of the Milstead
17 conversation, as I recall.

18 SENATOR HIGUERA: Yes.

19 THE WITNESS: So I'm trying to answer in the time
20 frame. Just when that took place, that conversation which
21 I've alluded to before with the Governor, I could not be
22 specific about that. I don't remember, but it was after I
23 had been to the grand jury, which was on that Monday, on
24 that Monday.

25 SENATOR HIGUERA: For the record, we are talking

1 about Officer Martinez, not Martineez, right? We're
2 talking about the same officer that went up there, Officer
3 Martinez, Officer Frank Martinez?

4 THE WITNESS: Yes.

5 SENATOR HIGUERA: Okay. Thank you.

6 THE PRESIDING OFFICER: Senator Alston had a
7 question.

8 SENATOR ALSTON: Mr. Presiding Officer, Dr. Burke,
9 you have testified that you had recommended an earlier
10 firing or letting go of Mr. Watkins. You testified today
11 that Mr. Craft also made that recommendation, as did Mrs.
12 Carlson. You said there were others. Perhaps Mr. Craft
13 exited at that point.

14 I wonder if you could tell us, number one,
15 who were the others on the Governor's staff who made that
16 recommendation, and in your opinion, why was that advice
17 not taken? Why wasn't Mr. Watkins let go at an earlier
18 date?

19 THE WITNESS: Well, again, I'll try to -- it's two
20 questions.

21 In regard to the specific people on the
22 staff, let me just say, without getting all names in
23 involved, it was near unanimous.

24 In regard to why the Governor did not
25 discharge Mr. Watkins sooner, I think the Governor felt a

1 great deal of loyalty to Mr. Watkins, because Mr. Watkins
2 had been -- and I'm remembering back. I had nothing to
3 do, absolutely nothing to do with the Mecham campaign, but
4 I'm looking back that Mr. Watkins had been very active,
5 very supportive of his campaign, and I'm certain he felt a
6 considerable loyalty to him, just as he does to some
7 others.

8 SENATOR ALSTON: Thank you, Dr. Burke.

9 THE PRESIDING OFFICER: Senator Walker?

10 SENATOR WALKER: Dr. Burke, something that
11 continues to bother me. Can you explain to me why --
12 you've said on a number of occasions that someone had an
13 obligation from either the Attorney General's Office or
14 DPS to notify the Governor of the investigation.

15 Can you explain to me why two men, both
16 yourself and Mr. Craft, who have been trained in the law,
17 who understand the law, you, yourself, having
18 communications back and forth with the Attorney General,
19 did not tell the Governor that there was an Attorney
20 General's investigation, or did not get on the phone and
21 call the Attorney General and find out what was the extent
22 of their investigation?

23 THE WITNESS: Well, from my standpoint, I never had
24 any indication that it was going any way, that is, between
25 basically Friday and Monday, that it was going in any way

1 other than normal investigation being conducted by DPS,
2 and by DOA. Again recognizing, as has been mentioned here
3 before, that DOA would not report to me, anyhow. They
4 would report to the Governor. So I had no reason to
5 suspect that it was going any other way than the normal
6 procedure.

7 SENATOR WALKER: But, Dr. Burke, Mrs. Griffith
8 called you, and she called Mr. Craft, also, to tell you
9 that she was concerned that someone from the Attorney
10 General's Office was messing in this, messing in this
11 investigation.

12 But, it appears from the testimony I hear,
13 neither one of you thought this important enough to tell
14 the Governor, who had strained relations with the Attorney
15 General's Office, that one of his employees was under
16 investigation?

17 THE WITNESS: Well, I simply didn't take it as
18 being anything unusual, as I've said before, in regard to
19 basically communication being open between DPS and the
20 Attorney General's Office.

21 SENATOR WALKER: But, Dr. Burke --

22 THE WITNESS: Now again, that was -- that has
23 nothing to do with basically what I consider to be normal
24 protocol, which I have testified to before --

25 SENATOR WALKER: But you say --

1 THE WITNESS: -- which is notification.

2 Now, it's not my job to notify. I did not
3 consider it to be my job, which I guess is what you're
4 asking, to call the Attorney General after I had talked to
5 Mrs. Griffith. There was nothing that told me to do that.
6 If there had have been, I would have done it.

7 SENATOR WALKER: Well, Dr. Burke, I believe you
8 stated earlier that you were hired to help kind of smooth
9 out strained relationships between the Governor's Office
10 and the Attorney General's Office. And you were hired to
11 be the Chief of Staff.

12 I would think that this would be one of the
13 normal responsibilities of the Chief of Staff, to let
14 their employer know that there may be possibly something
15 damaging that was coming down the line that they should be
16 prepared for. But you didn't do that, did you?

17 THE WITNESS: Well, I simply didn't see it in the
18 light in which you're describing it.

19 SENATOR WALKER: One further question, Dr. Burke.

20 Do you know if Mr. Craft contacted the
21 Governor on either Saturday or Sunday, preferably
22 Saturday, or Friday night, after you talked with Peggy
23 Griffith, to let him know that the Attorney General's
24 Office was investigating this?

25 THE WITNESS: I do not know whether Mr. Craft did.

1 As I remember, and here I'm going by Mrs. Griffith's
2 statement, which I think is in the record here, if I'm --
3 correct me if I'm wrong. I think Mrs. Griffith's
4 statement says that she had talked to the Governor.

5 SENATOR WALKER: That's correct, Dr. Burke. Mrs.
6 Griffith's statement is there, that she had talked to the
7 Governor, that she had informed the Governor that someone
8 from the Attorney General's Office had called, and that
9 she later talked to both you and Mr. Craft, and that she
10 informed both of you that the Attorney General's Office
11 had called, but none of the Governor's top staff had
12 bothered to inform the Governor that the Attorney General
13 was involved in this investigation.

14 And I just find it a little bit strange, and
15 I can't understand why none of you informed him that there
16 may be a possible problem there. I guess that's not a
17 question. That's just a statement.

18 THE PRESIDING OFFICER: Excuse me. We have at
19 least three more questions, and we have gone late. We're
20 going to take our morning recess at this time until 10:45.

21 (Recessed at 10:35 a.m.)

22 (Reconvened at 10:50 a.m.)

23 THE PRESIDING OFFICER: Thank you, ladies and
24 gentlemen. The record will show the presence of a
25 majority of the Board of Managers, their counsel, counsel

1 for the respondent.

2 And we'll have Dr. Burke resume the stand,
3 please.

4 Senator Usdane was next.

5 SENATOR USDANE: Thank you, Mr. Presiding Officer.

6 Mr. Burke, I apologize for not asking this
7 one, but I missed it because it was on another page. What
8 I'd like to do is explain that I would like to know your
9 belief in terms of the bypass of the Governor in not
10 knowing that an Attorney General's investigation was going
11 on would justify the allegations of the acts that the
12 Governor -- excuse me -- the acts that the Governor
13 committed potentially or are alleged to have committed
14 would be justified as an excuse because he didn't know?

15 Do you understand the question?

16 THE WITNESS: Well, I'm having a little difficulty
17 with it.

18 Can you hear me all right? Oh, okay.

19 SENATOR USDANE: I would try to rephrase it, if
20 you'd like. I take it you'd like. Okay?

21 THE WITNESS: No, if you would, just rephrase it.

22 SENATOR USDANE: The fact is, as we understand your
23 testimony, it was your belief that the Governor should
24 have been officially advised --

25 THE WITNESS: Yes.

1 SENATOR USDANE: -- by the Attorney General.

2 The fact that he was not, in your opinion,
3 does that justify any acts that he may have taken or is
4 alleged to have taken because he wasn't told?

5 THE WITNESS: If you're saying it's simply because
6 they didn't follow what I consider to be proper
7 communication procedure, would this justify an obstruction
8 of justice, the answer is no.

9 SENATOR USDANE: Thank you.

10 THE PRESIDING OFFICER: Senator Corpstein was next.

11 SENATOR CORPSTEIN: Thank you, Mr. Presiding
12 Officer.

13 Mr. Presiding Officer, Dr. Burke, when was
14 the first time that you told the Governor that he should
15 relieve Lee Watkins of employment?

16 THE WITNESS: Very shortly after I was there.

17 THE PRESIDING OFFICER: Next is Senator Sossaman.

18 SENATOR SOSSAMAN: Dr. Burke, I'd like to revisit
19 the attorney-client relationship, and you're probably the
20 first witness we've had that is somewhat of an expert in
21 that.

22 Senator Kunasek touched on that, and I would
23 assume -- and I'm not a lawyer. I don't think there's any
24 of us here that are -- that an attorney-client
25 relationship means that an individual can tell his

1 attorney something that might be criminal, could be,
2 potential of being, and the attorney doesn't have to tell
3 anyone else. I mean, he doesn't have to go to the police
4 with that, or he can't go. I'm not sure how that applies.

5 Could you explain a little bit along that
6 line?

7 THE WITNESS: Well, I think your understanding or
8 statement of it there would be overbroad in the sense of
9 the attorney not having an obligation to report a crime as
10 such.

11 Communication between the attorney and the
12 client, after the person has been accused of a crime, then
13 those particular communications are basically protected by
14 the privilege. That is, again, for the purpose of the
15 client being completely free, candid, open in discussion
16 with his or her attorney.

17 SENATOR SOSSAMAN: Well, Dr. Burke, I guess my next
18 question is, does the attorney have the obligation to
19 inform his client if the client is suggesting that he may
20 have an idea or a scheme or something that would break the
21 law?

22 THE WITNESS: Oh, sure, that's part of the legal
23 advice, generally for the attorney to say to the client,
24 you know, what you're proposing to do is illegal.

25 SENATOR SOSSAMAN: Now, getting to the situation we

1 have before us now, in which we have the Governor and the
2 Attorney General, and it's been stated that the Attorney
3 General, through his office, is the Governor's counsel,
4 how does that relationship work?

5 Is it an obligation of the Attorney General
6 or that counsel assigned by the Attorney General to inform
7 the Governor, or his client, I guess it would be, if the
8 Governor is suggesting that a law be broken? Is there
9 some communication there required?

10 THE WITNESS: Yes, I would think the attorney for
11 the Governor, if the Governor was proposing in a
12 discussion with this attorney from the Attorney General,
13 or anywhere else, to do something that was illegal, it
14 would be obligatory upon the attorney to say so.

15 SENATOR SOSSAMAN: Do you recall at the time that
16 this was happening who the Governor's assigned attorney
17 from the Attorney General's Office was?

18 THE WITNESS: No, not particularly, at this
19 particular time, because I'm not sure that I had gone and
20 talked to Mr. Corbin and had my meeting with him and set
21 up structure. I do not know.

22 SENATOR SOSSAMAN: Would you --

23 THE WITNESS: I'm sure there were communications
24 that had gone on prior to the time I got there between
25 other members of the staff and the Attorney General's

1 Office, but I don't know in particular.

2 SENATOR SOSSAMAN: And you don't remember whether
3 there was a person assigned at that time that was meeting
4 on a daily basis or --

5 THE WITNESS: There was no one specifically in the
6 Office of the Governor who was an assigned Assistant
7 Attorney General, if that's what you're asking.

8 SENATOR SOSSAMAN: And, Dr. Burke, you don't know
9 why there was not?

10 THE WITNESS: I don't -- you know, as I said
11 earlier, I don't know when that structure changed or how
12 it changed in regard to basically having an Assistant
13 Attorney General assigned to the office. It may never
14 have been there during Governor Mecham's administration.
15 I do not know.

16 SENATOR SOSSAMAN: Thank you.

17 THE PRESIDING OFFICER: Senator Lunn.

18 SENATOR LUNN: Mr. Presiding Officer, Mr. Burke,
19 you indicated that Max Hawkins, as the Director of the
20 Department of Administration at the time that you came on
21 board as Chief of Staff to Governor Mecham, did not report
22 directly to the Chief of Staff's position, the position
23 you assumed, but rather directly to the Governor.

24 THE WITNESS: That's correct.

25 SENATOR LUNN: That's correct?

1 THE WITNESS: That's correct, under the old
2 structure, when Mr. Colter was there.

3 SENATOR LUNN: Did all the department heads report
4 directly to the Governor, rather than the Chief of Staff?

5 THE WITNESS: No. There -- as I recall, there
6 were -- the Department of Administration was the principal
7 one, as I remember, that went directly to the Governor.
8 There were several others, boards, or things of that
9 nature, that went to the Governor.

10 SENATOR LUNN: That went directly to the Governor?

11 THE WITNESS: M'hum.

12 SENATOR LUNN: You don't recall what they were?

13 THE WITNESS: Well, I know that he handled all the
14 regents matters that involved the universities. They were
15 directly to the Governor in terms of liaison, and really,
16 you know, the structure is more liaison than anything
17 else.

18 SENATOR LUNN: And on the regents, was that Ralph
19 Watkins who directly responded to the Governor on affairs
20 before the Board of Regents?

21 THE WITNESS: Well, I think the Governor, of
22 course, is an ex-officio member of the Board of Regents.
23 That would be one reason for it.

24 SENATOR LUNN: Are there any members of the
25 Governor's cabinet, the major department heads, in

1 addition to Mr. Hawkins, who had direct access to the
2 Governor rather than working through the Chief of Staff's
3 position?

4 THE WITNESS: As far as the structure of the
5 liaison, Department of Administration is the only one that
6 I remember of that type. Now, as I think I indicated
7 earlier, I did change that structure after I came in, but
8 it was not done until we got the other staff members on
9 board, and it was about mid-December when we did that.

10 I think I should make clear, so there really
11 is no misunderstanding, obviously the department heads had
12 direct access to the Governor. No question about that.
13 They certainly felt free to call him, call him directly,
14 any of them, or to set up an appointment to see him
15 directly.

16 The purpose of the special assistants was to
17 do ordinary liaison, to be of assistance to those
18 particular departments, and to deal with problems as they
19 might arise, rather than in having to go directly to the
20 Governor.

21 SENATOR LUNN: So, Dr. Burke, if all the major
22 department heads had, on an as-needed basis, direct access
23 to the Governor, what is the distinction that is drawn
24 then in terms of the organizational structure between Max
25 Hawkins as Director of DOA and all these other people?

1 THE WITNESS: Okay. I would say that, for example,
2 if you had, well, let's just say a personnel problem at
3 DES, generally DES, Dr. Brown, I would say, would go, if
4 it was something of a sensitive nature, he would probably
5 talk to Dr. Russell, who is a Special Assistant to the
6 Governor. That's the kind of liaison it would be.

7 At this particular time, if I understood, it
8 was something in the DOA, Department of Administration,
9 they would go direct to the Governor.

10 SENATOR LUNN: So given the organizational system
11 in which there were four special assistants who had
12 responsibility for a particular agency, there was no
13 person of those four who had direct oversight
14 responsibility for DOA; rather, that was dealt with
15 directly through the Governor?

16 THE WITNESS: That's correct, until I changed it.

17 SENATOR LUNN: Prior to the time you changed it, as
18 you investigated that organizational structure, were you
19 provided any rationale for why Max Hawkins had, and
20 through his post as Director of Department of
21 Administration, had this rather unique relationship?

22 THE WITNESS: Not particularly that I know of, no.

23 SENATOR LUNN: Thank you.

24 THE PRESIDING OFFICER: Any other questions by
25 Senators?

1 It appears, then, that this witness has
2 concluded his testimony. And thank you, Doctor. You're
3 excused subject to being called later, if necessary.

4 THE WITNESS: Thank you, Your Honor, and thank you
5 for your courtesy.

6 THE PRESIDING OFFICER: Your next witness, Mr.
7 Craft?

8 MR. CRAFT: The respondent would call Mr. Ken
9 Smith.

10
11 KENNETH V. SMITH,
12 a witness herein, after having been first duly sworn, was
13 examined and testified as follows:

14
15 DIRECT EXAMINATION

16 BY MR. CRAFT:

17 Q. Would you please state your full name.

18 A. Kenneth V. Smith.

19 Q. Where do you reside?

20 A. Here in Phoenix.

21 Q. And are you employed?

22 A. Yes.

23 Q. And how are you employed?

24 A. I work for the Arizona Office of Tourism
25 presently.

1 Q. And were you formerly the Press Secretary for
2 Governor Evan Mecham?

3 A. That was included in my responsibilities. My
4 title was actually Special Assistant for Public Affairs.

5 Q. And would you tell me when this time frame
6 was?

7 A. From late September until the first part of
8 February.

9 Q. And, Mr. Smith, would you tell us what your
10 background is starting with your college education?

11 A. I have a Masters degree in Public
12 Administration, another Masters in Journalism, and a
13 Bachelor of Science degree in Psychology.

14 Q. And just prior to your employment with the
15 Governor as a Special Assistant and Press Secretary, where
16 were you employed?

17 A. I worked for the County Supervisors'
18 Association of California as the Director of Public
19 Affairs.

20 Q. Mr. Smith, you came on board as the
21 Governor's Special Assistant. What date again?

22 A. I don't recall the exact date. It was about
23 the third week in September.

24 Q. And do you recall who you replaced?

25 A. Ron Bellus.

1 Q. And was Mr. Bellus a Special Assistant?

2 A. No, he was not.

3 Q. Was there a reason for your being appointed
4 both a Special Assistant, as well as Press Secretary?

5 A. Yes. Governor Mecham wanted to include me
6 more in some of the meetings of the high level staff
7 meetings in the office.

8 Q. And did you participate in those high level
9 meetings?

10 A. Yes, I did.

11 Q. At that time were there any other Special
12 Assistants?

13 A. Yes, there were several.

14 Q. Who were the other Special Assistants?

15 A. He had Edith Richardson, Sam Steiger, Donna
16 Carlson, Ray Russell, and I don't think I left anybody
17 out.

18 Q. And at that time you were participating with
19 them in policy discussions and other items that came to
20 the Governor's attention?

21 A. Yes, that's true.

22 Q. And did you continue doing that throughout
23 the course of your service with the Governor?

24 A. Yes, sir.

25 Q. Did you have access to the Governor at all

1 times?

2 A. Yes.

3 Q. And did you see the Governor often?

4 A. Every day.

5 Q. And many times during the day?

6 A. Yes.

7 Q. And in addition to dealing with press, did
8 you also give recommendations relative to policy issues?

9 A. Yes, I did.

10 Q. And what else did you do for the Governor?

11 A. That fairly well sums it up. Policy issues,
12 sometimes political advice, but mostly the press.

13 Q. But you gave political advice, as well?

14 A. Yes, I did.

15 Q. At the time you assumed these
16 responsibilities, were you aware that there had been news
17 leaks from the ninth floor of the Governor's office?

18 A. I had assumed that there were news leaks.
19 Before I accepted the position, I spent a considerable
20 amount of time in public libraries going over back issues
21 from newspapers around Arizona, and a great number of
22 stories simply credited sources without names, so I
23 assumed it was a leak somewhere in state government.

24 Q. And during your tenure in working in this
25 position, did you find that, indeed, there were leaks of

1 information from the ninth floor?

2 A. I could never pinpoint them, but the
3 information was getting out someplace. A great number of
4 news articles and broadcasts would quote unnamed sources.
5 I've never quite knew where those sources were.

6 Q. Let me direct your attention to the
7 approximate time of early November, 1987. Were there a
8 number of news leaks that occurred from the Governor's
9 office during that time frame?

10 A. There was information getting out some way or
11 another. I never was able to pin down how it was getting
12 out.

13 Q. Was it happening on a regular basis?

14 A. Yes, very much so.

15 Q. How much of a regular basis?

16 A. Almost daily.

17 Q. Was there a news story a day, just about?

18 A. A crisis a day, it seemed.

19 Q. And during this time, were you concerned
20 about potential political embarrassment to the Governor?

21 A. Yes, I was.

22 Q. Had the Governor been politically embarrassed
23 before because of some of these stories?

24 A. Yes, prior to my arrival, I had seen a great
25 number of stories, which in my mind could have been

1 handled differently.

2 Q. And were you worried about the facts being
3 told to the public so that they would have both sides of
4 the stories?

5 A. Yes, very much so.

6 Q. And in your opinion, were they getting both
7 sides of the stories?

8 A. No, not entirely.

9 Q. Let me direct your attention to Friday,
10 November 13th, and ask you if you recall what you were
11 doing on or about noon of Friday, the 13th.

12 A. If I recall correctly, about quarter to
13 12:00, by previous arrangement, I went over to the
14 Governor's office to -- we were going to go to lunch in
15 the cafeteria in the basement of the Capitol. And I don't
16 recall whether several people came in or it was about that
17 time, but in the room were Fred Craft, yourself, Dick
18 Burke, Beau Johnson and the Governor, and I was standing
19 just inside the doorway.

20 It was -- there was a discussion going on, or
21 just starting. The Governor, if I recall correctly, had
22 just hung up the phone. Contrary to -- my recollection is
23 that the Governor was standing behind his desk. I think I
24 heard some testimony on the radio the other day he was
25 standing in front of his desk. Well, he was standing

1 behind his desk going through some files. I saw this
2 discussion going on, and I was talking with the Governor's
3 secretary, Doris Stafford.

4 Q. Where is her office?

5 A. Just outside the Governor's door.

6 Q. And the door was open during this entire
7 period?

8 A. Yes, it was.

9 Q. Was the Governor's door usually open?

10 A. Frequently.

11 Q. And you were standing in the doorway?

12 A. Actually a little bit inside the doorway,
13 yes.

14 Q. And can you tell us what you heard?

15 A. I wasn't paying much attention to the
16 conversation. I did hear the words "employee" and
17 "altercation," and I perked up and tuned into the
18 conversation. Because that day, or that morning, or
19 within a day or so prior to that, I had had a phone call
20 from a reporter asking me about a fist fight in the
21 Department of Transportation cafeteria. At first I
22 thought it's what Beau Johnson was referring to. When I
23 heard it concerned Lee Watkins, I just simply tuned out,
24 did nothing.

25 Q. Why did you tune out?

1 A. I had been hearing a great number -- at the
2 time, I had only been here about six weeks, six or seven
3 weeks, and I had heard a number of stories about Lee
4 Watkins. Most of them I just shrugged off as being
5 trivial, and whatnot. And I just did not think it was all
6 that important.

7 Q. And when you shrugged that off, did you
8 overhear anything that Lieutenant Johnson told the
9 Governor?

10 A. It may have -- no, I didn't really tune in on
11 the conversation. I've heard some testimony here that --
12 about death threats and felonies. I really think that I
13 might have tuned into the conversation. It would have
14 gone off like an alarm if I had heard those terms, but I
15 did not hear them, nor did I really follow the
16 conversation.

17 Q. Can you tell us what the demeanor of
18 Lieutenant Johnson was at that time?

19 A. He seemed a little bit ill at ease, and in
20 making the presentation to the Governor, but Lieutenant
21 Johnson I've always seen as fairly low key and subdued and
22 polite.

23 Q. Do you recall how long this conversation
24 might have taken?

25 A. It was 90 seconds, if I had to take a guess.

1 It was very, very short, because we did go to the basement
2 cafeteria sometime before noon.

3 Q. And who is "we"?

4 A. It was the "we," Fred Craft, Dick Burke and
5 myself. And I believe, if I recall correctly, Beau
6 Johnson did not go with us. We stopped at the DPS
7 security office, and I think Frank Martinez and one other
8 officer went down with us to the cafeteria.

9 Q. And during that conversation that was just
10 after this report, do you recall discussing the matter at
11 the lunch table with those participants?

12 A. It never came up. And I would say, you know,
13 that in retrospect, if it had been important, it's the
14 kind of thing we would have discussed at that time.

15 Q. Would you have remembered or did you hear the
16 words "death threat"?

17 A. No, I did not.

18 Q. Did you hear the words "tampering with a
19 grand jury witness"?

20 A. No, I did not.

21 Q. Did you hear anything about grand jury?

22 A. Nope.

23 Q. Would you have remembered that?

24 A. I honestly believe that I would have tuned
25 into the conversation if those -- if that were the course

1 of the conversation.

2 Q. Why would you have tuned in?

3 A. Because obviously it's a very sensitive
4 issue, and I would have wanted to know everything I could
5 about it. The reason I did not pay that much attention, I
6 thought this was just another story about Lee Watkins.

7 In the six weeks I had been here, Lee Watkins
8 had also been very polite and cordial to me. I had read
9 some of the stories on him about juvenile offender, and
10 whatnot. I just thought it was not all that important at
11 the time.

12 In retrospect, obviously I was wrong because
13 we're sitting here today, but, you know --

14 Q. In your previous employment, had you worked
15 in criminal justice dealing with juveniles?

16 A. Yes, I spent some time, about four weeks,
17 with the the National Council of Juvenile Court Judges. I
18 spent eight years with a corporations that publishes,
19 legal newspapers as a reporter, editor and other
20 capacities.

21 Q. Did anything surprise you at the time when
22 you saw things relative to the newspapers and Mr. Watkins
23 and his record?

24 A. Yes. As a matter of fact, I spent -- my
25 Masters degree in journalism was on the relationship

1 between the news media and the juvenile justice system. I
2 was familiar at that time with juvenile court records.
3 What struck me at the time was how an expunged record
4 could be made public. In my mind, this is another example
5 of a leak.

6 Q. When you talk about expunged records relative
7 a juvenile, what are you referring?

8 A. It's supposed to not exist, no -- in fact, we
9 know it does exist in some records someplace, for legal
10 purposes. A youthful-offender record, as I understand it,
11 was nonexistent, not supposed to be used.

12 Q. And this is general, under the statutes, as
13 you understood it, if a juvenile had served time, that
14 after a period of time, and after that service was over,
15 the record was expunged?

16 MR. ECKSTEIN: The question is grossly leading.

17 THE PRESIDING OFFICER: Sustained.

18 BY MR. CRAFT:

19 Q. You were at that time, when you heard about
20 this, about Mr. Watkins, you thought perhaps that somebody
21 had leaked that information?

22 A. I'm not sure what information.

23 Q. Relative to the issue of in the press, the
24 reporting of Mr. Watkins' record.

25 A. Yes, the article in the Arizona Republic, if

1 I recall correctly, quoted sources, and it also mentioned
2 talking with some DPS officers. I don't recall if Colonel
3 Milstead was mentioned in that article.

4 It also quoted Attorney General Corbin, and
5 what that told me is there had to be some type of official
6 contact between the Arizona Republic and these officials.

7 Q. You stated that one of your responsibilities
8 was to attempt to provide political advice and to assist
9 the Governor in addressing issues which might have an
10 interest to the press; is that right?

11 A. Yes, that's true.

12 Q. If you had heard something from that
13 conversation, or overheard it, would you have construed
14 that as a potential issue that you would have to be
15 involved in personally?

16 A. Yes.

17 Q. And why?

18 A. As a matter of routine, any issue, and any
19 staff meeting, if I thought it was going to become a
20 public issue, quite frankly, whether I was invited or not,
21 I would end the meeting.

22 Q. So you were fairly much kept abreast of what
23 was happening on the ninth floor?

24 A. Yes.

25 Q. And particularly the activities of the

1 Governor?

2 A. Yes.

3 Q. Would you tell us what was happening relative
4 to the Governor on that Friday, the 13th?

5 A. I don't recall the specifics that morning.
6 There were a great number of issues going on. I know that
7 we were preparing for the following Monday telecast on
8 Channel 3 here in Phoenix, and I probably --

9 Q. Excuse me. Which telecast was that?

10 A. The one with the Cameron Harper interview, a
11 portion of which was played yesterday. More than likely,
12 I was talking to some of the news directors both here, and
13 because it was going to be broadcast also in Tucson, I was
14 probably talking to some of the technical people on the
15 timing of the show.

16 Q. What was the purpose, from the Governor's
17 point of view, of going on TV?

18 A. He wanted to explain the details of that --
19 of the loan which was under investigation at that time.

20 Q. Under investigation by whom?

21 A. By the Attorney General.

22 Q. Did you have occasion to revisit anything at
23 all relative to this alleged threat on Friday, November
24 13th, 1987?

25 A. Revisit?

1 Q. Did anybody talk to you or did you overhear
2 any conversations or hear anything else relative to this
3 issue on Friday, November 13th?

4 A. No, I did not.

5 Q. Did you work on Saturday?

6 A. Yes.

7 Q. And what did you do on Saturday?

8 A. Spent some time writing at my home some
9 comments and suggestions that the Governor might want to
10 cover in his telecast, probably several hours. I also
11 spent several hours, if I recall correctly, at Murray
12 Miller's office.

13 Q. And who else was with you?

14 A. And I don't recall specifically at Murray
15 Miller's office. That was probably a fairly brief
16 meeting, because we were preparing to meet at Murray
17 Miller's house the next day, Sunday afternoon.

18 Q. And when you say "we were preparing to meet,"
19 who was the "we"?

20 A. I believe I talked to the Governor by phone
21 that day. I don't recall if I talked to him in person. I
22 think I met very briefly with Murray Miller, and just a
23 lot of phone conversations that day.

24 Q. Was there anybody else in the staff involved
25 at that time?

1 A. I believe I talked to you that day, but
2 beyond that, I don't recall.

3 Q. Did we have any conversations at all relative
4 to this issue of the alleged threat?

5 A. No, we did not.

6 Q. Or a grand jury?

7 A. No. Again, the focus, and what seemed the
8 most prominent issue at that time, was the loan, the
9 \$350,000 loan, and how it was being reported.

10 Q. Were there other lawyers that were involved
11 in the meeting, perhaps, with you and Murray Miller?

12 A. Quite a few lawyers, as a matter of fact.
13 Again, the meeting took place, I'm guessing, maybe 1:00 or
14 2:00 p.m. Sunday afternoon at Murray Miller's home. The
15 other attorneys there were Michael Preston Green, Scott
16 Butler, I believe his name is, Nick Udall, and Murray
17 Miller, and myself and the Governor.

18 Q. And when did you meet?

19 A. It was about -- I think we were there for
20 four or five hours. I know it was after dark when we
21 left.

22 Q. And was the Governor there then?

23 A. Yes, he was, the entire time.

24 Q. He was there from Sunday, what time again?

25 A. About -- if I recall correctly, it was about

1 2:00 p.m.

2 Q. Until?

3 A. 6:30 or 7:00.

4 Q. Did he have his DPS detail there providing
5 security for him?

6 A. No, he did not.

7 Q. Had you ever seen the Governor without his
8 DPS detail before?

9 A. No. It surprised me. I didn't know that the
10 detail was not there. Actually, I had not paid any
11 attention to it one way or another until we were getting
12 ready to leave, and the Governor asked me to give him a
13 ride home from Murray Miller's house to his home in
14 Glendale, and it kind of caught me off guard.

15 On the way home, I asked how this occurred,
16 and he told me that there had been some discussion between
17 himself and Colonel Milstead that day, and I don't recall
18 if he said the time. He told me that Colonel Milstead had
19 called him to apologize for a breach of procedure on the
20 way issues are handled on the ninth floor, that in the
21 process of that, he had asked that Beau Johnson be
22 transferred.

23 I told him then -- I sometimes spoke to the
24 Governor very directly. I told him then that I thought it
25 was kind of foolish for him to be without security at that

1 time, the same kind of comments I made to him a month ago,
2 and same kind of comments I also made to Rose Mofford the
3 day of the impeachment.

4 Q. Why are you making those kinds of comments to
5 him?

6 A. Because I was aware of a great number of
7 threats coming into the Governor's office, threatening of
8 the Governor. There are an awful lot of people out there
9 who are a little hot-headed at times, on both sides. And
10 I stressed that because Rose Mofford had called me a day
11 after the impeachment vote about a month ago at home on
12 another issue, and in the process of that, told me she was
13 getting some threatening calls, I suggested to her very,
14 very strongly, used the same words, I thought she was
15 being foolish for not having security.

16 Q. In terms of the hours that you were keeping
17 during that time frame, were you spending long hours
18 working on these issues?

19 A. Yes, most hours, yes, seemed like 12, 14
20 hours a day.

21 Q. How many telephone calls would you get from
22 the press?

23 A. I never really did an exact count. Some days
24 it would be over a hundred calls a day.

25 Q. And how many people did you have helping you?

1 A. At that particular time, one.

2 Q. Was there any way you could get back to all
3 these calls?

4 A. No, I could not.

5 Q. Were the other Special Assistants working for
6 the Governor equally occupied and addressing issues for
7 long hours?

8 A. Yes.

9 Q. And was the Governor working many hours a
10 day?

11 A. Yes, he's -- he outruns me most of the time.
12 He's up 6:00 or 7:00, and he works very, very late.

13 Q. Can you tell us, then, did the Governor say
14 anything else relative to the conversation with Director
15 Milstead?

16 A. He had asked me -- again, I had been here
17 about six weeks or so at the time, and on several previous
18 occasions, we had talked about the security detail. I was
19 concerned about just simply crowd control. At that time
20 there had been several instances where I was very
21 concerned about security around the Governor. I was at a
22 very frantic pace with the television cameras.

23 He asked my a couple of times what I thought
24 about Beau Johnson and a couple of the others. He told me
25 he had considered asking that Beau Johnson be transferred.

1 That evening, as we were driving home, he asked me what I
2 thought about Chuck Wright, a sergeant on the detail. And
3 I said, you know, I thought he was a very good man.

4 Q. Did he have anything to say about Officer
5 Martinez?

6 A. No, the name did not come up. Again, we
7 didn't -- I was surprised at the lack of the security
8 detail, but I don't think the conversation took more
9 than -- at that element, more than 30 seconds. We talked
10 mostly about the television appearance.

11 Q. Do you know what the Governor outwardly said
12 or felt about Officer Martinez?

13 A. I learned later that he did not ask that
14 Frank Martinez be transferred.

15 Q. I mean, did you know how he felt about --

16 A. He had high regard for him.

17 Q. For Officer Martinez?

18 A. Yes.

19 Q. Let me draw your attention. After that, did
20 you have any conversation with anybody else on the
21 Governor's staff after that conversation with the Governor
22 when you took him home?

23 A. No. Again, that was late Sunday night, and I
24 did not talk to anybody else on the staff.

25 Q. Did the Governor say anything to you about

1 the Attorney General and his participation in any
2 investigation or activity?

3 A. I don't recall that coming up. Again, I was
4 driving and he's riding along, and I think we were both
5 fairly well burned out after four or five hours of talking
6 about the presentation and the loan. And I know that
7 personally I wasn't very anxious to talk about anything
8 connected with the office.

9 Q. Were you generally aware of the strain
10 between the Attorney General's Office and the Governor?

11 A. Yes.

12 Q. And what was the basis of that strain?

13 A. I'm not sure of all the history of it, but I
14 was certainly aware that there was some type of strained
15 relationship existing between the Governor and the
16 Attorney General.

17 Q. Did you ever see the Attorney General come up
18 to the Governor's office during your whole time that you
19 were there?

20 A. No. I don't recall ever meeting Mr. Corbin,
21 so --

22 Q. Let me direct your attention to Monday, and as
23 you know, or you may know, that we have watched a
24 videotape of a portion of an interview that occurred on
25 Monday night, I think with Channel 3 with Cameron Harper.

1 Would you tell us what you know about the
2 events leading up, during your activities on Monday,
3 leading up to that telecast?

4 A. Yes. I first became aware that this was
5 going to be an issue earlier that morning. I arise fairly
6 early, and I read the Arizona Republic probably about 6:00
7 that morning. And I knew at that point it could become an
8 issue.

9 Q. Can I ask you at this time to look at Exhibit
10 No. I believe it's 4, 5, and it may be 3?

11 MR. ECKSTEIN: Your Honor, I would object. Those
12 exhibits are still not in evidence, have not been put in
13 evidence.

14 THE PRESIDING OFFICER: It may have some relevancy
15 as to this witness's knowledge of events at that time.
16 The objection is overruled.

17 THE WITNESS: Yes, this must be from a different
18 edition from the Republic, but it's the same story.

19 BY MR. CRAFT:

20 Q. Do you recall seeing that story that appeared
21 in the newspaper on that Monday, November 15th?

22 A. Yes.

23 Q. Did you read the newspaper that morning?

24 A. Yes, I did.

25 Q. And when you saw that article in the

1 newspaper, what did you think?

2 A. I had several different reactions. It seemed
3 to be, you know, the crisis for that day. I sometimes
4 make jokes about it, but it seemed as if there were a
5 crisis for the day, and I was sometimes wondering when I'd
6 wake up in the morning to see what the crisis of the day
7 was going to be.

8 I immediately, because I knew the Governor
9 would be appearing on television, became very concerned
10 about this issue. One of my first phone calls when I
11 got -- well, after 8 o'clock, I got to the office fairly
12 early that day, but sometime after 8:00 or 9 o'clock, I
13 phoned the news director at Channel 3 just to touch bases.
14 I think I finally wound up talking to him about 11 o'clock
15 that morning.

16 Q. Let me direct you, just before that
17 conversation took place, did you check with the Governor
18 or anybody else with regard to -- strike that for a
19 minute.

20 When you know that there's an issue that
21 might be coming up that the press might be interested in,
22 did you go to the Governor and the staff generally to
23 ascertain what it is that you wanted to communicate to the
24 public on an issue?

25 A. Yes. If I recall correctly, Dick Burke also

1 got to the office fairly early that morning, maybe 7:30 or
2 so. He was probably the first one I talked to about this
3 issue. I just asked what was going on, and he -- I don't
4 recall all the conversation. Again, because I was fairly
5 new to Arizona at the time, I didn't understand from that
6 story how it got, as far as the Attorney General's Office,
7 this far that quickly. I did not understand who had
8 original jurisdiction in this.

9 I think my questions were why didn't the
10 Capitol Police handle this? Why didn't Phoenix PD handle
11 it? How did it get this far this quickly?

12 Q. And did Dr. Burke give you an answer to that?

13 A. Yes. At that point, we did not really know.
14 I don't recall the exact chain of events, but I learned
15 very shortly thereafter that he had been subpoenaed.

16 Q. Did Dr. Burke say anything about how the
17 Governor had instructed this matter to be handled?

18 A. No. I don't recall -- not at that time. I
19 learned later on that it was going to be assigned to a Max
20 Hawkins in the Department of Administration for
21 investigation. I assumed that it was for personnel. I
22 also knew that Lee Lims and the State Capitol Police Force
23 reported to Max Hawkins.

24 Q. Did you, in consultation with the Governor's
25 staff, and perhaps the Governor, have a response to

1 questions that you knew might be asked relative to this
2 question on that day?

3 A. Yeah. I don't know how quickly, but I know
4 that I started getting calls on this sometime that
5 morning. Nobody had called me at home that Sunday on this
6 issue, but I started getting calls, and I think my
7 standard response was: It's under investigation. But
8 beyond that, I didn't know a whole lot about it.

9 Q. And were you speaking on behalf of the
10 administration in terms of telling the media that this
11 matter was -- that you had published that or --

12 A. Yes.

13 Q. Did you put out a press release on this?

14 A. No, I did not.

15 Q. Is that unusual?

16 A. No. On many of these things, because there
17 were so many issues going on at the time, and I only had
18 one assistant at the time, it's just not possible to sit
19 down and compose a press release, so I would just do it in
20 oral interviews.

21 Q. Did you have a conversation with the Governor
22 relative to this issue on --

23 A. I don't recall talking to him specifically
24 about this. I know I did talk to Dick Burke about it, but
25 very, very briefly, and just to say that it was under

1 investigation.

2 Q. Now, I'd like to redirect you back to the
3 attention of your conversations in setting up the
4 television program for that evening.

5 Where was the program going to originate
6 from?

7 A. In the protocol office of the Governor on the
8 ninth floor.

9 Q. And were you engaged in attempting to set
10 that up from a --

11 A. Yes.

12 Q. Is that a room that's already equipped with
13 television cameras and other equipment?

14 A. No. It has some lighting equipment and some
15 outlets, but it does not have television cameras.

16 Q. So the television stations would have to know
17 early enough and bring in remote equipment and other
18 stuff?

19 A. Yes. There's a number of microwave lines and
20 other cables and equipment which has to be placed.

21 Q. And did you talk to anyone with Channel 3
22 regarding the ground rules for this program?

23 A. Yes, I did. I talked to the news director at
24 Channel 3, Phil Alvidrez, and I asked him again -- again,
25 they had proposed this show to the Governor to discuss the

1 loan. I asked him, phrased something on the order of
2 hogwash, or a little stronger, probably, if the hogwash in
3 the Arizona Republic would be a subject of this interview.

4 Q. Meaning the threat issue?

5 A. Yes. And Phil Alvidrez said at that time
6 that no, they were going to concentrate on the loan. He
7 didn't seem particularly interested. I wanted to know if
8 they were going to be raised on the program. I wanted to
9 learn as much as I could about it to make sure the
10 Governor was briefed.

11 Q. Is this normal for you, in preparation for
12 newscasts and television programs that the Governor would
13 participate in, to establish some guidelines within which
14 the program would be handled?

15 A. Yes. Not the specific questions, but the
16 guidelines, what areas are going to be covered, simply
17 because I don't like surprises, and neither does the
18 Governor.

19 Q. And did you want to be prepared?

20 A. Yes. If it were going to come up, I wanted
21 the Governor to be prepared.

22 Q. Are you aware of anybody giving a report to
23 the Governor on that Monday that would -- were you aware
24 of the Governor getting any report that would inform him
25 more of what those events were?

1 A. No, there was no other report that I'm aware
2 of.

3 Q. Did the Governor discuss this issue with you
4 in advance before he appeared on the television program?

5 A. No, because I did not believe it would come
6 up. I did not raise the issue again with the Governor.

7 Q. What time did the television broadcast take
8 place?

9 A. I think it was 6:30 p.m.

10 Q. And how long was it scheduled to last?

11 A. We were scheduled to go for half an hour.

12 The reason that became important is I had also talked with
13 the stations in Tucson, and they just wanted to make sure
14 they blocked out enough time, so I -- and also just for
15 the general logistics of the show, and to prepare the
16 Governor. I told him it was limited to a half an hour.

17 Q. Were you involved in the preparation of his
18 draft of what he was going to say?

19 A. Yes.

20 Q. And was anybody else involved in that?

21 A. Quite a few people. I described the meeting
22 at Murray Miller's home where there were -- I've lost
23 count -- five or six people there, and you and others on
24 Friday, and again that Monday. Most of the meeting was
25 taken up with discussing issues revolving around the

1 \$350,000 loan.

2 Q. And was the Governor going to use a
3 teleprompter?

4 A. Yes, he was.

5 Q. And would you tell us what a teleprompter is?

6 A. It's a device which will scroll on a
7 television screen the script of a speech or news, or
8 whatever else.

9 Q. And that allows what?

10 A. It allows the person to look directly into
11 the camera and read the material rather than looking over
12 to the side or looking down to read.

13 Q. Does that require the script to be given to
14 the news people far in advance of the telecast?

15 A. It has to be prepared in a special column
16 with usually large type and given to a technician ahead of
17 time.

18 Q. And were there some slides that were also
19 going to be used?

20 A. Yes.

21 Q. Were you there with the Governor when the
22 telecast took place?

23 A. Yes, I was. I was just in the doorway.

24 Q. Of the protocol office?

25 A. Yes, either inside or very close thereby.

1 Q. And were the doors open?

2 A. Yes.

3 Q. Were there other people that were there?

4 A. There were probably another ten people there,
5 staff people.

6 Q. And did the Governor ask somebody to hold his
7 script for him in case there was a problem with the
8 teleprompter so that he could move to a --

9 A. Yes, the Governor had had problems, technical
10 problems in the past with teleprompters, and just as a
11 failsafe method, we had a copy of the script in my hand at
12 first, I believe, then in your hand.

13 Q. And where was I at that time?

14 A. Standing fairly close to me, between me and
15 the Governor at that point, I believe.

16 Q. During the course of that interview, was
17 there anything that happened which gave you and the
18 Governor some concern in the middle of the conversation --
19 I mean in the middle of the presentation?

20 A. The teleprompter did not work. I still to
21 this day don't know all the technical reasons, but for one
22 reason or another, it did not work, and it made it appear
23 to the viewers that the Governor was fumbling, and he
24 switched from the teleprompter to the hand-held script.

25 Q. Did somebody sit next to him and hand him the

1 script?

2 A. Yes, you did that.

3 Q. Was there a slide that was going to be used
4 in that presentation?

5 A. Yes, and for a number of technical reasons, I
6 was not able to get the slide prepared.

7 Q. And what was that issue that was supposed to
8 have the slide?

9 A. It was highlighting where the \$350,000 loan
10 and some other amounts and other listings were on the form
11 that the Governor had prepared.

12 Q. Was there a slide of the actual form?

13 A. It was not so much a slide. It either would
14 have been -- I'm not sure of the proper technical term,
15 but it would would have been a video still to be put into
16 that.

17 Q. And did that get shown?

18 A. It did not.

19 Q. Did that disrupt the Governor?

20 A. Yes, it did, because it appeared, I think the
21 reference was, "as you can see on your screen now," and
22 there was nothing on the screen.

23 Q. Did that promote a little bit of pandemonium
24 at that time?

25 A. Yes, we were trying to find a way to, you

1 know, make it appear, to give something to the Governor so
2 that he could show, you know, where an item was listed.

3 Q. Was that an important issue at that time?

4 A. Yes, it was the key issue, in my mind.

5 Q. Why?

6 A. The Governor had said and he wanted to know
7 where the loan was listed, and how it had been aggregated,
8 and that was the major point he wanted to make.

9 Q. Did the telecast end promptly at 7 o'clock?

10 A. In Tucson it did. Tucson stations cut out.

11 Q. What do you mean by "cut out"?

12 A. They simply dropped away from the telecast.

13 It ran over the 7:00 p.m., whatever the half-hour limit
14 was, and the questions then continued. I think as you saw
15 yesterday in the portion of that show, there was some
16 confusion on the part of the Governor as to the timing.
17 He thought the show was over, and then the questions
18 proceeded.

19 Q. And do you recall what question was asked?

20 A. It had to do with the alleged threat as
21 reported in the Arizona Republic.

22 Q. And have you subsequently seen that telecast?

23 A. Yes, sir.

24 Q. And did you hear what the Governor had to
25 say?

1 A. Yes, I have.

2 Q. And from your point of view, and from what
3 you knew at that time, was that accurate, the answers that
4 the Governor was giving?

5 A. Absolutely.

6 Q. Why was it?

7 A. Again, you know, I've heard some subsequent
8 testimony here, but at the time, and I've heard everything
9 else, I don't think the Governor had that much hands-on
10 experience or knowledge of this issue. I had spent a
11 great portion of that weekend directly with the Governor,
12 and that issue never came up. We just never discussed it.

13 Q. In the video that we saw yesterday, and in
14 the written transcript of that, Cameron Harper tells the
15 Governor, "Governor, Governor, are you listening?" Do you
16 recall that?

17 A. Yes. I was standing right there at that
18 point.

19 Q. What was happening?

20 A. The Governor at that point was looking off to
21 a clock, or somebody was telling him that it was 7:00
22 p.m., and I -- he was trying to figure out if they were
23 still on the air, if I recall correctly.

24 Q. And was he distracted?

25 A. Yes, very much so. It was -- it was a

1 distracting situation, because it was difficult to
2 determine, as most of us who have been on television at
3 one time or another, especially when there's that limited
4 time period, you want to know when the show is over. When
5 it's over, you take off the microphone and get up. The
6 Governor did not know at that point even if they were
7 still on the air.

8 Q. When the show was completely over and you
9 knew that it was over, did you speak to Cameron Harper?

10 A. Yeah, I had a few words with him. I thought
11 that -- I used words to the effect that I thought,
12 "Cameron, that was kind of a cheap shot, first to go over
13 time without letting us know, and secondly, to bring up
14 the issue," which in my conversation with Phil Alvidrez,
15 his boss or news director, would not come up.

16 Cameron Harper told me that he had no such
17 agreement. I have no reason to disbelieve Cameron Harper.
18 Apparently he did not know of any such agreement.

19 If I recall correctly, the introduction to
20 the telecast was about a three to four minute report by
21 another reporter, pre-taped, and it made reference to the
22 fact that this interview tonight will be on the \$350,000
23 loan, made no reference to any other issues.

24 Q. Was the staff, at the time this question was
25 asked of Cameron Harper, attempting to cut off the

1 interview?

2 A. Yes. I don't recall all the specifics at
3 that point. Again, it was very confusing, because at that
4 point even I was not sure whether it was on the air or
5 not. I believe I ran over to my office, which was 50, 60
6 feet away, to see if it was still being broadcast. I did
7 not know if it was on the air or not.

8 Q. There was a great deal of commotion going on
9 at that time?

10 A. Yes. My first question to Cameron Harper
11 was, "Are we on the air?"

12 MR. CRAFT: One moment, Your Honor.

13 (Discussion off the record.)

14 BY MR. CRAFT:

15 Q. Mr. Smith, from the conversations you had
16 with the Governor, can you tell us when you believed that
17 the Governor did have some substantial knowledge relative
18 to the facts involved in the alleged threat?

19 A. It was sometime that week, but I don't recall
20 the specifics.

21 Q. And do you know who told him?

22 A. No, I don't.

23 Q. And do you know to what extent he did have
24 knowledge about it?

25 A. Of the threat itself?

1 Q. Yes, about the facts.

2 A. Again, even that entire week, it was not a
3 major issue. I know it may seem strange now today, but it
4 was not a major item of discussion that entire week, that
5 I recall.

6 Q. Did you know whether or not anybody from the
7 Attorney General's Office had called the Governor on
8 Monday?

9 A. No, I don't know that.

10 Q. To talk about this issue?

11 A. No, I don't know that.

12 MR. CRAFT: I have no further questions, Your
13 Honor.

14 THE PRESIDING OFFICER: You may cross-examine.

15

16 CROSS-EXAMINATION

17 BY MR. ECKSTEIN:

18 Q. Mr. Smith, in the time that you were in the
19 Governor's office, how many times did you see Lieutenant
20 Johnson with Mr. Craft and Mr. Burke go into the
21 Governor's office to discuss minor personnel materials?

22 A. That was probably the only incident. I saw
23 them talking generally, but again, there were a great
24 number of issues going on at the time.

25 Q. You don't recall any other occasion on which

1 Lieutenant Johnson, Mr. Burke, Mr. Craft went into the
2 Governor's office to talk about a minor personnel matter;
3 is that correct?

4 A. That was certainly the first occasion,
5 because Dr. Burke had been on the staff about a day or two
6 at the time.

7 Q. You were aware, were you not, on Friday, the
8 13th, that a grand jury had been convened to investigate
9 the \$350,000 Wolfson loan, correct?

10 A. Yes, I was.

11 Q. Indeed, that was the major focus of your
12 attention that week and that weekend?

13 A. Yes, that's true.

14 Q. And you knew generally who the witnesses to
15 that grand jury proceeding were going to be, didn't you?

16 A. Yes, I did.

17 Q. And you knew about that from various press
18 clippings that you followed, correct?

19 A. Yes.

20 Q. And you knew that Donna Carlson was a
21 potential witness, didn't you?

22 A. Yes, I did.

23 Q. Now, on direct examination, you testified
24 that you were standing kind of in the doorway talking with
25 the Governor's secretary, Doris Stafford; is that correct?

1 A. Yes.

2 Q. Do you recall what you were talking to her
3 about?

4 A. No, I don't recall specifically. We
5 generally talked about some of the Governor's messages,
6 some of the people trying to get ahold of the Governor.
7 If he had a terribly swamped schedule, he would sometimes
8 hand me a phone slip and ask me to return the phone call
9 or take care of the matter.

10 Q. Now as you testified on direct, as you were
11 talking with Doris Stafford, you weren't paying much
12 attention to the conversation?

13 A. That's absolutely true.

14 Q. And as you testified on direct, as you were
15 talking with Doris Stafford in the doorway, you didn't
16 follow the conversation, either?

17 A. Absolutely true.

18 Q. Indeed, the only words you heard were
19 "employee" and "altercation"?

20 A. That's true.

21 Q. That perked up your attention, and then when
22 you heard the name Lee Watkins, you tuned out?

23 A. That's true.

24 Q. The fact of the matter is, you didn't even
25 hear the name Donna Carlson, did you?

1 A. No, I did not.

2 Q. And you didn't hear Mr. Craft tell the
3 Governor to distance himself from this matter?

4 A. No, I did not.

5 Q. And you didn't hear Lieutenant Johnson say
6 that this involved a threat made to Peggy Griffith?

7 A. No, I did not.

8 Q. Indeed, you didn't even hear the name Peggy
9 Griffith, did you?

10 A. I don't recall. I did hear Lee Watkins, and
11 there had been a number of stories about Lee Watkins, many
12 of which I felt were terribly unjustified, and I just
13 considered this just more rumors.

14 Q. More rumors about Lee Watkins?

15 A. Yes.

16 Q. And as soon as you heard his name, you tuned
17 out?

18 A. Yes.

19 Q. Moving forward to the following week, the
20 week of November 16th, sometime during that week Mr. Max
21 Hawkins asked you to release a letter from a polygrapher,
22 did he not?

23 A. I'm not exactly sure of the chain of events
24 there nor exactly -- it seems to me like it was more than
25 a week. It could well have been that week. We had a

1 policy which we were trying to establish at that time that
2 I would handle most of the contacts with the news media,
3 most, not all.

4 On this one here, there had been a number of
5 inquiries from the news media. I forget how I learned of
6 it, but I knew that there was going to be a lie detector
7 test given, and I subsequently learned I believe from Max
8 Hawkins that the results would be available, and we agreed
9 that I would release it.

10 Q. And what you actually released was a letter
11 without the name of the polygrapher; is that correct?

12 A. That is true.

13 Q. At the time you didn't put much faith in
14 polygraph examinations, did you?

15 A. I'm not an expert on polygraph examinations.
16 I know that there is the public perception that they could
17 cause some problems.

18 Q. Nevertheless, you did release the letter?

19 A. Yes, because I said to several members of the
20 news media that I would release it.

21 MR. ECKSTEIN: I have no further questions.

22 MR. CRAFT: I have no further questions.

23 THE PRESIDING OFFICER: All right. There's no
24 further redirect. Questions by Senators? First Lunn then
25 Stephens.

1 SENATOR LUNN: Thank you, Mr. Presiding Officer.
2 Mr. Smith, following up Mr. Eckstein's questions about
3 your awareness of what the Governor knew about this
4 threat, and you've testified in response to a number of
5 questions that you heard only bits and snatches of the
6 conversation in the Governor's office on Friday around
7 noon.

8 By Monday evening, when the Governor appeared
9 on Channel 3 with Cameron Harper for that interview, were
10 you aware that the Governor had spoken with Peggy Griffith
11 on Friday night?

12 THE WITNESS: No, I did not know that.

13 SENATOR LUNN: And when the Governor appeared on
14 Channel 3 on Monday night, were you aware that Director
15 Milstead's conversation with the Governor on Sunday, which
16 you indicated was at least the subject of a brief
17 discussion between yourself and the Governor as you gave
18 him a ride back to his Glendale home after your Sunday
19 session, were you aware that Director Milstead had
20 informed the Director of the Attorney General's
21 involvement?

22 THE WITNESS: No, I'm not aware of that.

23 SENATOR LUNN: So in essence, when you say that to
24 the best of your knowledge, on Monday night, you believed
25 that the Governor was responding truthfully to Mr.

1 Harper's questions, there were in fact a number of
2 elements relative to the Governor's knowledgeability that
3 you had no aware awareness of; isn't that true?

4 THE WITNESS: That's true.

5 SENATOR LUNN: Thank you.

6 THE PRESIDING OFFICER: Senator Stephens, you don't
7 wish to ask a question? Next is Senator Usdane.

8 SENATOR USDANE: Mr. Presiding Officer, Mr. Smith,
9 during your testimony on direct, I thought I heard the
10 word, and I may have been mistaken, that in your
11 conversation with the Channel 3 news director, you used
12 the word "hogwash." Do you recall that word being used?

13 THE WITNESS: Yes, or something close --

14 SENATOR USDANE: I wonder if you could define that
15 for me.

16 THE WITNESS: Excuse me?

17 SENATOR USDANE: I wonder if you might define the
18 context in which you used the word "hogwash."

19 THE WITNESS: I thought it was a bunch of nonsense,
20 a story of little basis.

21 SENATOR USDANE: Mr. Smith, then, just
22 specifically, would I be correct in saying that you felt
23 that the Arizona Republic article that alleged this threat
24 on a grand jury witness was hogwash?

25 THE WITNESS: Again, there seemed to be a crisis of

1 the day. I have high regard for some members of the news
2 media of Arizona. I do not regard some of them to be
3 neutral conveyor belts of news, however.

4 SENATOR USDANE: Did you discuss that opinion with
5 the Governor at any point in time over that weekend?

6 THE WITNESS: On this particular story?

7 SENATOR USDANE: Yes, sir.

8 THE WITNESS: No.

9 SENATOR USDANE: Thank you.

10 THE WITNESS: I did not know the story was going to
11 happen.

12 THE PRESIDING OFFICER: Next is Senator Osborn.

13 SENATOR OSBORN: Thank you, Mr. Presiding Officer.

14 Mr. Smith, I believe you have testified that
15 you were aware that Donna Carlson was or might have been a
16 witness in a grand jury investigation as of that weekend,
17 beginning Friday, November 13th?

18 THE WITNESS: I'm sure I was aware that her name
19 was on the list. It had been in several news accounts,
20 but I did not think about it a lot one way or another.

21 SENATOR OSBORN: May I ask, did you discuss that
22 information with the Governor?

23 THE WITNESS: I can barely hear you. I think your
24 question was did I discuss the fact that Donna Carlson was
25 to appear before the grand jury?

1 SENATOR OSBORN: That's correct.

2 THE WITNESS: No, I don't recall discussing that.

3 SENATOR OSBORN: Had you heard anyone on the
4 Governor's staff discuss that fact with the Governor prior
5 to the 12:00 noon phone conversation between Director
6 Milstead and the Governor?

7 THE WITNESS: No. It may well have happened.
8 There were some general discussions as to who and how many
9 people had been subpoenaed, but there was no particular
10 answer given. It was just a listing of names.

11 SENATOR OSBORN: I see. Thank you.

12 THE PRESIDING OFFICER: Did I miss somebody on the
13 right-hand side here? I know Senator Rios was next. All
14 right, Senator Rios next.

15 SENATOR RIOS: Thank you, Mr. Presiding Officer.

16 THE PRESIDING OFFICER: After that is Gutierrez and
17 Walker.

18 SENATOR RIOS: Mr. Smith, when you first started
19 your testimony, you were making reference to daily leaks
20 out of the Governor's office. You made some references to
21 juvenile court records, and that it was your understanding
22 that at a certain point in time, that juvenile court
23 records are expunged, no longer existent, so therefore,
24 not available to anybody that requests information
25 regarding that.

1 If there were a particular set of juvenile
2 court records in California, and the Department of Public
3 Safety was doing a criminal background check in the State
4 of Arizona, would that information be made available to
5 DPS?

6 THE WITNESS: I don't know the specifics on that.
7 If I recall correctly, and again, it's been some months
8 since I paid any attention to this, that the Lee Watkins'
9 record was under the Federal Youthful Offender Act, which,
10 after he had gone through the rehabilitation, was to be
11 expunged, which in my mind means it was not to be
12 available to anybody, but in point of fact, records tend
13 to live forever.

14 SENATOR RIOS: Legally speaking, though, if DPS was
15 doing a criminal background check here, and checked with
16 the State of California, either the state or federal
17 agency in California, is it possible that they would have
18 made those juvenile records available to DPS?

19 THE WITNESS: I really don't know. I don't have
20 any direct experiences on that, but I just don't know.

21 SENATOR RIOS: Okay.

22 THE WITNESS: Senator, if I could say, when I made
23 a reference to leaks, I did not necessarily mean to say
24 that the leaks were coming out of the Governor's office.
25 What I was referring to was a general pattern of

1 information getting to the media.

2 SENATOR RIOS: Okay. That was my second question,
3 if maybe you thought that somebody leaked that information
4 out of the Governor's office in order to create additional
5 problems for the Governor.

6 On another point, Dr. Burke testified that he
7 had recommended against the Governor appearing on TV
8 shows, special TV programs and interviews. What was your
9 advice to the Governor regarding these interviews?

10 THE WITNESS: Similar, but not as strong as Dr.
11 Burke's. There were many shows and television appearances
12 which I recommended against, some I recommended in favor
13 of.

14 SENATOR RIOS: Thank you.

15 THE PRESIDING OFFICER: Senator Gutierrez?

16 SENATOR GUTIERREZ: Thank you, Mr. Presiding
17 Officer.

18 Mr. Smith, on Sunday afternoon, you indicated
19 that you had a meeting at Mr. Miller's house, and it was
20 attended by seven or eight individuals. You've indicated
21 that you gave the Governor a ride home at the conclusion
22 of the meeting, and that I believe you indicated that he
23 had mentioned that he had spoken to Director Milstead
24 earlier that day; is that correct?

25 THE WITNESS: Yes. He told me that Colonel

1 Milstead had phoned him to apologize for a breach of
2 procedure.

3 SENATOR GUTIERREZ: Did he tell you anything else?

4 THE WITNESS: We went -- they discussed his request
5 that Beau Johnson be transferred, and he asked me what I
6 thought about Sergeant Chuck Wright, and not much deeper
7 than that.

8 SENATOR GUTIERREZ: Did he mention this telephone
9 call to members of that meeting that had taken place
10 earlier to those folks that had attended?

11 THE WITNESS: No, it never came up.

12 SENATOR GUTIERREZ: Did you think that was rather
13 strange that here he had a conversation with Mr. Milstead
14 regarding various subjects, that he would mention it to
15 you, but he wouldn't mention it at least in passing to
16 members who were involved very heavily in his either
17 defense or working with him to upgrade the image of the
18 administration?

19 THE WITNESS: No, Senator. In retrospect, I don't
20 think it's strange at all, because the attorneys assembled
21 at Murray Miller's home were there to discuss the loan,
22 and there -- in my mind, there would be no reason to bring
23 up the conversation with Colonel Milstead. The only
24 reason in my mind that it came up at all is because I
25 asked him why there was no security around him, and then

1 he told me about the conversation with Colonel Milstead.

2 SENATOR GUTIERREZ: Let me go back, and I believe
3 you listened to the testimony that Dr. Burke gave when I
4 asked him about what may be perceived as some
5 inconsistencies in the Cameron Harper news interview.

6 Now you've indicated that there was some
7 chaos going on, that is, a teleprompter had broken down,
8 he was looking at the clock, and so forth. You also
9 indicated that you did not brief him or that the Governor
10 did not have substantial knowledge of the death threat or
11 the alleged death threat that had taken place a little
12 earlier in the week, or the week before, as a matter of
13 fact; is that correct?

14 THE WITNESS: The previous Friday, again, in
15 retrospect, I should have pursued it at much greater
16 length. I advised the Governor sometime that afternoon
17 that this issue would not come up.

18 SENATOR GUTIERREZ: Let me --

19 THE WITNESS: And he proceeded on my advice, which
20 turns out was wrong.

21 SENATOR GUTIERREZ: I'm sorry to cut you off. Let
22 me, however, ask you, do you know what substantial
23 knowledge would be required in answering the question:
24 Did you know about that threat? There was -- the question
25 was not: Do you know a lot about the threat. It was: Do

1 you know about that threat. And his answer was: No, I
2 didn't.

3 Does that require a substantial knowledge of
4 the incident for that question to be answered?

5 THE WITNESS: In my mind, you know, I -- I would
6 say that the Governor answered honestly and accurately.
7 He did not know the details of it. It was under
8 investigation, but at least during a portion of what he
9 was saying, where he was saying, "No, Cameron, no," what
10 he was saying is, "I'm not going to answer that question."

11 You have to understand that the Governor was
12 under -- acting under my advice that this issue would not
13 come up, and he did not want the issue raised. Again, it
14 was a matter under both personnel and criminal
15 investigation.

16 SENATOR GUTIERREZ: Mr. Smith, again, I understand
17 the question was: Do you have substantial knowledge or
18 can you give us any details, but again, the question was,
19 going back to a second section in which the Governor was
20 asked again, I'd like to know if you or anyone on your
21 staff was informed that that threat had been made:

22 "MECHAM: Perhaps my Chief of Staff was.

23 "HARPER: But you weren't?

24 "MECHAM: I was not."

25 I'm getting to the point, Mr. Smith, it

1 didn't require substantial knowledge, details to answer
2 that question. And I guess I am still a little baffled,
3 because the question was not: "Give us the grit. Give us
4 the details," but, "Did you know about the threat
5 generally?"

6 And I guess I see some inconsistencies in the
7 response that took place probably within 20 seconds of
8 each other.

9 THE WITNESS: Again, I can't explain that. The --
10 it was a matter under investigation in both criminal and
11 personnel review at that time. In my mind, it would have
12 been perfectly proper even if the Governor had known if
13 there was an investigation or personnel matter to say no,
14 because it's a matter under investigation.

15 SENATOR GUTIERREZ: One final question, because I
16 see the clock, also, Mr. Presiding Officer. There's been
17 a lot of testimony given that Mr. Watkins was disliked by
18 a large number of folks up at the ninth floor. Is that
19 your reading of the testimony?

20 THE WITNESS: I've heard similar comments. I would
21 stress that to me, and at that time, and I had been here
22 about six or seven weeks, to me, Lee Watkins was always
23 very polite and cordial.

24 SENATOR GUTIERREZ: And that he was disliked by
25 many, many folks?

1 THE WITNESS: I wouldn't say that. I'm aware that
2 there is some discussion going on about him. I was also
3 aware that he was possibly becoming a political liability.
4 It had nothing to do with the facts of the matter. He was
5 just a liability.

6 SENATOR GUTIERREZ: Going back to the threat -- or
7 rather the leaks, could you conceivably see that perhaps
8 folks on the ninth floor were leaking some of the shadier
9 parts of Mr. Watkins' past, his background to the press?

10 THE WITNESS: I've seen no evidence of it, and
11 quite frankly, it would surprise me if that's where it had
12 come from.

13 SENATOR GUTIERREZ: Thank you, Mr. Presiding
14 Officer.

15 THE PRESIDING OFFICER: I have only two more
16 Senators that have indicated questions. If there's going
17 to be more, perhaps it would be a time -- I see now
18 Senator West and Senator Osborn wish to ask again.

19 So we will then take our recess at this time
20 until 2 o'clock.

21 (Recessed at 12:02 p.m.)

22 (Reconvened at 2:05 p.m.)

23 THE PRESIDING OFFICER: The record will show the
24 presence of the Board of Managers, a majority of the Board
25 of Managers, their counsel, and counsel for the

1 respondent.

2 The Court of Impeachment is reconvened.

3 I believe we still have Mr. Smith on the
4 stand and Senators are asking questions.

5 Senator Stephens.

6 SENATOR STEPHENS: Mr. Presiding Officer, for
7 purposes of entering the record, I would just like to
8 notify the Court that I have distributed an amendment to
9 the proposed amendment to the rules which I may propose at
10 a later point in the trial, for purposes of giving an
11 option to the Court to vote after each Article of
12 Impeachment as opposed to the way the current rules are
13 phrased.

14 THE PRESIDING OFFICER: That may be urged at
15 sometime in the future, but not now; is that correct?

16 SENATOR STEPHENS: Yes.

17 THE PRESIDING OFFICER: You have Mr. Smith resume
18 the stand, please.

19 Mr. Smith, I'll remind you, you are still
20 under oath.

21 And Senator Walker was next to ask -- you
22 wish to waive your questions?

23 SENATOR WALKER: Yes.

24 THE PRESIDING OFFICER: Senator Kay had a question.

25 SENATOR KAY: Thank you, Mr. Presiding Officer.

1 Mr. Smith, do you feel that giving testimony
2 under oath such as before this Court should carry greater
3 weight than making a statement before a television
4 audience?

5 THE WITNESS: Very much so, sir.

6 SENATOR KAY: So that what you are saying is that
7 it is all right not to tell the truth before the
8 television audience, but if the Governor were to appear
9 here, it would have greater weight?

10 THE WITNESS: Very much so.

11 SENATOR KAY: Thank you.

12 THE PRESIDING OFFICER: Senator West, I had your
13 name down here as being a potential questioner.

14 SENATOR WEST: Thank you, Mr. Presiding Officer.

15 I was waiting trying to get an excerpt of the
16 transcripts just before lunch, and I don't know whether
17 Senate staff is currently getting those up here, but let
18 me reply --

19 THE PRESIDING OFFICER: If you wish to wait,
20 Senator Osborn had a question. We could defer to his
21 question and perhaps --

22 SENATOR WEST: I would be glad to defer on the
23 other Senators and come in at the tail end.

24 THE PRESIDING OFFICER: We will go on to Senator
25 Osborn's question.

1 SENATOR OSBORN: Mr. Presiding Officer, I'll just
2 speak in a loud voice.

3 Mr. Smith, I wanted to pursue a question that
4 I raised with you before the lunch break. Did I hear you
5 say in response to my question with respect to whether you
6 knew that Donna Carlson was a grand jury witness or not on
7 this that fateful weekend that there was a list circulated
8 in the Governor's office of potential grand jury
9 witnesses?

10 THE WITNESS: No, sir. To my knowledge there was
11 not a list. I was aware that a great number of subpoenas
12 had been issued by the Attorney General's Office, and I
13 believe I first became aware of it when I had some calls
14 from some of the members of the news media about the
15 subpoenas being served.

16 Just in casual conversation over coffee or
17 whatever I think we may have been comparing notes on who
18 had been called, but I made no particular effort to find
19 out all of whom had been subpoenaed. I was aware, I am
20 certain I was aware that Donna Carlson was one of the
21 witnesses. But there was no list I was aware.

22 SENATOR OSBORN: You are not aware of any such
23 potential witnesses?

24 THE WITNESS: No.

25 SENATOR OSBORN: You did not discuss or inform the

1 Governor with respect to Donna Carlson being a potential
2 grand jury witness before the noon telephone conversation
3 with Director Milstead and the Governor?

4 THE WITNESS: No, sir. I would guess that the
5 Governor was aware of it, but I don't recall discussing it
6 with him.

7 SENATOR OSBORN: Thank you.

8 THE PRESIDING OFFICER: Senator West, are you ready
9 to question now?

10 SENATOR WEST: Yes, Mr. Presiding Officer.

11 Mr. Smith, in response to Senator Gutierrez
12 before the lunch break, I want to paraphrase and give you
13 the opportunity to clarify or correct me, paraphrase the
14 statement you made. I believe you said in your mind that
15 it was -- you stood behind -- it was okay for Governor
16 Mecham to say that he had no knowledge of this,
17 particularly if it was under criminal investigation. I
18 believe also that ties in to the remark or question that
19 Senator Kay just asked you.

20 THE WITNESS: I am not sure I understand the
21 question, sir. I missed part of it.

22 SENATOR WEST: Senator Gutierrez, I believe, was
23 questioning before lunch about Governor Mecham's comment
24 and lack of veracity in answering on the Channel 3 news.
25 I believe you said in your mind that was okay, that even

1 if Governor Mecham had knowledge of the alleged
2 infraction, it was okay for him basically not to tell the
3 truth, because perhaps it was under criminal investigation
4 or for some other reason.

5 THE WITNESS: I do recall the question this
6 morning. I certainly would not encourage him not telling
7 the truth in any environment, but I think what I was
8 referring to, there was a question regarding the
9 television program, last eight or ten minutes of that. As
10 I recall it, the Governor, part of what he was saying at
11 that time was no, no, he did not want to get into it,
12 other parts of the transcript. But there is a
13 hypothetical question, I believe, on an ongoing
14 investigation. But again, it was not under oath. I
15 thought that was the question at the time.

16 SENATOR WEST: Well, Mr. Smith, the normal reply,
17 as I understand it --

18 You are a professional; you have a masters in
19 journalism, do you not?

20 THE WITNESS: Yes.

21 SENATOR WEST: -- normal response when anybody is
22 asked about sensitive areas, areas we don't wish to
23 discuss, rather than fabricate an answer, is to say "no
24 comment."

25 THE WITNESS: I am not sure he did fabricate. Very

1 easy answer might have been "no comment." I would point
2 out however that the Governor had been criticized by a
3 number of people for saying "no comment" on a number of
4 occasions. There is an area which he cannot respond to.
5 He maybe would have just, you know, put out the brush fire
6 at that point, had he merely said "no comment." I doubt
7 that. "No comment" is, in my mind, not a very good
8 answer.

9 SENATOR WEST: You and I are not in debate. I am
10 here to ask some questions. But I would certainly -- a
11 "no comment" is a whole lot better than not telling the
12 truth, anytime.

13 THE WITNESS: It would have been there.

14 SENATOR WEST: I guess I am a little concerned,
15 because you had a belief that when you and staff and
16 Governor Mecham went on the air, that there was an
17 agreement that you were restricted to certain specific
18 issues or one specific issue, I believe, in this case, and
19 that any questions outside of that issue were really out
20 of bounds and non-germane.

21 THE WITNESS: No, Senator. Again, in my instance,
22 in working for the Governor here and also when I was in
23 California, it is just to get a general notion as to what
24 areas will be covered, just simply so that you have an
25 idea and are not stumbling for an answer when a subject

1 matter does come up. I was not asking for specific areas.

2 Again, when I talked to the news director at
3 Channel 3 that day, I asked him specifically, after having
4 read the Arizona Republic, "Is this going to be brought
5 up." Had he said, yes, I would not have canceled or tried
6 to avoid the issue, but had he told me yes, it would be
7 brought up, I would have made an effort to find out as
8 much as I could about it and to brief the Governor that,
9 yes, in fact, this would be brought up. I gave him bad
10 advice and told him it would not be brought up.

11 SENATOR WEST: Again, alluding back -- it may be
12 that I don't hear as well, and I am not being facetious, I
13 do have a 50 percent hearing loss. That's one of the
14 reasons the sound system is up, to hopefully make up for
15 that.

16 But I got the impression that you were uneasy
17 with the Channel 3 interview because they went beyond what
18 I called the bounds or some sort of informal agreement,
19 and I guess it raised the question to me: Is it normal
20 practice to set limits and requirements on the media in
21 interviews?

22 THE WITNESS: You can set general discussions. As
23 a matter of courtesy, and even in political warfare there
24 are certain rules that are followed, and, yes, I would be
25 notified as to, if I asked the question directly is this

1 going to be brought up, I would expect, if they did plan
2 in fact to ask that question that I would be told. Again,
3 there are minor arrangements made all the time between the
4 press secretary or somebody in that role in the Governor's
5 office and the news media. I can give examples, but --

6 SENATOR WEST: Mr. Smith that is news to me. I
7 have never been able to have that kind of relationship
8 with the media in my personal experience, exposure has
9 been that anything is fair game and wide open and ask any
10 questions that they see fit. I guess that is where I am
11 coming from in asking these questions. That is the mode
12 and method I think and all of us operate under. I have
13 never been able to control or restrict them, I wish
14 hopefully if you have that expertise please share that.
15 We may write a book at the end of this.

16 I am also concerned, one of the questions
17 that Senator Usdane brought up, the description you used
18 about the article that appeared apparently was on Sunday
19 the 15th of November in the paper citing a pretty serious
20 event, and I think you referred to it again as hogwash,
21 and reiterated that to Senator Usdane's question, do you
22 feel today that that article was hogwash.

23 THE WITNESS: Again I think it was Monday the 16th,
24 not Sunday the 15th and I probably used a more barn yard
25 terminology than hogwash. I still feel that what it did,

1 what the purpose or not the purpose but one of the affects
2 of that article was to focus much greater attention on
3 Donna Carlson, and I don't know; certainly, I don't know
4 what motives if any were behind that, but at least it had
5 that affect, focus much greater attention on her testimony
6 at the grand jury.

7 SENATOR WEST: Hogwash to me meant that you doubted
8 the veracity of the article and there was things in it
9 that were inaccurate. If we could go to that article,
10 although it is not an exhibit, to point out to this body
11 in your opinion what is inaccurate in that article?

12 THE WITNESS: Again, it could be accurate. Sam
13 Stanton is very good at quotes. To my knowledge he has
14 never missed a quote, he is very good at it. Even though
15 the quotes are truthful, the article itself is not
16 necessarily objective in my mind. Specifically on that
17 article, what I was talking about, being hogwash, I was
18 wondering at the time why so many investigative agencies
19 were that willing to talk to the media.

20 SENATOR WEST: You also indicated that Mr. Watkins
21 had a lot of press, and to use your words again, I thought
22 you said a lot of it was unjustified. Could you elaborate
23 on that?

24 THE WITNESS: I don't recall, I may well have used
25 the word "unjustified." I meant to use the word

1 "unwarranted." I feel it was unfair to Lee Watkins to
2 have coverage of a juvenile record which was expunged,
3 supposed to have been expunged and under the federal
4 Youthful Offender Act to have that kind of media coverage
5 of him.

6 SENATOR WEST: That was the total scope or total
7 thrust of your remark of unwarranted or unjustified?

8 THE WITNESS: I may have said something else, sir,
9 I don't recall. Again, at the time I been here about six
10 weeks or so I probably had talked to Lee Watkins briefly,
11 six or eight occasions, and again, he always seemed very
12 polite and cordial to me, and I had no reason to think
13 otherwise. It seemed to me to be an unwarranted
14 publication of a supposedly expunged youthful offender
15 record.

16 SENATOR WEST: Early on in your testimony you
17 indicated to somebody, that you gave, and I am going to
18 use the words, quite a bit of political advice to Governor
19 Mecham but you gave political advice to Governor Mecham,
20 is that right?

21 THE WITNESS: Yes, sir.

22 SENATOR WEST: What is your batting average,
23 following the advice you gave him?

24 THE WITNESS: I didn't keep score. I would say at
25 this point, Senator, I find it very difficult to separate

1 media and political advice. In my mind the two are
2 intertwined and cannot be separated. So, media advice was
3 political advice and probably vice versa. But I did not
4 keep score.

5 Contrary to his image, he does listen to
6 advice; and he does not always accept it, but he certainly
7 listened to it.

8 SENATOR WEST: Did you encourage him to go on
9 television Monday, the 16th of November?

10 THE WITNESS: No, sir, I did not.

11 SENATOR WEST: Did you discourage him from doing
12 so?

13 THE WITNESS: Yes, sir.

14 SENATOR WEST: Did you discourage him from
15 appearing on the Ted Copple show?

16 THE WITNESS: Yes, sir.

17 SENATOR WEST: Did you have any input on 60
18 Minutes?

19 THE WITNESS: That was taped mostly before I
20 arrived here in Arizona. There was some taping after I
21 arrived here, but they did not talk to me.

22 SENATOR WEST: Is it a fair statement, then, that
23 you tried to discourage Governor Mecham from making these
24 public appearances on these live interview shows?

25 THE WITNESS: Some of them, yes, sir.

1 SENATOR WEST: Very similar to, I believe, what
2 Dr. Burke testified today, that he also attempted to do
3 so. There were at least two of you giving advice not to
4 do this; apparently, obviously, that advice was ignored.

5 THE WITNESS: Not entirely ignored, no, sir. There
6 were a great number of requests for interviews, at that
7 time, of the Governor, we either said no to or did not
8 respond to.

9 He did accept advice on some but not others,
10 but again, he is the Governor and I worked for him.

11 SENATOR WEST: We all understand that. I also
12 understand you had given advice he not appear on Channel
13 3, Ted Cople, given advice he not do either radio or
14 television interviews, apparently to no avail. That
15 advice on your part and Dr. Burke's was not followed as
16 the testimony stated, that's how I have heard it. Is that
17 inaccurate?

18 THE WITNESS: Yes, sir, that is true.

19 SENATOR WEST: Thank you.

20 THE PRESIDING OFFICER: Are there any other
21 questions by Senators?

22 Yes, Senator DeLong.

23 SENATOR DE LONG: That you, Mr. Presiding Officer.

24 Mr. Smith, you have testified, as have many
25 many other witnesses, that a party to your conversations

1 is a person, another witness named Mr. Fred Craft. I
2 think you said in your testimony that Mr. Craft was also
3 at the TV interview.

4 Can you tell me, sir, what your understanding
5 of Mr. Craft's duties and responsibilities on the ninth
6 floor were?

7 THE WITNESS: He was director of the Washington
8 office. And during the interim between the time that
9 Mr. Colter left and the time that Mr. Burke arrived, Fred
10 was in the office, offering advice to the Governor. I
11 don't know how many trips he made or how many days he
12 spent here, but he was not here all the time.

13 He was trusted by the Governor and was -- I
14 worked with him on some issues. At the time I -- even now
15 I don't see anything odd or peculiar about his time or his
16 involvement on the ninth floor.

17 SENATOR DE LONG: Was Mr. Craft under a written
18 contract, to your knowledge?

19 THE WITNESS: I believe so, yes. But I'm not sure.

20 SENATOR DE LONG: Can you tell us what other types
21 of advice he was giving the Governor?

22 THE WITNESS: Mostly having to do with federal
23 issues, which was his major responsibility.

24 SENATOR DE LONG: Thank you, Mr. Smith.

25 THE PRESIDING OFFICER: Any other questions by

1 Senators?

2 If there are no further questions, then this
3 witness will be excused subject to further call, if
4 necessary. Thank you, sir.

5 MR. LEONARD: Mr. Presiding Officer, the respondent
6 calls Terri Elaine Fields.

7

8 TERRI E. FIELDS,
9 a witness herein, after having been first duly sworn, was
10 examined and testified as follows:

11

12 DIRECT EXAMINATION

13 BY MR. LEONARD:

14 Q. My name is Jerris Leonard and I am one of the
15 attorneys for Governor Mecham.

16 THE PRESIDING OFFICER: Excuse me. If you could
17 move that microphone close to your face, it is easier for
18 us to hear. Thank you.

19 BY MR. LEONARD:

20 Q. Did you hear me Miss Fields?

21 A. Yes.

22 Q. Would you give us your full name, please.

23 A. Terri Elaine Fields.

24 Q. Are you currently employed?

25 A. Yes.

1 Q. What is your position?

2 A. I am an administrative assistant in the
3 Governor's Office of Women's Services.

4 Q. Who heads that office?

5 A. Peggy Griffith.

6 Q. How long have you been so employed?

7 A. Eight months.

8 Q. That would have been roughly July of 1987
9 that you started?

10 A. Yes.

11 Q. Did you know Peggy Griffith prior to July of
12 1987?

13 A. No.

14 Q. So that you have known her personally only
15 since that time?

16 A. Yes.

17 Q. Did you have any information about her prior
18 to that time?

19 A. No.

20 Q. Have you, during the period of time that you
21 have been employed there, been able to become familiar
22 with the operation of that office?

23 A. Yes.

24 Q. Have you also been able to make observations
25 with respect to the way Miss Griffith handles and operates

1 the office?

2 A. Yes.

3 Q. Have you had an opportunity to form an
4 opinion, make observations and formulate an opinion with
5 respect to Miss Griffith's work habits?

6 A. Yes.

7 Q. How would you say she is organized? That is,
8 what would your opinion be with respect to her overall
9 ability to organize her job?

10 A. She relies on her staff a lot.

11 Q. How does she deal with people?

12 A. I'd say she deals with people very well.

13 Q. Have you had an opportunity to observe her
14 ability to remember facts and events?

15 A. Yes.

16 Q. What is your opinion with respect to that?

17 A. Sometimes she forgets these things.

18 Q. Have you had an opportunity to observe the
19 way she portrays events and things that happen?

20 A. Yes.

21 Q. What is your opinion with respect to that?

22 A. Sometimes she tends to exaggerate things a
23 little.

24 Q. Have you had an opportunity to make an
25 observation with respect to how thorough she is in

1 performing the functions of her office?

2 A. Yes.

3 Q. What is your opinion as to that?

4 A. She is not real thorough.

5 Q. Does she at times take on projects without
6 being familiar with the details of them?

7 A. Yes.

8 Q. Does she rely heavily on her staff with
9 respect to preparation of details?

10 A. Yes.

11 Q. Let me ask you, if you would, to -- if the
12 clerk would hand the witness Exhibit No. 10.

13 Miss Fields, this is an exhibit which has
14 been received into evidence and has been identified and
15 testified to by Peggy Griffith as a statement that she
16 prepared on January 19th, 1988. And I ask you whether or
17 not you typed that document.

18 A. Yes, I did.

19 Q. Was it typed on some kind of a word
20 processor?

21 A. Yes.

22 Q. And after you typed it and printed it, what
23 did you do with it?

24 A. I deleted it.

25 Q. You deleted it off of the tape or off the

1 machine?

2 A. Off the computer.

3 Q. Off the memory?

4 A. Yes.

5 Q. So that presumably the original of that is
6 the only one that exists, except for photocopies that were
7 made?

8 A. Yes.

9 Q. After you printed it, did you show it to
10 Peggy Griffith?

11 A. Yes, I gave it to her.

12 Q. Did she give you any instructions with
13 respect to what to do with it?

14 A. She first said it was for her personal use,
15 and then she told me to take a copy to Representative Jim
16 Skelly.

17 Q. Did she explain to you what she meant by the
18 fact that was for her own personal use?

19 A. No, she didn't.

20 Q. Were there any copies of it made at that
21 time?

22 A. Yes.

23 Q. How many?

24 A. Five.

25 Q. What did you do with the copies?

1 A. I gave them to her.

2 Q. And the original you took to Representative
3 Jim Skelly?

4 A. Yes.

5 Q. And did you know who he was at the time?

6 A. Yes.

7 Q. Did you recognize him to be the chairman of
8 the House Special Impeachment Committee?

9 A. Yes.

10 Q. Did you in fact deliver the original or a
11 copy of this exhibit to his office?

12 A. Yes.

13 Q. Who did you give it to?

14 A. I gave it to his secretary.

15 Q. What day was that, was that the 19th of
16 January?

17 A. Yes.

18 Q. Subsequent to the 19th of January, did you
19 have an occasion to be in Peggy Griffith's office when she
20 had a telephone conference with someone she identified as
21 Representative Skelly?

22 A. Yes.

23 Q. How many days after January 19th was that?

24 A. It was a few days after.

25 Q. Were you present during the entire time of

1 that conversation?

2 A. Yes.

3 Q. You heard what she said, but you obviously
4 didn't hear what the other person said?

5 A. Right.

6 Q. After the conversation was over, did she tell
7 you that that conversation was with Representative Skelly?

8 A. Yes, she did.

9 Q. What did she have to say about that
10 conversation?

11 A. She was laughing and she said Skell is so
12 funny. Apparently she and Representative Skelly have been
13 friends for some time. Skell was so funny. I asked -- he
14 just said that the Governor is dead meat.

15 Q. "Skell" is Representative Skelly?

16 A. Yes.

17 Q. Did you say anything to her about that
18 comment, about the Governor being dead meat?

19 A. I did. I told her, I says, I didn't think it
20 was real funny. I says, if I wanted to, maybe I could run
21 to DPS and say that this was a threat against the
22 Governor's life.

23 Q. You were referring, of course, to the raging
24 controversy about Watkins and Carlson?

25 A. Right.

1 Q. Did she respond to that comment?

2 A. No, she didn't.

3 Q. Are you familiar with the relationship that
4 existed at that time between Peggy Griffith and Donna
5 Carlson?

6 A. Yes.

7 Q. How would you characterize that relationship?

8 A. They are very close.

9 Q. How do you know that?

10 A. Peggy has told me.

11 Q. Have you heard Peggy Griffith make statements
12 with respect to the friendship that existed between
13 herself and Donna Carlson?

14 A. Yes.

15 Q. Did there come a time immediately prior to
16 November 15th that you had a conversation with Peggy
17 Griffith about the relationship that she had at that point
18 in time with Donna Carlson?

19 A. Yes.

20 Q. What did she say to you?

21 A. She said that she and Donna were in a fight.
22 And I asked why, and she says because Donna had given her
23 unlisted phone number to Sam Stanton, and Sam had called
24 her at home to get an interview.

25 Q. Did she say she had taken any action as a

1 result of that telephone call?

2 A. Yes. She had changed her phone number, now
3 had another unlisted phone number, and I was not to give
4 that number to Donna or anyone else.

5 Q. Did she make any comment with respect to what
6 the giving up of her unlisted phone number to Sam Stanton
7 had done to the relationship between she and Donna
8 Carlson?

9 A. She just said they were in a fight.

10 Q. If Peggy Griffith had testified that the
11 reason that her relationship with Donna Carlson was
12 strained was because of Donna Carlson's resignation from
13 the Governor's staff, Peggy Griffith never related that to
14 you as a reason; is that correct?

15 A. That's correct.

16 Q. Do you have an opinion with respect to Peggy
17 Griffith's propensity to seek personal publicity?

18 A. Yes.

19 Q. What is that opinion?

20 A. Peggy likes to be in the limelight of
21 everything.

22 Q. Can you give us any specific example of a
23 time when you felt that she might have unnecessarily
24 sought personal publicity?

25 A. Could you repeat that? I am sorry.

1 Q. Do you recall a time when you had in your
2 office a proposal, so-called Tucson program?

3 A. Yes.

4 Q. What did that program relate to?

5 A. It was a program called HOME. It is a
6 welfare reform program.

7 Q. How did that Tucson program get to your
8 office?

9 A. Peggy had been telephoned, she went to
10 Tucson, she brought back the program to me. She gave the
11 program to me and she said "Terri," she says, "make this
12 work." She says, "If this works and this program makes it
13 really big, I'll get national attention, I'll be
14 nationally known. And it doesn't matter what happens to
15 the Governor; I'll not lose my job because I'll be known
16 for this program."

17 Q. Let's go back over that for just a minute.

18 Was this a program that you could have taken
19 care of in a matter of an hour or two?

20 A. No.

21 Q. Was it a complicated program?

22 A. In a sense it was very complicated. It took
23 a lot of work to put together.

24 Q. Tell us again what were the exact words she
25 said when she brought it back and gave it to you.

1 A. She gave it to me and she said "Terri," she
2 says, "make this program work."

3 Q. Her words after that with respect to
4 publicity was what?

5 A. That if this program worked and it made it
6 big, that she would be nationally known, she would get
7 national attention, and that no matter what happened to
8 the Governor they couldn't get rid of her because she
9 would be nationally known for this program.

10 Q. Do you recall about when you had that
11 conversation with her, what month or day?

12 A. It was the end of January.

13 Q. Of 1988?

14 A. Right.

15 Q. I guess I am losing track of time, but that
16 is a little over a month ago?

17 A. Right.

18 Q. You like Peggy Griffith, don't you?

19 A. Yes, I do.

20 Q. She's a nice person?

21 A. Yes.

22 Q. But you admit she has some failings?

23 A. Yes.

24 Q. Have you had a recent conversation with Peggy
25 Griffith about the Lee Watkins matter?

1 A. Yes.

2 Q. When was that?

3 A. It was a few weeks ago after she found out
4 that she was no longer under the grand jury silence oath.

5 Q. When she felt she had been released from her
6 grand jury oath?

7 A. Right.

8 Q. At least that was her view?

9 A. Right.

10 Q. What did she say to you?

11 A. She told me that this thing had really gotten
12 blown up, blown out of proportion. I agreed with her. I
13 had mentioned that to her before.

14 Q. Did she use the word "awful"?

15 A. Yes. She said that it was awful and this was
16 terrible what was going on.

17 Q. Did you explore with her what she meant by
18 that?

19 A. No, I didn't.

20 Q. Do you know what she meant by that?

21 A. The way --

22 MR. ECKSTEIN: Objection; the witness is
23 speculating and is being asked to speculate as to what
24 Peggy Griffith meant by something.

25 MR. LEONARD: May I be heard on that?

1 THE PRESIDING OFFICER: Yes, you may.

2 MR. LEONARD: Mr. Presiding Officer, the witness
3 has testified she worked for her for eight months, she is
4 familiar with her habits.

5 What I am asking her is whether she could
6 tell from the emotions, the response, the body language,
7 everything else, what this woman meant. I think she has a
8 right to at least give an opinion as to what she believed
9 she meant by those words and the way she said it.

10 THE PRESIDING OFFICER: Objection sustained.

11 BY MR. LEONARD:

12 Q. Did she make any comments at that time about
13 Lee Watkins?

14 A. No.

15 Q. Do you recall Thursday the 12th of November
16 of 1987?

17 A. Yes.

18 Q. You will never forget it?

19 A. Right.

20 Q. What were you doing about 11:30 a.m. that
21 day?

22 A. Peggy and I were on our way over to the
23 Department of Transportation for a monitoring program
24 meeting.

25 Q. When you say you were on your way, you had

1 left the office building and where were you?

2 A. We were on our way to the car in the parking
3 lot.

4 Q. And did you see Lee Watkins at that time?

5 A. Yes, we did.

6 Q. Did Lee Watkins and Peggy Griffith have an
7 exchange of any kind?

8 A. Yes.

9 Q. What did Peggy Griffith say?

10 A. She says, "Oh, Lee, hi honey, how you doing?"
11 She hugged him and she kissed him and they exchanged their
12 hellos.

13 Q. She hugged him and kissed him. She
14 physically put her arms around him?

15 A. Yes.

16 Q. She physically kissed him?

17 A. Yes.

18 Q. And after this highly emotional exchange
19 between these two obvious friends, do you remember what
20 was said as between the two of them?

21 A. Yes.

22 Q. What did Watkins say?

23 A. Lee said that Donna had a big mouth and she
24 ought to learn to keep it shut.

25 Q. What did Peggy Griffith say?

1 A. She says, "Yeah;" she said, "Yeah, she is
2 being a real bitch lately."

3 Q. Did the two of them show any emotional signs
4 after that?

5 A. We all did, we all thought it was funny. We
6 laughed.

7 Q. All three of you?

8 A. Right.

9 Q. Did you hear Lee Watkins use any expletives
10 at that point in time in describing Donna Carlson?

11 A. No.

12 Q. Did you hear him make any threats with
13 respect to Donna Carlson?

14 A. No.

15 Q. Did you hear any words such as "boat ride" or
16 "bottom of the river" or "death"?

17 A. No.

18 Q. Did you and Peggy Griffith have any further
19 conversation with respect to that exchange, that is, the
20 Griffith-Watkins exchange, after you left the parking lot?

21 A. Yes.

22 Q. Where was that?

23 A. That was in Peggy's car on her way to the
24 meeting.

25 Q. And what did Peggy Griffith have to say about

1 Donna Carlson?

2 A. She just said that Donna was being really
3 bitchy lately, that she was upset with the Governor.

4 Q. Did she say why Donna Carlson was upset with
5 the Governor?

6 A. No. No, she didn't.

7 Q. When did you return to the Capitol on
8 Thursday, November 12?

9 A. It was either 1:00 or 2:00, I'm not real
10 sure. I would say probably 1:00.

11 Q. You went to a meeting first?

12 A. Right.

13 Q. Then did you have lunch?

14 A. I don't remember whether we went to lunch or
15 not.

16 Q. What did Peggy Griffith do after you returned
17 to the Capitol that day?

18 A. I'm not sure. Peggy roams a lot.

19 Q. Roams. She leaves the office and goes
20 places?

21 A. Right.

22 Q. Without telling you, I take it, where she is
23 going?

24 A. We were on the fourth floor at the time. She
25 would say she's going to be on the eighth or the ninth

1 floor.

2 Q. Did you have any further conversation with
3 her that day with respect to any meetings she had with Lee
4 Watkins?

5 A. No.

6 Q. How late did she stay in the office that day?

7 A. She left probably between 4:00 and 4:30.

8 Q. Were you there when she left?

9 A. Yes.

10 Q. So up until 4:30 that afternoon, she didn't
11 say anything further to you about Lee Watkins?

12 A. No.

13 Q. Did she say anything to you about being
14 concerned about Donna Carlson?

15 A. No.

16 Q. Did she mention death threats?

17 A. No.

18 Q. Did she seem disturbed?

19 A. No.

20 Q. Did she seem to be upset?

21 A. No.

22 Q. Was she excited?

23 A. No.

24 Q. Did she mention anything about having to see
25 the Governor?

1 A. No.

2 Q. After she left the office that day, did you
3 see her or talk to her again on Thursday the 12th?

4 A. No.

5 Q. Did you see her Friday the 13th?

6 A. Yes.

7 Q. What time did you arrive in your office that
8 morning?

9 A. I was there about 7:00.

10 Q. 7:00 a.m.?

11 A. Right.

12 Q. What time did she arrive?

13 A. It was about 8:15.

14 Q. Did she remain in the office all morning, or
15 did she leave?

16 A. No, she left. She said that she had an early
17 appointment with the Governor to discuss our domestic
18 violence program.

19 Q. About what time did she leave?

20 A. 8:20, 8:25.

21 Q. When did she return?

22 A. About a half hour later.

23 Q. So approximately 9:00, thereabouts?

24 A. Right.

25 Q. And did you have a conversation with her with

1 respect to what she had done while she was gone?

2 A. She just said that she had waited for the
3 Governor, and he was busy and she couldn't get into see
4 him, because she would speak to Ray Russell about our
5 program.

6 Q. Did she mention Lee Watkins or Donna Carlson
7 to you at that time?

8 A. No.

9 Q. Did she mention Lee Watkins or Donna Carlson
10 to you prior to the time she left for the meeting with the
11 Governor at about 8:15 or 8:20 that morning?

12 A. No.

13 Q. Did she talk at all about threats or
14 violence?

15 A. No.

16 Q. What would you say her attitude was at the
17 time with respect to how she was personally acting?

18 A. Normal.

19 Q. Didn't seem to be excited --

20 A. No.

21 Q. -- or concerned?

22 A. No.

23 Q. Did she say anything about telephone calls
24 from Officer Martinez or Lieutenant Johnson?

25 A. She did tell me that they would be calling,

1 and to let her know; that she would be on the eighth or
2 the ninth floor if they did call.

3 Q. What did she do then?

4 A. She left.

5 Q. Do you know where she went?

6 A. I assume up to the eighth or ninth floor.

7 Q. But she indicated she had to see Ray Russell?

8 A. Right.

9 Q. And as far as you know, that is where she
10 went?

11 A. Right.

12 Q. Did she tell you why she was expecting to
13 hear from Officer Martinez or Lieutenant Johnson?

14 A. No, she didn't.

15 Q. Did she at that time make any comments about
16 Lee Watkins or Donna Carlson?

17 A. No.

18 Q. Did she say anything at that point in time
19 about death threats?

20 A. No.

21 Q. Did you have any further conversation with
22 her on Friday, the 13th of November of 1987 about Lee
23 Watkins or Donna Carlson?

24 A. No.

25 Q. Did she at any time during that day appear

1 to you to be excited or upset or concerned?

2 A. No.

3 Q. Did she mention Donna Carlson's name at any
4 time during that day?

5 A. No.

6 Q. Let me ask you to look at Exhibit No. 10
7 again, please.

8 You testified a few minutes ago that you
9 typed this into a word processor; is that correct?

10 A. Yes.

11 Q. What did you type it from?

12 A. I typed it from a handwritten paper.

13 Q. Did Peggy Griffith give you that handwritten
14 paper?

15 A. Yes.

16 Q. Did you recognize the handwriting?

17 A. Yes.

18 Q. Was it Peggy Griffith's handwriting?

19 A. No.

20 Q. Whose handwriting was it?

21 A. It was her husband, Ron.

22 Q. How do you know that?

23 A. Because I know the difference in their
24 handwriting. I know Peggy's very well. And Ron has
25 written quite a few papers that she has brought in, and

1 I've learned to recognize his.

2 Q. She has identified those papers previously as
3 being his handwriting?

4 A. Right.

5 Q. How many drafts of this document did you
6 type?

7 A. One.

8 Q. Would it be correct to state that there were
9 no corrections made after you finished typing it the first
10 time?

11 A. Right.

12 Q. When you had the draft in front of you that
13 had been handwritten by Ron Griffith, were there any
14 quotation marks in the handwritten draft?

15 A. No.

16 Q. Who inserted the quotation marks that appear
17 on the various pages of Exhibit No. 10?

18 A. I did.

19 MR. LEONARD: May I have just a moment,
20 Mr. Presiding Officer?

21 THE PRESIDING OFFICER: Yes, you may.

22 (Pause in the proceedings.)

23 BY MR. LEONARD:

24 Q. Miss Fields, did you have any opportunity to
25 discuss the contents of Exhibit No. 10 with Peggy

1 Griffith, that is the day that you prepared it, on the
2 19th of January?

3 A. No, she just brought it in and told me to
4 type it.

5 Q. You weren't given any opportunity to discuss
6 whether anything in that document was correct or
7 incorrect?

8 A. Right.

9 Q. Your opinion wasn't asked?

10 A. Right.

11 Q. You didn't volunteer it?

12 A. No.

13 MR. LEONARD: That's all.

14 THE PRESIDING OFFICER: Mr. Eckstein, you may
15 cross-examine.

16
17 CROSS-EXAMINATION

18 BY MR. ECKSTEIN:

19 Q. Miss Fields, did you listen to Peggy
20 Griffith's testimony before the Senate?

21 A. Not all of it, no.

22 Q. You did listen to some of it?

23 A. Some of it.

24 Q. Did you read about it in the paper?

25 A. No.

1 Q. During those parts that you listened to, she
2 told the truth, didn't she?

3 A. What I remember of some of it, yes.

4 Q. You didn't hear her lie under oath, did you?

5 A. I don't know whether she lied or whether it
6 was just something that she didn't mention to me.

7 Q. You heard her say things that she had not
8 mentioned to you; is that correct?

9 A. Right.

10 Q. But you aren't testifying here that Peggy
11 Griffith lied under oath, are you?

12 A. I'm saying that she said something different
13 than what she had told me.

14 Q. You heard Peggy Griffith say that she felt
15 loyalty to the Governor?

16 A. Yes.

17 Q. You believe that, don't you?

18 A. Yes.

19 Q. You believe she was telling the truth when
20 she said that?

21 A. Yes.

22 Q. You don't have any doubt in your mind, do
23 you, that Peggy Griffith had a second conversation with
24 Lee Watkins on the 13th, on the 12th of November, 1987, do
25 you?

1 A. Yes, I do.

2 Q. You doubt that she even had a conversation
3 with Lee Watkins; is that correct?

4 A. Yes.

5 Q. Have you read any statements attributed to
6 Lee Watkins where he acknowledges that he had a
7 conversation with Peggy Griffith?

8 A. No, I haven't.

9 Q. You have not?

10 A. No.

11 Q. When Peggy Griffith left to go to meet the
12 Governor around 8:15, did she tell you what she was going
13 to meet the Governor about?

14 A. Yes, she did.

15 Q. When she came back, did she say that she was
16 not able to meet the Governor?

17 A. Yes.

18 Q. Did she explain why?

19 A. She said he was too busy at the moment.

20 Q. Did you ask Peggy Griffith why she was going
21 to be receiving telephone calls from Frank Martinez or
22 Beau Johnson?

23 A. No, I didn't.

24 Q. She didn't tell you?

25 A. No.

1 Q. Do you know whether she had ever received a
2 telephone call from Frank Martinez before?

3 A. I don't know that.

4 Q. You can't recall any?

5 A. No.

6 Q. Do you recall any instance where she had
7 received a telephone call from Beau Johnson --

8 A. No.

9 Q. -- before?

10 A. No.

11 Q. When you typed what has now been marked as
12 Exhibit No. 10, you recognized the handwriting as the
13 handwriting of Ron Griffith, correct?

14 A. Yes.

15 Q. Did you ask Peggy Griffith whether she had
16 dictated the words or provided the words to her husband,
17 Ron Griffith, to write down?

18 A. I asked her why Ron wrote it.

19 Q. What did she tell you?

20 A. She says, "Well, he knows most of the story,
21 and I told him what he didn't know."

22 Q. "I told him what he didn't know"?

23 A. Right.

24 Q. Did you ask her what portions she told him?

25 A. No, I didn't.

1 MR. ECKSTEIN: I have no further questions.

2 THE PRESIDING OFFICER: Redirect?

3 MR. LEONARD: No, Your Honor.

4 THE PRESIDING OFFICER: Senators have questions?

5 Senator Higuera.

6 SENATOR HIGUERA: Mr. Presiding Officer, ma'am,
7 during the direct testimony you testified that Peggy
8 Griffith told you that she had to see Ray Russell, am I
9 correct?

10 THE WITNESS: Yes.

11 SENATOR HIGUERA: How well do you know Ray Russell?

12 THE WITNESS: I don't know him real well. I know
13 him. I've talked to him.

14 SENATOR HIGUERA: Do you know anyone that works for
15 Ray Russell?

16 THE WITNESS: Pardon me?

17 SENATOR HIGUERA: Do you know anyone that works for
18 Ray Russell?

19 THE WITNESS: Yes.

20 SENATOR HIGUERA: May I ask you who?

21 THE WITNESS: It's my mother.

22 THE PRESIDING OFFICER: Senator Usdane.

23 SENATOR USDANE: Mr. Presiding Officer, Miss
24 Fields, could you give us just a little more background on
25 how you entered government, when, approximately?

1 THE WITNESS: I had moved back to Arizona in May.
2 I was working elsewhere in a restaurant. I had come up to
3 the ninth floor to help my mother with some filing and
4 some other things that she had been behind in, and when I
5 was up there she had introduced me to Peggy Griffith. And
6 Peggy says, "Is she looking for a job?" I said, "Yes."
7 Peggy said, "You are hired."

8 SENATOR USDANE: Thank you.

9 Mr. Presiding Officer Miss Fields, the last
10 question I would have to ask you is: Did you come forward
11 to offer to testify, or were you asked by defense counsel
12 to come forward?

13 THE WITNESS: I was subpoenaed.

14 SENATOR USDANE: You were subpoenaed?

15 THE WITNESS: Yes.

16 SENATOR USDANE: Thank you very much.

17 THE PRESIDING OFFICER: Senator Walker is next.

18 SENATOR WALKER: Miss Fields, do you know if Peggy
19 Griffith was in the habit of having imaginary
20 conversations?

21 THE WITNESS: Not that I know of.

22 SENATOR WALKER: Do you recall if she ever said she
23 had a conversation with someone else before and you found
24 that not to be true?

25 THE WITNESS: No.

1 SENATOR WALKER: I believe you stated when
2 Mr. Eckstein cross-examined you that you did not believe
3 that Mrs. Griffith had a second conversation with
4 Mr. Watkins. Is that true?

5 THE WITNESS: Yes.

6 SENATOR WALKER: Then that would indicate to me
7 that you believe Mrs. Griffith lied. Is that true?

8 THE WITNESS: No, I don't believe she lied.

9 Maybe I should answer that in a different
10 way. Maybe she did have the conversation with Lee
11 Watkins, but I don't -- I don't believe that a threat came
12 out of it from Lee Watkins.

13 SENATOR WALKER: Then you believe that
14 Mrs. Griffith exaggerates a great deal?

15 THE WITNESS: Somewhat.

16 SENATOR WALKER: And she has exaggerated on a
17 number of occasions before?

18 THE WITNESS: Not a number of occasions.

19 SENATOR WALKER: But on this particular occasion
20 you believe she exaggerated?

21 THE WITNESS: I believe so.

22 SENATOR WALKER: Do you know if there was any
23 reason why Mrs. Griffith would lie on Mr. Watkins?

24 THE WITNESS: I don't know. I only have personal
25 opinions.

1 SENATOR WALKER: I understand.

2 Speaking of personal opinions, you testified
3 earlier that you thought that Mrs. Griffith was
4 disorganized --

5 THE WITNESS: Yes.

6 SENATOR WALKER: -- relied heavily upon her staff.

7 THE WITNESS: Yes.

8 SENATOR WALKER: Do you think you will do better at
9 Director of the Women's Office than Mrs. Griffith?

10 THE WITNESS: I don't think that I could. I think
11 I would give it a good try.

12 SENATOR WALKER: Thank you.

13 THE PRESIDING OFFICER: Senator Kay is next.

14 SENATOR KAY: Mr. Presiding Officer, Miss Fields, I
15 would like to go back to Thursday morning, November 12 at
16 11:30, when you and Mrs. Griffith were in the parking lot
17 and she and Mr. Watkins got together. They embraced, she
18 kissed, so forth.

19 How far away were you at the time from those
20 two individuals?

21 THE WITNESS: I was standing right next to them.

22 SENATOR KAY: Couple of feet. And as I recall from
23 your conversation or from their conversation, you didn't
24 say anything, yourself, to either one of them at that
25 time, did you?

1 THE WITNESS: No.

2 SENATOR KAY: Mr. Watkins said that Donna had a big
3 mouth and should keep it shut. After they were kissing
4 and embracing he just automatically said Donna has a big
5 mouth and should keep it shut, or was there other
6 conversation which led into that?

7 THE WITNESS: No, that was just, I guess what you
8 call an off-the-wall comment.

9 SENATOR KAY: You didn't hear any other comment or
10 any conversation --

11 THE WITNESS: No.

12 SENATOR KAY: And then Mrs. Griffith replied,
13 "Yeah, she has been a bitch lately." Is that
14 substantially what she said?

15 THE WITNESS: Right.

16 SENATOR KAY: And then what did you do, just trot
17 off and went to the car after that, or was there other
18 conversation?

19 THE WITNESS: I said we have to go, we are late;
20 and it was good-bye, and we left.

21 SENATOR KAY: Can you speculate -- and I know this
22 isn't the area for speculation -- but can you think of any
23 reason why Mr. Watkins would tell Mrs. Griffith that Donna
24 should keep her mouth shut at 11:30 in the morning and
25 then perhaps in the afternoon repeat the process?

1 THE WITNESS: No.

2 SENATOR KAY: Thank you.

3 THE PRESIDING OFFICER: Senator Rios is next.

4 SENATOR RIOS: Thank you, Mr. Presiding Officer.

5 Miss Fields, you stated that your job
6 description or your job title is administrative assistant?

7 THE WITNESS: Yes.

8 SENATOR RIOS: Yet in Exhibit No. 10 in the sworn
9 statement there, it states that you are a secretary for
10 Peggy Griffith.

11 Which is the correct job title?

12 THE WITNESS: The correct title is administrative
13 assistant. To Peggy, I'm her secretary.

14 SENATOR RIOS: What is your educational background,
15 if I might ask?

16 THE WITNESS: I graduated from high school.

17 SENATOR RIOS: Do you have a bachelor's degree from
18 a university?

19 THE WITNESS: No. I don't.

20 SENATOR RIOS: Nor a master's degree then,
21 obviously?

22 THE WITNESS: No.

23 SENATOR RIOS: What about your work experience
24 background?

25 THE WITNESS: I have worked mainly in the

1 restaurant business.

2 SENATOR RIOS: This welfare reform program that you
3 were supposed to look into, what was this program all
4 about, could you briefly describe it for me?

5 THE WITNESS: This is a program for anybody in the
6 lower income level living in poverty that is living off of
7 welfare, such as AFDC, food stamps, male or female who
8 wants to get off of the welfare program.

9 SENATOR RIOS: That is a workfare type program that
10 you are describing?

11 THE WITNESS: We teach these people and show these
12 people where they can go to get themselves more
13 education, to get themselves back into the working force
14 so they can stay off of welfare.

15 SENATOR RIOS: Had you done these type of
16 assessments, evaluations of these type of social service
17 programs before?

18 THE WITNESS: No. But, I was also on these type of
19 programs at one time.

20 SENATOR RIOS: You were a welfare recipient, is
21 what you are saying?

22 THE WITNESS: Right.

23 SENATOR RIOS: Do you feel that you could have done
24 such a good job with this program that Peggy Griffith
25 would have been nationally known, and that regardless of

1 what or whatever happened to the Governor, she would
2 always have a job? Do you feel you were capable of doing
3 that?

4 THE WITNESS: Yes, I do.

5 SENATOR RIOS: Even though you don't have the
6 educational or work experience background in that field?

7 THE WITNESS: I may not have the work experience in
8 that field, but I have a lot of education having to deal
9 with these people and those type of programs.

10 SENATOR RIOS: That's great. Thank you very much.

11 THE PRESIDING OFFICER: Any other questions?
12 Senator Gutierrez?

13 SENATOR GUTIERREZ: Thank you, Mr. Presiding
14 Officer.

15 Miss Fields, you have indicated that Peggy
16 Griffith has on previous occasions exaggerated a little
17 bit. Coming from a body that probably doesn't know the
18 meaning of the word exaggeration, can you give me some
19 examples how Miss Griffith exaggerated on previous
20 occasions?

21 THE WITNESS: She has taken other things and blown
22 them, minor things, and blown them up into bigger things,
23 mostly having to deal with our staff in our office.

24 SENATOR GUTIERREZ: Can you, Mr. Presiding Officer,
25 Miss Fields, give us some specifics?

1 THE WITNESS: I can't even think of any right now.

2 SENATOR GUTIERREZ: Let me move on to the next
3 question.

4 You have indicated that you typed this up?

5 THE WITNESS: Yes.

6 SENATOR GUTIERREZ: You were an eyewitness, let's
7 say, to Exhibit No. 10, to the first paragraph?

8 THE WITNESS: Yes.

9 SENATOR GUTIERREZ: Did Lee state "Your friend
10 Donna is a bad girl"?

11 THE WITNESS: No.

12 SENATOR GUTIERREZ: You typed this on the 19th of
13 January of this year. Did you at any time state to
14 Mrs. Griffith that what was on that paper was not correct?

15 THE WITNESS: I had stated that to her and she told
16 me that she could not talk about that.

17 SENATOR GUTIERREZ: So you knew where the paper was
18 going to, that it was going --

19 THE WITNESS: No, I did not know where the paper
20 was going to. I was told to type it up and she wanted it
21 for her personal use. I did not know where it was going
22 until that afternoon.

23 SENATOR GUTIERREZ: After you found out it was
24 potentially to be going to the House, you did not ask
25 Miss Griffith to change any of this information?

1 THE WITNESS: No, I didn't.

2 SENATOR GUTIERREZ: Knowing that it was going to be
3 going to the Chairman of a Select Committee on Impeachment
4 in the House, you knew that this information was possibly
5 not correct, and you made no attempt to change it and
6 correct it, or at least protest the content of this?

7 THE WITNESS: When I had first brought this out to
8 Peggy about her saying that Donna was a bad girl, Lee
9 said, she told me it didn't matter, it was for her
10 personal use. I left it at that. I don't always question
11 Peggy on the things that she does.

12 SENATOR GUTIERREZ: But the issue here is when you
13 found out potentially that this was going to be going and
14 possibly be exhibited in a public forum or in some
15 official proceedings, that there was no attempt to at
16 least modify it or to correct it to what you thought was
17 the truth?

18 THE WITNESS: No.

19 SENATOR GUTIERREZ: Let me ask you one final
20 question, I guess it is a very minor question. You
21 indicated that Peggy Griffith was not very thorough.

22 Would you consider yourself to be more
23 thorough or less thorough than Peggy Griffith?

24 THE WITNESS: More.

25 SENATOR GUTIERREZ: Then, just -- certainly it is a

1 minor issue, but there are numerous misspellings in here,
2 and frankly, the issue of being thorough is something that
3 raises some interesting perspectives here.

4 THE WITNESS: Yes. When I typed this up I asked
5 her if she wanted me to go back and correct it. She was
6 in very much of a hurry to get this finished, typed up and
7 finished and in her hands. I asked her if she wanted me
8 to go back and correct it or if she wanted anything
9 changed. She said no, just leave it like it is.

10 SENATOR GUTIERREZ: Thank you.

11 THE PRESIDING OFFICER: Senator Usdane was next.

12 I am sorry, then Senator Wright.

13 SENATOR USDANE: I am sorry. I wasn't able to ask
14 the question so that I could find out the answer, so I had
15 the questions rewritten for me.

16 How did the counsel for the respondent,
17 Governor Mecham, first learn that you had information
18 pertaining to the alleged threat, do you know?

19 THE WITNESS: I couldn't hear the first part of
20 that, I am sorry.

21 SENATOR USDANE: My question is: How did the
22 counsel for Governor Mecham first learn that you had
23 information pertaining to the alleged threat, do you know?

24 THE WITNESS: No, I don't.

25 SENATOR USDANE: Did someone suggest to you that

1 you contact the defense counsel?

2 THE WITNESS: No.

3 SENATOR USDANE: Did you discuss with anyone
4 whether you should come forward with information before
5 contacting the respondent's counsel?

6 THE WITNESS: No.

7 SENATOR USDANE: As far as you know the answer
8 previously was correct; to your knowledge, you were just
9 simply subpoenaed and never contacted anyone?

10 THE WITNESS: Right.

11 SENATOR USDANE: Thank you.

12 THE PRESIDING OFFICER: Senator Wright.

13 SENATOR WRIGHT: Mr. Presiding Officer, Miss
14 Fields, I'm interested, and I don't want to be
15 chauvinistic about this, but I cannot imagine a secretary
16 who would type a document like this, having been a
17 participant at the very beginning of it, and not question,
18 as you evidently did not, or if you did, I would be
19 interested in hearing the kinds of questions -- or didn't
20 this raise specters in your mind about these events?

21 I am interested in seeing -- you typed this
22 with the allegations that are made in this by Miss
23 Griffith, and not suggesting that you weren't aware that
24 Lee Watkins was a guy like that or making some comment or
25 extending some comment about this, did you never have a

1 conversation with her in this regard about this document?

2 THE WITNESS: She would not talk about this when
3 she brought this in and asked me to type it. She just
4 wanted it typed. I could have sat there and asked her a
5 thousand questions and she would have said, "Terri, I
6 can't tell you" or "I won't tell you."

7 SENATOR WRIGHT: One further question. Did you
8 subsequently talk to anyone about the contents of this
9 document?

10 THE WITNESS: No.

11 SENATOR WRIGHT: Thank you.

12 THE PRESIDING OFFICER: Next is Senator Steiner.

13 SENATOR STEINER: Miss Fields, a couple of
14 reactions or questions. What is Peggy Griffith's normal
15 way of greeting people? Does she tend to be effusive? I
16 guess I am. I tend to greet people, often give them a
17 hug. I may not in the future. But I wonder: What is her
18 normal manner of greeting people that she works with and
19 knows?

20 THE WITNESS: She hugs and kisses, touches, feels
21 everybody.

22 SENATOR WRIGHT: The greeting of Lee Watkins in the
23 parking lot was part of her normal personality, not an
24 unusual greeting, correct?

25 THE WITNESS: Correct.

1 SENATOR STEINER: I'm very interested -- you have
2 talked about what happened or your feelings about what
3 happened on the afternoon of Thursday, November 12. This
4 document was written in January. With all the news,
5 press, with all the newspaper articles that came out on
6 Monday, November 16th and other articles after that, did
7 you have conversations with Peggy Griffith about Lee
8 Watkins and about the threats to her friend, Donna
9 Carlson?

10 THE WITNESS: No.

11 SENATOR STEINER: No conversations at all?

12 THE WITNESS: Not one conversation about this at
13 all. Peggy would not talk about it.

14 SENATOR STEINER: Well, I have the impression you
15 had a close working relationship, or had had, up until
16 this time. There was just a deadly silence, and in which
17 your curiosity or your interest, your concern was not
18 expressed in any way to her?

19 THE WITNESS: I had asked her what was going on
20 after I had seen the papers. And she says, "Terri, I
21 don't want you involved." She says, "I am not going to
22 tell you anything, so don't ask me anything."

23 SENATOR STEINER: Is it your belief that was
24 related to the fact that she had been called by the grand
25 jury? Could that be an explanation in your mind, or do

1 you think -- I am not supposed to have compound questions,
2 am I?

3 Do you feel it could have been related to the
4 grand jury, her role in the grand jury?

5 THE WITNESS: Yes. From what I understood, she was
6 subpoenaed on Saturday night.

7 SENATOR STEINER: I could imagine you feeling a
8 sense of frustration and concern and being upset about
9 this during this period. You must have visited with your
10 mother about it, I would think, did you?

11 THE WITNESS: No, in fact, because I was subpoenaed
12 on Monday morning.

13 SENATOR STEINER: So really you were in a position
14 where you, even in your close working relationship, could
15 not carry on a conversation with Peggy about this or with
16 other people; is that correct?

17 THE WITNESS: Right.

18 SENATOR STEINER: Thank you very much.

19 THE PRESIDING OFFICER: Senator Hays.

20 SENATOR HAYS: Mr. Presiding Officer, Miss Fields,
21 did I understand you to say, or to answer Senator Wright
22 and Senator Steiner, that prior to today you spoke to no
23 one about this issue, or the validity of a death threat
24 made by Lee Watkins against Donna Carlson to Peggy
25 Griffith?

1 THE WITNESS: I had made one comment to a friend of
2 mine that I thought it was all garbage, and I thought it
3 had been blown totally out of proportion.

4 SENATOR STEINER: Thank you.

5 THE PRESIDING OFFICER: Senator West.

6 SENATOR WEST: Who was that friend?

7 THE WITNESS: His name is Robert Shoyer.

8 SENATOR WEST: What position does he have?

9 THE WITNESS: He has no position here. He is a
10 personal friend of mine.

11 SENATOR WEST: Did you work on Governor Mecham's
12 campaign?

13 THE WITNESS: No, I did not.

14 SENATOR WEST: You didn't support Governor Mecham
15 during the election?

16 THE WITNESS: No, I did not.

17 SENATOR WEST: I guess I am finding it a little bit
18 strange that your feeling and your testimony and the way
19 you apparently feel about the issue, you made no attempt
20 to go to the impeachment proceedings in the House of
21 Representatives and come forth with this testimony.

22 THE WITNESS: No, I did not at that time. I was
23 very, very, very busy putting together this program that
24 Peggy had told me to make work.

25 SENATOR WEST: That would take a priority over the

1 impeachment of the Governor of the State of Arizona?

2 THE WITNESS: No, it does not take priority, but
3 they always knew that I was with Peggy at the time, and I
4 assumed that if they wanted to talk to me they could have
5 subpoenaed me to come to the House.

6 SENATOR WEST: I am sorry, I don't know how they
7 would have known to subpoena you. How would they have had
8 that information that you had testimony and that you had
9 knowledge of this information?

10 THE WITNESS: Well, from what I understood, they
11 knew that I had testified at the grand jury, they have my
12 name, and in Peggy's statement.

13 SENATOR WEST: You believe that would have been
14 sufficient to subpoena you?

15 THE WITNESS: I thought so. I am not real familiar
16 with the rules.

17 SENATOR WEST: You were subpoenaed by the defense
18 counsel to be here today?

19 THE WITNESS: Yes, I was.

20 SENATOR WEST: Thank you.

21 THE PRESIDING OFFICER: Other questions by
22 Senators?

23 All right. If there are no further
24 questions. You are excused subject to being recalled
25 later, ma'am. Thank you.

1 THE PRESIDING OFFICER: It is the appropriate time
2 for our afternoon recess. We will stand in recess until
3 3:30.

4 (Recessed at 3:15 p.m.)

5 (Reconvened at 3:35 p.m.)

6 THE PRESIDING OFFICER: The Court of Impeachment is
7 reconvened, but it appears we don't have all of our
8 managers. We have two. Now, we have three managers.

9 Managers are present, their counsel is
10 present, counsel for the respondent is present.

11 Your next witness, sir.

12 MR. CRAFT: Doctor Ray Russell.

13 THE PRESIDING OFFICER: Dr. Russell, please.

14

15

RAYMOND RUSSELL,

16 a witness herein, after having been first duly sworn, was
17 examined and testified as follows:

18

19

DIRECT EXAMINATION

20 BY MR. CRAFT:

21

Q. Would you please state your full name.

22

A. Raymond Russell.

23

Q. Where do you live?

24

A. Mesa, Arizona.

25

Q. Are you employed?

1 A. Yes.

2 Q. How are you employed?

3 A. As Special Assistant to the Governor of
4 Arizona.

5 Q. Are you still a special assistant to the
6 Governor of Arizona?

7 A. Yes. I am maintaining a presence for him
8 here at the State Capitol.

9 Q. Which Governor is that?

10 A. Governor Evan Mecham.

11 Q. Would you tell us what your educational
12 background is, please, sir.

13 A. Yes. I did my undergraduate work at Ohio
14 State University, Arizona State University. Got my
15 bachelor's in biological science, doctorate of veterinary
16 medicine, Kansas State University, master's in business
17 management at University of Phoenix.

18 Q. Dr. Russell, when did you become a special
19 assistant to Governor Mecham?

20 A. Well, I started right after the election
21 during the transition team, so I have been with him during
22 the transition, from that time.

23 Q. Did you know the Governor before the
24 election?

25 A. I knew him to say to hello to him. I met him

1 on the campaign trail when I was running for Congress in
2 1982 and he was running for Governor, so I bumped into him
3 on the campaign trail. I didn't know him well except to
4 say hello to him and speak to him. He did get involved
5 just a little bit in my campaign until he started his
6 campaign.

7 Q. How did you become better acquainted?

8 A. After I lost the election in '86 I served on
9 his campaign team for that period of time for a little
10 less than two months.

11 Q. Then did he ask you to stay on?

12 A. Yes. After that time, after he was elected,
13 he asked me to stay on. And I hesitated, to begin with,
14 but I decided it would be a great opportunity to serve the
15 State of Arizona.

16 Q. Why did you hesitate?

17 A. I didn't know if I wanted to work in
18 government service. I felt like that I have always been
19 in the private sector; I have done a lot of work with
20 corporate work and then in practice, and I just debated
21 which direction I wanted to go.

22 Q. Had Governor Mecham been instrumental in
23 trying to urge you to run for Congress?

24 A. Not to begin with; had lot of other people
25 call me. I was the executive director of the American

1 Animal Hospital Association in South Bend, Indiana, and
2 then later we moved to Denver. I had many people call me
3 and encourage me to run later on, and he was one of the
4 last that did encourage me. He started calling me and
5 encouraged me to run, although he didn't live in my
6 district.

7 Q. Which district was this?

8 A. I am in Congressional District 1.

9 Q. What area does that encompass?

10 A. East valley, comes into 16th Street and
11 Phoenix, Tempe.

12 Q. You became his special assistant and you were
13 one of his first, were you not?

14 A. Yes.

15 Q. Who were the other special assistants when
16 you were first appointed?

17 A. Sam Steiger and Edith Richardson.

18 Q. What area of responsibility did you oversee
19 for the Governor?

20 A. I had about 35, 36 of the departments and
21 agencies that I was responsible for, and so my work
22 primarily was with those; with those department heads,
23 with those directors and with those agencies.

24 Q. Dr. Russell, how did this organization work
25 and how did you structure yourself in order to oversee

1 those agencies?

2 A. Well, basically, our style was one of
3 selecting the best managers that we could select, and then
4 give them the freedom to operate, but, of course, holding
5 them accountable. So basically we, my responsibility was
6 to interview and to try to find the best people we could.

7 Now, on some of the departments it is
8 required by statute that they go through a search
9 committee. So, for example, the Health Department is one
10 of those which we had a search committee. And that is
11 when Ted Williams was selected. But I had interviewed
12 many of those people, including Ted Williams, before, and
13 had recommended him to that search committee.

14 Q. In terms of you overseeing 36 of the state
15 agencies, did the other special assistants also oversee
16 certain agencies?

17 A. Yes. We had, the three of us divided up the
18 agencies, and I had a little more than a third; the others
19 had other agencies that they looked over.

20 Q. When you say "oversee," what did that mean?

21 A. Well, basically, anything. They reported to
22 us if there was -- I think basically again, to make
23 recommendations for leadership to begin with, and then to
24 have a place for those people to report to. So they
25 reported to us if there was any major problems. They

1 talked to us about them, about those problems, but we
2 didn't get involved in the actual details of those
3 departments. We let them rein, manage with a free hand,
4 so we didn't actually overstep our boundries. I think it
5 was more of just an overseeing relationship.

6 Q. And the people that reported to you were the
7 agency heads themselves?

8 A. Yes, the department heads.

9 Q. If they had an issue that they wanted to
10 bring to the Governor, they were instructed to go through
11 you first?

12 A. Yes. The Governor, however, told the
13 department heads that they could go directly to him if it
14 demanded, but for routine things they normally would come
15 right straight to us and then we would take them to the
16 Governor.

17 Q. Let me talk about the appointment process for
18 a second. Were you involved on behalf of the Governor
19 from the very beginning with regard to selecting
20 individuals in the Mecham administration to serve in
21 cabinet positions and other departments, high positions in
22 the departments?

23 A. Well, the departments, I would say the
24 cabinet people -- when I say "cabinet," the people on the
25 ninth floor, I wasn't, but the department heads we were.

1 Q. In that process were you ever told that there
2 was a relationship between the amount of money that a
3 campaign contributor gave and a position that somebody
4 might hold on the Governor's staff?

5 A. No, never. In fact, I wouldn't have been
6 selected if that was a criteria, because I didn't
7 contribute to the Governor's campaign.

8 Q. Do you know whether Edith Richardson, the
9 other special assistant, did?

10 A. I don't know.

11 Q. Do you know whether Sam Steiger did?

12 A. I don't know.

13 Q. Do you know whether anybody else was known to
14 have contributed money to the Governor's campaign?

15 A. I think Jim Colter did, as I had heard that
16 he had said he contributed. But I don't know of anyone
17 else.

18 Q. In terms of making selections of people for
19 boards and commissions and other things, was there ever a
20 list that was provided to you, from which this list
21 reflected campaign workers and that that list ought to be
22 used in any way in the selection process?

23 A. No.

24 MR. ECKSTEIN: Mr. Presiding Officer. I have sat
25 still while there have been questions relating to the

1 appointment process. Dr. Russell was listed as a witness
2 for two items, two items only: His background and
3 experience, and I think this goes well beyond that;
4 secondly, his knowledge of the relationship between the
5 Governor's office and the Department of Public Safety and
6 the Attorney General's Office. Those were the items for
7 which Dr. Russell was listed as a witness on this Article,
8 and those are the items to which he ought to be restricted
9 to testify, as I understand your Order.

10 MR. CRAFT: Your Honor, if I could respond to that.

11 THE PRESIDING OFFICER: Yes, you may.

12 MR. CRAFT: The issues have been raised by
13 testimony which was presented here subsequent to the
14 preparation of that document of which Dr. Russell has some
15 knowledge.

16 I would be happy to subpoena other witnesses
17 that actually handled other screening processes, and I'll
18 do that if that's the wish. But I think Dr. Russell
19 participated in that, he has direct evidence with regard
20 to an allegation that's been made that Mr. Watkins made a
21 boast or a claim that there was some connection between
22 jobs in this administration and campaign contributions. I
23 think it is fundamental to the case that's at hand that
24 has been brought out by the prosecution, not by the
25 defense, Your Honor.

1 MR. ECKSTEIN: Since that statement was made in
2 Court, counsel, who is not bashful at all, has filed two
3 supplemental lists of witnesses on this very article. And
4 there has been no indication at all that Dr. Russell would
5 testify with respect to anything other than his knowledge
6 of the relationship between the Governor's office and the
7 Department of Public Safety and the Attorney General's
8 office.

9 THE PRESIDING OFFICER: Just a minute. I think
10 that's a legitimate extension of the witness list. I
11 think you may pursue it as long as as it doesn't become a
12 substantial part of the testimony of this witness and just
13 be used in passing.

14 As we go along on these witnesses it is going
15 to raise issues, and I don't see how you could anticipate
16 them until they do come out. So I'll allow at least a
17 minor portion of the testimony from the witness to rebut
18 testimony that's been brought out by previous testimony.

19 So the objection is overruled. You may
20 proceed.

21 MR. CRAFT: Thank you, Your Honor.

22 BY MR. CRAFT:

23 Q. Dr. Russell, are you aware of any requirement
24 that was levied on you or anybody else in the Governor's
25 office to provide jobs for anybody that worked in the

1 campaign?

2 A. Absolutely not. In fact, there was some
3 people that worked their hearts out in the campaign that
4 wanted jobs that never got jobs. We were in trouble from
5 the Republican party because we didn't give jobs to some
6 people.

7 Q. What criteria did you use for giving jobs?

8 A. Basically, we tried to match up the people
9 that fit the job, had the qualifications for the job.

10 Q. Did you also attempt to try to accommodate
11 the recommendations made by those members of the
12 legislature?

13 A. Yes, I think in most cases. Naturally, in
14 some cases you had all kinds of recommendations, so it was
15 impossible to please everyone. But I never noticed any
16 relationship between any jobs and whether they
17 contributed.

18 Naturally, politically, if a person has been
19 a worker and they contribute, I think, and they are
20 qualified, I think that has some bearing on it. And there
21 might be a few appointments that were politically
22 inspired. But as an overall, I was amazed, really, that
23 some of those that worked hard on his campaign were big
24 contributors; I was amazed that they weren't given jobs.
25 And they were well qualified; in fact, there is lot of

1 people mad at me, I am sure the Governor, today, because
2 they didn't get jobs and they had contributed and worked
3 hard on the campaign.

4 Q. Did you make a recommendation to the Governor
5 with regard to the Insurance Director?

6 A. Yes, I did.

7 Q. What happened with regard to that
8 recommendation?

9 A. Well, I had interviewed probably 15 different
10 people for that job. I sent the person I thought was the
11 best candidate, who happens to be the current director,
12 Vern Pierson, to the Governor. The Governor liked him.
13 He was interviewed by him.

14 I don't know what happened. All I knew, all
15 of a sudden there was another person that had been
16 appointed as the Insurance Director. And I had supposed,
17 because she had, Donna Carlson had talked to me earlier
18 about this man, introduced me to Mr. Robson, said he was
19 the Attorney General of Idaho, she had known him for a
20 long time, and I assumed that she went over my head and
21 went to the Governor and had him appointed. I don't know
22 if that's right or not, but that is what it appeared to
23 me.

24 Q. What happened after his appointment?

25 A. After his appointment there was some

1 inappropriate comments on his first day on the job. I was
2 extremely disappointed. I went to the Governor, I told
3 him about it, I said he ought to be disciplined or fired.

4 The Governor asked me to talk to him. I
5 talked to him. He went back, and there was some other
6 comments. I says "Governor, we made a mistake. I don't
7 care what happened. We made a mistake. We need to get
8 rid of this person." And so he went -- we did that, and
9 Mr. Pierson then was appointed. I don't know the exact
10 details of what, how that happened, but that was one of
11 those things that I was disappointed with.

12 Q. How had your relationship been with Donna
13 Carlson prior to that event?

14 A. Donna and I got along well together -- I get
15 along well with most people -- and we worked well
16 together. I talked to Donna after that because I felt
17 like that she was put out with me doing that to her
18 friend. But I knew it happened for the good of Arizona,
19 and I said it has to happen. I would talk to some of the
20 committee members and some of the legislators in regard to
21 it. We felt like that just had to happen for the good of
22 Arizona, and we did it. I felt like the relationship was
23 somewhat strained after that, but I never -- I don't let
24 things stand in my way. So we still got along, but I
25 think she was a little upset at me.

1 Q. Let me address your personal knowledge of the
2 relationship between the Governor's office and the
3 Attorney General's Office.

4 Would you tell us what that relationship was,
5 as you know it?

6 A. Before we took office, during the transition
7 period, Attorney General Corbin and Mr. Twist met with the
8 Governor, and I think Mr. Colter and myself, and may have
9 been one or two others. Seemed to start off right, but as
10 we went in and started moving along, it seems like that we
11 would ask for opinions on different things and we wouldn't
12 get an answer.

13 There were many things that we needed answers
14 on. I know the Governor said we really need legal
15 opinions, and that is when he started talking about hiring
16 an attorney on our staff so that we could have legal
17 opinions. And so there were several occasions where there
18 was a strain.

19 And I know the Governor was upset several
20 times and Mr. Colter also several times, where they had
21 asked, gone to the Attorney General's Office, asked for
22 specific opinions, and then read about it in the newspaper
23 that they were being investigated.

24 Q. Did this compound the problem of the
25 relationship?

1 A. I think it put a little strain on the
2 relationship. One I am thinking of particularly, is early
3 on. It involved you, you may know this, as I remember,
4 when the Governor went to Washington, when he was Governor
5 elect before he was inaugurated in regard to AHCCCS. He
6 was back there and had rented a car and done some things.
7 Evidently you had paid those expenses, and paid those, and
8 just needed to be reimbursed for those expenses and the
9 Governor had paid or had paid you for those expenses. I
10 don't remember what it was -- seemed to me that it was in
11 the neighborhood of \$1900 -- and all of a sudden we heard
12 that was illegal, that you couldn't do that.

13 So the Governor asked Mr. Colter to go to the
14 Attorney General -- I don't know who he talked to -- but
15 to tell him what the situation was, find out how we could
16 legally pay you, how to reimburse the expenses that you
17 were out-of-pocket, and also, how we could do that.

18 And he went in all confidence to the Attorney
19 General. He took that material. He didn't -- he
20 disclosed everything. And I know that Mr. Colter was
21 extremely upset; in fact, he was mad, because they read it
22 in the paper, or at least it was said the Attorney
23 General's Office is going to investigate the Governor.
24 And he said that's breaking the client-attorney privilege,
25 and he was extremely upset over it, in fact to the point

1 where Mr. Colter said that, in fact, talked to several
2 people, including myself -- I was in the audience -- about
3 taking it to the Bar Association, because he says, "We
4 went -- it was an honest mistake. We didn't withhold
5 anything. We told them we just wanted to know how to do
6 it, and said we are investigating the Governor for
7 breaking the law."

8 I think this is one of the first things that
9 caused somewhat of a conflict between the Attorney General
10 and the Governor's office.

11 Q. Was there anybody else that you were aware of
12 that subsequently was investigated that worked directly
13 for the Governor, beside the Governor, in the incident you
14 have just mentioned?

15 A. Well, Mr. Steiger. Mr. Steiger, as you know,
16 was investigated. I know Mr. Hawkins and Mr. Watkins, and
17 as you read about in the paper, and I don't know about
18 Edith Richardson, whether she was or not.

19 It seemed like that almost all of us were
20 under very close scrutiny, and it appeared as though that
21 we were all being looked at very, very closely. And so
22 you wondered if you could turn around, if you could even
23 operate, without breaking the law.

24 We were a little sensitive, because prior to
25 this time, in the first month that we were in office, I

1 remember within the first month after we were on the ninth
2 floor, I had a person in my office that told me that they
3 were at a meeting with a group of people that were
4 fighting against the Governor, and that their strategy was
5 to catch the Governor breaking the law. And that was told
6 to me by that person. Since then I have been told by two
7 or three other people that attended meetings where that
8 was said.

9 So there was no question that immediately, I
10 mean just right off, that there was a group of people -- I
11 don't know who they were exactly; I know some of the
12 names -- that were looking for the Governor breaking the
13 law or any of us breaking the law. So we were sensitive
14 about it.

15 We were new on the job. We really didn't
16 know what the law was in many cases. I remember an RFP,
17 for example. The first RFP we did not know what the law
18 was. We had it explained to us and so on, but any time
19 there was ever -- it would turn around, it looked like
20 someone trying to investigate us for breaking the law.

21 Q. What was this a strategy for, to catch the
22 Governor or any of his people involved in some
23 impropriety?

24 A. I was told that by a person that attended a
25 meeting at South Phoenix High School, South Phoenix

1 Community College, I believe it was, last week of January.
2 That the theme of that conference was six months and six
3 days or six months and one day, and I assume that was in
4 regard to when the recall petitions could be sent.

5 There was another person in my office about
6 that time that told me that they were going to try to
7 catch the Governor breaking the law, where they could get
8 rid of the Governor, so we knew that immediately.

9 I was over in the legislature, it was in the
10 House, not in the Senate, within the first six weeks when
11 there had really not been, except all the bad publicity on
12 the Martin Luther King holiday. I was lobbying for a
13 bill, and I was told by three or four different members of
14 the House that a member of the House was trying to
15 organize the other members of the House against the
16 Governor. I was shook up. I was upset about that. I
17 said, that's a fine thing to do. I mean, he hasn't done
18 anything yet other than what the Attorney General advised
19 him to do.

20 It appeared to me that they -- there was an
21 effort to try to get rid of this Governor in that first
22 year; in fact, it was told at that first meeting if they
23 didn't get rid of the Governor in the first year, that
24 they would be saddled with him for eight years.

25 MR. ECKSTEIN: Mr. Presiding Officer, the witness

1 was asked a very simple question. The last two or three
2 questions have been simple. The witness has gone on to
3 relate three or four conversations and unrelated totally.
4 I would ask that it be stricken and the witness be
5 admonished to listen to the question, respond directly to
6 the question, and answer that question, and not give
7 speeches from the witness stand.

8 THE PRESIDING OFFICER: I have a problem with
9 striking from the record in this kind of proceeding. I'll
10 not do that. But I agree the witness seems to be allowed
11 to just go quite broadly, and I would appreciate it if
12 counsel would just direct specific questions to him. And
13 I would admonish the witness to just answer those
14 questions.

15 BY MR. CRAFT:

16 Q. Do you know where the Governor had to turn to
17 get legal advice on the ninth floor for issues that came
18 before him that were regular issues that he had to
19 address?

20 A. Well, I think we still attempted to go to the
21 Attorney General. I think that you were asked your
22 opinion on some things, Jim Colter being an attorney, we
23 brought in John McGowan, and for a period of time then he
24 had to leave because of some problems. I better not tell
25 the problems. But nevertheless, we attempted to get

1 opinions from a number of people to try to find out on
2 some issues.

3 Q. Was one of the legal issues the ramification
4 of the Martin Luther King day, and being a paid holiday,
5 and an Attorney General's opinion that faced the Governor
6 right away?

7 A. That was the main thing that caused the furor
8 to start with, and it was always our understanding, and
9 also our understanding that the Attorney General had told
10 all the candidates, that it was created illegally, and
11 that they needed to rescind, whoever was elected Governor
12 needed to rescind that holiday; otherwise, they would be
13 legally liable for the amount that it cost state
14 employees, that the legislature was the only one that
15 could expend funds.

16 Q. What would happen if the Governor didn't do
17 that?

18 A. The Attorney General, in a speech to the law
19 school at ASU, said that he told all the candidates that
20 he would sue them personally for that two and a half,
21 \$3,000,000.

22 Q. Dr. Russell, did the Governor rely upon his
23 staff for advice?

24 A. Yes, he did. I think he utilized his staff
25 fully. I know he turned the responsibility I had over to

1 me. On occasion, you know, he didn't agree with me, but
2 he was elected Governor, so I accepted that. However,
3 overall I think he gave us the freedom to operate.

4 Q. Did you have access to the Governor?

5 A. I had very good access to the Governor. In
6 fact, that was one of the problems; I think he was too
7 accessible to too many people, and it spread him too thin.

8 Q. When you began to get to know him, did you
9 form an opinion relative to the Governor personally,
10 compared with what you felt about the Governor from what
11 you had known prior to your taking your position?

12 A. Yes --

13 MR. ECKSTEIN: Excuse me. I would object. Again,
14 that goes beyond the listed testimony for this witness. I
15 just don't see the priority of this, given what this
16 witness was to testify about.

17 MR. CRAFT: I am going to you ask him a question,
18 whether or not the Governor, to his knowledge,
19 participated in ordering, illegally, any of his staff
20 members to do anything wrong or improper to the best of
21 his knowledge.

22 THE PRESIDING OFFICER: The objection is overruled.

23 You may answer.

24 THE WITNESS: Ask the question again.

25 MR. CRAFT: Would you have it read back, please?

1 (Question read.)

2 THE WITNESS: Yes. When I first started to go to
3 work for the Governor, I was like everyone else. I had
4 read the newspapers, I didn't know him all that well, and
5 I was a little hesitant because I think things -- the
6 perception was different, and I found that the perception
7 of the Governor, and what I found is two different things,
8 and I frankly think that most people, even today, even in
9 the legislature, don't understand the Governor and know
10 the Governor. I feel much differently than I did to begin
11 with.

12 BY MR. CRAFT:

13 Q. How do you feel differently? What is it that
14 is different?

15 A. I think basically that I know what is in his
16 heart. I know his heart is right, I know he's sincere, I
17 know he is hard working, I know he is not a dishonest man.
18 I find him to be an honest, sincere man. He may disagree
19 with you, he may come on strong, but I find him different
20 than when I read about him in the press.

21 Q. Has the Governor ever instructed you to do
22 something that you felt was illegal?

23 A. No.

24 Q. Have you ever known him to tell anybody else,
25 any other staff member to knowingly break a law?

1 A. No, I do not. I think right off when we had
2 that first RFP, I think he didn't understand the process,
3 as none of us did, but he did not.

4 Q. To your knowledge, has he ever, during the
5 time that you watched him, intentionally broken the law?

6 A. No.

7 Q. Tell me about the relationship between the
8 Governor and the staff in terms of the trust that he
9 reposed in you and access.

10 MR. ECKSTEIN: Asked and answered. Objection.

11 THE PRESIDING OFFICER: I am sorry, I missed the
12 question. It will be read back to me, please.

13 (Question read.)

14 THE PRESIDING OFFICER: Overruled.

15 You may answer.

16 THE WITNESS: He put a lot of trust in us. Many
17 times he asked our opinion. Then he, of course,
18 regardless, he formed his own opinion.

19 But nevertheless he did trust us, he expected
20 us to do a job, expected us to keep him informed, he
21 expected us to keep confidences, and I think he believed
22 that we would. We knew that there was a leak, and that
23 disturbed him, because it had to come from one of his
24 staff members.

25 BY MR. CRAFT:

1 Q. Did he confide in you openly?

2 A. Yes.

3 Q. In all the other top staffers that he had?

4 A. Yes, I think he did. I think he was very
5 open, very open, perhaps, confided maybe overly so on
6 occasion.

7 Q. Would it have been impossible to work, in
8 your opinion, if you didn't have that ability to have
9 confidences kept?

10 A. Yes. You have to operate with confidences.
11 It is impossible to operate if there are leaks and people
12 breaking confidences.

13 Q. Dr. Russell, do you know Mr. Lee Watkins?

14 A. Yes. I didn't know him before this campaign.
15 He showed up at the first campaign finance meeting, is the
16 first time I had met him. I heard of him before, but I
17 did not know him personally.

18 Q. In your opinion, did he participate in policy
19 matters on the ninth floor?

20 A. No.

21 Q. Did he participate in appointments that were
22 made from the ninth floor in your screening process and
23 your other processes that you had, formal processes?

24 A. Most of the time, no. It seems to me that
25 there were a few occasions where he was present when there

1 was just suggestions being made of people, and that was a
2 lot of the staff; in fact, any of the staff that was
3 available. And that was earlier on when we had so many,
4 so many positions to fill quickly. As I remember he might
5 have been present at a few of those meetings, and just to
6 give suggestions.

7 Q. Are you aware of anything that Governor
8 Mecham did to protect Lee Watkins in any way?

9 A. No. In fact, when he was head of his drug
10 program, when that came out in the newspaper and so on, he
11 actually forced Lee Watkins into resigning.

12 Q. What are you referring to now?

13 A. Well, that was when he resigned. There was
14 an article in the newspaper. And I don't remember
15 exactly. It seemed like the Tribune had an article kind
16 of smearing him about some bankruptcy or some foreclosures
17 and a few things, I don't remember just exactly what, but
18 I know the Governor in essence asked for his resignation.

19 Q. Let me draw your attention to Friday,
20 November the 13th, 1987, in the morning sometime. Did you
21 have occasion to meet with Peggy Griffith?

22 A. Yes. Peggy Griffith was in my office.

23 MR. ECKSTEIN: Your Honor, again, we have another
24 subject matter, one that easily could have been
25 anticipated, one that was not listed.

1 This witness was not listed as a witness on
2 this subject matter, and I object again. If the orders
3 are to mean anything, they must mean that this witness
4 cannot give testimony about something that is at the very
5 heart of this particular Article, and that is the Lee
6 Watkins threat.

7 THE PRESIDING OFFICER: Counsel, would you tell me
8 how this question leads to matters that are directly
9 related to the two items that you have listed that this
10 witness was to be called for?

11 MR. CRAFT: Your Honor, I would. I also say that
12 Mr. Eckstein and his investigators have talked to
13 Dr. Russell, and in my conversations with Dr. Russell we
14 haven't had a great deal of time to prepare for this case,
15 as you well know. We are doing the very best we could,
16 Your Honor.

17 These issues are absolutely and totally
18 material to the events of Friday, November the 13th. They
19 deal with the very parties. I interviewed you -- I
20 interviewed Dr. Russell today between 12:00 and 2:00, and
21 had an opportunity to talk to him. And this issue that I
22 am bringing up right now is something that I found out
23 about today, and for which is directly material to the
24 testimony that you have just heard presented on the
25 witness stand, Your Honor.

1 THE PRESIDING OFFICER: You filed your witness
2 list, at least the first one, on March 2nd, listing this
3 witness.

4 MR. CRAFT: Yes, Your Honor.

5 THE PRESIDING OFFICER: You had not interviewed
6 this witness before then?

7 MR. CRAFT: I had talked to Dr. Russell, not
8 relative to the issue that came up on the witness stand
9 regarding Miss Fields, which was brand new testimony that
10 we heard this morning.

11 THE PRESIDING OFFICER: Well, I am going to let it
12 go this time, because I think the Senators would ask this
13 question any way, or these questions, so I am going to
14 overrule the objection.

15 But, counsel, I am going to be closer on you
16 from now on when it comes to these issues, because if we
17 just -- the excuse that "we just thought of this lately"
18 for everything, those witness lists and disclosures are
19 not going to mean anything.

20 MR. LEONARD: Mr. Presiding Officer, Mr. Eckstein
21 has not properly represented to this Court what the
22 witness list statement with respect to Mr. Russell says.

23 It says Mr. Russell will testify in
24 opposition to the allegations contained in Article I of
25 the Articles of Impeachment, including -- I don't see any

1 limitation that simply says including his background and
2 his knowledge of the relationship between the Governor's
3 office and the Department of Public Safety and the
4 Attorney General's Office.

5 THE PRESIDING OFFICER: Are you saying that
6 introductory statement, then, is all inclusive, and you
7 don't to have to disclose what the specific points are?

8 MR. LEONARD: What I am saying is, it is obvious
9 that this witness is going to testify to generally in
10 opposition to the allegations.

11 THE PRESIDING OFFICER: I find that incredible. I
12 really believe that that would make the entire witness
13 disclosure list without meaning.

14 MR. LEONARD: Mr. Presiding Officer, I appreciate
15 the admonition of the Presiding Officer of this counsel,
16 even though I would like to most respectfully object to
17 the word "incredible" used by the Presiding Officer. I do
18 object.

19 THE PRESIDING OFFICER: I'll change it to
20 "astonishing," sir.

21 MR. LEONARD: Even "astonishing."

22 We were provided with the witness list from
23 the Board of Managers the Tuesday prior to the time this
24 trial opened. We are not pleading that counsel has come
25 in here late. We have been trying to impress upon the

1 Presiding Officer that irrespective of when counsel was
2 retained, there have been no pre-trial proceedings, there
3 have been no proceedings which have allowed us any modicum
4 of appropriate time to prepare.

5 Now, I believe that if counsel has some
6 comment, some problem with our witness list which we have
7 been working on, and we have now filed two separate
8 supplementals. I think the Presiding Officer in this kind
9 of a political-legal trial ought not to be applying the
10 standards that would be applied to counsel witness lists
11 and exhibit lists that would be applied to counsel in the
12 ordinary civil or criminal proceeding.

13 It isn't as if counsel for the Board of
14 Managers doesn't know that this witness isn't going to
15 testify in opposition to the allegations. I am not
16 suggesting that there shouldn't be some specificity.
17 Obviously, he is a member of the Governor's cabinet. They
18 know who he is, they have had an opportunity to interview,
19 they have interviewed him, they know what his story is,
20 and there is no surprise.

21 THE PRESIDING OFFICER: Under your interpretation,
22 he can testify about anything or in opposition to anything
23 under all seven subsections of Article I; is that correct?

24 MR. LEONARD: Mr. Presiding Officer, the six
25 subsections that are left, or six or seven that are left,

1 are all totally entwined with what happened from November
2 13th or the 12th of November through the 16th, the 15th of
3 November. I don't think that comes as any great surprise
4 to the counsel for the respondents.

5 THE PRESIDING OFFICER: Mr. Eckstein.

6 MR. ECKSTEIN: Mr. Presiding Officer, we took this
7 list to be at face value, that when a witness is listed as
8 a witness on the difficulty of the dealings between the
9 Governor's office and the Attorney General's Office and
10 the Department of Public Safety, he hasn't testified at
11 all about the Department of Public Safety, that that was
12 precisely what he was going to testify about.

13 When counsel wanted to signify that a witness
14 was going to testify about the events of November 12 or
15 November 13 or November 15th, they did so. And it is
16 absolutely misleading to put a reference from that a
17 witness is going to testify about Department of Public
18 Safety and the Attorney General's Office relationship with
19 the Governor's office, and then put him on the stand to
20 talk about something entirely different. We took them at
21 their word; perhaps we shouldn't have.

22 THE PRESIDING OFFICER: I have overruled the
23 objection. He may proceed.

24 Senator Usdane.

25 SENATOR USDANE: I apologize to the Presiding

1 Officer for entering this, but I have a slight confusion.
2 I understand the problem that just took place, and I
3 understood you ruled in favor of the respondent's counsel.
4 But Mr. Leonard rose and put in a question, that I believe
5 he signed an affidavit on regarding his readiness to
6 handle this proceeding. I think, unless I am mistaken in
7 what he said, he was arguing that he didn't really have
8 the time that he signed a statement on, and I would like
9 to know if that is going to come forward later.

10 MR. LEONARD: Mr. Presiding Officer, I am sorry,
11 but for the first time in this proceeding I have to rise
12 and respectfully suggest to this Court that I resent the
13 comments made by that Senator. That is not a proper
14 characterization of either what I represented when we came
15 into this case or what the facts are.

16 I would respectfully request the Presiding
17 Officer to suggest to the particular Senator involved that
18 he ought to show a little more impartiality. I think
19 during these entire proceedings, that this particular
20 member of this Court has shown that he ought to be under
21 ordinary circumstances disqualified. His bias and
22 prejudice are overwhelming.

23 Mr. Presiding Officer, I believe that the
24 Presiding Officer at least ought to suggest that the
25 Senator should at least not show that bias and that

1 prejudice.

2 THE PRESIDING OFFICER: Senator Usdane, do you wish
3 to respond?

4 SENATOR USDANE: Yes, Mr. Presiding Officer. I
5 wonder if we could have Mr. Leonard's comments read back
6 from the record, and I would be most happy to apologize to
7 Mr. Leonard if I misunderstood what is going to be read.
8 I don't believe it puts in question at all the fairness
9 that I represent, or any other Senators, and took an oath
10 to that effect, sir, which I don't believe I have put in
11 question. I believe what Mr. Leonard has just done is put
12 his in question, and I would like it read back.

13 THE PRESIDING OFFICER: Well, I'll ask the court
14 reporter to go back to whenever that statement was made in
15 the very beginning of these proceedings and extract it,
16 and deliver it to us tomorrow morning.

17 SENATOR USDANE: Mr. Presiding Officer, the request
18 is for, so we understand the statement he just made, in
19 relationship to the arguing on this motion that you had
20 already ruled on. Not his original statement.

21 THE PRESIDING OFFICER: All right.

22 Mr. Craft, you may proceed.

23 BY MR. CRAFT:

24 Q. Dr. Russell, did you have a meeting with
25 Mrs. Peggy Griffith on the morning of Friday November the

1 13th, 1987?

2 A. Yes. Peggy Griffith asked me if she could
3 visit with me for a little bit. There was a staff
4 meeting, and she wanted to visit with me because she
5 couldn't get in to see the Governor.

6 Q. Relative to that issue, what was the subject
7 matter of that meeting?

8 A. What she wanted to know, she basically wanted
9 the Governor to participate in a domestic conference,
10 domestic violence conference or some kind of program that
11 they had lined up, and she just wanted me to ask the
12 Governor.

13 Q. And, Dr. Russell, did she leave you some
14 documents relative to that issue?

15 A. No. She left some documents on my desk, I
16 think just accidentally, but not regarding that issue.

17 Q. At that time, did Mrs. Griffith seem upset at
18 all?

19 A. No, not a bit. She just asked me that and we
20 talked just; didn't last long, I don't suppose more than
21 five, ten minutes, and she was gone.

22 Q. What time of the morning was this?

23 A. Oh, I think 9:00, 9:30.

24 Q. Did she say anything to you, Dr. Russell,
25 regarding an alleged threat?

1 A. No, she didn't mention it.

2 Q. Did you see her at any time that morning
3 crying?

4 A. No, I did not.

5 Q. On Saturday, the following day, November the
6 14th, 1987, were you called at home?

7 A. Yes. I received a call from Colonel
8 Milstead. I was gone at the time, I had run an errand.
9 And when I got back there was a note saying that Colonel
10 Milstead had called me and to call him back. And before I
11 had a chance to call him back, I received a call from Mel
12 MacDonald, who was my attorney for the grand jury.

13 Q. You had an attorney that was retained for
14 grand jury?

15 A. Yes.

16 MR. ECKSTEIN: Excuse me a moment.

17 Your Honor, again we are moving into another
18 subject area. I think this illustrates about it as well
19 as any. In their second supplemental list of witnesses,
20 the respondent listed Melvin MacDonald as a witness who
21 may testify to a conversation he had with Deputy Attorney
22 General Steve Twist and Director Ralph T. Milstead on
23 Saturday, November 14, 1987 relative to allegations of
24 grand jury witness tampering.

25 This was filed on March 7, 1988. This is not

1 a new issue, this is not something that just came up.
2 This is something that should have been listed as an area
3 of testimony for this particular witness. I object.

4 THE PRESIDING OFFICER: The objection is sustained.

5 MR. CRAFT: Your Honor, I would like to address the
6 question, because I am perplexed, Your Honor, as to
7 something that was testified to before in front of this
8 jury, where we are attempting here to get to the truth of
9 the matters and what was involved. And if we're going to
10 stand on a very narrow procedural objection, Your Honor,
11 it is going to be very difficult for us to be able to
12 present our case.

13 I did not intentionally misrepresent anything
14 that Dr. Russell was going to say or anybody else. I'll
15 go back tonight, look at our witness list and look with
16 more specificity, and I would be happy to inform the
17 prosecutors, Your Honor, who have been working on this
18 case now for at least eight weeks, and try to tell them
19 anything else that we might have that we think might be
20 real relevant. But I don't, Your Honor, know how to get
21 to the truth of something that is absolutely material,
22 Your Honor,

23 THE PRESIDING OFFICER: Counsel, I don't want you
24 to be kept from getting to the truth. I originally, when
25 I qualified my position, I said that I would allow you to

1 go into matters that had been raised during the testimony
2 in this matter, even though not specifically listed as the
3 areas in which the witnesses would testify, providing it
4 didn't become a major portion of the testimony of that
5 witness. I said as long as it was a minor part you could
6 do that.

7 But if you are going to translate this into
8 suggesting everything that has come up before as being
9 allowed to be the major portion of the witness' testimony,
10 then that witness list means nothing. So I am sustaining
11 the objection.

12 SENATOR HIGUERA: Mr. Presiding Officer.

13 THE PRESIDING OFFICER: Senator Higuera has a
14 question.

15 SENATOR HIGUERA: Mr. Presiding Officer, somehow,
16 you try to sit here patiently, and a lot of times just
17 kind of eat your words. But the defendant's counsel just
18 said something that the prosecutors had eight months to
19 prepare. Eight weeks, I've heard during this testimony.
20 Mr. Craft was there on November the 13th, and that's a lot
21 longer than eight weeks.

22 THE PRESIDING OFFICER: Well, in all fairness,
23 Senator Higuera, I cannot say that he should have been
24 considered as being preparing for this trial at that time.

25 THE PRESIDING OFFICER: Mr. Leonard.

1 MR. LEONARD: May I respectfully address just this
2 question to the Court with respect to this issue.

3 Mr. Russell is listed on page 10 of our
4 witness list, as I have read before.

5 THE PRESIDING OFFICER: Which document is that,
6 please?

7 MR. LEONARD: This is 48.

8 THE PRESIDING OFFICER: You may proceed.

9 MR. LEONARD: No. 2 says his knowledge of the
10 relationship between the Governor's office and the
11 Department of Public Safety and the Attorney General's
12 Office.

13 That is the specificity which counsel for the
14 Board of Managers is challenging with respect to this
15 testimony. That is prefaced by the general statement that
16 Mr. Russell is going to testify in opposition to the
17 allegation.

18 I would submit to the Presiding Officer that
19 the line of questioning with respect to the weekend from
20 November 12th to November 16th is foundational for this
21 witness to be able to testify as to what that relationship
22 was.

23 THE PRESIDING OFFICER: That makes sense. I'll be
24 willing to allow him to answer questions about that. You
25 may do so.

1 MR. CRAFT: Thank you, Your Honor.

2 BY MR. CRAFT:

3 Q. Saturday, November the 14th, 1987, you were
4 stating that you got a telephone call at home from Colonel
5 Milstead, and you were about to explain about that
6 telephone conversation. Would you continue, please.

7 A. I was gone when the call came in. The note
8 was to call him back. And before I could call him back, I
9 received a call from Mel MacDonald.

10 Q. Who is Mr. MacDonald?

11 A. He is the attorney that I had retained when I
12 was subpoenaed to the grand jury.

13 Q. You were subpoenaed to the grand jury on what
14 day, do you remember?

15 A. I don't know, but it was prior to this time.
16 I suspect two weeks, but I don't know.

17 Q. Was this relative to the issue of the Wolfson
18 loan?

19 A. Yes.

20 Q. You had to retain private counsel yourself?

21 A. Yes. I was going to go and go on my own.
22 One of my friends is an attorney, said absolutely don't
23 you go to a grand jury, that is serious business without
24 an attorney, without legal representation, and so that is
25 the reason I retained him.

1 Q. Did you subsequently have a conversation with
2 Mr. MacDonald?

3 A. Do you mean that night?

4 Q. Yes.

5 A. Yes. He called me and said, asked me about
6 Peggy Griffith, was she in my office. He said he received
7 a telephone call from Steve Twist from the Attorney
8 General's Office, and when they couldn't get me they
9 remembered that he was my attorney and so they called him.
10 Wanted to know if I met, says it was reported that Royanne
11 Jordan had seen Peggy Griffith come out of my office in
12 tears. And I was dumbfounded, and he told me, you know,
13 about the threat. I didn't know anything about the threat
14 until then, so I was dumbfounded about it, didn't know
15 anything about it, said absolutely we didn't discuss that.

16 Q. Did they say how they knew that Peggy
17 Griffith had been seen coming out of your office that
18 morning crying?

19 A. Well, they said Royanne Jordan had seen her
20 coming out of my office, but Royanne Jordan came by my
21 office later that afternoon. I don't remember her nor my
22 secretary coming here by my office at that time.

23 Q. Who is Royanne Jordan?

24 A. She worked for Donna Carlson. She was an
25 aide to Donna Carlson.

1 Q. Was she located on the ninth floor?

2 A. She was up until previous to that time. When
3 Donna left she went down to Revenue, I believe.

4 Q. Which floor is that on?

5 A. Second floor.

6 Q. And who mentioned her name?

7 A. Mel MacDonald said that Steve Twist said that
8 she saw, she's the one that saw Peggy come out of my
9 office in tears, or says -- she didn't, he didn't say
10 tears, tears or very upset, is the way he described it.

11 Q. Did your attorney warn you with regard to
12 anything at that point in time?

13 A. Well, he told me -- yes. He told me not to
14 call back. He says, "Don't call back. I'll take care of
15 it." He says that you, you been subpoenaed to the grand
16 jury, and he felt that, you know, I was in essence a
17 witness and he warned me about calling back. He said he
18 would take care of it.

19 Q. Was he worried for, in terms of representing
20 you, in a potential that you might be a target of
21 something?

22 A. I think he felt that I was maybe being set
23 up. I don't know if that's the case, but I gathered that.
24 At least we were a little jumpy; in fact, everybody else
25 had been set up, or at least looked like they were

1 targeted, and so --

2 Q. Meaning whom?

3 A. Well, I mean the Governor, Sam Steiger, Jim
4 Colter, you know, seemed like almost all the staff, and
5 so, I think he felt like, well, I am next.

6 Q. Did you ever hear anything else relative to
7 this issue from the Attorney General?

8 A. No.

9 Q. Did you testify to the grand jury?

10 A. No. I didn't have to testify to the grand
11 jury.

12 Q. They didn't call you?

13 A. They didn't call me. My attorney evidently
14 spoke with them.

15 Q. Did you ever hear Donna Carlson warn the
16 Governor against replacing Colonel Milstead?

17 A. I don't recall specifically. I think that
18 several of us talked about that, primarily because Colonel
19 Milstead has a lot of friends, and I know The Republic had
20 editorialized about it when there were rumors going around
21 about it.

22 Q. This is the local newspaper?

23 A. The local newspaper. It was as I remember
24 there was an editorial suggesting that he was a valuable
25 employee and he should not be replaced.

1 The strange thing was is that any time that
2 we had visitors on the floor that it looked like there
3 might be any discussion on that, within a few minutes
4 seems like the press and everybody knew about it.

5 Q. Did you ever hear Donna Carlson warn the
6 Governor about any other actions by the administration or
7 by him individually?

8 A. I can't think specifically. I think all of
9 us in our staff meetings, all of us gave our opinion and
10 spoke freely. I don't remember specific illustrations.

11 Q. Was the leaking of confidential information
12 out of the Governor's office detrimental to the operation
13 of that office?

14 A. Very detrimental. Every time we were about
15 to move on things we usually read about it in the
16 newspaper.

17 Q. Can you explain further why that was
18 detrimental?

19 A. I think you have to have plans, you have to
20 discuss, you have to lay a foundation for various things.
21 And if they are always a step ahead of you and if they
22 know what your plans are, if it is generally known, it
23 makes a difference in how you operate, and it is very
24 detrimental.

25 Q. Was some of the information that got into the

1 newspaper incorrect?

2 A. As I have attended press conferences, as I
3 have been with the Governor, as I've read the reports in
4 the media, I often say: Where was I? I don't recognize
5 some of them.

6 Q. From what you knew as the facts?

7 A. That's right.

8 Q. Did you ever go to any department head and
9 report confidential information out of the executive staff
10 meetings?

11 A. Ask that question again.

12 Q. Did you ever go to any department head and
13 report any confidential information that you heard on the
14 ninth floor without permission?

15 A. Not that I am aware of. I don't believe I
16 ever did that.

17 Q. Would you ever do that?

18 A. Not intentionally, never.

19 Q. Would you do it without notifying the
20 Governor?

21 A. Never.

22 MR. CRAFT: One moment, Your Honor.

23 (Pause in the proceedings)

24 BY MR. CRAFT:

25 Q. Dr. Russell, do you know how many of the

1 Governor's top staff had to go out and hire individual
2 attorneys to represent them for issues that came before
3 the Attorney General?

4 A. Well, let's see. I am sure that Colter did,
5 I am sure that Richardson did, myself, Steiger I suppose
6 did, I think Doris Stafford did, and I suspect that, not
7 suspect, Lee Watkins did. I don't know about Max Hawkins,
8 but I suspect he did. I don't know any others.

9 Q. Was there anybody else that had to?

10 A. Anybody else that had to?

11 Q. Was there anybody left?

12 A. That was all of us.

13 MR. CRAFT: No further questions, Your Honor.

14 THE PRESIDING OFFICER: You may cross-examine.

15

16 CROSS-EXAMINATION .

17 BY MR. ECKSTEIN:

18 Q. Dr. Russell, you were on, indeed are still
19 on, Governor Mecham's staff; is that correct?

20 A. That's correct.

21 Q. You were on it from January 5th, 1987 until
22 the present time?

23 A. Yes. I actually worked two months in the
24 transition team without pay, like most of us, 16, 17 hours
25 a day.

1 Q. But starting in January you were paid?

2 A. Starting January 5th on the day of the
3 inauguration we started our pay. But we worked full two
4 months without pay.

5 Q. You are still being paid today?

6 A. That's right.

7 Q. At all times during the time that the
8 Governor was serving as the Governor, through February 5,
9 1987, to be specific from January 5th, 1987 to February 5,
10 1988, there was at least one lawyer on the Governor's
11 staff, isn't that correct?

12 A. If you included Fred Craft, there was a
13 period of time after Jim Colter left that there was not.
14 When I was the only special assistant and we did not have
15 an attorney, other than a few times when Fred Craft was in
16 Arizona, but when he was in Washington we did not have an
17 attorney several times.

18 Q. Governor Mecham has had two chiefs of staff
19 during his tenure as Governor, correct?

20 A. That's correct.

21 Q. One was Mr. Colter and one was Dr. Burke,
22 correct?

23 A. That's right.

24 Q. You know they were both lawyers?

25 A. That's right.

1 Q. I gather, it is your testimony that Governor
2 Mecham never went to these gentlemen for legal advice; is
3 that correct?

4 A. No, I think that he did. I think that he
5 asked for legal opinions. But again, when you get into
6 government and the state statutes, particularly with
7 Mr. Colter, I think that he needed many times outside
8 opinions in addition. Many times I know they said they
9 have asked two or three opinions and could never get an
10 answer, never get a proper answer.

11 Q. Do you know whether the previous Governor had
12 a specially assigned lawyer to handle legal matters on his
13 staff?

14 A. I do not know.

15 Q. In fact, he didn't; you know that, don't you?

16 A. I do not know.

17 Q. Now, I believe it was your testimony on
18 direct that you and others sought out the best managers to
19 manage the various departments in this state; is that
20 correct?

21 A. That's correct.

22 Q. You would include Alberto Rodriguez in that
23 category of being best managers?

24 A. Alberto Rodriguez is one of the best and most
25 highly recommended people that I have run into. I

1 personally made an investigation on Rodriquez before we
2 withdrew his name. I called a general in the Pentagon who
3 directly reported to him. He gave him the highest
4 recommendation. I called his spiritual leader in Arizona,
5 who lived by him in Douglas, highest recommendation. I
6 called people on city councils. I talked to people that
7 worked with him. I talked to 18 different people. Every
8 one of them gave me high recommendations in regard to him.

9 He is the most decorated Hispanic in the
10 military of anyone in the history. I talked to people in
11 the Liquor Department that worked under him, worked under
12 both chiefs. They gave him high marks. So I say Al
13 Rodriquez got the shaft, frankly.

14 Q. Did you make the same kind of check with Lee
15 Watkins?

16 A. No, I did not. I had nothing to do with Lee
17 Watkins.

18 Q. I take it you would classify Lee Watkins as
19 one of the best managers and put him in that category as
20 well?

21 A. No. I'll say this: I don't know Lee Watkins
22 that well; however, I'll say if you want a job done, he'll
23 do a job. He is a worker. He is a producer. And that
24 guy, I mean regardless what everybody says about him, he
25 really produces, he's a do-er.

1 Q. He would do any kind of job for you, right?

2 A. I didn't say that..

3 Q. Dr. Russell, can you tell me what experience
4 Lee Watkins had as a drug enforcement director prior to
5 being appointed to that?

6 A. I don't think he had any experience that I am
7 aware of in that area. However, the thing that it
8 required in that area is a person that would contact
9 people, a person that knows people and could move out and
10 be an innovator, be one to raise money, one to initiate
11 support and so on. So it required a do-er more than it
12 required specific technical knowledge on drugs.

13 Q. You know Lee Watkins was designated by the
14 Governor to serve on a special audit team, don't you?

15 A. I think that that may have been the case, but
16 I am not sure. I wasn't involved with that.

17 Q. Can you tell me what auditing experience
18 Mr. Watkins had prior to being appointed?

19 A. I have no knowledge about that.

20 Q. Did that job require getting around and
21 raising money as well?

22 A. No. But Lee Watkins, if you gave him a job,
23 he would do it. He's one that, that I think would be for
24 what he was talking about, as an auditor, I think would be
25 extremely good, not from the financial standpoint,

1 perhaps, but from the standpoint of getting in and doing
2 the job, I think he would do an excellent job.

3 Q. You know that Lee Watkins was also appointed
4 as one of these best managers, to be the executive
5 managers of prison construction.

6 Do you know what construction experience
7 Mr. Watkins had had prior to that?

8 A. No, I don't. And I don't know how that came
9 about.

10 Q. You don't think he was qualified for that, do
11 you?

12 A. I have no idea what that requires in that
13 particular job. As far as technical construction
14 experience, probably not; if it is management experience,
15 perhaps so. I don't know.

16 Q. Does it require a knowledge of the inside of
17 prisons?

18 A. You are asking me questions that I don't
19 know. I did not have prisons, and so I don't really know
20 what that entailed.

21 Q. By November 13, 1987, Governor Mecham had
22 lost all confidence in the Attorney General, had he not?

23 A. I can't answer that one. I think he lost
24 confidence, but I don't know whether all confidence.

25 Q. Well, he certainly wouldn't have revealed the

1 confidences to the Attorney General by November 13, would
2 he?

3 A. He was afraid, as he said on occasion, as I
4 mentioned earlier, when he talked and mentioned things in
5 confidence, he would read he was being investigated; he
6 would read about it in the newspaper.

7 Q. So the answer is, no, he would not have
8 revealed confidences to the Attorney General; is that
9 correct?

10 A. I think by that time he probably would not.

11 Q. You mentioned on direct testimony that
12 Governor Mecham had had a little problem, I think is how
13 you put it, with the law on the first RFP. You didn't
14 really explain what that first RFP was.

15 Would you be kind enough to tell us what it
16 was?

17 A. Yes. We wanted to hire a person in
18 Washington. We wanted a Washington person to represent
19 the State of Arizona. There were a lot of events, a lot
20 of things that required presence in Washington. There was
21 things all the time that came up.

22 As we met with some of the former Congressmen
23 like Eldon Rudd, one of the things they said is Arizona
24 needs an office in Washington, we need a presence in
25 Washington. The Governor frequently needed help in

1 Washington in things like the National Governors'
2 Association and different things that came up, different,
3 like AHCCCS, the superconductor, supercollider, many, many
4 things.

5 So this is what that was about, as to put out
6 an RFP regarding. We didn't even know what an RFP was at
7 the time. This was early on, so we met with --

8 Q. Excuse me just a moment. You did not even
9 know what an RFP was in January of 1987?

10 A. We had not had anyone explain the state
11 requirements on an RFP. The Governor did not know about
12 it, because he had mentioned "We need to do this," and I
13 said we have to go through the RFP procedure. And his
14 answer to me indicated to me that he knew nothing about
15 it, absolutely nothing. He was surprised. In fact, I
16 argued with him about it. I said you have got to do that
17 to obey the law. What surprised me, we started the
18 process, and it looked like there was a rumor that we
19 already made up our mind who we were going to select,
20 which was absolutely false, but because of that rumor, I
21 said let's stop this RFP right now. We are not going to
22 do anything inappropriate. When we did, following that,
23 you can't believe the barrage we received from the press,
24 just call after call. In fact, one of the members of the
25 committee received so many calls and was badgered so badly

1 by one reporter that she had to move and change her phone.

2 Q. Who was it who was rumored to have been
3 offered the position of lobbyist?

4 A. Fred Craft.

5 MR. ECKSTEIN: I have no further questions.

6 THE PRESIDING OFFICER: Redirect.
7

8 REDIRECT EXAMINATION

9 BY MR. CRAFT:

10 Q. Dr. Russell, did you ever see anybody working
11 directly for the Governor prepare legal memorandums for
12 the Governor in the sense of providing legal advice?

13 A. No, I did not.

14 Q. Did you ever see Dr. Burke prepare a legal
15 memorandum addressing legal issues which the Governor was
16 faced with?

17 A. No, I did not.

18 Q. Did you ever see a memorandum that Fred Craft
19 wrote which dealt with legal issues and providing legal
20 advice to the Governor?

21 A. No, sir.

22 Q. Is that why these gentlemen were hired,
23 Dr. Burke?

24 A. No, they were not hired for that; be almost
25 impossible to do that. The job is so demanding and takes

1 so much time and effort and energy, there would be no time
2 for that.

3 Q. What was Dr. Burke hired for?

4 A. Dr. Burke was hired to be the chief of staff
5 to replace Jim Colter. And I think it was felt that he,
6 with his background as U.S. Attorney and United States
7 Justice Department and his broad experience in legal work,
8 law school and so on, that he would be the ideal person,
9 which I think he was. He was very knowledgeable, very
10 experienced, and I think was a person to fill in to do
11 that job.

12 Q. Was he hired because of his managerial
13 expertise?

14 A. I don't know if that was the case. I think
15 he has had a lot of administrative and management skills,
16 and certainly that didn't hurt any; well qualified person
17 for that.

18 Q. But to your knowledge was he hired to give
19 legal advice?

20 A. No.

21 Q. Was Mr. Craft hired to give legal advice?

22 A. No.

23 Q. Are you aware of numerous letters of
24 recommendation that Mr. Lee Watkins had from various
25 legislators, both in this body and the House of

1 Representatives?

2 A. Mr. Lee Watkins?

3 Q. Yes.

4 A. Numerous letters of recommendation?

5 Q. Yes from members of this body and members of
6 the House of Representatives.

7 A. No.

8 MR. CRAFT: I have no further questions.

9 THE PRESIDING OFFICER: Questions by Senators.

10 Senator Corpstein first.

11 SENATOR CORPSTEIN: Mr. Presiding Officer,
12 Dr. Russell, you said you only talked -- you didn't see
13 Peggy leaving crying in the morning. Did she come back
14 and talk to you that afternoon?

15 THE WITNESS: I do not believe she did. I never
16 saw her cry or upset. She never mentioned the events that
17 we are talking about here.

18 SENATOR CORPSTEIN: She never had mentioned those
19 events?

20 THE WITNESS: First I even had any inkling about
21 it -- I knew nothing about it on Friday. First I knew
22 about it was when I received that call from Mel MacDonald.

23 THE PRESIDING OFFICER: Senator Todd is next.

24 SENATOR TODD: Mr. Presiding Officer, Mr. Russell,
25 you stated that you were part of the transition team after

1 the election in November of '86, is that right?

2 THE WITNESS: That is correct.

3 SENATOR TODD: Mr. Russell, you moved into the
4 couple little offices there on the second floor --

5 THE WITNESS: I moved into the basement of this
6 building, the Senate building.

7 SENATOR TODD: You moved into basement here?

8 THE WITNESS: Yes.

9 SENATOR TODD: Between the basement here and the
10 second floor of the Capitol building where the other
11 officers were, that is where you worked, between those
12 two?

13 THE WITNESS: That is correct.

14 SENATOR TODD: When did you first meet Lee Watkins?

15 THE WITNESS: I met Lee Watkins probably -- it was
16 after the primary election, and my recollection, probably
17 in September or October of '86.

18 SENATOR TODD: It was after primary and on towards
19 the general election that you were aware of Lee Watkins?

20 THE WITNESS: Yes. It is possible that I had met
21 Lee Watkins prior to that time. And he lived in Mesa. I
22 heard his name before but had not had any direct contact
23 with him whatsoever.

24 SENATOR TODD: Then you knew Ray and did you know
25 Max Hawkins then?

1 THE WITNESS: Yes, I did know Max Hawkins.

2 SENATOR TODD: During the transition time from the
3 end of November until inauguration and you moved upstairs,
4 did you see Lee Watkins around the Capitol here in
5 relation to where you were working or to the rest of the
6 transition team over on the second floor?

7 THE WITNESS: On occasion, not often, but Lee
8 Watkins came around on occasion. He wasn't part of that
9 transition team, but he came around on occasion.

10 SENATOR TODD: Is it reasonable to say that he was
11 here quite a bit or a little bit, some or lots?

12 THE WITNESS: Lee Watkins is one of those persons
13 you see everywhere, everyplace. So I would say that he
14 was on occasion, I saw him. I don't think an awful lot,
15 but, yes, he was here on occasion. He would pop in and
16 out, that is what he done.

17 SENATOR TODD: Was Max Hawkins also involved in the
18 transition team at that time?

19 THE WITNESS: Yes, sir. His office was next to
20 mine in the basement.

21 SENATOR TODD: And so Max Hawkins was involved from
22 the start on the transition team until the time that he
23 was appointed the acting director of the Department of
24 Administration?

25 THE WITNESS: Yes, he was on the transition team.

1 Seems like there was a period he wasn't here until he was
2 named the Department of Administration head.

3 SENATOR TODD: Now, right towards the end of your
4 testimony you were talking about, you were asked a
5 question about how many of them had to go out and hire
6 attorneys. Do you remember that question?

7 THE WITNESS: Yes, I do.

8 SENATOR TODD: I believe that you answered: All of
9 them.

10 THE WITNESS: I didn't count, but it seemed to me
11 we counted, as I named, six or seven or whatever it was.

12 SENATOR TODD: Mr. Russell, was the question asked:
13 How many of you on the ninth floor had to go out and hire
14 attorneys?

15 THE WITNESS: The question was asked of me how
16 many, and we counted; we named the people. And I didn't
17 follow the count, but it seemed to me there was six or
18 seven.

19 SENATOR TODD: Mr. Russell, you included in that
20 group on the ninth floor Lee Watkins and Max Hawkins?

21 THE WITNESS: I did. But they are not on the ninth
22 floor. You see the eighth floor, even some of the offices
23 on the fourth floor. I am not sure where Drugs was
24 actually housed at that time, whether it was fourth floor
25 or the eighth floor.

1 SENATOR TODD: Might it be assumed that Max and Lee
2 were just around a lot at that time, too?

3 THE WITNESS: Well, you see, no, they were
4 considered -- actually the drug, when he was head of the
5 Drug Department, that was the Governor's drug task force
6 or the drug force, and so that was considered part of the
7 Governor's office, even though it wasn't physically
8 located on the ninth floor. Of course, at that time he
9 was the Department of Administration. I do not know where
10 he was physically located.

11 SENATOR TODD: Mr. Russell, when Lee Watkins
12 finally had to get an attorney, was he still working for
13 the government? Was he still working for the State of
14 Arizona at that time?

15 THE WITNESS: When he got an attorney? I have no
16 idea when he got an attorney, but I assume he was, because
17 he was working up until a few days ago.

18 SENATOR TODD: Do you think it was interesting that
19 you included Max and Lee in the group on the ninth floor
20 when you answered the question about how many of them on
21 the ninth floor had to get attorneys?

22 THE WITNESS: Well, mainly because Max and Lee have
23 been talked about so much and they are considered, they
24 are linked with the Governor, but I don't think so.

25 SENATOR TODD: Thank you.

1 THE WITNESS: We didn't consider either one of them
2 to be on the ninth floor.

3 THE PRESIDING OFFICER: Senator Walker was next.

4 SENATOR WALKER: Dr. Russell, you stated when Peggy
5 Griffith was first in your office that she left some
6 papers in your office; is that correct?

7 THE WITNESS: That's right.

8 SENATOR WALKER: Dr. Russell, are you absolutely
9 positively sure that Mrs. Griffith did not go back into
10 your office late the afternoon of Friday the 13th to pick
11 up those papers?

12 THE WITNESS: No. I know she didn't pick up the
13 papers. I suppose there could be a possibility that she
14 did. Peggy would just walk by, Peggy would just wander
15 by, and so Peggy was in and out of my office on several
16 occasions. She had been in a couple of days before. I do
17 not remember her coming back later that afternoon.

18 SENATOR WALKER: It was impossible she was in your
19 office late Friday afternoon?

20 THE WITNESS: Possible, but I do not remember it.

21 SENATOR WALKER: It's possible?

22 THE WITNESS: Lots of people come and go, but I do
23 not remember.

24 SENATOR WALKER: Was it possible she may have
25 spoken with your secretary?

1 THE WITNESS: Yes, possible.

2 SENATOR WALKER: She may have possibly been seen
3 coming out of your office late Friday afternoon in tears?

4 THE WITNESS: I don't think so. She never was in
5 tears when she was in my office, and there would be no
6 indication or reason for her to because she never
7 mentioned anything. We were talking about the domestic
8 violence, and I believe that was only that morning. I am
9 almost positive that she was not back that afternoon.

10 SENATOR WALKER: But it is possible?

11 THE WITNESS: Royanne came by that afternoon.

12 SENATOR WALKER: But it is possible that
13 Mrs. Griffith --

14 THE WITNESS: I suppose it is possible, but I am
15 sure I don't remember it.

16 SENATOR WALKER: You said that the Governor did not
17 hire Mr. Craft in a legal capacity. Can you tell me which
18 capacity he hired him in?

19 THE WITNESS: He hired him to represent him in
20 Washington to be his Washington advisor.

21 SENATOR WALKER: Was that as a consultant?

22 THE WITNESS: Yes, to do whatever needed to be done
23 in Washington. On occasion he would come to Arizona, he
24 spent some time. He was actually part of the Governor's
25 staff, so sometimes he was here and sometimes he was in

1 Washington.

2 SENATOR WALKER: But not as a legal consultant,
3 just as a lobbyist?

4 THE WITNESS: I don't remember any legal opinions
5 or any legal advice coming out. I think the fact he's an
6 attorney, I think at times I wished I was an attorney,
7 times I wish I wasn't.

8 SENATOR WALKER: I understand.

9 But back to Mr. Craft. He was not hired for
10 any of his legal abilities whatsoever?

11 THE WITNESS: I don't say not for any of his legal
12 abilities, but I don't think he was hired primarily for
13 that purpose.

14 SENATOR WALKER: So as an attorney he could have
15 been asked from time to time to give his legal opinion on
16 certain things?

17 THE WITNESS: I suppose he could have been. I was
18 never privy to that; I never heard that opinion as an
19 attorney.

20 SENATOR WALKER: Thank you.

21 THE PRESIDING OFFICER: Senator Osborn is next.

22 SENATOR OSBORN: Thank you, Mr. Presiding Officer.

23 Dr. Russell, on the weekend of Friday,
24 November 13, by the time that weekend had arrived, were
25 you aware that Donna Carlson was a potential witness in a

1 grand jury proceeding?

2 THE WITNESS: I suspect because of the fact that
3 all of us that were working for the Governor in regard to
4 that loan were subpoenaed, and so I think that we all knew
5 that we were subpoenaed, anybody had anything to do with
6 it. And I was surprised I was subpoenaed because I knew
7 not that much about it, but nevertheless I figured because
8 I was a special assistant and anyone that was close to the
9 Governor would probably be subpoenaed.

10 SENATOR OSBORN: Dr. Russell, did you convey that
11 information to the Governor or discuss it with him or
12 mention it to him or caution him about it at any time
13 prior to the moment at around 12:00 noon on Sunday when
14 Director Milstead phoned the Governor?

15 THE WITNESS: Absolutely not. In fact, I wasn't
16 even aware of the seriousness of it at all.

17 SENATOR OSBORN: Thank you.

18 THE PRESIDING OFFICER: Senator West is next.

19 SENATOR WEST: Mr. Presiding Officer, Dr. Russell,
20 you went through a litany of seven, eight people who had
21 to go out and hire private attorneys, even including the
22 Governor's personal secretary, Doris Stafford, isn't that
23 correct?

24 THE WITNESS: That is correct.

25 SENATOR WEST: In the hiring of those private

1 attorneys, those are hired by the individual's own
2 personal funds, private funds?

3 THE WITNESS: That is correct. I have had to pay
4 my attorney, even though I didn't have to go to the grand
5 jury. It cost me, \$700, \$800 out of my own pocket just
6 because I was subpoenaed.

7 SENATOR WEST: Dr. Russell, how long have you lived
8 in Arizona?

9 THE WITNESS: All my life. I am a native.

10 SENATOR WEST: Dr. Russell, several of us on the
11 floor are natives. Can you go back in Arizona history and
12 recall from the time of statehood any other administration
13 where seven or eight of the top officials had to go out
14 and hire privately their own attorneys?

15 THE WITNESS: I don't recall.

16 SENATOR WEST: In your view, what precipitated the
17 necessity that that many people in this administration
18 would have to hire attorneys?

19 THE WITNESS: When you are subpoenaed to a grand
20 jury, you don't have much choice, according to the people
21 that I have talked to. They said it is a serious thing,
22 you should not ever walk into a grand jury without having
23 legal representation, and so, when a charge or when you
24 are subpoenaed or when a charge is made upon you, I think
25 that you don't have much choice but to do that.

1 SENATOR WEST: Dr. Russell, these hirings of
2 private attorneys basically, then, are a result of the
3 subpoenas to a grand jury?

4 THE WITNESS: In my case that was true.

5 SENATOR WEST: What about in the case of each of
6 the other individuals you named?

7 THE WITNESS: Yes, I think all of them that's the
8 case.

9 SENATOR WEST: Dr. Russell, including Doris
10 Stafford?

11 THE WITNESS: Doris Stafford, definitely.

12 SENATOR WEST: You are familiar, I believe, with
13 the witness who preceded you?

14 THE WITNESS: That's right.

15 SENATOR WEST: Did you have any knowledge, either
16 directly or indirectly, of that witness' testimony?

17 THE WITNESS: Not -- well, yes, directly. Not of
18 what she was going to testify to, but it came to my
19 attention on Monday following the Friday that Peggy was in
20 my office, on Monday my secretary had mentioned that Terri
21 had been in the parking lot and overheard the conversation
22 and it was nothing, they were joking about it. And I
23 says, "Is that right?" And I read it in the paper about
24 the big deal, and I was shocked. And I said let me talk
25 to her, and so she called her and she came to my office.

1 And she just told me, says, "I overheard" and told me what
2 it was, and says it is nothing. And so I really did not
3 think, I said, "This is craziness, this thing is blown
4 totally out of proportion from that."

5 I didn't know about the second conversation,
6 never did know it until later on when it was in the House.

7 SENATOR WEST: Dr. Russell, you had knowledge,
8 prior knowledge, basically, of how she felt or what she
9 knew in the testimony that she just gave here on the floor
10 of the Senate?

11 THE WITNESS: Yes, because she told me the same
12 thing on that Monday.

13 SENATOR WEST: Dr. Russell, do you know that she
14 told me under oath that she had told no one other than one
15 friend?

16 THE WITNESS: Maybe I am that one friend.

17 SENATOR WEST: Dr. Russell, you were not that one
18 friend.

19 Dr. Russell, I would like to go forward with
20 this. So you had knowledge of her testimony and what
21 could, I think, correctly be called a challenge, a
22 contradiction to Miss Griffith's testimony; you have had
23 knowledge since sometime in mid November yourself of this?

24 THE WITNESS: That is correct.

25 SENATOR WEST: Did you ever in any manner, directly

1 or indirectly, suggest to the Board of Managers -- well,
2 they weren't the Board of Managers -- to the House Select
3 Committee on Impeachment, that there was some relevant
4 testimony from this individual?

5 THE WITNESS: I was never asked.

6 SENATOR WEST: Dr. Russell, I guess I don't want to
7 editorialize, but you basically are telling us that you
8 sat idly by while the Governor of the State of Arizona is
9 going through impeachment hearings in the House of
10 Representatives with information or knowledge that would
11 contradict a major witness, and you sat idly by and did
12 not respond in the appropriate manner?

13 THE WITNESS: As I said, I was never asked. I
14 would have willfully testified had I been asked. In fact,
15 I wondered why in the House proceedings they didn't call
16 in Peggy and wondered why they didn't call in Lee, why
17 they didn't call in other people.

18 SENATOR WEST: Dr. Russell, do you have any
19 additional knowledge on this case in any form that would
20 shed additional light that you haven't been asked that you
21 are now being asked for?

22 THE WITNESS: No, sir.

23 SENATOR WEST: Thank you.

24 THE PRESIDING OFFICER: Senator Sossaman is next.

25 SENATOR SOSSAMAN: Dr. Russell, you were just asked

1 if you had any knowledge of any previous administration's
2 staff who would have to hire lawyers. How would you know
3 that?

4 THE WITNESS: I wouldn't. That is the reason I
5 said I didn't recall any.

6 SENATOR SOSSAMAN: Change the subject here a
7 little. Was Donna Carlson part of the transition team?

8 THE WITNESS: I don't think so. Donna was working
9 for an association, and it seems to me that she didn't;
10 she may have been invited, I don't know. But she wasn't
11 there much if she was.

12 SENATOR SOSSAMAN: To the best of your knowledge
13 she was not part of the transition team that was here
14 every day?

15 THE WITNESS: Not every day. She may have been
16 here some, I don't recall, but not every day.

17 SENATOR SOSSAMAN: Are you familiar with why she
18 left the administration, why she resigned?

19 THE WITNESS: No, I was on that trade mission at
20 the time. I know that she was upset. I know that she was
21 having a struggle with all the publicity that was coming.
22 There was a lot of stress. Actually, there was a great
23 deal of stress from day one on this administration. There
24 was never a honeymoon. The papers and the media were
25 attacking the Governor from day one.

1 I remember in February and March the Governor
2 was under extreme stress at that time, and because the
3 severe attacks on almost anything that he would say, and I
4 think that she was frustrated. I think that everyone was
5 so busy doing their job and it was, as you know, a brand
6 new team coming in with no training previously, and as we
7 got in there, it was extremely busy, more calls coming in
8 a day that you could possibly get back, and all the things
9 that happened with the legislature in session and the
10 Governor having a heavy agenda along with yours, so I
11 think that she was frustrated. I think that it was just
12 probably the stress and the attacks on this administration
13 as much as anything.

14 SENATOR SOSSAMAN: Thank you.

15 THE PRESIDING OFFICER: Senator Usdane and then
16 Senator Hays.

17 SENATOR USDANE: Dr. Russell, Senator Osborn asked
18 one of the questions, so I'll be brief. In terms of what
19 you just explained to Senator Sossaman, it would appear to
20 me from my knowledge of your working with 36 agencies you
21 didn't have a lot of time upstairs on the ninth floor.

22 THE WITNESS: Absolutely didn't. I spent every
23 waking -- 5:00 in the morning until I went back home
24 working on state business.

25 The continuation of his question, I think it

1 didn't affect me as badly, because all my life I have
2 worked on boards of directors where you come to blows like
3 you do here in the legislature almost. We learned to have
4 friends and disagreement, but I think it affected her much
5 worse than it did me and some others because we'd been
6 around this thing before, not the exact thing, but
7 similar.

8 SENATOR USDANE: Thank you, Doctor.

9 Mr. Presiding Officer, Doctor, just one more
10 question.

11 Do you have any specific direct knowledge in
12 your opinion of the making of the threat or of anything
13 surrounding it up until the time when you read about it in
14 the paper?

15 THE WITNESS: No. The first I had any indication
16 was when I received the call on Saturday night.

17 SENATOR USDANE: Mr. Presiding Officer, thank you,
18 Doctor. It would appear to me in terms of your
19 information it is very relevant, and we thank you for
20 answering the questions. But in terms of the threat you
21 really don't have any precise or direct knowledge, that is
22 correct?

23 THE WITNESS: I don't have any direct knowledge
24 other than what I have heard and read.

25 SENATOR USDANE: Thank you.

1 THE PRESIDING OFFICER: Senator Hays.

2 SENATOR HAYS: Mr. Presiding Officer, Dr. Russell,
3 we have been told during this trial that the Governor
4 requested the Department of Administration to investigate
5 the alleged death threat. And no one else has received,
6 but have you or to your knowledge has the Governor
7 received a written report or verbal report of the results
8 of that investigation?

9 THE WITNESS: I'm not aware of it.

10 SENATOR HAYS: Mr. Presiding Officer, Dr. Russell,
11 to your knowledge did Miss Terri Fields contribute to that
12 in-house investigation by the Department of Administration
13 with her knowledge?

14 THE WITNESS: I told her, and maybe this Senator
15 when you asked me that question, Senator West, I told
16 Terri to go to the Governor and tell him. I didn't know
17 whether she got there or not.

18 SENATOR HAYS: Mr. Presiding Officer, could I ask
19 you a question?

20 THE PRESIDING OFFICER: I'll try to answer it.

21 SENATOR HAYS: Under Arizona statutes is there any
22 legal obligation for a person who has knowledge that is,
23 well, very important to a trial, where someone's position
24 of perhaps Lee Watkins could go to prison or Governor lose
25 his office, you have a moral obligation in my mind, but is

1 there a legal obligation to come forth with that
2 information?

3 THE PRESIDING OFFICER: Senator Hays, I really feel
4 uncomfortable answering that question. I think that is
5 more of a substantive matter that your counsel should
6 advise you on.

7 MR. LEONARD: Mr. Presiding Officer, I don't want
8 to interrupt, but I would like to remind the Presiding
9 Officer and members that the witness testified that she
10 testified before the grand jury.

11 THE PRESIDING OFFICER: Thank you.

12 I believe that is the last of the questions
13 by Senators. Perhaps we should take our evening recess at
14 this time unless --

15 Yes, I know Senator Mawhinney is rising to
16 be -- well, we'll try to finish then.

17 SENATOR MAWHINNEY: Mr. Presiding Officer, there is
18 some trepidation when you start running past 5:00 about
19 how long you dare go on.

20 Mr. Presiding Officer, Dr. Russell, first
21 off, your field of specialty is veterinary medicine?

22 THE WITNESS: Veterinary medicine. But my major is
23 business management and I have been involved deeply in
24 management for a number of years.

25 SENATOR MAWHINNEY: When you spent the time in the

1 transition team -- and I'll try and get these questions
2 out as quickly as I can -- in the transition team,
3 theoretically, you are supposed to meet with the former
4 Governor's staff and learn how things are done? Did that
5 or did that not occur?

6 THE WITNESS: It occurred for 45 minutes the Friday
7 before we took office. That was the extent of it.

8 SENATOR MAWHINNEY: Well, then, Mr. Russell, what
9 did you do for the rest of whatever time it was that you
10 spent as a transition member?

11 THE WITNESS: Basically we spent time trying to get
12 familiar with the agencies, trying to learn all we could
13 about the agencies and what business was going on in the
14 state.

15 SENATOR MAWHINNEY: And you mentioned that you
16 would sit around and bunches of people, staff, would meet
17 and make suggestions about who was going to have various
18 positions and that Mr. Watkins sat in frequently on these.

19 THE WITNESS: I didn't say that.

20 SENATOR MAWHINNEY: You didn't say that.

21 Mr. Watkins, to your knowledge, did not sit
22 in on these staff meetings where people's names were
23 suggested?

24 THE WITNESS: We had staff meetings regularly with
25 the Governor. Is that what you are referring to?

1 SENATOR MAWHINNEY: Somebody asked first if
2 Mr. Watkins was one of the people who made suggestions,
3 and you said not routinely, but there were times when we
4 all sat together and lots of people showed up and
5 Mr. Watkins was there on occasion.

6 THE WITNESS: This is not staff meetings, this was
7 appointments, when they were talking about boards and
8 commission appointments.

9 SENATOR MAWHINNEY: Who would sit on those
10 meetings?

11 THE WITNESS: Whoever was available on the ninth
12 floor, because we welcomed suggestions from everyone. We
13 welcomed suggestions from the legislature, from anyone.
14 And we had 1100 or so resumes sent in, and so these were
15 just meetings where we were trying to select names as
16 potential recommendations. And we tried to narrow it down
17 to say these are names to send to the Governor.

18 SENATOR MAWHINNEY: That was anybody on the ninth
19 floor. How did Mr. Watkins get involved in that?

20 THE WITNESS: Mr. Watkins just showed up on
21 occasion.

22 SENATOR MAWHINNEY: Did anybody else come in off
23 the street that would sit down and make suggestions?

24 THE WITNESS: Hold it. I am referring to when he
25 was on the Governor's drug task force and he was there on

1 occasion, but he wasn't there most of the time.

2 SENATOR MAWHINNEY: When he made suggestions, did
3 it have to do with his responsibilities as head of the
4 drug task force?

5 THE WITNESS: Well, no. This was mostly on
6 Saturday, as I remember. Early on when we first met we
7 didn't have time during the week, so we came in on
8 Saturdays and had a special meeting where we were talking
9 about names.

10 SENATOR MAWHINNEY: Do you remember on any
11 occasions where Mr. Watkins made specific recommendations
12 for positions?

13 THE WITNESS: I don't. All of us in the room would
14 throw out names, just throwing out names to get as many
15 names as we could get.

16 SENATOR MAWHINNEY: You mentioned that the Governor
17 forced Lee to resign from the drug task force position.

18 That was after they found out what?

19 THE WITNESS: There was a big article in the
20 newspaper about Lee Watkins and revealed some things that
21 I don't think the Governor really knew before that time.

22 SENATOR MAWHINNEY: You talked earlier about
23 bankruptcies.

24 THE WITNESS: That was in that newspaper article.
25 I don't know if it was bankruptcy or if it was foreclosure

1 or what it was, but there was something, there was several
2 things in the Mesa Tribune.

3 SENATOR MAWHINNEY: Based on that the Governor
4 forced Lee to resign?

5 THE WITNESS: He asked for Lee's resignation.

6 SENATOR MAWHINNEY: Were you aware Lee Watkins had
7 a criminal record?

8 THE WITNESS: No.

9 SENATOR MAWHINNEY: Did you know the Governor knew?

10 THE WITNESS: I don't think that he knew at all.

11 SENATOR MAWHINNEY: It was indicated in earlier
12 testimony that he received a background check on all of
13 these people, including which would have been a notation
14 about Mr. Watkins' record.

15 THE WITNESS: I can't answer that on that specific
16 thing. I know when I first read it, again, it was when he
17 was a teenager, and so, you know, I think that perhaps we
18 didn't think as much about it, if that was the case,
19 because it was while he was a teenager, a young person.

20 SENATOR MAWHINNEY: How much of a teenager was he
21 at the time?

22 THE WITNESS: I don't remember the age. I think he
23 was 18, 19.

24 SENATOR MAWHINNEY: Nineteen years old as I recall
25 from the record.

1 THE WITNESS: I don't remember.

2 SENATOR MAWHINNEY: You talked earlier, and I think
3 you used the word "set up," that there was some concern
4 that everybody on the ninth floor was being set up.
5 Everybody had to have a lawyer.

6 Mr. Steiger, I understand, needs a lawyer,
7 but Mr. Steiger has been charged, I believe, in another
8 body with a felony. Is that accurate?

9 THE WITNESS: That is accurate. When you say
10 "everybody," again, I got one because I was subpoenaed to
11 the grand jury. And when I received the call from Mel
12 MacDonald in regard to what Ralph Milstead, Colonel
13 Milstead had called me about that night, I was, you know,
14 looked to me like here they are going one by one, and am I
15 next on the line; looked like I was being set up because I
16 was shocked, frankly, when they said she came out of my
17 office crying or looked like she was all upset, because I
18 knew that not to be the case.

19 SENATOR MAWHINNEY: But you didn't hire a lawyer
20 because of that; you hired a lawyer because you were asked
21 to appear before the grand jury?

22 THE WITNESS: When I was subpoenaed is when I had
23 to hire a lawyer.

24 SENATOR MAWHINNEY: You talked about the press and
25 leaks to the press, and that it seemed like as soon as you

1 sat down and decided something in the confines and the
2 confidential arena of the Governor's office it went right
3 out to the press. Did you have any idea how that was
4 occurring?

5 THE WITNESS: No. But I'll tell you within five
6 minutes after I got my subpoena I received a call from
7 Mike Murphy from the newspaper. And frequently, anything
8 we decided, it just immediately was outside.

9 SENATOR MAWHINNEY: Were you a party to the recent
10 criticism from the Governor's staff or the Governor's
11 office relative to the Senators holding secret meetings,
12 deliberations on this floor and this body, and association
13 with these hearings?

14 THE WITNESS: No. I didn't know anything about
15 that.

16 SENATOR MAWHINNEY: You didn't know anything about
17 that, okay, good.

18 How long would these opinions, these multi,
19 large number of opinions and help that you needed from the
20 Attorney General's Office: We asked opinions from the
21 Attorney General; we asked them frequently. We get them
22 slowly. I expect that they have other things to do over
23 there. And I am concerned about how long and how many
24 opinions were flowing in the first month, for example, out
25 of the Governor's office for help.

1 THE WITNESS: I can't answer that. I was so busy
2 with my own areas that I didn't really -- I wasn't
3 concerned with the Attorney General except on departments
4 and agencies where we had questions which I personally
5 made requests.

6 SENATOR MAWHINNEY: Is it your opinion that the
7 Attorney General was purposefully not cooperating and
8 returning timely opinions as he is required to do?

9 THE WITNESS: I didn't think so personally at that
10 time. I was more upset at the fact that an opinion was
11 asked and then we would read about it in the newspaper
12 that the Governor was being investigated.

13 SENATOR MAWHINNEY: How many times did that happen?

14 THE WITNESS: As I remember twice that I am
15 thinking of.

16 SENATOR MAWHINNEY: Once on Mr. Craft, and what was
17 the other time?

18 THE WITNESS: I don't recall.

19 SENATOR MAWHINNEY: You do not believe, then, what
20 we have heard from other witnesses and from other folks
21 and the newspapers, et cetera, that the Attorney General
22 was out to get the Governor or any of his staff?

23 THE WITNESS: I am not paranoid about that. I
24 don't personally -- I mean, I don't feel that way with me
25 personally. I don't know in that regard. I think

1 primarily from the instances I revealed earlier, as where
2 that distrust came in.

3 SENATOR MAWHINNEY: You were aware, were you not,
4 of an attempt or at least an intent to replace Colonel
5 Milstead?

6 THE WITNESS: Well, that's politics. Normally
7 everyone would resign when a new administration comes in,
8 just like I am not on the ninth floor anymore. That is a
9 given. When a new administration comes in everyone
10 leaves. I think it is a given that most of the
11 departments would change.

12 I was one that suggested, along with others,
13 that we not make a change with DPS and with Corrections,
14 particularly because those are sensitive issues, those are
15 areas where they could be explosive, particularly in
16 prisons. And I said let's keep some stability, we don't
17 need to make a change, they are doing a good job. So
18 frankly, we felt like it would be better to give some
19 time, but I think it was just a matter of time until
20 probably most positions would be changed, just like a
21 football coach brings his assistants in when the coach
22 changes.

23 SENATOR MAWHINNEY: There is a difference.
24 Mr. Milstead had a contract, legal enforceable contract
25 which did not make him one of the folks who moves in and

1 out on a political basis.

2 THE WITNESS: Yes.

3 SENATOR MAWHINNEY: In the world, then, was it
4 somebody somewhere had to be suggesting that both Milstead
5 and Lewis leave, because we have heard that at least four
6 or five times, and every time we talk to somebody on the
7 Governor's staff they said: It wasn't me, I said they
8 ought to keep both of them because they were doing a good
9 job.

10 THE WITNESS: I am talking about early on. I think
11 there was some questions in regard to integrity and other
12 things that the Governor maybe didn't have the confidence
13 that he should have had in those people, and the Governor
14 has to have absolute confidence in his staff.

15 SENATOR MAWHINNEY: Was there a reason that you
16 knew of he should not have confidence in the Directors of
17 the Department of Public Safety or in the Department of
18 Corrections?

19 THE WITNESS: I was not privy on that. There was
20 some rumor that there were some factors that a change
21 perhaps was in order.

22 SENATOR MAWHINNEY: Who was spreading the rumors?

23 THE WITNESS: No rumors. It was just the talk on
24 the ninth floor.

25 I had personally people come to me, many

1 people, saying, you know, any time you are in a position
2 like we were in, you hear all the negative. And people
3 come to you and tell you about wrong things that are
4 happening, and that happens all the time. And a lot of it
5 you dismiss; when you hear the same thing over and over
6 again, you start to look at it.

7 SENATOR MAWHINNEY: Once again, did you have
8 information that would lead you to believe that the
9 Governor had reason to suspect the loyalty, integrity or
10 the ability of either the head of the Department of Public
11 Safety or the Department of Corrections?

12 THE WITNESS: I did not have information. I had
13 been told by a person, though, that the Department of
14 Public Safety was out to get the Governor.

15 SENATOR MAWHINNEY: Would it surprise you if I were
16 to tell you that the Governor told me that? I mean, I
17 don't understand where all of this grew from. I would be
18 interested to know who all these rumors were, who the
19 people were, and whether people just dropped in and policy
20 changes were made on the basis of people dropping in.

21 THE WITNESS: No. For example -- let me give you
22 an example. I received a call one day, when I say "I
23 received a call," the secretary that worked next to me
24 received the call, and she came and immediately told me
25 that there was a staff meeting, a DPS -- this was, well,

1 several months ago -- when the recall thing was heating up
2 for signatures, said in the staff meeting, that they were
3 encouraged to pursue the recall of the Governor.

4 SENATOR MAWHINNEY: You mentioned early on in the
5 first couple of months of the team, it was impossible to
6 act without breaking the law; every time you turned around
7 there was a suggestion that you were breaking the law.

8 Do you remember saying that?

9 THE WITNESS: I said that I was warned that the
10 Governor, they were looking at the Governor and were going
11 to try to get the Governor by catching him breaking the
12 law. It seems like things we did, though, required legal
13 opinion and legal advice, and it was, for example, in the
14 RFP on different things that it seemed as though that you
15 did need legal counsel, at least some training. I
16 frequently thought why wasn't there some kind of a better
17 indoctrination, better kind of a transition, so that the
18 new team coming in would be more familiar of what was
19 going on.

20 SENATOR MAWHINNEY: When did you become aware of
21 what an RFP was?

22 THE WITNESS: Within probably the first six weeks.

23 SENATOR MAWHINNEY: Would you explain what an RFP
24 is?

25 THE WITNESS: That is a request for proposal.

1 SENATOR MAWHINNEY: Its purpose?

2 THE WITNESS: I knew what an RFP was because
3 basically you make requests for proposals, and even in the
4 corporate field, but what the specific law was for Arizona
5 I did not know, nor did the Governor.

6 SENATOR MAWHINNEY: You know what the basic purpose
7 of the RFP process was?

8 THE WITNESS: Absolutely.

9 SENATOR MAWHINNEY: Would you tell me?

10 THE WITNESS: Basically to protect the State of
11 Arizona, to be sure that the state gets their money's
12 worth done fairly, contracts are not given unfairly.

13 SENATOR MAWHINNEY: But the Governor was not aware
14 of that process?

15 THE WITNESS: The Governor was not aware of that;
16 when I first mentioned it to him, he didn't know anything
17 about it.

18 SENATOR MAWHINNEY: Who on the ninth floor had any
19 experience in state government, specifically State of
20 Arizona, that could have led you through those processes?

21 THE WITNESS: Sam Steiger. But Sam Steiger had
22 been a number of years before, before they operated that
23 way. I think when the Governor was in the State Senate
24 and when Sam Steiger also was in the Senate, that was
25 prior to this type of RFP procedure.

1 SENATOR MAWHINNEY: Do you recall when Mr. Steiger
2 and the Governor served in the Senate?

3 THE WITNESS: Long time ago in the sixties.

4 SENATOR MAWHINNEY: One last, final question. You
5 talked about 45 minutes worth of transition. Was that
6 because of the Governor Babbitt's staff, or was that
7 because of your staff, how come people didn't sit down,
8 reasonable people, and arrange for training and arrange
9 for smooth accommodation of the change of the
10 responsibility of the executive department of the State of
11 Arizona?

12 THE WITNESS: I requested it on several occasions.
13 In fact, I had to request and almost say absolutely I want
14 to talk to someone before we move up on the ninth floor.

15 I think -- I do not know. I frankly think
16 and was told by a member of this administration that at
17 least certain people in the government had been told to
18 withhold information from this new team, this new
19 administration.

20 SENATOR MAWHINNEY: Did Governor Mecham, Governor
21 elect Mecham contact Governor Babbitt and ask personally
22 for cooperation in this, do you know?

23 THE WITNESS: Governor Mecham met with Governor
24 Babbitt on two occasions that I am aware of. One or two
25 other secretaries, I think met with those people. But Sam

1 Steiger and I were the only ones, really, of the special
2 assistants, and we had about 45 minutes.

3 SENATOR MAWHINNEY: Let me ask you again, sir,
4 because I didn't get the answer; maybe I didn't ask the
5 question correctly. Do you know if the Governor elect,
6 Mecham, asked Governor Babbitt to arrange for cooperation
7 between the two staffs so that you would have more than 45
8 minutes of transition time?

9 THE WITNESS: I understood that he did, but I do
10 not know. You would have to ask him that question.

11 SENATOR MAWHINNEY: Thank you.

12 THE PRESIDING OFFICER: For the convenience of this
13 witness, if there are any more questions that could be
14 just for a short time, we can handle them. If there is
15 going to be a substantial amount of questions, perhaps we
16 should wait until tomorrow.

17 Senator Stephens?

18 SENATOR STEPHENS: I have one question.

19 THE PRESIDING OFFICER: All right.

20 SENATOR STEPHENS: Dr. Russell, you talked about
21 the fact that you were made aware of a meeting, I think
22 you said South Community Phoenix, it is South Mountain
23 Community College, but it is in the south Phoenix area,
24 which something like six months and a day where evidently
25 some people made some comments that they were going to

1 look for any indication of laws being broken by the
2 Governor so they could get him in terms of out of office,
3 and you said you knew some of the people there. I was
4 wondering if you could tell this Court who was there at
5 that meeting.

6 THE WITNESS: I would have to go back to my notes.
7 But as I remember, there were people from the city
8 government, from the City of Phoenix; I think the mayor
9 was there. I think that there were some members of the
10 legislature that were there. As I remember, there was a
11 nun that was involved in that thing in Central America
12 that was there. There also was another person, and as I
13 remember it may have been an attorney, that told me within
14 the first six weeks that was meeting -- I don't know what
15 the meeting was or what it was or who was there -- and
16 said they were talking about the recall even then, when I
17 first came into office; even before he came into office
18 they were talking about the recall. And he was, the
19 person that told me said that they are not going to recall
20 the Governor, they are going to catch him breaking the
21 law. That is the strategy. I was told that early on
22 within the first six weeks.

23 SENATOR STEPHENS: My apologies. Just one more
24 question. Evidently they were mistaken, however, because
25 there was a recall, isn't that correct?

1 THE WITNESS: No. They said they intended to get
2 him breaking the law. Though, I think from that, I think
3 they were talking impeachment to begin with.

4 SENATOR STEPHENS: Thank you.

5 THE PRESIDING OFFICER: Any others by Senators?

6 Senator Usdane, do you have a motion?

7 SENATOR USDANE: Mr. Presiding Officer, I move the
8 Court of Impeachment stand at recess until Friday, March
9 the 11th, 1988 at 9:00 a.m.

10 THE PRESIDING OFFICER: We will excuse the witness
11 at this time subject to being recalled.

12 Sir, thank you.

13 (Witness was excused.)

14 THE PRESIDING OFFICER: There is a motion. It
15 requires a majority of the members of the Senate to recess
16 at this time. All those in favor signify by saying "aye."
17 Opposed say "no."

18 All right. The "ayes" appear to have it.
19 They do have it, and it is so ordered.

20 (Recessed at 5:25 p.m.)

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22
23
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25

STATE OF ARIZONA)
) ss.
DISTRICT OF ARIZONA)

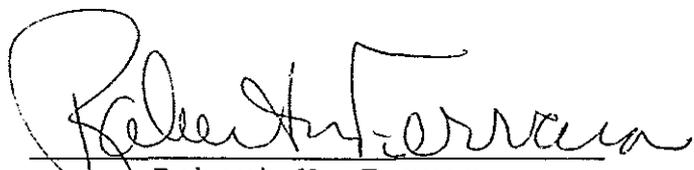
I HEREBY CERTIFY that I am a duly appointed, qualified and acting Official Court Reporter before the Senate of the State of Arizona sitting as a Court of Impeachment.

I FURTHER CERTIFY that the foregoing printed pages, numbered 1730 through 2002, inclusive, constitute a full, true, and accurate transcript of all of that portion of the proceedings contained herein, had in the above-entitled cause on the date specified therein, and that said transcript was prepared under my direction.

DATED at Phoenix, Arizona, this 10th day of March, 1988.



David R. Minder



Robert M. Ferrara

