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PUBLIC MEETING

before

SENATE LEGISLATIVE OVERSIGHT COMMITTEE

To continue its review of the management and operation of the
Division of Vocational Education in the Department of Education

June 15, 1988
Room 334
State House Annex
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Senator Gerald R. Stockman, Chairman
Senator S. Thomas Gagliano
Senator Richard A. Zimmer

ALSO PRESENT:

Steven B. Frakt
Marvin W. Jiggetts
Office of Legislative Services
Aides, Senate Legislative
Oversight Committee

* * * * *

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TO: Legislative Information Service

FROM: Steven B. Frakt *shf*
Principal Projects Manager

DATE: June 2, 1988

SUBJECT: MEETING OF SENATE LEGISLATIVE OVERSIGHT COMMITTEE

The Senate Legislative Oversight Committee will meet on June 15 at 10:00 A.M. in Room 334 of the State House Annex to continue its review of the management and operation of the Division of Vocational Education in the Department of Education.

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SENATOR GERALD R. STOCKMAN (Chairman): Senator Gagliano says it would be different to start on time. That's not a bad observation, so maybe we ought to start on time this morning. My name is Jerry Stockman -- Senator Stockman. I am Chairman of the Senate Legislative Oversight Committee. Alongside of me, one away, is Senator Gagliano. We expect Senator Zimmer to be here.

We are now going to get started on what is the second public hearing into the question of certain improprieties and difficulties in the Division of Vocational Education in the Department of Education. Our first hearing took place on April 19, almost two months ago. At that hearing, Commissioner Cooperman primarily addressed the Committee and shared with us information developed from his internal investigation, and acknowledged some very serious problems within the Division of Vocational Education. There was some suggestion that momentarily the Attorney General would be acting through the grand jury in terms of indictments of certain people in the Division.

That has not occurred yet and, of course, this Committee is in a separate forum, and must respect the role of the Attorney General from a criminal point of view, in terms of his conduct of an investigation into the matter. There may be further comment about that either during or at the end of the hearing, but at this point we have subpoenaed a number of employees in the Division who have, we believe, information or knowledge of facts that could be helpful to the Committee. Those people will testify under oath. I have a formal statement to present to them, to explain basically their rights.

The purpose of this hearing is to gather information from which, hopefully, we can, as a Committee, make judgments and decisions about what, if any, further legislation is needed; what, if any, changes in public policy dealing with the operation of the Division of Vocational Education are needed;

what, if any, further protections, perhaps, are in order for public employees generally, so they are not unreasonably treated or harassed in their jobs should they see and be willing to come forward and comment about improprieties.

So, with that brief statement -- and Senator Gagliano has indicated he has no formal statement to start this hearing -- I think we will begin. I am comfortable to have, as a lead-off witness -- just to make a statement, I believe -- Vince Trivelli, Legislative Coordinator for the Communications Workers of New Jersey. Mr. Trivelli?

V I N C E N T T R I V E L L I: Thank you, Mr. Chairman and Senator Gagliano. I just have a brief statement on behalf of the CWA.

CWA Local 1033 represents approximately 600 unclassified employees in the Department of Education. Vocational Education has the highest number of unclassifieds -- approximately 50 -- of all the divisions in the Department. We are here with members of the Voc-Ed Division to shed light on the conditions that existed, and still exist in some cases, that allowed this terrible scandal to occur, and to remain hidden for so long.

It is important to note that several unclassified staff members that we represent uncovered the scandal by exercising their rights under the Conscientious Employee Protection Act. They did so at some considerable risk, because although this law, passed in 1986, affords after-the-fact remedies to employees retaliated against for disclosing what the employee perceives as wrongdoing, unclassified employees can be currently terminated without reason and without due process. From the day unclassified staff are hired, they are informed that they serve at the will of the Commissioner, and can be terminated without recourse. Managers of the unclassified yield incredible power over their employees, since dismissals and suspensions of more than five days cannot be

appealed outside the Department, as they can in the classified service.

Every division in this Department awards grants, according to Commissioner Cooperman's own testimony before this body. Therefore, the potential for theft exists throughout the Department. Although the Commissioner has undertaken administrative changes, such as tightening auditing functions, we do not feel his recommendations have gone far enough. Unclassified employees must feel secure coming forth with information when they perceive improprieties. That is why legislation is needed affording unclassified staff the same disciplinary rights as classified employees.

In addition, we recommend that the Conscientious Employee Protection Act be publicized throughout the Department, so that the employees are completely familiar with the current whistle-blowing rights.

Finally, all staff involved in the grant and funding process should receive formal training and written instructions to help them understand the dos and don'ts of the system, and to keep consistency among the divisions. You will be hearing more about these as the testimony goes on.

Thank you, Senator.

SENATOR STOCKMAN: Thank you very much, Mr. Trivelli. We are going to call as our next witness Fred Cappello. Mr. Cappello?

I know Fred Cappello. He has talked to me in the past and, in fact, was instrumental in persuading me to meet with Commissioner Cooperman over morale problems in the Division. From my experience with him, I was very impressed, and am impressed. I know this has not been an easy journey for him to this point. I hope he understands and appreciates that the Committee appreciates his willingness to share information with us in the hopes of improving conditions in the Department of Education.

Mr. Cappello, I have to swear you in under our present proceedings, so I would ask that you raise your right hand. Do you solemnly swear that the testimony you shall give in this matter now pending before this Committee shall be the truth, the whole truth, and nothing but the truth, so help you God?

F R E D C A P P E L L O: I do.

SENATOR STOCKMAN: You may be seated. Did you receive a subpoena from this Committee compelling your attendance at this hearing today, Mr. Cappello?

MR. CAPPELLO: Yes, I did.

SENATOR STOCKMAN: Attached to that subpoena was a copy of the Code of Fair Procedure. The Code of Fair Procedure gives you certain rights as a witness testifying here today before this Committee. For example, you have the right to be accompanied by counsel, who may advise you of your rights during the proceeding. Do you have counsel present here today?

MR. CAPPELLO: Yes, I do, Mr. Herbert -- Mike Herbert.

SENATOR STOCKMAN: Where is counsel at this point?

MR. CAPPELLO: Seated to my left.

M I C H A E L J. H E R B E R T, E S Q.: You don't recognize me with the glasses, Senator.

SENATOR STOCKMAN: Oh, Mike, I'm sorry. Mike Herbert is an old friend, but I didn't spot him at the witness table. Welcome.

MR. HERBERT: Senator, Michael Herbert, of the firm of Sterns, Herbert, Weinroth & Patrino. I have been involved with Mr. Cappello for about a year and a half throughout this entire episode. I full advised Mr. Cappello of his rights. He is very anxious to testify this morning. He has also prepared, for the convenience of the Committee and others, a written statement. He would like to read that. It is, if you will, a cleaned up version. The earlier one was quite rough. I would like, at this time, to hand that out to the members of the Committee, if I may.

SENATOR STOCKMAN: Fine. I have no objection to Mr. Cappello reading that statement to the Committee, and I appreciate receiving copies of it. Thanks very much. Go ahead, Mr. Cappello.

MR. CAPPELLO: My name is Fred Cappello. I am an Education Program Specialist I in the Division of Vocational Education. For the past 14 years, I have held various positions in the Division under four Assistant Commissioners of Vocational Education. My responsibilities for the last 22 months include overseeing the local area vocational school district designation process. Prior to coming to the State, I was a teacher and administrator with the Camden City schools, Rutgers University, Jersey City State College, and Glassboro State College.

Today my colleagues and I would like to provide this Committee with an understanding of how and why the Department of Education scandal came to be, and to offer some suggestions to help prevent it from happening again.

In 1983, I became a member of my union, the Communications Workers of America, Local 1033. At that time, there were very few members in the Vocational Division, probably no more than three or four professionals out of a staff of approximately 60. Professional employees in our Department do not readily identify with unions, but instead think of themselves as part of management. In my Division, this identification changed shortly after Gordon Ascher was appointed Assistant Commissioner. Soon after his appointment, he began to use his position of power indiscriminately. Decisions were made for self-serving reasons, rather than for the vocational students we serve. Professional employees who disagreed or crossed Gordon Ascher were routinely threatened with reassignments, lower job evaluation ratings, and even their jobs. Likewise, those who went along with him were promoted and given favored treatment.

First, some of us thought that this was a management "style" or simply a result of some personal problems. In short, we thought he would change. It soon became clear that things were only getting worse, and it became more difficult to perform our job-assignments in the atmosphere of intimidation that was created. Many of us became fed up with working in this atmosphere of fear and paranoia. My co-workers and the CWA staff were encouraging me to become a shop steward for my Division. For three years I turned them down, until I realized that something had to be done. In June, 1986, I became the shop steward. I wasn't prepared for what followed.

My manager, at that time Gregory Buontempo, told me that Gordon Ascher saw my becoming a steward as a "challenge to his power -- an act of betrayal." He immediately began to harass me and tried to use my manager to assist him. Just so you understand the retaliation that took place: He lowered my job evaluation rating for the first time in 13 years of service; my office was moved, without justification; I received an avalanche of harassing memos concerning petty issues; and I was threatened with reassignment to a small satellite office outside of the main building in Trenton. In addition, staff were instructed to speak to me as little as possible. My response was to call union meetings of our staff where I made these actions public.

This resulted in a dramatic show of support from my co-workers and a tremendous increase in union membership. My co-workers saw me as an outspoken challenger to Ascher and trusted me to represent them. A number of the staff began to confide in me about harassment they were enduring. They told me of many instances of unethical conduct on the part of Gordon Ascher and several managers. Ascher coerced some employees to lend him large sums of money, and he even tried to get some to go into business with him. I began to feel a great deal of responsibility to do something with all of this information, so I retained a private attorney for legal advice.

At the same time, the CWA filed an Unfair Labor Practice with the Public Employee Relations Commission on my behalf, because of the retaliation against me for becoming a union representative. In paragraph 15 of the Unfair Labor Practice -- and you have copies of that -- we recorded a conversation I had with my manager where I informed him of "improprieties" in my Division, and of my intention to inform the Attorney General. He discouraged me, and said, "Don't do anything crazy. If you go over his head you could lose real big."

To my surprise, no one in the Department who heard the Unfair Labor Practice charges asked me or the union about the "improprieties" I referred to. The union was attempting to discuss my case and Ascher's behavior with Arthur Spangenberg, the Department's Labor Relations Coordinator. However, it became clear that he and the other members of the Commissioner's staff were supporting Ascher, and were not open to settling my case. It was widely rumored that Ascher was close friends with the Commissioner, and that Assistant Commissioner DiPatri was weak and ineffective. Included in this was the fact that Ascher would constantly boast of his friendship with the Commissioner, referring to him as "Saul." The Unfair Labor Practice was eventually settled, but not until April, 1987, when it was clear that the Department would lose the case in a formal hearing.

During this period, several employees were visibly supporting my case. We were holding many union meetings and distributed union leaflets and bulletins to employees throughout the Department on the problems in Vocational Education. My strongest supporters were retaliated against by getting "involuntarily" reassigned to work they had little or no experience in, often in a satellite office removed from the group. Several grievances were filed and the union requested meetings with the Commissioner and State Board on the deteriorating situation.

In September of 1986, I was advised to go to the Governor's office on the problems. I met with staff from the Governor's office and told them about the coercion, sexual harassment of female staff, and suspected improprieties with grant funds. The Governor's representatives felt that the accusations warranted a second meeting with staff from the Attorney General's office. John Wynne, head of Criminal Investigation, and his staff, met with me a number of times and took hours of notes. I gave them copies of pertinent documents. They advised me to keep the investigation quiet, and to encourage others who had information to come forward.

Between October and December, 1986, I took four other unclassified workers -- Christine Joyce, Dennis Reiter, Gwen Fell, and Charles Kunkel -- with me to the Attorney General's office. I believe that several others came forward voluntarily in 1987. John Wynne, his staff, and others from the Attorney General's office always treated us in a concerned, professional, and fair manner. I went to the people I trusted -- my lawyer, union representative, Marjorie Egarian, and lawyers with the staff of the Governor and the Attorney General. In November, 1987, Marjorie Egarian and I met with Arthur Spangenberg and Steve Blaustein from the Department of Education. Marjorie informed them that two vocational employees were going to come forward with information of wrongdoing. We were seeking protection for them and enforcing their rights under the Conscientious Employee Protection Act. The two people were Charles Kunkel and Dennis Reiter.

The Department responded with an internal investigation headed by Richard Kaplan who, ironically, intimidated and threatened staff during their investigation. Several of my colleagues will expand on this in their statements.

Finally, I hope that by the end of this day we will have provided you with a clear understanding of the oppressive

atmosphere created in our Department that allowed this scandal to take place and remain hidden for so long. Also, I hope you understand that many of us faced the risk of losing our jobs by speaking up, since unclassifieds can be fired without a reason being given. All of the employees in State government have been touched by this scandal. Public trust is not something earned easily. We are, at this time, trying to regain that trust under the able leadership of our new Assistant Commissioner, Lloyd Newbaker, who my co-workers and I believe is an honest, caring, capable, and professional educator and administrator.

Recently, I have had several opportunities to talk privately with the Commissioner, and I am convinced that he supports vocational education and that the benefits of vocational education will continue to be available to the citizens of New Jersey. He has issued a letter to the Department's staff encouraging employees who suspect wrongdoing in any division to come forward. However, I believe that staff of my Department -- unclassified State employees who perform the work of the Department -- need permanent legal protection to allow them to speak up without fear of retaliation. As long as unclassified employees can be fired without a reason and without a hearing outside the Department, we risk losing our jobs whenever we challenge our managers, who are not always right and, as recent history shows, are not always dedicated to honest professionalism in their decision-making. Unclassified employees have low morale and high stress due primarily to the lack of the basic job security granted to classified employees. We need your help. We need legislation protecting the hundreds of dedicated professionals within the Department of Education.

Thank you.

SENATOR STOCKMAN: Mr. Cappello, of course, the Committee will review your statement after today as well, but I

think it raises some interesting questions that perhaps can get us further into exploring the picture of what was going on in the Division. First of all, when is it your recollection that Mr. Ascher came into the position in the Division? Do you recall approximately when that was?

MR. CAPPELLO: The early part of May, 1983.

SENATOR STOCKMAN: And, it was after that when you began to see this trend in terms of style of management, so to speak, within the Division?

MR. CAPPELLO: I would say for a number of early months, he was laid-back and appeared to be supporting staff and vocational education. Soon after that, a number of incidents happened. They didn't amount to much in isolation, but when put together showed -- indicated that there were some problems in dealing with him.

SENATOR STOCKMAN: Incidentally, were you familiar with the circumstances surrounding his appointment?

MR. CAPPELLO: Only through rumor, Senator. I think there are other people here more qualified to speak on that issue--

SENATOR STOCKMAN: Now, you--

MR. CAPPELLO: --but I heard that he was not the first choice; he was not in the finals of the--

SENATOR STOCKMAN: You mentioned that you had some serious problems with a lower job evaluation after 13 years, and other incidents that occurred to you. Having gone through that, and now knowing what we know about -- all the facts, has anything been done to deal with your personnel record to correct those matters, or not?

MR. CAPPELLO: Senator, we are rated on a one to five basis, five being the lowest rating possible. In 13 years of employment in the Department of Ed, I never had less than a two, and they were not ordinary. When this period of

harassment started, I was given an interim rating -- a six-month rating they called it -- the first employee in the Division of Vocational Education ever to get an interim rating. I was warned by my manager at that time, who, I might add, did not feel comfortable in doing this. He told me that he was going to be forced to give me a three, which was very unsavory in itself. However, when it came down to it, in August of '86 -- August 15, the day I filed my Unfair Labor Practice and the day I left for vacation -- Mr. Buontempo gave me a rating of a four, and said that my work was below par.

SENATOR STOCKMAN: What I am getting at is, has anything been done to review that judgment -- that decision -- and to correct it?

MR. CAPPELLO: Okay, I was getting to that, I'm sorry. The Unfair Labor Practice was settled. One of the things that bothered me in that settlement, was that they were going to do away with the interim rating, but on my next rating I would not get less than a three. That was in the agreement, and that is what they gave me. I was told by union officials that I probably could never get above a three for the rest of my career in the Department of Education.

SENATOR STOCKMAN: Well, what have you gotten?

MR. CAPPELLO: I then got a three rating. My manager at that time wrote it up, the accompanying verbiage to indicate that I really performed at a five. I refused to sign it at that time. It went back and forth, and finally they struck that verbiage. That was primarily handled by Dr. Spangenberg as a management representative.

SENATOR STOCKMAN: Of course, you had some criticism -- and we will get to that -- of Dr. Spangenberg in your testimony. What I am getting at is, I think someone in the Department should review your personnel record, in light of all of the information that not only this Committee, but I assume the Attorney General has gathered, to make sure that it fairly reflects your performance in that Division.

MR. CAPPELLO: Well, I welcome that. Also, in the Unfair Labor Practice when it was filed, my record was researched, and all of my ratings were submitted to that organization.

SENATOR STOCKMAN: Now, in this Unfair Labor Practice, you actually spelled out, or signed documentation, where you suggested that there were improprieties occurring within the Division. Is that correct?

MR. CAPPELLO: Yes.

SENATOR STOCKMAN: And that document was filed with the Department on what date?

MR. CAPPELLO: August 15.

SENATOR STOCKMAN: Of what year?

MR. CAPPELLO: 1986.

SENATOR STOCKMAN: Now, who in the Department, to your knowledge, became aware of that charge of improprieties?

MR. CAPPELLO: Well, the charge of improprieties actually took place on July 21, 1986 in a conversation with my then manager, Gregory Buontempo. The next step was to then put it in the Unfair Labor Practice.

SENATOR STOCKMAN: What was the gist of that exchange, which justified, in your opinion at least, the claim of improprieties in the Division?

MR. CAPPELLO: May I read that?

SENATOR STOCKMAN: Yes.

MR. CAPPELLO: It is item 15, Senators, dated July 21, 1986. It is the last part of that paragraph that I am going to read from: "Mr. Cappello mentioned to Mr. Buontempo that he was thinking about going to the Commissioner, or possibly Mr. DiPatri, another Assistant Commissioner with the Department of Education. Mr. Buontempo exclaimed, 'No, he hates DiPatri. They are at war right now. If you go over his head, you run the risk of losing real big. Don't do it.' Mr. Cappello then told Mr. Buontempo that he might go to the Attorney General's

office or the District Attorney, for a complete investigation, because he had heard about improprieties in the Division of Vocational Education. Mr. Buontempo urged Mr. Cappello, "Don't do anything crazy. Don't be a bullet for the union. Bullets are expendable. You will be responsible for wiping out vocational education in the State."

MR. HERBERT: Senator, that was paragraph 15 of the Unfair Labor Practice charge filed with the employer. That would be the Department of Education, as well as the Office of Employee Relations attached to the Governor's office.

SENATOR STOCKMAN: So, then, various agencies or divisions of State government would have been made aware as early as August 15, 1986 that you felt you had information of serious enough nature to justify bringing it for possible criminal prosecution to the Attorney General of the State of New Jersey. Is that correct?

MR. CAPPELLO: That is correct.

SENATOR STOCKMAN: That charge in writing would have had to be, at some point, presented to Commissioner Cooperman, would it not?

MR. CAPPELLO: Well, Senator, I assumed that that is what happened -- that that is what would happen. And I also assumed, and incorrectly, that somebody, between August 15 and whenever, would question me about what I meant by "improprieties."

I will be very frank with you. Improprieties is a word that I know the Commissioner had problems with, and some of his people, in their testimony here. I was not comfortable with the allegations at that time. It is very hard to point a finger at somebody and call him a criminal. These were items that I did not know of firsthand, but were submitted to me by other employees.

SENATOR STOCKMAN: But they were items that reached the level of consideration for submission to the Attorney General for criminal prosecution. Correct?

MR. CAPPELLO: Yes, correct.

SENATOR STOCKMAN: And, you put that in a formal grievance, which you signed and filed with State officials in August of 1986?

MR. CAPPELLO: Yes, I did.

SENATOR GAGLIANO: May I ask a question?

SENATOR STOCKMAN: Yeah, sure.

SENATOR GAGLIANO: I am a little confused here, Mr. Cappello. When you indicated that there were inproprieties, did you list those in writing at the time, or did you just say, "I suspect, strongly, based on what I have heard and what I understand, that there are things going on in the Department that are wrong, and they should be investigated"? Did you, at that time, say, "Here is what they are. Gordon Ascher is doing outside work and is being paid for it"? I mean, do you know what I'm saying?

MR. CAPPELLO: Yes.

SENATOR GAGLIANO: Was it actually listed, or was it just--

MR. CAPPELLO: No, they were not detailed; they were not listed, as you say.

SENATOR GAGLIANO: They were not listed. Excuse me, Mr. Chairman. When did someone first say to you, "Okay, you think you are aware of improprieties. You represent certain employees and workers here in the Department. Tell us what they are"?

MR. HERBERT: Senator, are you referring to people within the Department of Education or the Attorney General's office?

SENATOR GAGLIANO: Both. See, what I am trying to do here in my own mind is figure out the time sequence. Mr. Cappello is testifying with respect to the summer of '86, where he said, "There are improprieties." I can understand that he said it carefully, because he didn't want somebody to turn around and sue him if he was wrong, obviously.

MR. HERBERT: Senator--

SENATOR GAGLIANO: But, at what point was he given, shall we say, protection sufficient to be able to list those items?

MR. HERBERT: As best -- because I was somewhat involved in this -- as we can recall, shortly after the Unfair Labor Practice was filed, Mr. Cappello went to the Governor's office and talked to staff at the Governor's office. I was not involved in that process. The Governor's office heard the statement, and immediately contacted the Attorney General's office and, as was indicated in the statement, Attorney General John Wynne then met with Mr. Cappello in the Governor's office and undertook the investigation which, as best I can ascertain, led to the subsequent announcements about possible criminal action, and a criminal investigation.

So, the criminal investigation, as best we can detect, started in September, 1986, and the Governor's office became aware at that time.

SENATOR GAGLIANO: In other words, approximately a month and a half or two months went by between the time that Mr. Cappello indicated that there were improprieties in the Department and he was called in to discuss the details with respect to those. Is that true?

MR. HERBERT: No, it was probably within a month.

SENATOR GAGLIANO: Well, within a month. It was a fairly short period of time, as government works. In other words, it wasn't months. It wasn't six months or a year, it was fairly short?

MR. HERBERT: No, but the important thing is that the initiative was taken by Mr. Cappello himself to reach out to the Governor's office, and the Governor's office quickly responded and contacted the Attorney General's office. The rest I think you have heard about.

SENATOR GAGLIANO: If I may just finish this, because I am still not clear. So, Mr. Cappello filed an Unfair Labor Practice in the summer -- July or August --

MR. HERBERT: August 15.

SENATOR GAGLIANO: August 15. The next step, with respect to the issue of whether or not there were improprieties, was that Mr. Cappello initiated a conversation with the Governor's staff, not a response from someone in the Department saying, "Come on in here, Fred, and let's talk about this. I am going to shut my door, and you tell me what you know"?

MR. CAPPELLO: Senator, it was about four to six weeks. During that period of time, it became very evident to me that no one really cared about that part of my Unfair Labor Practice -- the improprieties. I was referred to, in one session of management's representatives, as a "knight on a white horse." It became very evident, very clear, that they were set up to protect Ascher's misconduct -- the charges I brought up. They didn't really care about what I was saying. It never, never came up. Therefore, I took the next action.

SENATOR GAGLIANO: In your opinion, did Gordon Ascher and the people on his staff kind of put the barrier up to short stop what you were doing so that it wouldn't go any further, or--

MR. CAPPELLO: Yes.

SENATOR GAGLIANO: --was it trivialized, as you say, "a knight on a white horse," to make it look like you were just making noise without substance?

MR. CAPPELLO: I think that is accurate, Senator. I think they presented me to Assistant Commissioner DiPatri and Commissioner Cooperman as a union activist who was out of control, which was very far from the truth. My colleagues will substantiate that. But, yes, that is what I do think he presented.

SENATOR GAGLIANO: Okay. Now I understand the sequence. Thank you.

SENATOR STOCKMAN: Just so I am clear, Mr. Cappello, you made this charge formally in writing, referring to improprieties, and referring to the matter being sent to the Attorney General. You lived through that unfair labor charge. It was negotiated by the State. It was settled by the State, and you moved on. You're telling us that no one in State government, either in the Department of Education or the Attorney General's office or the Division-- What is it?

MR. HERBERT: The Office of Employee Relations.

SENATOR STOCKMAN: --or the Office of Employee Relations ever put you to the test of explaining what it was, factually, that led you to that serious written charge. Is that your testimony?

MR. CAPPELLO: Not once did they ask me what I meant by that accusation -- not once did one person in the Department of Education, or any other department-- As a matter of fact, I talked with John Wynne about that. I said, "John, I have an Unfair Labor Practice in. I mentioned it, and the union picked it up and put it in my Unfair Labor Practice. What do I do if I am asked about it?" John Wynne's advice to me was, "Well, you are going to have to tell the truth, but we don't want to blow our investigation so we are going to have to talk to some people first." But he said, "If you are under oath, you have to tell the truth." That is what I was prepared to do.

SENATOR STOCKMAN: He said, "We are going to have to talk to some people." Did you interpret that to mean that he was going to talk to people within the chain of handling this Unfair Labor Practice charge, to try to discourage them from exploring it further? Was that your understanding?

MR. CAPPELLO: I had the understanding that that might happen, but it--

SENATOR STOCKMAN: Exactly what did he say to you that led you to that understanding, Mr. Cappello?

MR. CAPPELLO: Well, having been very naive about the situation, you know, I envisioned this as some kind of a courtroom battle when we got to it; that I was going to be sworn in and asked these questions under oath.

SENATOR STOCKMAN: And you were concerned about that, because they were delicate, and you did not want to unfairly, I gather--

MR. CAPPELLO: Well, I did not want to blow the investigation that had begun in late September. So I asked John if that situation came up, and he said-- He reassured me in the beginning that it probably would not come up. I pursued it, and he said, "Well, if it does come up," he said, "we will see what we can do. We'll talk to some people. But if you have to speak up, you'll have to speak up."

SENATOR STOCKMAN: Right. I would like-- I would appreciate from you, or from your counsel, if we could have it, a copy of the names of all of the people who were involved, directly or indirectly, in reviewing, responding to, or settling that grievance, either people in the Attorney General's office or people in the Division who deal with those kinds of employee complaints -- certainly in the Division of Vocational Education or the Department of Education. I would appreciate copies -- if you have them -- of any correspondence and any transcripts of any hearings.

Was there an Administrative Law Judge or someone who had to put a stamp of approval on a settlement of a grievance of this sort?

MR. HERBERT: Senator, I was not involved in the Unfair Labor Practice, except for reviewing it as private counsel at the time. I know it was filed with the Public Employment Relations Commission, and I know there were some negotiations between the union and the CWA and the employer. I

think that might be dealt with by the union people who were involved in that process.

SENATOR STOCKMAN: Well, maybe we can get it from them. Maybe I am missing something, but I must suggest to you -- and I have, of course, the benefit of hindsight -- that the spreading on the record of the fact that a charge of that seriousness was submitted and worked its way through the channels of State government, and was ultimately resolved in a manner which did not, at any time, call upon Mr. Cappello to share -- as I think Senator Gagliano asked -- any more details of that charge, to me, is rather incredible. It is not-- I do not understand it. It raises questions actually beyond and outside the initial scope of this investigation, or inquiry, really, and outside, perhaps, the Division of Vocational Education.

So, I would like, for the Committee's sake, for you to gather that material for me, because I think we may want to explore how that came to be.

MR. HERBERT: Senator--

SENATOR STOCKMAN: Now, I recall some testimony by Commissioner Cooperman. He contended that he personally never saw that grievance. To the extent that at some point it was brought to his attention, he had a rather esoteric exchange with a gentleman by the name of Blaustein, I guess, about, "Well, what does the word 'improprieties' in that context mean?" He seemed to suggest that perhaps it was a light term, as opposed to a heavy term, in terms of its implication.

The more I -- and I am speaking for myself alone, not the Committee yet at this point -- think about it, it seems a pretty heavy term when juxtapositioned with taking the matter to the Attorney General's office for action. I would like to get into that.

But, let me go beyond that, because I think we have at least made a record on that question, and ask you this.

MR. HERBERT: Senator, may I comment about one thing?

SENATOR STOCKMAN: Yes.

MR. HERBERT: I think it ought to be clear, though, that while the unfair-practice charge was filed on August 15, 1986, shortly thereafter, as indicated, Mr. Cappello went to the Attorney General's office, and the Attorney General's representative, Mr. Wynne, advised him -- sometime in September, 1986 -- after Mr. Cappello revealed the information and other sources, that he should not disclose it beyond that point, so as not to jeopardize an undercover investigation.

SENATOR STOCKMAN: Well, it may be that what will develop-- It is conceivable that Mr. Wynne, through the Governor's and/or the Attorney General's office, interceded with people in the chain of handling that Unfair Labor Practice, to discourage them from doing what at least at first blush, it would seem to me, was not only a logical, but an ethical and a moral thing to do, which would be to explore and find out whether there was a scintilla of evidence, a shred of reason to believe these charges and, if so, go after them.

Now, if that is the case, it is an unusual kind of move, and we will have to see. I am not sure that is the case.

SENATOR GAGLIANO: Well, see, that is the thing that I am wondering about; whether or not there was a parallel investigation. I mean, you can look at it two ways. Mr. Cappello has a story to tell, and nobody asked him because there was a parallel investigation going on. I don't know this. If there was a parallel investigation going on looking into whether or not there truly were improprieties, maybe they would not want to compromise him during this process, because they are finding out from other sources. They are finding out from documentation or other witnesses. I don't know that.

SENATOR STOCKMAN: Senator, I understand that. The problem I have with that-- It is quite logical, but it seems to me that unless there was a cooperation, a working together

of those two separate arms, I don't see how it could so happen. That is, you're right if Mr. Wynne, on behalf of the Attorney General and/or the Governor's office, put the word out that people involved in this Unfair Labor Practice, the Public Employees Labor Commission or the Department itself, were not to explore it. Fine. Then I understand the wisdom of that action might be something that we would want to take a look at, and it might withstand the test of examination.

But, failing that -- and we certainly don't have a record of that before this Committee yet -- then I am absolutely puzzled how that journey through resolution of such an Unfair Labor Practice could be resolved, without someone at least asking Mr. Cappello, "What were these improprieties that would justify your going beyond the bounds of your Division to the Attorney General to explore and perhaps prosecute?"

SENATOR GAGLIANO: I guess my comment is, they may have known what they were by that time.

SENATOR STOCKMAN: Well, we will have to get to that.

SENATOR GAGLIANO: I know; I understand that. Mr. Cappello, I don't know whether this is a proper question; I will defer to you. Can you now give us, without using names -- and we know a lot of what happened -- what were the three top improprieties that were on your mind at the time? There may have been a dozen; there may have been 20. Let's just say, what were the three most serious situations? You may or may not use names, and I may or may not have a proper question here. But, you know, sometimes an impropriety can be a searing thing which people would hear about, and would say, "Hey, we've got to start a criminal investigation." Another time it might just bounce off them, where they would say, "Well, eventually we will take care of that."

MR. HERBERT: Senator--

SENATOR STOCKMAN: Senator, I have no objection to that question, so through the Committee Chair, I would like you to answer that question, Mr. Cappello, except that I would say--

SENATOR GAGLIANO: I just picked three, but there might be six.

SENATOR STOCKMAN: Excuse me, Senator. I would say that whatever it is, or isn't -- whatever they are, or aren't -- still leaves open a nagging question, at least in my mind, as to why authorities did not do what you're doing -- explore that. But let's see what those were, if we can get them.

SENATOR GAGLIANO: Well, I am more curious maybe. I don't know.

SENATOR STOCKMAN: No, I'm curious, too, now.

MR. CAPPELLO: Okay. There were a number of things, Senator, that were brought to me during this period. Again, I want to go back in time a little bit. When I became a shop steward, I was now out here. I was Ascher's -- management's enemy.

SENATOR GAGLIANO: Well, we know that Ascher had his own agenda, so obviously you would be out there anyhow.

MR. CAPPELLO: Okay. I want you to know why I got the information, and not somebody else. People came to me in June, "You're the new shop steward."

SENATOR GAGLIANO: June of?

MR. CAPPELLO: June of '86.

SENATOR GAGLIANO: Of '86.

MR. CAPPELLO: Okay, '86. One of the first was a woman who reported to me charges of sexual harassment. It can be verified, but I would prefer not to use names at this point.

SENATOR GAGLIANO: I don't need names. Please, don't worry about that.

MR. CAPPELLO: Okay, sexual harassment. There was also another story about a woman who, at the lowest supervisory position, was put upon by Ascher to lend him \$5000. Through some family intervention, she did not lend him the \$5000 -- her family's intervention. I heard this story, and I heard a number of other harassment things.

SENATOR GAGLIANO: This person who told you about the \$5000 proposed loan-- You had no reason to doubt that, right?

MR. CAPPELLO: I had no reason to doubt that because she later was coerced to go into business with him. She put up her own money for that business.

SENATOR GAGLIANO: How much later, sir?

MR. CAPPELLO: Well, this was prior to June of '86. These are stories she told me had happened prior to '86 -- prior to June of '86.

SENATOR GAGLIANO: Oh, okay. It was in June of '86 that she told you--

MR. CAPPELLO: But it was in June of '86 when people felt comfortable--

SENATOR GAGLIANO: --because you became the shop steward.

MR. CAPPELLO: --enough with me to tell me about it.

SENATOR GAGLIANO: All right, I gotcha.

MR. CAPPELLO: Okay.

SENATOR GAGLIANO: So, at some point, she had been asked to lend him \$5000, and then later he followed up with, "How about being my partner?"

MR. CAPPELLO: Right. She put up the sum, I believe, of \$6000. He said that he would pay her later. Later she had the gall to ask him for her part of the business, because it failed, and that is when he then transferred her to an outside satellite known as "Siberia North." We had our Siberia South and North. He harassed her to extremes -- okay? -- to the point where she had to have outside help. She told me about these things.

SENATOR GAGLIANO: Did she ever indicate to you that she had a check stub or a canceled check?

MR. CAPPELLO: She had all that.

SENATOR GAGLIANO: She had all that? Did she show you that?

MR. CAPPELLO: Yes. That is in the hands of the Attorney General's office. Okay, those were a couple of things, but they preyed on my mind. -- I did nothing with those things at that time. What really spurred me on was another member of the staff -- and I am going to use his name because he is here today; he is going to give testimony, and I am sure you can get into the details with him -- Dennis Reiter. Dennis Reiter and I had very little to do with each other professionally over the years. I knew him casually for a number of years. But he came to me approximately in early July, and said that he felt there were some things that were going on that were definitely-- His words were, "definitely criminal."

Now, not knowing whether or not what he had to present to me was definitely criminal, I began to question him. He brought up the business about Cape May County. He told me that in his possession he had a proposal -- a written proposal. It was written by a manager on the floor and edited by Ascher, and it had all the editorial marks within the borders of the proposal. He said, "Not only that, but one of the consultants in this proposal was a man who has been popping up in other proposals."

Well, I wasn't exactly sure what all this meant, and I couldn't sort it out. I asked him to go back and do a one-page summary of all the highlights of this thing, which he did. He also brought me another one-page summary of highlights about a project called "Modelnetics," where he felt there was some trading off and some buying of materials that were not supposed to be purchased by an agency called the Vocational Education Resource Center -- VERC -- which is an arm of Rutgers. I'm sure you have heard about it.

They were the two major things I was concerned about. I don't want to devalue the sexual harassment, because it was very traumatic to that one female employee.

The Cape May County proposal that was shown to me also dovetailed into some other information that was given to me by another employee, who said that she served as a State representative to a statewide committee -- a blue-ribbon statewide committee -- that was studying the effects of the high school graduation requirements on vocational education. She said that Ascher had controlled that committee to come out with the priorities that stimulated, or that kicked off the Cape May County proposal.

As I said in my statement, having this information bothered me quite a bit. I tried to figure out what my responsibility was with it. I didn't think it was a union problem, and I didn't think it was a political problem. I think, Senator Stockman, that I never brought these charges up to you in any of the conversations we had. It was strictly a union relationship that we had, and morale.

Anyway, on July 21, that conversation that I had with Gregory Buontempo was the first time that any of that information came to light in any kind of detail. This again is an excerpt from that conversation that I had with him. I told him what I suspected, and I told him about Modelnetics, and I told him about Cape May County. I told Gregory Buontempo that I wanted him to come with me to sit with somebody from the Governor's office. He became very upset, and said that he--

MR. HERBERT: "Don't be a bullet."

MR. CAPPELLO: "Don't be a bullet for the union," right. "Don't be used," is what he--

SENATOR STOCKMAN: Senator, are you satisfied with that?

SENATOR GAGLIANO: Yeah. I think that was fairly substantial.

SENATOR STOCKMAN: Let's go to the next step. It was, as you indicated, September of '86 that you went to the Governor's office. Is that correct?

MR. CAPPELLO: Yes.

SENATOR STOCKMAN: Who did you meet with in the Governor's office?

MR. CAPPELLO: I met with one of the attorneys on the Governor's staff.

SENATOR STOCKMAN: Do you remember his name?

MR. CAPPELLO: I remember her name -- Jane Kelly.

SENATOR STOCKMAN: Who?

MR. CAPPELLO: Jane Kelly and Peggy Howard -- Deputy Chief of Staff.

SENATOR STOCKMAN: This meeting took place where?

MR. CAPPELLO: It took place in the Governor's -- outside the Governor's office in one of the--

SENATOR STOCKMAN: All right. Who accompanied you to that meeting?

MR. CAPPELLO: I went by myself at that time.

SENATOR STOCKMAN: What, if any, materials did you bring with you?

MR. CAPPELLO: I brought the Cape May materials; I brought the summaries that Dennis Reiter prepared; and I brought some of these anecdotes that I had put together.

SENATOR STOCKMAN: And the three of you engaged in a discussion of that material and that information?

MR. CAPPELLO: Yes. I told them just what I told this Committee.

SENATOR STOCKMAN: And they were both attorneys, this Jane Kenny and Peggy Howard?

MR. CAPPELLO: Jane Kelly--

SENATOR STOCKMAN: Kelly.

MR. HERBERT: I don't know about Peggy Howard. Is she an attorney?

MR. CAPPELLO: I don't believe she is an attorney. I think she is a Deputy Chief of Staff.

SENATOR STOCKMAN: But Peggy Howard was an attorney?

MR. CAPPELLO: No, Jane Kelly.

SENATOR STOCKMAN: Jane Kelly is an attorney. Peggy Howard--

SENATOR GAGLIANO: You're going to get it right one of these days. (laughter)

SENATOR STOCKMAN: One of these days, all right. But, Miss Kelly did discuss with you these charges, these allegations, the seriousness of them, the possible criminality of them, did she?

MR. CAPPELLO: Yes.

SENATOR STOCKMAN: What did she say? What did they say to you?

MR. CAPPELLO: They said that this warranted another meeting, and they thought they should call in a representative from the Attorney General's office to further look into these charges.

SENATOR STOCKMAN: What, if any, advice did they give you at that time?

MR. CAPPELLO: They advised me to cooperate with the Attorney General's office and to, you know, keep the investigation quiet at this point.

SENATOR STOCKMAN: How long did that meeting last, approximately?

MR. CAPPELLO: The first initial meeting? I would say maybe two or three hours. It was a very lengthy meeting.

SENATOR STOCKMAN: And, they explored at length this information?

MR. CAPPELLO: Yes. It was quite involved. I probably got into more detail than I should have. I am not sure that I fully explained all the intricacies of it, but they felt there were some criminal problems with the Cape May business and the Modelnetics.

SENATOR STOCKMAN: They actually suggested that to you?

MR. CAPPELLO: Possible criminal charges.

SENATOR STOCKMAN: Did they take notes at this meeting?

MR. CAPPELLO: Gee, I'm thinking two years back.

SENATOR STOCKMAN: Yeah, it is a long time ago. That is one of the concerns we have.

MR. CAPPELLO: I think the gist of that meeting was, they were kind of taken aback by some of the tales that were told, and that I definitely should meet with a representative from the Attorney General's office. There were some notes taken, I believe.

SENATOR STOCKMAN: Did you make any notes at that meeting?

SENATOR GAGLIANO: He probably just kept talking.

SENATOR STOCKMAN: Well, I don't know.

MR. CAPPELLO: I have dates, Senator -- exact dates and things -- but I kind of stopped taking notes after a while because I was tired of it.

SENATOR STOCKMAN: All right. Look, Mr. Cappello, I don't mean to be critical of you about this.

MR. CAPPELLO: No, I know.

SENATOR STOCKMAN: I mean, just so you understand where I am coming from, this was a meeting in the Governor's office -- or outer office -- with top Governor staff people, in September of 1986, at which you discussed these improprieties which seemed to have a criminal flavor -- which I gather they suggested to you had a criminal flavor to them -- and they were going to get into them. I think you can understand why I want to be sure you're right about the date, but also about the gist of this exchange. We will have to try to get more information about that from other sources.

MR. CAPPELLO: I will say this, Senator: I met with Peggy Howard and Jane Kelly first. The exact date, I think, was somewhere around September 24. But a meeting that took place in the Governor's office with the same two people and John Wynne was only a couple of days later -- September 26. In

that meeting -- September 26 -- John Wynne said that he wanted to talk to me on the twenty-ninth, three days later, at great length. I went to that meeting, and decided that, well, you know, maybe they were looking into some of these allegations about my union activities and felt that I was not a credible person. So I took two others with me to that meeting on September 29.

SENATOR STOCKMAN: Let me stop you, because I am not satisfied that we have the total picture. Let's go back to the first meeting. How did you feel after that first meeting was over?

MR. CAPPELLO: I felt relieved. I felt that these people were interested in this. They made expressions that gave me a great deal of support in terms of the things that Ascher was doing to staff.

SENATOR STOCKMAN: All right. Now, on the twenty-sixth, which was the second meeting, which John Wynne attended along with Jane Kelly and Peggy Howard, you got into more detail, I gather, and he questioned you further.

MR. CAPPELLO: Well, John questioned me at length. He got into the substance, you know, did I think that this consultant was kicking back -- these kinds of things.

SENATOR STOCKMAN: How did you feel after that second meeting?

MR. CAPPELLO: I felt even better. Something was being done.

SENATOR STOCKMAN: Okay. At either of those meetings, was there any discussion about Commissioner Cooperman and his right to be somehow made aware of what was going on, or not?

MR. CAPPELLO: I don't remember anybody saying specifically, but I kind of-- (Mr. Cappello stops here to consult with his attorney) I think the picture, Senator Stockman, that I painted to Kelly and Howard and Wynne was one where I wasn't exactly sure where the Commissioner and his

people stood in the overall scheme of things. I didn't have any faith in going through the system in the Department, primarily because of the picture that Ascher had painted to us. I think anybody who you would call in here from the staff in the Vocational Division would tell you the same thing;-- that on many occasions Ascher -- and I said this in my statement -- referred to Cooperman as his friend, Saul, that they were in graduate school together. Whether these rumors were true or not, I had no way of knowing, but I did not trust that system. I felt more comfortable dealing with the Governor's and the Attorney General's staff.

SENATOR STOCKMAN: Did they discourage you from using any other source other than the Commissioner himself? We know your sense of Ascher and his role in all of this, but there were other people in the Department. Was there any discussion of going to any other people above Ascher, short of Cooperman?

MR. HERBERT: Senator, are you talking about the Attorney General's office?

SENATOR STOCKMAN: I am talking about both the Governor's and the Attorney General's office in these earliest of meetings. I mean, what I am trying to get is, was there -- and it is clouded, at least in my mind at the moment -- a direction to you not to make any effort thereafter to deal with anyone other than the Attorney General, or was it loose, or what? What was it?

SENATOR GAGLIANO: I thought he said that Mr. Wynne suggested that he not say anything in the Department because it might interrupt or interfere with the investigation. That is what I think he indicated before.

MR. CAPPELLO: Early on, Senator-- You're right, Senator Gagliano. That's true. But early on, in my meetings with the people in the Governor's office, I think I drove home the point to those people that I didn't have any faith inside that system. I said, "I know, from what I have experienced,

from what I have seen, that that would go back down to Ascher, and Ascher would come after me and I would be history, and anybody else who is named in this would be history."

SENATOR STOCKMAN: Now, you had the second meeting on September 26 with Mr. Wynne, Ms. Kelly, and Ms. Howard, and you had a third meeting, you said. Was it at the third meeting where you began to be concerned in some way, or did I misunderstand you about the direction?

MR. CAPPELLO: The third meeting took place-- The twenty-sixth was a Friday; September 29 was a Monday.

SENATOR STOCKMAN: Who was at the twenty-ninth meeting?

MR. CAPPELLO: Who was at that meeting? John Wynne, myself, Christine Joyce, Dennis Reiter, and I believe a staff person was with Wynne. I have his name, but I can't remember him -- John Coglin (phonetic spelling), I think.

SENATOR STOCKMAN: All right. But these other two persons -- Christine and Dennis -- were also employees in the Division, I gather?

MR. CAPPELLO: At that time, Dennis was; Dennis Reiter was still an employee. Christine Joyce got fed up with it. She resigned her position and took another position with the New Jersey School Boards Association.

SENATOR STOCKMAN: Now, did you have any further meetings with Wynne or with other people in the Governor's office after that?

MR. CAPPELLO: I never met with the Governor's office staff after that. I met with John Wynne and his people on numerous occasions. -- many, many times.

SENATOR STOCKMAN: When you say numerous, let's take in the year 1986, to the end of the year. Mr. Cappello, can you give us any idea of how many times you are talking about?

MR. CAPPELLO: I returned again maybe a week later with a couple of other people who accompanied me, and I mentioned that in my statement. I guess, gee, I don't know. We were meeting there for a while on a weekly basis.

SENATOR STOCKMAN: Now incidentally, this would be daytime meetings?

MR. CAPPELLO: These were evening meetings, because I was living in a fish bowl. I came back from lunch one day 15 minutes late and was chastised because I was 15 minutes late. So I was very careful of my hours, Senator.

SENATOR STOCKMAN: Now, through 1986 -- let's take through to the end of the year -- you had, I gather, more than a half a dozen meetings with John Wynne.

MR. CAPPELLO: I would say a half a dozen, possibly more.

SENATOR STOCKMAN: And what was the gist of them, without going into each? I gather you were supplying him with more information, or answering more--

MR. CAPPELLO: Yes. It just kept coming up. See, Mr. Reiter was in a very key position in the finance area. Every third party contract crossed his desk. So, everything that didn't look right, Dennis Reiter would take notes, summarize it, and get that to the Attorney General's office.

In addition, Charles Kunkel, an employee with the Division, came forward, and he will speak to that today I'm sure. He had the responsibility for the vocational student organizations, and he did a program audit. He felt that this audit was not being treated in a serious manner. He had support from his manager at that time. His manager was also subpoenaed here today, and you can hear from him on this issue. But, Charles approached me. He had concerns. He said he didn't know what he wanted to do with it. He didn't think it was a union matter. I encouraged him to go to the Attorney General's office.

Charles Kunkel went to the Attorney General's office, brought these audit reports, and turned them over. In addition, Gwen Fell, who also had these vocational student responsibilities, accompanied us. Gwen Fell has since retired

from the Division. But it would be fair to say that at least six meetings took place with the Attorney General's office during that period.

SENATOR STOCKMAN: Through that period, things continued tough in the Division as far as Gordon Ascher went?

MR. CAPPELLO: Tough? Yes, very tough.

SENATOR STOCKMAN: And--

MR. CAPPELLO: Look, let me--

SENATOR STOCKMAN: But, you were hopeful, I assume, through the end of the year -- through '86 -- that there was light at the end of the tunnel--

MR. CAPPELLO: Yes.

SENATOR STOCKMAN: --that one day soon, those people who had been, in your opinion, acting recklessly and outrageously and perhaps criminally, would be brought to task?

MR. CAPPELLO: All through my dealings with John Wynne and his staff, I had the utmost faith in what he was doing and what his people were doing.

SENATOR STOCKMAN: We're through December now. It started in September, then October, November, December, and you go into early '87. Did you continue in January, February, and March of '87 to meet with Mr. Wynne?

MR. CAPPELLO: Meetings and phone calls back and forth, yes. Any information I got-- There were secretaries on the floor who were Xeroxing schedules, and we were sending schedules over to him. We were supplying him with a lot of information that he needed.

SENATOR STOCKMAN: I gather there was no further direct contact with the Governor's office?

MR. CAPPELLO: No further contact with the Governor's office, other than the first two meetings.

SENATOR STOCKMAN: Now, April was the month when you apparently brought to a head and negotiated this Unfair Labor Practice issue. Is that correct?

MR. CAPPELLO: Right.

SENATOR STOCKMAN: Was there any discussion with Mr. Wynne about that, and about settling that?

MR. CAPPELLO: My agenda in this, Senator, was that these criminal charges be satisfied through the court system, and not through the union or politics. I didn't want to be responsible for any of this getting into the newspapers, affecting, one way or the other, Commissioner Cooperman's agenda with the takeover or any other policies that he was initiating. I told John Wynne that right up-front; that what I-- That is one of the reasons why when we met with you in December -- I believe it was December 27 in your office -- when I was representing Leon Colavita and Don Jones in their grievances, that we were meeting on a union issue. I was instructed to keep the investigation quiet. I didn't want to bring that up at that time, so my actions were such that I didn't want this political--

SENATOR STOCKMAN: Was there ever any discussion between you and the Attorney General's office prior to meeting with me as to the sensibleness or non-sensibleness of sharing with me any of that information?

MR. CAPPELLO: No. John Wynne said to me on numerous occasions, "Look, if it comes out" -- because I said things like, "Well, Leon Colavita and Don Jones are going to meet with their Senator because they feel they want more action--" These guys were suffering because of me. Real or imagined, they were perceived to be my friends by Gordon Ascher. They were set upon, and I can talk about that later. But they felt they couldn't get any recourse; that the hearing they had inside the Department was a sham and a joke, and I can talk about that and tell you those things. So, they took those actions.

I told John Wynne that Leon Colavita suspected there was some type of an investigation going on. If he brings it up, you know, what shall-- He told me that I could not control

what people should say and what they shouldn't say. If it came up, it came up. He was not-- He said that I shouldn't say it, that's all, because it would queer the investigation.

SENATOR STOCKMAN: But, just so we're clear-- Understand me, Mr. Cappello, I am not faulting you; I am not faulting John Wynne. This is not the time for faulting at this moment, and I certainly am only one member of this Committee.

MR. CAPPELLO: I understand.

SENATOR STOCKMAN: What I want to be sure of is, I want the record clear as to the facts. Now one fact I happen to know personally is that you, indeed, did come to me. Out of that coming to me was a meeting with employees and things of that sort and, indeed, a meeting with Commissioner Cooperman, which was discussed on the record with Mr. Cooperman earlier. But I want a clear understanding as to what was happening with you, because you complained to me -- it is my recollection; correct me if I am wrong, because I am not under oath here, you are (laughter)-- You complained to me about serious and widespread morale problems in the Department, and you sought, as a representative, relief. You sought my intercession with Commissioner Cooperman, etc. You couldn't share -- or you didn't share with me, is my recollection -- again, correct me if I am wrong-- You did not share with me the serious allegations of possible or probable criminality. Correct?

MR. CAPPELLO: No, I didn't, because it was an ongoing criminal investigation.

SENATOR STOCKMAN: The reason you made the judgment not to share that with me, even when you came to me and we had a friendly and an at-length discussion and then a meeting with your employees in the Department right on the floor where they worked, and then a meeting with Cooperman, was that Mr. Wynne had suggested to you -- am I correct in this? -- that you should not share that information. That is what I am trying to get. I am not real clear in my own mind.

SENATOR GAGLIANO: I think he said that Wynne said it would queer the investigation. That's what he said.

MR. CAPPELLO: Yes. He told me to keep it quiet because it was an ongoing investigation. That is what he told me. He did not tell me specifically not to tell you or anybody else. He just said, "Keep it quiet." But again, I want to make this clear: He said, "If Leon Colavita finds out about it, there is nothing that can be done about it. It comes out." He said, "That's all. That is what will happen."

SENATOR STOCKMAN: Now, in April you settled, and I am not sure you answered this question. Did Mr. Wynne, or anyone else, have any input or make any suggestions to you about settling the Unfair Labor Practice, including the allegation of improprieties?

MR. CAPPELLO: No, he did not. At one point in the discussion, I was concerned that the harassment was continuing. Employees were being made to do things that compromised their integrity. I was concerned, and I told John. John said they were in the process of a criminal investigation. "There is a possibility that people are going to go to jail here. Harassment charges, etc. will be dealt with along the way," that those things would be taken care of.

SENATOR STOCKMAN: Now, we're into April and we go to May and June. Let's take the summer of '87. By this point, you are approaching a full year of harassment, as I understand it, low morale, serious difficulties in the Division, and yet the Attorney General has not acted. Correct?

MR. CAPPELLO: Correct.

SENATOR STOCKMAN: Were you upset or frustrated at that point over that inaction?

MR. CAPPELLO: Forty pounds worth. I gained 40 pounds. Yes, I was, really. (laughter) Yes, I was, but--

SENATOR STOCKMAN: Did--

MR. CAPPELLO: Senator, just to continue with that, my understanding at the time was that it was a very complicated-- There was an undercover investigation going on. There were many things that we were not privy to, but we got the idea that it was very sensitive, and that we shouldn't be talking about it. Not once did I question that.

SENATOR GAGLIANO: May I just interject here?

SENATOR STOCKMAN: Yeah, sure.

SENATOR GAGLIANO: While Mr. Cappello was testifying, I was reading from the transcript of our last hearing, which was on April 19, 1988. The reason I mention this is, apparently there was a parallel situation going on. Commissioner Saul Cooperman, in the first part of his testimony, said, "I will begin by directing myself to answer your first question: When did I find out about this? That was on November 16." Now, November 16, I am assuming, was November 16, 1986.

UNIDENTIFIED SPEAKER FROM AUDIENCE: '87.

SENATOR GAGLIANO: '87?

MR. CAPPELLO: That was '87.

SENATOR STOCKMAN: Do you mean how could all of these visits and all of this going on escape Commissioner Cooperman's attention until November, 1987? I mean, I don't mean to--

MR. CAPPELLO: People were really closed-lip, Senator.

SENATOR STOCKMAN: Mr. Cappello, did Mr. Wynne ever suggest to you a timetable or a likely time when the Attorney General would act on this?

MR. CAPPELLO: I think probably that discussion may have come up at different times, because I was quite anxious after probably the first eight months.

SENATOR STOCKMAN: You were paying a very serious price for this time, correct?

MR. CAPPELLO: I was, but my colleagues were even more so, because I at least had the protection of being a shop

steward. But my colleagues who were transferred and put upon had to endure that.

SENATOR STOCKMAN: Incidentally, over this span of time, did you have any reason to believe that if there was criminal activity going on in the Division, that it had stopped? Do you understand my question?

MR. CAPPELLO: Yeah. No, it didn't stop.

SENATOR STOCKMAN: So, you had the added frustration of knowing that even though in September of '86 you had shared this information, that here you were in August and September of '87, and nothing has openly happened. The villains are still, you know, with impunity, ongoing in their activity, and the criminality of conduct in the Division of Vocational Education was still going on.

MR. CAPPELLO: Yeah. I would ask you to refer that question to Dennis Reiter under his testimony, because again, he was sitting in the chair that processed this kind of information. He would, every once in a while, tell me that he caught another proposal that he was keeping in his desk drawer and dragging his feet on so that it wouldn't be paid out. You might want to get into the details there, but he contends that he saved the State a half a million dollars anyway.

SENATOR STOCKMAN: I suspect he did. We will get that. Incidentally, even in the relationship we had, and in the efforts that I was involved in at your behest, am I correct in feeling that you felt a little uncomfortable, in that while bringing to me claims of widespread morale problems and difficulties, and my trying to come to grips with whether that was legitimate or whether it was strictly a union-instigated, one-sided -- that kind of thing -- and, indeed, bringing that issue to Commissioner Cooperman, you could not share fully with me all you knew about why the situation was as bad as it was? There was a certain, really lack of honest, full communication between us.

MR. CAPPELLO: Yes.

SENATOR STOCKMAN: All right. I understand that now. I didn't then, but I understand it now.

MR. CAPPELLO: In September, nothing unusual happened, I gather -- October. Were you still meeting with Wynne?

MR. HERBERT: This is '87, Senator.

SENATOR STOCKMAN: '87, yes.

MR. CAPPELLO: Yes, we were.

SENATOR STOCKMAN: Were there any meetings with others than Wynne?

MR. CAPPELLO: There was a State Police detective who we also met with, and another fellow. Charles Kunkel or Dennis could probably provide those names. I think there were probably four or five of his staff that we met with at different times. I got the feeling that there were some things that were really happening -- really going on; that there was an operation going on, but we were not privy to it.

SENATOR STOCKMAN: So you had to bite your tongue. What about November, '87?

MR. CAPPELLO: In November, '87, I think there was a great deal of frustration on the parts of all of us who were involved in this. At that time, we met with John Wynne, and we told him, and a couple of his people, that we were concerned. You know, "When is it going to happen, because we can't hold on much longer?" People were leaving in droves. It was just an unbearable situation. He said they were getting close; to be patient. Charles Kunkel said, "Well, you know, I am going to be transferred now because I won't cooperate with Ascher. I won't compromise myself with this vocational student organization audit I called for." Ascher started to go after Kunkel and tried to transfer him to the satellite, lesser-type position in Siberia South, which is Independence Mall. Charles told Wynne that he would like to protect himself, as well as Dennis Reiter, by going inside and asking for an internal investigation. Wynne said, "Fine."

SENATOR STOCKMAN: That was in November?

MR. CAPPELLO: That was in November. We had a meeting with Blaustein and Spangenberg, myself, Marge Egarian, and John Dougherty, who is the head shop steward. We met with Blaustein in his office, and at that time Marge Egarian brought it up.

MR. HERBERT: She is the CWA representative, Senator.

MR. CAPPELLO: And informed Blaustein that two people wanted to come forward with allegations.

SENATOR STOCKMAN: Now, before we get to that, I want to back up for one other thing in your statement that I am concerned about. You make mention of Arthur Spangenberg and the fact that prior to resolution of your Unfair Labor Practice, which included a claim of improprieties and possible criminal activity, that the union-- I gather that you attempted to discuss Mr. Ascher's behavior with Arthur Spangenberg, the Department's Labor Relations Coordinator. Dr. Spangenberg is still with the Department, correct?

MR. CAPPELLO: Yes, he is.

SENATOR STOCKMAN: You suggest in your statement -- and that must have been what, early 1987, right?-- The grievance was filed in '86; it was resolved in April of '87. So your efforts to meet with Spangenberg and discuss it were at the end of '86 or early '87?

MR. CAPPELLO: In the early stages of that Unfair Labor Practice we had meetings, with Spangenberg, myself, and John Dougherty in attendance. It was quite evident that, you know, these allegations we were making were interpreted as being absurd by us; that Ascher was, indeed, telling the truth. We weren't treated in a manner that said that anything would be done. It was very frustrating.

SENATOR STOCKMAN: What did Mr. Spangenberg say and how did he treat your charge, formally signed and part of an official complaint, that there were improprieties that could justify a criminal action? How did Mr. Spangenberg respond to

that? Did he ask you what you meant? Did he try to get more information from you?

MR. CAPPELLO: He never asked. Not once did he ask what I meant by improprieties; never once asked what I meant about going to the District Attorney; never once asked what I meant by going to the Attorney General.

SENATOR STOCKMAN: Before we get back to November and beyond of '87, aside from Spangenberg, were there any other ranking employees in the Division who you attempted to share -- the Department actually, not just the Division -- this information with, in hopes of getting some relief?

MR. CAPPELLO: No, there were not. At one point I came very close to talking with Assistant Commissioner Rich DiPatri about it.

SENATOR GAGLIANO: At what point was that, Mr. Cappello, if you can remember the month, not the day?

MR. CAPPELLO: I believe it was in early September.

SENATOR GAGLIANO: Of?

MR. CAPPELLO: Of '86. I thought about it. I got on the elevator with him, and I almost brought it up. He and I were alone. But--

SENATOR GAGLIANO: That was before you talked to the Attorney General, I take it.

MR. CAPPELLO: It was before I went to the Governor.

SENATOR GAGLIANO: I meant the Governor.

MR. CAPPELLO: I just couldn't do it because of the picture that was painted about him. I know the Commissioner referred to him as a wimp, which was imagined at that time by our Vocational Division. We have since found out that he is not a wimp. (laughter) He may be overcompensating, by the way.

SENATOR GAGLIANO: He is sitting behind you. It's a good thing you said that. But they also said that the opposite of that is a whip.

MR. CAPPELLO: Yeah, he's closer to a whip.

SENATOR STOCKMAN: All right. I think you have answered that question. Now, back to the November exchange with apparently Mr. Spangenberg and Mr. Blaustein. What was Spangenberg's reaction at that time -- at this first meeting in November, when you indicated that employees were coming forward with information and you sought protection under the Conscientious Employee Protection Act?

MR. CAPPELLO: I don't remember Spangenberg saying anything. Blaustein, who he reports to, spoke up immediately. He turned to me and said -- and I remember it quite vividly because he said it very strongly -- "Fred, if you know of anything, allegations, whatever, of any wrongdoings or improprieties in that Division, I want those people to come to me." We said they would be there, and they were there in a matter of days.

SENATOR STOCKMAN: All right. You mentioned that an internal investigation was set up headed by Richard Kaplan. Mr. Kaplan's responsibility or position at that time was what?

MR. CAPPELLO: He was heading up the investigation. I don't know exactly. I think he is in the school takeover group. I think that's--

SENATOR STOCKMAN: But he was not part of Vocational Education? You had no prior dealings with him? To your knowledge--

MR. CAPPELLO: No, just said hello socially, that kind of thing.

SENATOR STOCKMAN: Now, describe-- You reach a conclusion-- You give us a conclusion in your statement, Mr. Cappello, that this was conducted in an intimidatating and threatening way. Can you be more specific? It may be testified on by others, but what happened, and why do you describe it that way?

MR. CAPPELLO: All right. I have only stories. There are people here who are going to present--

SENATOR STOCKMAN: Perhaps because of time, let me back off if you have no firsthand information on that. But if other employees are-- "I think we would probably rather take it that way" -- at this point in time -- at this point in time --

MR. HERBERT: I will say this: Mr. Kaplan appeared in Mr. Cappello's office one morning. I then was in touch with Mr. Wynne about the possibility that the investigation by the Commissioner's office might somehow jeopardize the ongoing investigation. I expressed the concern that the manner in which Mr. Kaplan was conducting the investigation could scuttle the longstanding Attorney General's inquiry. I don't even know who Mr. Kaplan is, but he got on the phone with me and I told him that. I asked him was he aware of the fact that there was an ongoing investigation. He said he was, but he had instructions to proceed. I don't exactly remember what he said, but at that juncture I instructed Mr. Cappello not to proceed until we got some ground rules straightened out. As I understand it, Mr. Kaplan never got back to Mr. Cappello.

SENATOR STOCKMAN: When was that conversation, Mr. Herbert, approximately?

MR. HERBERT: I would say December of 1987.

MR. CAPPELLO: It was December, 1987.

SENATOR STOCKMAN: All right. Mr. Cappello, I have no further questions. I don't know whether Senator Gagliano does.

SENATOR GAGLIANO: Well, we have many witnesses. Each question brings out another question, but we have so many witnesses, maybe we better let them have an opportunity to speak.

SENATOR STOCKMAN: Yeah, we better move on. Is there anything else, Mr. Cappello, that you think we should know as a Committee exploring what happened and why and how to see that this kind of incident is not repeated in State government?

MR. CAPPELLO: Well, the Commissioner said he is putting a number of controls into action. I think that's

good. However, I have to agree with him when he says that you have to have honest people working the system. I don't see anything terribly wrong with the system we were using. I just see that we had a man who was allowed to intimidate people to do things that they wouldn't normally do. It becomes very intimidating to a worker who has been with the Department, who has given his soul to the Department, when he is threatened with a job action or a transfer for no reason.

I want to underscore that by one other thing: I said that friends of mine were hurt, and they were. Twelve people were reassigned in December of '86. It was said by the Commissioner -- by Dr. DiPatri -- that they stood behind those reassignments, and that they were important because they were to evaluate the private schools. I don't question that, but I think Ascher used that to come down on these people, one of whom is your constituent, Leon Colavita, another being Don Jones. They were demoralized and professionally hurt by these actions. In a hearing which is inside the Department -- and that is the key issue here-- As unclassifieds, we can't get an unbiased hearing. But in a hearing -- Leon Colavita's hearing -- it was ruled that the transfer could stay. That hearing officer, after four hours of hearings that day, ran out the door and left all the notes of those four hours on the desk. I had to pick them up and take them to his office. That is how important this damned thing was to him.

But I will say this: His conclusions were at least guilt-ridden. He concluded in that action: "After hearing the testimony and reviewing the documents submitted, the hearing officer is compelled to state that the process followed by management to inform Mr. Colavita of his reassignment lacked a sensitivity to the potential reaction of a career employee to a reassignment. Basic human relationship skills were neither applied in this instance, nor were they apparently considered. The hearing officer, although finding fault with management's

handling of Mr. Colavita's reassignment, finds no contractual basis for the grievance. Therefore, the grievance is denied." That was February 24, 1987.

SENATOR STOCKMAN: Mr. Cappello, I think your testimony has been measured, thoughtful, and helpful. I am still wondering -- and perhaps you have given us all you can on this -- whether you have anything further to say, any further insight into how this could have happened? Or, let me put it another way: It seems to me that the dilemma, in a certain way, in evaluating what happened, is, shall we say that all of the responsibility and fault -- the really heavy fault -- rests on someone who is no longer here to respond? In other words, I think it is evident from testimony -- and no one is here to beat up on someone who can't now respond because of the tragedy in his life-- But I think one of the things the Committee is struggling with is, is it that simple to say, "Well, if you get a bad apple, then everything else can go wrong"? I am puzzled as to how this went this far without someone beyond Gordon Ascher in responsibility accepting responsibility, unless the people below were inefficient, you know, senseless, or what have you. Do you understand the dilemma I am presenting?

MR. CAPPELLO: Yeah. I think that is a good comment, but let me get back to Gordon Ascher. Everything that was said here today has been said before -- before his passing away. People in the Division of Vocational Education and in the Department can bear out all of these remarks. I think there has to be some responsibility elsewhere.

We had bulletin boards. Our membership went -- and I don't want you to miss this -- from three or four members to 57 out of the 60. We posted that on a very prominent bulletin board. There were four articles that came out in the CWA paper, referred to as a "rag" by some of the managers -- a very effective tool. The articles were forthright. They were posted; they were given out. Every manager in that Department

read them. I don't understand why some of the stuff didn't come out sooner. There were rumors that Gordon Ascher was brought in to dismantle the Vocational Division; that he was doing the bidding of the Commissioner. I don't know if that is true or not, except that when I talked to the Commissioner, he convinced me that vocational education will survive in this State. I can't answer the question why it wasn't recognized.

SENATOR STOCKMAN: Thank you very much.

Our next witness will be Doris Dopkin. Ms. Dopkin, I would ask that you raise your right hand, and answer after me. Do you solemnly swear that the testimony you shall give in this matter pending before this Committee shall be the truth, the whole truth, and nothing but the truth, so help you God?

D O R I S D O P K I N: I do.

SENATOR STOCKMAN: Thank you very much. Did you receive a subpoena from this Committee compelling you to attend this hearing today?

MS. DOPKIN: Yes, I did.

SENATOR STOCKMAN: Attached to the subpoena was a copy of the Code of Fair Procedure. The Code of Fair Procedure gives you certain rights as a witness testifying here today before this Committee. For example, you have the right to be accompanied by counsel, who may advise you of your rights during the proceedings. Do you have counsel here present?

MS. DOPKIN: No, I do not.

SENATOR STOCKMAN: Do you agree to testify here today without having counsel present here?

MS. DOPKIN: Yes.

SENATOR STOCKMAN: Under the Code of Fair Procedure, you also have the right, at the conclusion of your examination by this Committee, to file a brief sworn statement relevant to your testimony for incorporation in the record of this investigatory proceeding. You are advised that we are making a tape recording of this proceeding, and you are entitled to

receive a copy of your testimony, at your own expense. You also have a right to request a copy of the resolution authorizing this investigation. Do you have any questions concerning the Code of Fair Procedure or your rights under the law?

MS. DOPKIN: No.

SENATOR STOCKMAN: Thank you very much. Do you have any questions about these proceedings today?

MS. DOPKIN: No. I do have a statement, however, which I would like to read into the record.

SENATOR STOCKMAN: Fine, fine. Why don't you give us that? Do you have copies of that statement?

MS. DOPKIN: No, I did not think that far ahead.

SENATOR STOCKMAN: All right, thank you. You may go ahead.

MS. DOPKIN: However, you may have this copy when I am finished, if you would like.

SENATOR STOCKMAN: All right.

MS. DOPKIN: I am Doris Dopkin, a Program Specialist in the Division of Vocational Education, Department of Education. I have held that position for almost five years. Before I came to the Department I taught at Rutgers University for about 10 years, and previous to that I was a classroom teacher in Connecticut and New Jersey. I have a doctorate in Vocational Education and have educational certificates in home economics and supervision. I also have some experience in curriculum development, educational research, and sex equity in educational programs, and have experienced teaching in all levels from elementary through adult.

I currently work in the Department of Education for the Bureau of Introductory and Exemplary Programs. Originally, my responsibilities in that Bureau included the supervision of home economics programs in kindergarten through eighth grade. Part of that responsibility involves funding activities and

leadership type activities to help schools meet the mandate of the Federal vocational legislation.

However, about nine months ago my responsibilities within that Bureau expanded greatly, when one of the members of the Division left. She left, I think essentially, because she could no longer deal with the kinds of things that were going on. I was asked to assume, in addition to the responsibilities I held at that time, all of her responsibilities for the coordination of the Division's curriculum activities. It was at this point in time that the activities started that led to my being here today.

SENATOR STOCKMAN: That was when, time-wise?

MS. DOPKIN: This was about August of '87.

SENATOR STOCKMAN: Go ahead.

MS. DOPKIN: What I would like to do today is share with you some of the things that happened after I assumed those curriculum responsibilities, and which led up to my involvement in the investigation. I would also like to let you know that the information has been shared with the people from the Attorney General's office, and some of the information has been presented before the grand jury. In addition to that, I would like to provide some suggestions for what I see are positive changes to perhaps prevent this kind of thing from happening in the future.

One of the things that happened shortly after I took over the curriculum responsibilities was, in early September I was called into my Bureau manager's office and I was asked to write a proposal. This proposal was to incorporate the Rentz Basic Skills material -- the R&R materials -- into a training package which would be presented for industrial arts teachers. I was familiar with the Rentz materials. I had earlier served as the Department's representative to introduce a workshop series on the use of these materials.

This proposal which was to have been written would then have been given to an educational agency, and they were to submit that back to us for funding.

SENATOR STOCKMAN: A rather unusual procedure, wasn't it?

MS. DOPKIN: Well, it was my first experience with a request of that kind.

SENATOR STOCKMAN: Who made that request of you?

MS. DOPKIN: This was Priscilla Walsh. We had a lengthy discussion about the matter. At the end of the discussion, it was left that I would still write the proposal. This was the end of the day. I went home that evening and had another lengthy discussion with my husband, because I had decided that I would not write the proposal. I felt at that point in time that my job was probably on the line, and he better know that there was about to be one less income in the family. It had been made -- as was stated earlier -- very clear to us that as unclassified workers we serve at the pleasure of the Commissioner. I guess this was the first time that I had really thoroughly balked at doing something that I had been asked to do.

My refusal was shared with my Bureau manager. Basically it was based on the fact that I didn't feel the project was either educationally or economically appropriate.

SENATOR STOCKMAN: That was Priscilla Walsh?

MS. DOPKIN: Yes.

SENATOR STOCKMAN: Okay.

SENATOR GAGLIANO: Excuse me. Who ordinarily writes proposals? That type of a proposal would ordinarily be prepared by what person? Would it be an employee of the Department? Would it be a consultant? Would it be some outside group?

MS. DOPKIN: In the normal funding process, there are specs written on the types of proposals that will be

entertained. These are submitted to school districts. School districts, based on the information with which they are provided and the needs of their district, write proposals and submit them back to us for Federal funding.

SENATOR GAGLIANO: Okay. So ordinarily you would never write the proposal. You might give someone an outline of what might be wanted in a proposal--

MS. DOPKIN: Yes.

SENATOR GAGLIANO: --because your manager would tell you to do that, but you would never actually write the proposal.

MS. DOPKIN: No.

SENATOR GAGLIANO: Thank you.

SENATOR STOCKMAN: Go ahead.

MS. DOPKIN: After my refusal, to my knowledge there were no further requests for internal proposal development within our particular Bureau.

What I would like to make clear is, as a part of our regular job responsibilities, we do review and recommend or reject proposals, as a part of this process which you referred to.

SENATOR GAGLIANO: That is why I was trying to ask you the question, how could you write it and then approve it?

MS. DOPKIN: Yes. A very on-target question. We also deal with the paperwork that relates to proposals, things such as financial revisions, if there are changes within a program as they go along. We follow the project through the processes and sign off on the project at the end of the year. These are all functions which are documented in our job classification. The performance of these tasks is evaluated by our bureau managers, using the standardized instrument which is used throughout the Department.

I think it is also important at this point to point out that we had these job descriptions of things we were to do, but there was no formal training for anyone in the Department

in terms of the grants process. The way we learned it was pretty much on the job. As questions came up, you would ask somebody else how to handle this, what do you do, or go to your bureau manager and get answers. So in effect, no one, to my knowledge, had formally been told that it is not within your job description to write proposals.

After this point in time, because it is a part of our job, we did continue to provide assistance to districts in the funding process. This assistance took several forms. One form was that we provided workshops to educators throughout the State in the funding process. We would meet with people individually and talk about the funding process and how they might access that process. Specifically in my case, one of these discussions did result in the submission of a Basic Skills proposal modification, which included, among other things, budgetary requests for R&R training and materials.

There were several things going on here I think. There was an uncomfortableness with some of the things that were going on. There was also recognition that some of these issues -- specifically basic skills -- are critical issues. They are issues that still exist throughout the educational system, but are of particular concern to vocational educators because of the impact of the high school graduation requirements and the HSPT on students' access and ability to receive a vocational education.

It was not an issue that Gordon Ascher or anyone else dreamed up to create a scandal. It is a very real issue. I think it was something that was taken advantage of.

SENATOR GAGLIANO: A real issue because the vocational students are not directed, in their educational process, toward these tests. Would that be it? In other words, they are not getting as much as the other kids are so they would be able to pass the tests. Is that what you're saying?

MS. DOPKIN: I think there are several issues here. One issue is, students who may require remediation because they failed a test will not have enough time left in their schedules in order to incorporate it.

SENATOR GAGLIANO: That is kind of what I meant, that the vocational student is involved with other things which are not necessarily going to prepare him -- which will not prepare him for the tests, or retaking the tests.

MS. DOPKIN: I think--

SENATOR GAGLIANO: That is my understanding of a vocational education. They are spending a lot of their time working with their hands, so to speak, not necessarily preparing for the test that the other kids are preparing for. Or am I wrong in that?

MS. DOPKIN: Most of the preparation before the test is given occurs before students are actually enrolled in occupational preparation training. When all of this kicks in is if a student does not pass the test in the ninth grade and is involved in remedial programs. In order to get all of the requirements in before graduation, there isn't enough time left in the schedule for them then to take a vocational program.

Anyhow, there were some proposals which dealt with Basic Skills which came into the Division, and as a part of the curriculum responsibilities picking this up partway into the year, projects were under way. I was now in a position where I needed to review financial reports, financial changes, and did sign off on documents at various points throughout the year related to it. Because of this, when the Department's internal investigation came about, I was the very logical person to call in and, in fact, was called in to the investigation.

While on one hand I certainly did not look forward to this meeting, knowing that afterward I was going to have to walk back down the steps and back into an existing situation -- no one had yet been fired; things were still going on as they

had been in a very unique manner up to that point -- I also welcomed the idea that finally someone in the Department was going to hear some of the things that were going on, and either from an administrative point of view validate that the process -- things we had been asked to do -- were, in fact, okay or, if not, these were people who could then put an end to it.

SENATOR STOCKMAN: Let me stop you for a minute, Ms. Dopkin.

MS. DOPKIN: Yes.

SENATOR STOCKMAN: You had been in the Division of Vocational Education for how long, up to this point?

MS. DOPKIN: About four and a half years.

SENATOR STOCKMAN: All right. And the new role around August, as I understand it--

MS. DOPKIN: Yes.

SENATOR STOCKMAN: --and this incident of being requested to prepare a proposal internally. But now you are in what, November, for this internal investigation, or was it December?

MS. DOPKIN: It was December.

SENATOR GAGLIANO: '87?

MS. DOPKIN: December of '87.

SENATOR STOCKMAN: Do you recall the date?

MS. DOPKIN: It was between the Christmas and New Year's holidays, because I had taken that week as vacation and I was called back from vacation.

SENATOR STOCKMAN: Who was present for this first meeting? I gather it took place in the Department of Education building on West State Street.

MS. DOPKIN: Yes.

SENATOR STOCKMAN: Do did you--

MS. DOPKIN: Richard Kaplan and Tom King.

SENATOR STOCKMAN: Mr. Kaplan?

MS. DOPKIN: Yes.

SENATOR STOCKMAN: And who else?

MS. DOPKIN: Thomas King.

SENATOR GAGLIANO: What are their positions? How high are they in the hierarchy of the Department?

MS. DOPKIN: Mr. Kaplan is with the Office of Compliance. Exactly what their levels are I do not know. Mr. King, I believe, is dealing with the accounting and audits. I am not positive of that, however.

SENATOR STOCKMAN: Was this a recorded session? Was a transcript taken, or not?

MS. DOPKIN: No. Mr. King took notes during the meeting. I had brought a tape recorder along. In hindsight, I should have turned it on. I did not, because when I asked about turning it on, they got very defensive. I thought, "This isn't doing anybody any good," so I didn't.

SENATOR STOCKMAN: So the three of you met. You shared with them and answered questions for them.

MS. DOPKIN: Yes.

SENATOR STOCKMAN: What happened?

MS. DOPKIN: I went in not as a hostile witness. I went in assuming that they would be supportive, attempting to truly get to the bottom of this. This really was not the case. Very early on in the interview when I was asked a question and my response was different than what was anticipated, my job was threatened.

SENATOR STOCKMAN: By whom?

MS. DOPKIN: Mr. Kaplan.

SENATOR STOCKMAN: Can you be more specific?

SENATOR GAGLIANO: How?

MS. DOPKIN: The question was: "Tell us about proposals you have written." My response was: "I have not written proposals." The reaction to that was, "We expect you to tell the truth here. If you don't, anything you say here--Your job is on the line with the Department." I repeated that

I had nothing to hide, and that what they would hear would be the truth -- that I had not written proposals.

My reaction at the very start of this was, whose side is this team on anyhow? I guess while intellectually I can understand the need for an investigation, I felt that it was rather ironic that the tactics that were used were the same ones that have been used in the Division of Vocational Education -- threats, fear of loss of jobs, intimidation -- that had been used, I guess, as a coverup to the kinds of things that had been going on in the Division. Now here was someone else -- using the same thing, and being upset that anyone may have succumbed to these threats in an earlier situation -- desiring that the people succumb to them within the investigation.

Subsequent to all of these hearings, there were two other employees who filed grievances as a result of their treatment, one of whom was threatened with being thrown out the window. There were others who received similar treatment, but refused to file a grievance because they felt that basically their lives would be made miserable if they did so.

At any rate, when Fred Cappello came to me a month or two after the internal investigation, and after the firings, he asked if I would take over as the CWA shop steward, and I agreed. It is my understanding that his lawyer felt it would be best if he temporarily stepped down, so there would be no appearance of a conflict of interest.

My feeling at that point in time was for us to be without a shop steward would have appeared to be a sign of weakness at a time when we certainly did not need that within the Division. So I agreed to take over that position. I am currently serving in that particular role as one of the shop stewards within the Division of Vocational Education.

That is a brief overview of some of the things that have happened to me, but it leads me to today and my

suggestions for what I think might help to bring about some positive change. As a result of my experience, and talking with others within the Department, I have some very serious concerns about the impact of the internal investigation on the criminal investigation. During my meeting with the internal investigating team, it was my feeling that the administration was looking for a scapegoat in order to protect their own. Now, whether or not this was an accurate observation or it was simply someone doing the job the best way they thought, I don't know. What matters is, that is the way I felt, and I reacted accordingly. I did answer, as truthfully as I could, any of the questions that were asked of me, but I did not elaborate.

SENATOR GAGLIANO: Who made you feel that way?

SENATOR STOCKMAN: Through the Chair.

SENATOR GAGLIANO: Excuse me. Through the Chair, who made you feel that way?

MS. DOPKIN: Mr. Kaplan.

SENATOR GAGLIANO: Mr. Kaplan?

MS. DOPKIN: Yes.

SENATOR GAGLIANO: In other words, that pops right out in your mind when I ask you that question?

MS. DOPKIN: Oh, yes; no question. There were a number of other things that occurred during that meeting that led me to believe that I did not understand what was going on, and why those things were going on.

SENATOR STOCKMAN: Ms. Dopkin, let me follow up on that in this way: How many meetings did you have with Mr. Kaplan?

MS. DOPKIN: One.

SENATOR STOCKMAN: Just that one?

MS. DOPKIN: Yes.

SENATOR STOCKMAN: And it was out of that one meeting, coupled perhaps with your, say, information from other employees, that you gathered -- understandably a shop steward -- that you reached this conclusion. Is that correct?

MS. DOPKIN: Yes, that is correct.

SENATOR STOCKMAN: Am I correct in suspecting that your conclusion was not that Mr. Kaplan was trying to cover anything up, but rather that he might be trying to, say, lay heavy blame, or total blame on Gordon Ascher, and otherwise have this matter go away -- that kind of thing?

MS. DOPKIN: No, no. My reaction was very much, why are they coming after me? That is a personal reaction.

SENATOR STOCKMAN: Incidentally, did you meet with the Attorney General's office ever on any of this?

MS. DOPKIN: After the meeting with the internal investigating team, yes.

SENATOR STOCKMAN: All right. Did you have any feeling of that sort, or a similar feeling with them?

MS. DOPKIN: No. The Attorney General's people were professional at all times, supportive, and their questions were carefully directed, I think, at uncovering what they needed to uncover.

SENATOR STOCKMAN: So you had no difficulty in sharing information with them and cooperating with them?

MS. DOPKIN: Well, one of my concerns is that the way people reacted to the internal investigation, I think caused problems for the people from the Attorney General's office, in that they had to undo the damage that was done, before they could then get to what they needed to get to. So, I guess the process was unnecessarily complicated for them.

SENATOR STOCKMAN: All right. Is there anything else specific you can tell us about what occurred in that session? You have told us one very specific thing. After responding truthfully to the question of whether you had written proposals, you were sharply admonished, I gather, about telling the truth, and were threatened with the loss of your job if you didn't. Are there any other specifics about Mr. Kaplan's behavior or Mr. King's behavior that you can share with us?

MS. DOPKIN: At one point, I was asked to provide my signature for them. I did it in pencil. I was then asked would I please do it again in ink. At that point, I checked all the pages underneath the paper I was writing on to make sure there was nothing else under there, and filled in the rest of the page so nothing could be written above my signature.

SENATOR STOCKMAN: You were a little suspicious.

MS. DOPKIN: I was a little suspicious at that point.
(laughter)

SENATOR GAGLIANO: Did they tell you why they needed your signature? They must have had your signature a thousand times in various files and records.

MS. DOPKIN: Nothing specific was stated. My thought at that point in time was, was somebody signing my name to things that I didn't know about?

SENATOR GAGLIANO: They didn't tell you why. They didn't say--

MS. DOPKIN: No, no.

SENATOR GAGLIANO: They just said, "Sign your name" or "Please sign your name"?

MS. DOPKIN: Something to the effect of, "Would you object to giving us a sample of your signature?" I said, "No." As you said, it was all over the place.

SENATOR STOCKMAN: Did they ever suggest to you that at that point they had no reason to believe that you had been guilty of any improper conduct?

MS. DOPKIN: There were various hints of things. There was a statement made of, "What if we told you we had testimony from someone who said you did write proposals?" My response was, again, "I don't know what you are talking about."

SENATOR GAGLIANO: Excuse me. Through the Chair, did you add to your answer, "Someone asked me-- Priscilla Walsh asked me to write a proposal and I refused"? Did you tell them that?

MS. DOPKIN: Yes, I did. In fact, my--

SENATOR GAGLIANO: Were they impressed by that at all, or did they say?

MS. DOPKIN: The tone of the investigation changed at a certain point. However, the issue of the proposal writing they kept coming back to. My refusal to Priscilla had been done in writing. After I talked to my husband, I sat down and wrote out my refusal, and I provided them with a copy of that written refusal.

SENATOR GAGLIANO: That was not sufficient to impress them enough to say, "Well, she's honest"? Instead, you got the response, "Be honest, or your job is in jeopardy." What was the timing on that sequence, do you remember?

MS. DOPKIN: No, I really don't remember the timing on the sequence. At the end of the meeting, after going through all of this, a statement was made, "Well, why didn't you come to me sooner?"

SENATOR STOCKMAN: Who said that?

MS. DOPKIN: Mr. Kaplan. He concluded the interview with that particular memo, and he said, "I guess this represents integrity." So I would assume that perhaps by the end of the interview--

SENATOR GAGLIANO: At the end of the interview he believed what you were saying.

MS. DOPKIN: On that particular point. I had no indication in any way that on the other points there was any acceptance. I assumed they were going to go back and check their records to see if my signature matched up with whatever they had.

SENATOR STOCKMAN: Ms. Dopkin, is there-- Yes, I'm sorry, Senator Zimmer.

SENATOR ZIMMER: What were the other points you don't believe they agreed with? The point where you said there was finally acceptance was that you had not prepared applications.

MS. DOPKIN: That I had at least refused on one occasion--

SENATOR ZIMMER: That you had not prepared proposals. You believe the impression they were left with was that you may have prepared proposals before that time, or at other times. Or, what is it you don't think you convinced them of, because we have only focused on that one very important allegation, or supposition?

MS. DOPKIN: It was left that there were witnesses who had testified to them that, in fact, I had written proposals. It was left with the implication that there were documents I had signed that in some way may have been improper. As to what these were, I don't know. My reaction--

SENATOR ZIMMER: They didn't ask you directly whether you had signed specific documents?

MS. DOPKIN: No. The end result of all of this was, in terms of my feelings about it, I went out and hired a lawyer. I figured there are innocent people who have gotten railroaded in the past, and not taking representation with me the first time was, in hindsight, dumb.

SENATOR STOCKMAN: Why didn't you, incidentally? Was there any suggestion that you couldn't or shouldn't, or did you just--

SENATOR GAGLIANO: She didn't think she had to.

MS. DOPKIN: No, no, I simply didn't feel that I had anything to hide. I thought I would be helping in the investigation.

SENATOR STOCKMAN: All right. Ms. Dopkin, is there anything else in the way of information about what occurred -- about the many improprieties that appear to have occurred within the Division, particularly with regard to any people in responsibility, that you can share with us -- any information that you have firsthand that you have not shared with us?

MS. DOPKIN: No. I think one of the things that was going on was, people were working in isolation. I had very little connection with any of the things which have later come up as part of the investigation, until I assumed the curriculum responsibility. At that point, while I was concerned and didn't really like what I felt was going on, I had no proof, and making allegations without proof somehow or other didn't seem to be an appropriate thing to do.

SENATOR STOCKMAN: Can you add anything further on the question of how what went on, went on for so tremendously long?

MS. DOPKIN: I think the two things that I just mentioned, the fact that people were in isolation and did not talk to each other. I think had there been more cross-communication, it may have come out earlier. And to the new Assistant Commissioner's -- Dr. Newbaker's credit, we are working together as a group and as a team. I think that is an improvement. The isolation, the lack of proof, the lack of feeling that there were really very limited places that you could go. We all knew that Fred had tried a number of things, and they didn't appear to have been successful. So it was a case of, "Well, what's left?" Most people opted to either hand in under difficult circumstances and collect proof, or leave.

SENATOR STOCKMAN: What about Commissioner Cooperman -- going directly to him?

MS. DOPKIN: There was a chain of command established within the Division that you didn't speak to anybody here, here, over here. You went up the chain of command, to your bureau manager, who then would go to the Assistant Commissioner, who then would go to -- and down, and then it would go back up through. I think that process was observed in many instances.

SENATOR STOCKMAN: Over-observed do you think?

MS. DOPKIN: I would say so, yes.

SENATOR GAGLIANO: Just one question along those lines. In other words, Priscilla Walsh -- who I guess, according to the information we have, was dismissed -- was your shortstop. In other words, she was your boss, and you would have had to go through her in order to discuss these issues, say, with Mr. DiPatri or with Dr. Cooperman. You never could get past her. I would presume that with that frustration, you would just say, "Well, I will just do what I have to do."

MS. DOPKIN: I would say that is accurate.

SENATOR GAGLIANO: One other question. With respect to Priscilla Walsh, did she, at any other time, deal with you as she had when she requested you to write the proposal? Was there any other instance where she leaned on you, so to speak, for something you didn't think was right?

MS. DOPKIN: I think there were things that-- In terms of financial reports, etc., there were things where she would come and say, "You know, you need to sign this change. I have checked it out and it is okay." That is not leaning on someone. It's a directive from a superior to a worker. In fact, the things were signed off on, because I had no reason to doubt what she was saying.

SENATOR GAGLIANO: But you later found out that some of the things that she asked you to sign may have been questionable?

MS. DOPKIN: I think some of the things were connected with the Vocational Resource Center and the basic skills -- the Rentz materials which were put through there. However, I also knew that in signing off on financial reports at the end of the year, that the Resource Center had, in fact, conducted the workshops which they said they were to do and for which the money had been appropriated.

SENATOR GAGLIANO: Okay, thank you.

SENATOR STOCKMAN: Senator Zimmer?

SENATOR ZIMMER: You have said that you had a feeling Mr. Kaplan was looking for a scapegoat. Who do you think that scapegoat was, you?

MS. DOPKIN: At that particular point in time, I felt I was one of them. There were other discussions among staff about the treatment they were receiving, and at that point it seemed to be a case of they were looking for anyone they could pin it on.

SENATOR ZIMMER: Well, isn't that the nature of an investigation, to try to find out who is the wrongdoer?

MS. DOPKIN: Yes, I think it is. However, the Attorney General's people were in the same business, and they were trained in their role. Their approach was quite different.

SENATOR ZIMMER: Is Mr. Kaplan's job to be an investigator full-time?

MS. DOPKIN: I can't answer that question, I don't know.

SENATOR ZIMMER: Could it possibly have been that he -- not being a professional investigator -- was inept?

MS. DOPKIN: I don't think his training or background are in investigation. I think it was probably an assignment that was given to him.

SENATOR STOCKMAN: More public relations, maybe? (laughter) All right, okay. I'm sorry.

SENATOR ZIMMER: To proceed on the nature of this investigation, you said he had a hostile reaction when you denied having signed proposals. Could that have been the result of a good-faith determination on his part, that he did believe the other people who he obliquely referred to who had given him what evidently was incorrect information that you had, indeed, signed those proposals?

MS. DOPKIN: I think he was very sincere in attempting to find out what was going on. I do not question his sincerity at all. I think the methods he used were in direct conflict with what he wanted to accomplish.

SENATOR ZIMMER: Okay. So, you don't believe that he was consciously trying to nail an innocent person. He was trying to find guilty people, but he was not doing it in an appropriate or skilled way. I am not trying to put words in your mouth. Could you respond to this statement?

MS. DOPKIN: I guess I don't know the answer to the question, except in terms of my reaction and everything else that was going on in the Department at that point in time. The feeling that all of the attempts to reach people in the administration-- The feeling that something was wrong had been rebuffed. Therefore, all of us pretty well knew what the problem was and where the problem lay. So, when someone is coming at you in a way that you feel is attempting to put you under the thumbtack, so to speak, when you are very well aware that the problem lies elsewhere, you internalize it and assume that, in fact, they must be trying to put the blame elsewhere, because they have not responded to you in any other way.

SENATOR ZIMMER: In that discussion, were you-- Well, at that point when you were being questioned, of course you knew that Ms. Walsh had asked you to do something improper, in your view. Did you have any other information about any higher-ups who they should have asked you about, or who you considered discussing with them?

MS. DOPKIN: Questions were asked about Priscilla's role in the matter and where I felt her directives were coming from.

SENATOR ZIMMER: So they weren't looking just downward for, as you called it, scapegoats. They were looking upward, as well.

MS. DOPKIN: Yes, yes.

SENATOR ZIMMER: It was an open-ended question. Mr. Kaplan didn't try to pin it specifically on any particular person.

MS. DOPKIN: No. I think the question was, where do you feel the pressure is coming from on Priscilla to request this of you? My response was that I felt it was coming from Dr. Ascher.

SENATOR ZIMMER: Now, the way you described your position -- the situation you found yourself in -- it was fairly-- It is quite stark in retrospect, and you did the right thing. But, in trying to put myself in your position at the time you were there, with no written job description, with your superior telling you to do something that she said was entirely appropriate, and your stepping back and looking at it and making an ethical decision that it was the wrong thing to do, and even putting that in writing-- I think that was a very commendable and very impressive action on your part.

Did you feel -- at the time that you made that decision it was very clear in your mind -- that there was nothing you could do that Mr. Cappello had not done to bring this to the attention of anybody in authority? It must have been a very dramatic event in your life, obviously. What did you consider should be your next step after that?

MS. DOPKIN: At the time, I was not dealing with any of the larger issues that have been discussed here. I felt that was a specific instance that had to be dealt with in and of itself, and that was, in fact, what happened. I guess my bottom line was that I was not going to write the proposal, regardless. The fact is, when my refusal was given to Priscilla, it was accepted. I wasn't fired. I didn't have to go through any other kinds of things. So it was kind of the end of the issue at that point in time.

SENATOR ZIMMER: That request did not arouse suspicions in your mind that there was some kind of larger conspiracy that this was merely a part of?

MS. DOPKIN: It did raise questions. There were a number of things that raised questions in my mind, but there was no proof.

SENATOR ZIMMER: There wasn't enough for you to draw a reasonable conclusion that there was something seriously wrong?

MS. DOPKIN: Right.

SENATOR ZIMMER: Thank you very much.

SENATOR STOCKMAN: Thank you, Ms. Dopkin, for your testimony.

MS. DOPKIN: May I just--

SENATOR STOCKMAN: Sure.

MS. DOPKIN: I do have a couple of other suggestions that I would like considered. Commissioner Cooperman has announced that there will be a standardized process within the Department for grants management. I guess one of the things that I see as a suggestion is that training in that process be required for all employees who have to deal with that, and that as a part of new employee training, they also be required to go through that process.

As a CWA representative, I can't get away without a plea that we really very urgently need the protection of some type of legislation for unclassified workers.

SENATOR ZIMMER: May I proceed on that point?

SENATOR STOCKMAN: Surely.

SENATOR ZIMMER: What would that protection have done for you that you would not have enjoyed under the current employee reprisal provisions of the Civil Service Law or the Conscientious Employee Protection Act?

MS. DOPKIN: I think what it would have done for me is, it would not have put me in the position I was in to start with. Because my involvement in this kicked in in '87, there were so many things that occurred before, that I think the whole situation would have been cleaned up by then. People would have had less of a reluctance to go through the grievance process. There is a real reluctance on the part of people to go through this. You put yourself through a tremendous amount of hell, frankly, in order to correct a wrong. The impression

is that it really does no good, because when the hearings exist only within the Department, the ruling is not going to be in favor of the worker. So, I think there would be a greater freedom to pursue the kinds of things that need to be pursued.

SENATOR ZIMMER: To grieve the retaliatory measures.

MS. DOPKIN: Well, to grieve-- Yes, and to bring forward the kinds of things that need to be brought out.

SENATOR ZIMMER: Well, the bringing forward aspect-- I have reviewed the language of both the statutes I have referred to, and I can't think of any stronger statutory protection for classified or unclassified. Perhaps I should discuss this with a legislative representative or an attorney from the CWA. But I did want to know-- Obviously, it was your subjective opinion that if you were a classified civil servant, you might have -- if everybody involved was a classified civil servant, this situation would not have arisen.

MS. DOPKIN: The problem with some of the legislation you are referring to is, people have to be fired before it kicks in. That is my understanding.

SENATOR ZIMMER: Well, okay. We will pursue that with other witnesses. That is not my understanding.

MS. DOPKIN: Okay.

SENATOR STOCKMAN: Thank you very much, Ms. Dopkin.

Our next witness will be Charles Kunkel. Mr. Kunkel, would you raise your right hand, please? (witness complies) Do you solemnly swear that the testimony you shall give in the matters now pending before this Committee shall be the truth, the whole truth, and nothing but the truth, so help you God?

C H A R L E S K U N K E L: I do.

SENATOR STOCKMAN: Mr. Kunkel, did you receive a subpoena from the Committee compelling your attendance at this hearing today?

MR. KUNKEL: Yes, sir.

SENATOR STOCKMAN: Attached to that subpoena was a copy of the Code of Fair Procedure. The Code of Fair Procedure gives you certain rights as a witness testifying before the Committee. For example, you have the right to be accompanied by an attorney. Do you have counsel here present today?

MR. KUNKEL: No, I do not.

SENATOR STOCKMAN: Do you agree to testify here today without having counsel here present with you?

MR. KUNKEL: Yes, I do.

SENATOR STOCKMAN: You have heard me give these general instructions to the other witnesses. Do you understand the questions and understand this proceeding today?

MR. KUNKEL: Yes.

SENATOR STOCKMAN: All right. Mr. Kunkel, you have given the Committee a statement. Would you like to read that to the Committee at this time?

MR. KUNKEL: Yes, I would, Mr. Chairman.

My name is Charles Kunkel. I have been a staff member in the Division of Vocational Education for 12-1/2 years. I am currently assigned to the Bureau of Industrial Technology as a Program Specialist working with the trade, industrial, and technical education programs.

In May, 1983, Gordon Ascher was appointed Assistant Commissioner for the Division of Vocational Education. It was immediately apparent that he had no background in, or knowledge of vocational education. This was a concern, but not an insurmountable problem.

Unfortunately, from the beginning, there were other unsettling signs. Indications of poor management began to manifest themselves within the first six months. Programmatic decisions appeared to be a result of who was in personal favor with the Assistant Commissioner at any given time. Within a year, degeneration of some programs was beginning to occur. Staff morale began to suffer. Some staff members had already

begun to have concern regarding the appropriateness of a shift in the expenditure of vocational education funds. Concerns, however, are one matter. Evidence of wrongdoing is another, more difficult problem. By the time Gordon Ascher had been there for 18 months, many of us were on the alert for such evidence.

In August, 1986, my Bureau Director asked me to become State Advisor for the Vocational Industrial Clubs of America, commonly known by its acronym -- VICA. This is one of seven vocational student organizations chartered in New Jersey. These organizations are not social clubs. They are recognized by the U.S. Department of Education as integral to vocational education. In New Jersey, each organization receives some level of Federal funding for programmatic activities.

When I assumed by duties as VICA State Advisor, one of my first priorities was to conduct a thorough review of the organization's fiscal status. I was alarmed by what I observed in the records of the association's bank account. It appeared to me that the use of these funds often went beyond the bounds of reasonable expenditure. In September, 1986, I began to raise my concerns with the individual who was operating VICA through a contract let by the Department of Education.

My concerns appeared to be taken directly to Gordon Ascher by the VICA Project Manager. I presumed, based on prior observation, that this individual had a close professional, and possibly a personal, relationship with Dr. Ascher. My Bureau Director, Robert Jacoby, began to experience pressure to have me back off. However, I persisted and received full backing from Bob Jacoby.

Before I go on, I want to note that a couple of the dates here that I have are not quite the same as some Fred Cappello gave you today. If you want to discuss that later, we can go into it.

In November, 1986, I was contacted by the Attorney General's office. They had learned of the questions I was raising regarding VICA. They were interested in discussing the matter with me. I met with Deputy Attorney General John Wynne.

SENATOR STOCKMAN: May I interrupt you?

MR. KUNKEL: Yes.

SENATOR STOCKMAN: I assume they got that information through your sharing it with Mr. Cappello as shop steward.

MR. KUNKEL: That is correct. And I, by the way, shared it with Fred not because it was a union issue, but I informed Fred that I presumed I was going to immediately be in jeopardy when I pursued this issue, and would probably need to have him accompany me on meetings with Gordon Ascher and other staff members, as this matter escalated.

John Wynne and I had an extensive discussion regarding my concerns. At the end of our discussion, he informed me that a formal investigation was taking place and emphasized that I was not to discuss our meeting with anyone.

SENATOR STOCKMAN: This was in November of '86?

MR. KUNKEL: That is correct -- 1986. On December 2, 1986 -- and this is one of the places where Fred and I have a difference, I believe, in our dates -- after three months of research, I filed a written report regarding VICA with Gordon Ascher. On December 6, 1986, I was removed from my position as a Trade and Industrial Specialist. I was assigned to other duties for six months, returned to trade and industrial education for five months, and then was permanently reassigned by Gordon Ascher, against my will, to a position outside the Bureau of Industrial Technology.

SENATOR STOCKMAN: Let me stop you for a minute, Mr. Kunkel.

MR. KUNKEL: Yes.

SENATOR STOCKMAN: Do I assume that that written report regarding VICA was critical of it and raised some issues about the propriety of their activities?

MR. KUNKEL: It was, and there had been quite a bit of discussion -- verbal discussion -- prior to the report being issued. So Gordon was fully aware of the matter, and he and I were already in a major conflict over the issue.

SENATOR STOCKMAN: Did that report suggest any criminal conduct -- possible criminal conduct -- in the matter?

MR. KUNKEL: No, that report raised questions, Senator. Actually, I was quite concerned about liability. I was very careful to word everything as a matter of concern, questions. I wasn't sure what was going on, but it appeared to me to be inappropriate. I thought the Department should pursue it further.

SENATOR STOCKMAN: Sorry. Go ahead.

MR. KUNKEL: A number of other acts of retaliation also occurred during this 15-month period. Among the more significant, but by no means certainly not all-inclusive were: Gordon Ascher directly intervened to have one of my performance assessment reviews downgraded, and a second one written at a reduced level.

SENATOR STOCKMAN: How did you find that out?

MR. KUNKEL: Because the individual who was directed to do that showed me the memo indicating that I had been rated too high, and that I was to be reduced. That was my Bureau Manager.

SENATOR STOCKMAN: Who was that?

MR. KUNKEL: Bob Jacoby, my Bureau Manager. And, by the way, I, in fact, after discussing it with Bob, felt that he was in such jeopardy because he was backing me on this, that I did not fight that issue at that time.

By the use of a re-design of the Bureau of Industrial Technology, I was denied a two grade level promotional opportunity. Let me stress opportunity. I do not presume that I was going to get the promotion, but I do know that Bob Jacoby had discussed the possibility with Gordon Ascher, and the

position was eliminated from the Bureau. My Bureau Director -- Bob Jacoby again -- was under constant extensive harassment and stress as a result of his support for my efforts. On October 26, 1987, he was demoted.

Perhaps the most critical issue was the message being delivered by Gordon Ascher to the Division of Vocational Education staff. My confrontation with him was fairly common knowledge within six to eight weeks of its initiation. Many of my colleagues spoke to me of their concern that I would be punished, perhaps fired. Most of the staff was watching to see what would happen. Dr. Ascher's retaliation sent out a loud and clear message: Question my policies and authority and you, as well as those who support you, will be punished.

On October 29, 1987 -- and this again is not quite what Fred gave you date-wise -- I requested a formal intervention in this matter from the Department's Division of Administration. That request was in writing. I had given Gordon Ascher 15 months to correct the VICA problem. It had been 12 months since I had been called to the Attorney General's office. Neither of these efforts had produced corrective action. Other major problems within the Division of Vocational Education had also become more prevalent. The Division was self-destructing. After a number of meetings with Steve Blaustein, the head of Administration--

SENATOR STOCKMAN: Can you tell us when those meetings occurred?

MR. KUNKEL: With Steve Blaustein?

SENATOR STOCKMAN: Yes.

MR. KUNKEL: My memo to Steve putting this formally on the record was, in fact, October 29. The meetings were during the week immediately following that -- subsequent to October 29.

SENATOR STOCKMAN: Early November?

MR. KUNKEL: That is correct. I believe during the second week of that month there were also some meetings. After

a number of meetings with Steve Blaustein, the head of Administration, and two meetings with Richard DiPatri, the Assistant Commissioner for Educational Programs, an internal investigation was initiated on November 24, 1987. Subsequent to the investigation, I was returned to the Bureau of Industrial Technology.

SENATOR STOCKMAN: Now, let me stop you for a moment.

MR. KUNKEL: Yes.

SENATOR STOCKMAN: Tell us more about the gist of-- Let's take the first meeting and the first exchange with Mr. Blaustein which occurred probably the first week in November. What did you say, what did he say, how long were you together, and what did you go away with in the way of a feeling?

MR. KUNKEL: Let me clarify that by stating that the first official meeting on the record was October 29. Gordon Ascher and I, at that time, had been involved in a major paper battle, Gordon trying to bounce me around in the Division, I trying to get him to correct problems with VICA and trying to get him to put me back where I belonged. I had unofficially approached Steve Blaustein one or two times, saying, "Steve, I have this problem, but more than that, the Department has big problems. There are things wrong in the Division. I am trying to get some corrective action from inside the Division. I may have to come to you officially." We had, I believe, two meetings of that type that were prior to my putting it in writing -- either two or three -- and I, in all honesty, would have to go to my calendar to pinpoint that, and I don't have that calendar with me today-- But, Steve was quite concerned -- very concerned.

Well, let me clarify. He was probably partially incredulous, as well as concerned, because I was saying to him, "You've got very major problems in the Division, and they extend much further than just VICA, and a look has to be taken." I knew that Steve had known Gordon Ascher for a long

time. He had known him when he worked there before. I also had known Steve for a long time. I felt very comfortable; I trusted Steve. I felt as though he was the man to approach, but I think he was both concerned and a bit incredulous that things could be quite so out of control as the picture I painted.

SENATOR STOCKMAN: Okay, go ahead.

MR. KUNKEL: I have frequently seen in writing, implications that, in general, the staff of the Division of Vocational Education had neither the courage nor the integrity to attempt to end wrongdoings within the Division. While that can certainly be said to be accurate of a few -- and by the way, those were managers, not staff; I would like to put that on the record -- it is not a fair picture of most staff members. The truth is that during my confrontation with Gordon Ascher, I was approached by many professionals who were concerned about activities of which they had knowledge. However, it was evident that Dr. Ascher had so effectively compartmentalized these activities that it was nearly impossible for any one individual to obtain enough information to step forward and initiate a formal complaint. One of the divisional staff members, Dennis Reiter, accompanied me to one of my meetings with Steve Blaustein. I am convinced that information he provided at that meeting was key in the decision to initiate an internal investigation.

Additionally, in the initial stages of the internal investigation, I submitted the names of 19 current and former divisional staff members who had informed me that they wanted to be included in any effort on the part of the Department to correct the irregularities within the Division. All of these individuals voluntarily offered their participation prior to the Department's decision to implement an investigation. They were clearly very concerned, courageous, and of strong integrity.

Thank you.

SENATOR STOCKMAN:-- Mr. Kunkel, did you have any conversations with the Attorney General's office about any of these matters?

MR. KUNKEL: Yes, I did.

SENATOR STOCKMAN: When did they begin?

MR. KUNKEL: By my recollection, I went to the Attorney General's office in November of 1986.

SENATOR STOCKMAN: And had further meetings with the Attorney General after that?

MR. KUNKEL: I was called on a couple of other occasions, that is correct.

SENATOR STOCKMAN: Was there any discussion about when the Attorney General was going to act on all of this?

MR. KUNKEL: There was discussion. There were very honest, I think, responses, in that they indicated they were in an investigation, but it was very hard to tell at what point they would be able to wrap up. Probably the more significant discussions were among myself and Fred and Dennis, who were kind of hanging out there on the end of a limb, wondering, you know, when the final stroke of the saw was going to take place.

SENATOR STOCKMAN: Is there any other information that you have about wrongdoing in the Department that hasn't either been testified to by a previous witness or that you have not shared with us, at this point?

MR. KUNKEL: My firsthand information dealt with the vocational and industrial education clubs -- VICA. The other information I received was basically secondhand, much like Fred described. When staff became aware of an individual being somehow clearly on the other side of the fence from Gordon, it became common that they would come and discuss their concerns with me.

SENATOR STOCKMAN: Did you have any experiences with Mr. Kaplan in the course of his pursuing the internal investigation?

MR. KUNKEL: Yes, I did. I spent, I believe, the first four days of the investigation with Rich Kaplan and Tom King.

SENATOR STOCKMAN: And what was your experience in terms of the way he went about that?

MR. KUNKEL: Well, number one, I felt that Rich was sincere in what he was doing. I think my experience was a little different, because the first couple of times he reared up his head at me, I kind of reared up back at him, and that solved it. (laughter) But I heard from other people who had experienced problems. I could identify with their concerns. I mean, some of his approaches, in my opinion, were those of someone who was not adequately trained.

SENATOR GAGLIANO: Mr. Kunkel?

MR. KUNKEL: Yes?

SENATOR GAGLIANO: Excuse me. Mr. Kunkel, just listening to all of this testimony, I am trying to figure out what you would suggest, as one of the people -- and I can detect that you are probably somewhat outspoken -- what a person like you ought to be able to do to get the VICA message to the top -- to the Commissioner? My concern is that-- As I said before, the Commissioner's testimony -- reading from the testimony -- was that it was the end of 1987 before he received this word. I have no reason to doubt that. I consider him an honest man, and I don't think he would really tolerate what was going on if he knew what was going on.

I am not questioning what people did or didn't do. I guess what I'm saying is, in a Department that large, how do you suggest that people would be able to get their message to the top, so that something might happen without their heads rolling? I mean, this could happen in any department. I happen to be very familiar with the Department of Transportation because I have been on that Committee for 11 years. They let contracts. They have all kinds of things

going on with 5500 employees, I think it is -- somewhere between 5500 and 6000 employees.

What do you say, as an employee -- middle-level employee, or whatever you might be-- How do you get to the top so that something can be done, and we don't have a situation? Or maybe, for all we know, the Attorney General wanted it this way because they were waiting for more and more people to get into the track, or into the web they were spinning. I don't know. I would like your comment on that.

MR. KUNKEL: Well, in the case of what I was doing, it is not quite as simple as, how do you get to the top? I fully intended from the beginning to directly involve Gordon Ascher in the solution. I presumed, from what I had seen, that he would not solve it. I wanted to give him the opportunity to do that, so I sat back and let some things happen. He ordered an audit of all seven VSOs, based on my report and a report that was issued by Gwen Fell, who was the State Advisor to the Health Occupation Student Association.

Interestingly enough, I was never once talked to by the auditor, which I found rather distressing. However, what I found far more distressing was-- Well, to begin with, it took quite a bit of time for that audit to be done. I thought I had the date here, but I'm not sure that I do. I know it was in the summer of 1987 before any audit results came out. No one in the Division at my level was allowed to see the initial audit. My understanding of what happened was, it went to Gordon Ascher and perhaps a couple of his managers. It was revised, as I understand it, in the Division of Vocational Education -- or it was revised based on their stated concerns prior to being officially released.

When it was released, Gordon Ascher actually attached an amendment to the audit saying, "Enclosed is your copy of the revised audit." I was incredulous. How could you allow this man to revise that audit? I mean, I was absolutely astounded; I was astounded.

SENATOR STOCKMAN: The Auditing Division of the Department of Education is separate and distinct from the Vocational Ed Division.

MR. KUNKEL: That is correct.

SENATOR STOCKMAN: And you, in Vocational Ed, had a sense of uncomfortableness that the financial picture of a particular venture or program requested an audit. An audit was made by the Audit Division. When that was submitted, he went to Ascher in Vocational Ed, and he adjusted it and altered it -- had the ability to change it. Is that what your testimony is?

MR. KUNKEL: I was informed that he was given the opportunity to review it and raise any issues that were of concern to him, and it was sent back to the Audit Section and became a revised audit.

SENATOR STOCKMAN: Who did the audit, and who was the head of the Audit Division at that time?

MR. KUNKEL: I understand the man who did the audit was a man by the name of Bill Phillips. I never met him; I have not met him to this date.

SENATOR GAGLIANO: What happened to the audit, though, besides going back to Mr. Ascher? Was there a provision for that audit to go to someone else, an ombudsman or someone else in the chain of command in the Department, or did the audit just go back to him?

MR. KUNKEL: The initial audit?

SENATOR GAGLIANO: It seems to be that the audit ought to be filed with a third person -- a third party -- if it is truly an audit--

MR. KUNKEL: Where the initial audit was concerned, I do not know. I don't know what happened to the initial audit, Senator. The revised audit was published.

SENATOR STOCKMAN: Who was Mr. Phillips' superior? Who was the head of the Auditing Division within the Department of Education at that time?

MR. KUNKEL: Well, don't hold me to titles, but I know that Mr. Phillips-- I understand that he reports to Ed Kent, and I believe Ed Kent reports to Vince Calabrese, if I am not mistaken.

My problem with this was twofold:-- Why was I not allowed to see the original audit conclusions? And why was anybody allowed to revise, for any circumstance? I guess the other part of that is, if they were allowed to revise, why weren't the revisions compared to the final report and public comment made on that?

SENATOR GAGLIANO: I would go further: Why wasn't the audit filed with someone else, so that a third party would know that an audit had taken place? I raise that question because I guess that is so obvious. You don't do an audit-- It has to do with the fox in the chicken house. Do you know what I'm saying?

MR. KUNKEL: Yeah, I was a little concerned about that. I don't know that it wasn't filed elsewhere. I can't tell you that it wasn't, but I was never informed of it.

SENATOR GAGLIANO: The fox says, "Everything is fine here in the chicken house." (laughter)

SENATOR STOCKMAN: Mr. Kunkel?

MR. KUNKEL: Yes?

SENATOR STOCKMAN: Is there anything further you wish to share with the Committee that you think will help us in trying to sort out what happened and why, and maybe issue a report and/or suggest some legislative changes?

MR. KUNKEL: Yes, there are a couple of things I would like to share. Part of it is personal. In August, 1986, when I reviewed those VICA books, I felt, based on what I saw and what I had seen of Gordon Ascher as a manager, that I had to sit down with my entire family and explain to them that I probably was going to be unemployed soon by pursuing this issue. Now, what does that mean? That means you don't have

very many people who will sit and have that conversation with their families. -- If that is what you want -- if that is the safeguard you want -- that is the safeguard you have right now. The Conscientious Employee Protection Act, yes, it offers some security, but it appears to offer security after the fact. If major retaliation takes place, you are then able to appeal. Well, if that major retaliation includes unemployment, where do you sit? That is the personal side of it.

The operational side of it was, I saw the concern on the part of my fellow employees for me. They were extensively concerned for me. They were convinced that I was either going to be drummed out of the organization, or fired. And it was a genuine concern. Now, what does that mean about how they would respond for themselves, especially considering that some of the employees were, in fact, even single parents, you know, running their own households? Others were the primary or sole source of income for their families. Where does that leave your employees who might like to do some watchdogging?

So, I don't think it can be over-stressed that the lack of a feeling of security that was rampant contributed to the problem. Perhaps a problem that might have been raised with less evidence was set aside because there was not conclusive evidence, and the risk involved in going with other than conclusive evidence was just too high.

SENATOR STOCKMAN: Mr. Kunkel, what effect-- What impact do you think the long delay in swift, clear, and decisive action by the Attorney General has had on the morale of the Department, the operation of the Department, and the lives of the people in that Department?

MR. KUNKEL: I am not sure I can answer that. I can answer what impact the activities have had on me personally. You know, my own feeling was that I was going to hang tough. One of us was going to walk out of this, and one of us wasn't. But, you know, that included-- Fred and I together have gained

at least one person. (laughter) So this included some new wardrobe, in addition to everything else. The stress has been horrendous, and it has been everywhere. You can see that it has been everywhere.

Would more swift action on the part of the Attorney General have made a difference? Well, it might have made a year's difference, but you have to understand that we went through five years of this. I am not sure that a year's difference is that terribly significant. If you are asking me my opinion, would I rather have had the investigation speeded up in an attempt to save stress, the answer is no. I would rather have the investigation run its course and hopefully put some people in jail.

SENATOR STOCKMAN: Any other questions?

SENATOR GAGLIANO: No questions, thank you.

MR. KUNKEL: There is one more statement I would like to make: I think the Department of Education, and every department in State government, has to much more aggressively pursue informing their employees on how to report irregularities. I don't mean passively. I don't mean sending an occasional letter out. I mean training. I mean regular biannual reminders that; "The law is on the books. You have been trained in how to use it. Don't hesitate to use it." I think that every department has to have one individual with both the authority and the responsibility to deal directly with that issue.

I was concerned, when I went to Steve Blaustein, whom I trusted, and whom I knew. He felt he had to go to Rich DiPatri before he went to the Commissioner. I have to tell you that I was actually panicked. That is what I felt when he told me that. I didn't know Rich DiPatri. I knew that he supervised Gordon Ascher. I knew that Gordon Ascher, in my opinion, had been screwing up by the numbers, and I wondered what that meant in terms of conflict of interest, that that

individual had to make the decision about going further to the Commissioner. There has to be one person in each department who has both the authority and the responsibility to deal with these issues. You can't pass it off so that it is hard to pin down who is at fault if it doesn't get to the top.

The other thing -- and this is a recent opinion-- If you had asked me three years ago, I would never have ventured this opinion. You have to do something to give us an independent hearing outside of the Department if we are going to pursue these matters. I never felt so vulnerable as I did when I knew that the very people whom I was trying to stop had much more ability to pursue my termination than I had to pursue their wrongdoing. You've got to have an independent hearing. (applause)

SENATOR STOCKMAN: Mr. Kunkel, is there anyone in the Division now, currently -- because we know a number of people have been discharged-- Is there anyone in the Division now who you have reason to believe, from any information you have, has, in fact, been guilty of criminal conduct?

MR. KUNKEL: I am not qualified to discuss criminal conduct, and based on the extent of the criminal investigation, that is not a real easy conclusion to come to. I think there are people who by virtue of cooperating with Gordon Ascher are still there who are in higher positions than they might have been had they not cooperated. I think that some of them are still in a position to affect the lives of some of those who fought against Gordon Ascher. That concerns me. I am hopeful that when we reorganize -- and that is going on right now -- that some of those matters will be corrected.

SENATOR ZIMMER: Mr. Chairman?

SENATOR STOCKMAN: Yes?

SENATOR ZIMMER: Are you suggesting that there be a separate office of inspector general or ombudsman, or something of that nature, established in your Department and in other

departments? Who is the person you would like to be able to go to, who you know has the authority and the independence to get to the bottom of a complaint?

MR. KUNKEL: Well, I presumed, again by virtue of the fact that he was the Ethics Officer, that Steve Blaustein was the appropriate person. I am not in favor of creating new offices. I am in favor of pinpointing responsibility.

SENATOR ZIMMER: You would like to give him the independence--

MR. KUNKEL: Yes. I think he should have been able to go directly to the Commissioner. I think he should have known that had he not and it turned out to be something serious, he was the guy who was going to answer the question. That is what I think. I am certain that every department in State government must have an ethics officer. Why would that individual have to report through somebody else to go to the top of the department if he had a critical, ethical, or possible criminal issue laid in his lap? I don't understand that. It seems to negate the purpose of having an ethics officer.

SENATOR ZIMMER: That makes sense. Thank you.

SENATOR STOCKMAN: Thank you very much, Mr. Kunkel.

I think the Committee is going to have to take a break for lunch. It is a quarter to one. We will resume and try to complete the testimony of the other five, I believe, witnesses before the day ends. That may prove impossible, but we will at least try. So I would ask that we be back here at a quarter to two. It is a quarter to one now. Thank you.

(RECESS)

AFTER RECESS:

SENATOR STOCKMAN: I think we better try to get started now. I want to call as our next witness Dennis Reiter. Mr. Reiter, would you stand and raise your right hand, please? (witness complies) Do you solemnly swear that the testimony you shall give in the matters now pending before this Committee shall be the truth, the whole truth, and nothing but the truth, so help you God?

DENNIS REITER: I do.

SENATOR STOCKMAN: You may be seated. Thank you. Did you receive a subpoena from the Committee compelling your attendance at this hearing today?

MR. REITER: Yes, I did.

SENATOR STOCKMAN: Attached to that subpoena was a copy of the Code of Fair Procedures. The Code of Fair Procedures gives you certain rights as a witness testifying here today before this Committee. For example, you have the right to be accompanied by counsel, who may advise you of your rights during the proceeding. Do you have counsel present here today?

MR. REITER: Yes, I do. My lawyer is John T. Barbour.

JOHN THOMAS BARBOUR, ESQ.: Senator Stockman, if it pleases you as Chairman, I am John Barbour of Barbour and Costa, Maple Shade, New Jersey.

SENATOR STOCKMAN: Fine. Thank you, Mr. Barbour. Do you have any questions about the proceedings today?

MR. REITER: No, sir, I do not.

SENATOR STOCKMAN: Mr. Reiter, do you have a statement for the Committee?

MR. REITER: Yes. With your permission, I would like to read my statement into the record. My solicitor has copies of it for you.

SENATOR STOCKMAN: Thank you. Go ahead.

MR. REITER: My name is Dennis Reiter. I have been an unclassified career employee for 19 years in the Division of Vocational Education, and have 24-1/2 years in the Teachers' Pension and Annuity Fund. Eighty percent to 85% of my work entails third-party contracts/competitive applications in Vocational Education, representing \$6 million to \$8.5 million per year. I am one of over 600 unclassified professionals in the Department of Education. We have more unclassified positions than most of the other State departments combined.

In the fall of 1986, I was one of the first whistle blowers; one of the first to go to the Attorney General. I would like to discuss the events and atmosphere that led to my whistle blowing and the reactions within the Department to my situation, the harassment, intimidation, and financial hurt I endured.

In May, 1983, Gordon Ascher, from Oregon and a past member of the New Jersey Department of Education with no vocational education background, was appointed to "clean up" vocational education.

In September, 1983, the pattern of Ascher's management style of intimidation and harassment was emphasized when he tried to coerce me into leaving the Division. He wanted me to trade places with a "friend" who was being fired. Since I like the work I do, I refused. From that point to the present, my boss harassed me. I have about 19 or 20 separate incidents with witnesses in writing. When I asked my boss to process a CS-44 -- a desk audit to request an increase in pay -- because of the additional duties working out of title, I was told I didn't deserve anything, and I should be grateful for what I was getting.

In my position of handling vocational third-party contracts, in the spring of 1985, a third-party contract was processed in which I questioned the need for an out-of-state consultant. It is my responsibility to check all third-party

contracts for completeness before they are processed through the internal educational system. My boss and a bureau manager set up a statement to justify the consultant. This grant and a second grant in Fiscal Year 1986 were to fund the Advisory Committee to develop a strategy to help vocational education students handle the HSPT tests. The consultant was R. Robert Rentz of Georgia. I believe some of my colleagues who testified before me pointed out the transition as far as the Advisory Committee is concerned.

Starting in the spring of 1986, the Division was escalating the participation of R. Robert Rentz's business -- R&R. Initially, the first two grants were worth about \$15,000. That was consulting money, travel and work done. Another application, through Rutgers VERC -- the Vocational Education Resource Center -- was being processed to purchase tapes that were to be developed in May/June, 1986. The original grant was funded for \$150,210, with \$58,210 allotted to the purchase of those tapes. This grant was amended later to increase the grant an additional \$66,000 to purchase an additional 55 tapes at \$1200 a tape.

Later in 1987, I discovered that my boss sent a memorandum to the Assistant Commissioner telling him how to channel the funding through Rutgers to avoid providing each district with a grant to purchase the materials, as was done with Modelnetics. He called providing the materials a "piece of action research."

Other third-party contracts went over my desk which appeared very similar, even though they were submitted by Passaic County Voc, Sussex County Voc, and North Hunterdon Regional, all requesting \$18,500 for Modelnetics, and Rutgers VERC for \$62,300. These grants were for Fiscal Year 1986, were submitted late, and were "approved for evaluation" by Gordon Ascher.

Every time I would question the appropriateness of a third-party contract, I was harassed and important areas were taken away from me. I was given additional duties without anyone to help me.

Without a union shop steward, I did not become aware of the Conscientious Employee Protection Act, P.L. 1986, Chapter 105, until July of 1986. That was the first time I realized I might have some rights or protection if I approached anyone with my growing concerns. At the same time, the climate in the Vocational Division was such that:

- 1) It appeared that Gordon Ascher and his group were totally backed by Art Spangenberg and Cooperman's managers, as evidenced by the Unfair Labor Practice.

- 2) Gordon Ascher punished anyone associated with Fred Cappello, the filer of the Unfair Labor Practice suit. Fred happens to be in my car pool, which was duly noted.

- 3) Gordon Ascher pressured professionals to "do things his way," or if not, they were harassed.

- 4) Signals were being sent by upper management that Ascher was supported, as letters from the union were ignored.

- 5) Ascher was approved to conduct a business via a dual employment form which included seminars conducted in East Brunswick and Cherry Hill, a clear indication that the Commissioner was supportive of Ascher.

- 6) Projects were now being run -- not third party -- which emphasized conferences in Atlantic City. A vocational guidance project -- duplicating a national study -- was run at Scanticon in the fall of 1986, which was funded with money provided by my boss -- with money he called "carry-over." The room and meal conference costs were about \$5000, or about \$350 per person for a weekend conference.

After consulting with my lawyer -- Tom Barbour here present -- and talking with Fred Cappello, I decided the safest way -- the threat of losing my job hovered over my head, and

having 23 years at that point in the Teachers' Pension and Annuity gave me an additional jeopardy, because I only had two for the 25 -- was to go to the Attorney General's Division of Criminal Investigation Office, and tell them what I knew. This was in October of 1986. I was directed by the Division of Criminal Investigation not to reveal my visits to them to anyone.

Even though I knew my rights under the Conscientious Employee Act, I lived in constant fear of losing my job from that point in 1986 until January, 1988, when Ascher was fired. Ascher could have fired me without any reason. The stress was great, and my health suffered.

Charles Kunkel, another whistle blower concerning the student organizations, Vocational Industrial Clubs of America -- VICA -- and Health Occupations Students of America -- HOSA -- and I discovered mutual indiscretions in the fall of 1986.

In the fall of 1986, another suspicious late grant, which could have been written inside the Division, appeared from Rutgers University VERC. This grant was to pay the "Peggy Road Corporation" \$110,000 to develop a workbook entitled, "Diploma!" Some vocational program specialists would not approve the project. Finally, one program specialist -- who left because she couldn't stand the pressure -- and a manager -- who has been fired -- approved the project only after two Assistant Commissioners wrote letters of support in December/January 1987. The workbook was actually printed in April/May 1987. Much later, I discovered that R&R -- Rentz's firm -- was used to develop the New Jersey HSPT test in 1985, and the reading questions from Diploma! were on that previous New Jersey test. This was not acknowledged in the Diploma! book.

The money given to Modelnetics and Basic Skills increased in the spring of 1987. A Rutgers University grant was submitted for \$144,888. Of that amount, \$120,950 was to be

for supplies for more HSPT tapes. This grant was withdrawn in the fall of 1987. This was a Fiscal Year 1988 grant. The \$120,950 was split into existing grants. One grant was increased by \$60,000 in supplies for 50 more tapes at \$1200 per tape, and another grant was increased \$265,188, which included \$60,000 in Basic Skills training; \$122,500 in instructional materials -- more Diploma! books; and \$17,200 in consultants. This last grant was also increased an additional \$333,500 for the purchase of more Modelnetics materials. These materials were to be given out "free" for people taking the course.

I kept the Division of Criminal Investigation apprised of all the "irregularities" such as the above.

Under advice from my legal counsel, I approached the Department of Education Director of Administration, who is also the Chairman of the Department's Ethics Committee, both in person and in writing on October 29, 1987. I went because I received some assurances that the meeting would be confidential. At that October 19 meeting, I showed the Director written evidence that Gordon Ascher participated in the development of a grant which was later submitted by a district. Fred Cappello alluded to that in his presentation. This was the first Rentz consultant grant.

The Director asked me if I confronted my boss -- Steve Seu -- or Ascher directly. I told him, "No, I didn't want to lose my job," since I had already been harassed and pressured for asking questions since 1983. The Director then stated, "Well, you will have to confront them sometime." While Charles Kunkel, who initially approached the Director, met with Richard DiPatri, I had no dealings with the "internal investigation" until last November/December 1987.

During the week of November 23, 1987, I was told to prepare data for Robert Braun of The Star-Ledger through a directive from Richard DiPatri to Gordon Ascher to Steve Seu. Ascher told me I was to cooperate with Braun 100%, as they were friends.

In November/December 1987, I was interviewed by the internal investigation team of Richard Kaplan and Tom King. I went to the interviews -- the first two lasted a total of seven hours over two days -- without legal counsel because it was my understanding that they wanted me to provide facts. The meetings were conducted alternately in a confrontational and hostile manner to a friendly manner. Richard Kaplan, in hostile tones, made statements such as, "I want to see where you are coming from!" "What's your agenda?"

I provided many detailed and documented facts, and yet I was treated as the guilty party. In the next 10 weeks, I was interviewed and provided information requiring a minimum of 20 hours of my time. I was always cooperative. In another interview, Kaplan pitted my boss, Steve Seu, against me, after misleading me as to the nature of the interview. As a matter of fact, my lawyer, in talking with him over lunch on the telephone, said that I shouldn't go into the meeting. However, Kaplan indicated to me that it was just a discussion on standard operating procedures. At that interview, after he dismissed Seu, Kaplan stated, "If you had come to me in 1985, none of this would have happened."

Gordon Ascher, Greg Buontempo, Linda Pedrick, and Priscilla Walsh were fired in the first week of January. John Wanat was fired in the second or third week of January. Two managers still remain from the Ascher regime, including my boss.

This lengthy presentation brings us to today. I still have only the subpoena protection and the whistle blower protection. The Commissioner is on record with this panel on April 19 that whistle blowers will be protected.

However, my career has been stalled for five-plus years. I was punished for asking questions by being relegated to a "non-entity" role. I have been denied any chance for upgrades, even though less qualified co-workers -- in terms of experience and service -- have already received upgrades, and

even though I did work out of title, and I have not even been recognized as an employee who has helped to save the State approximately \$540,000.

Instead of being recognized as a career employee who cares about our State government, I probably have doomed my career for the future in terms of promotions and upgrades.

I would not be surprised if this type of corruption has not -- or is not happening in other departments of the State. Unclassified -- and I emphasize unclassified -- career employees need protection which you, the Senate and the Assembly -- and you particularly in the Senate Legislative Oversight Committee -- can provide.

Thank you for listening.

SENATOR STOCKMAN: Mr. Reiter, you commented in the beginning, or very early in your statement, about Gordon Ascher being hired for this position with no vocational education background or experience. What do you know about his hiring?

MR. REITER: Well, we had, of course-- Wentzel resigned, and we had Pete Contini, who is now the superintendent of the county office in Gloucester County, as an interim Assistant Commissioner until, in fact, the new Assistant Commissioner could be hired. I understand that Pete Contini was on the committee headed by Jeff Osowski, as were--

SENATOR STOCKMAN: Jeff Osowski?

MR. REITER: Yes. He was the person who was running the interviews. We were told, via the grapevine, that the committee had selected a lady from Philadelphia as the number one candidate, and that a second candidate was from the State of New Jersey. The leading candidate, to my knowledge, refused to come over, and decided to stay with the City of Philadelphia School District. At that point, the rumors abounded, and the next thing was that Gordon Ascher appeared as the Assistant Commissioner.

SENATOR STOCKMAN: Well, when you said, "We were told," who were you referring to? Did Peter Contini share any of this information with you?

MR. REITER: It was not a direct statement-- Well, it was a direct statement from one committee member that we would be having this lady from Philadelphia being hired.

SENATOR STOCKMAN: And of course, she refused to take the job. But beyond that, was there any other specific information you got that Gordon Ascher was not the choice of the committee, but somehow got the job?

MR. REITER: Not in a direct form, in conversation.

SENATOR STOCKMAN: I'm not sure I understand you. You are alluding to the grapevine kind of thing, I guess.

MR. REITER: Yes, yes.

SENATOR STOCKMAN: But, for instance, did any committee member, either Mr. Osowski or Mr. Contini -- if that is the correct pronunciation -- or any other member of the selection committee, ever indicate to you that Mr. Ascher was not the product of that committee and, indeed, wasn't the first choice, after another first choice had bowed out?

MR. REITER: In conversation, yes.

SENATOR STOCKMAN: Who, in conversation, told you that?

MR. REITER: Mr. William Henry, Ocean County Vo-Tech Superintendent.

SENATOR STOCKMAN: What was Mr. Henry's role in this? Was he a member of that committee?

MR. REITER: Yes.

SENATOR STOCKMAN: And he told you that Mr. Ascher was, indeed, not the first -- or was not the choice of this committee, but somehow came by the job?

MR. REITER: He said that he was not the leading candidate.

SENATOR STOCKMAN: And he was on the committee?

MR. REITER: Yes.

SENATOR STOCKMAN: Did he ever explain to you how it came to be that despite the fact that Mr. Ascher was not the leading candidate that he got the job?

MR. REITER: He didn't really get into that with me, no.

SENATOR STOCKMAN: But he did clearly indicate to you that Mr. Ascher was not the leading candidate. Now, I want to be careful on this, and clear. That could mean, of course, that the leading candidate was this woman from Pennsylvania who elected herself not to take the job. Is that what he meant, or might he have meant, or are you-- Or, did he tell you something beyond that?

MR. REITER: I believe he was alluding to his feelings as far as the interviewees, and what he perceived as the consensus of the committee. I can't put words in his mouth, Senator.

SENATOR STOCKMAN: No, I don't want you to put words in his mouth, but to the extent you can recall them, you can share them with us. Just so I understand you, your recollection is that he indicated to you, as a committee member, that Gordon Ascher was not, in fact, the choice of this committee. Is that your testimony?

MR. REITER: Yes.

SENATOR STOCKMAN: All right. And Mr. Henry's position is what?

MR. REITER: He is the Superintendent of Ocean County Voc-Tech.

SENATOR STOCKMAN: Now, who--

MR. REITER: It was his recollection that he finished well down on the list.

SENATOR STOCKMAN: Okay. And he was a member of that committee?

MR. REITER: Yes.

SENATOR STOCKMAN: All right. In page 2 of your statement, you indicate, "My boss," and that was Mr.-- Is it Mr. Seu?

MR. REITER: Mr. Seu.

SENATOR STOCKMAN: How do you spell that?

MR. REITER: S-E-U.

SENATOR STOCKMAN: S-E-O?

MR. REITER: S-E-U.

SENATOR STOCKMAN: "My boss and a bureau manager set up a statement to justify the consultant." You indicated that in your professional opinion and experience, a consultant was not needed. Who was that bureau manager?

MR. REITER: Priscilla Walsh.

SENATOR STOCKMAN: She is not with the--

MR. REITER: She has been terminated.

SENATOR STOCKMAN: Okay. Now, you refer to in late 1987, you discovered that your boss sent a memorandum to the Assistant Commissioner, telling him how to channel the funding through Rutgers. Who was that Assistant Commissioner?

MR. REITER: Gordon Ascher.

SENATOR STOCKMAN: You mention also that, "Ascher was approved to conduct a business via a dual employment form which included seminars conducted in East Brunswick and Cherry Hill." What were those seminars on, do you know?

MR. REITER: I was a national institute; it was a college seminar type thing.

SENATOR STOCKMAN: Do I take it that you feel, or that others in the Department feel that that was some sign of special consideration for Mr. Ascher by the Commissioner?

MR. REITER: Yes.

SENATOR STOCKMAN: Was that, to your knowledge, inconsistent with Department policy for other employees?

MR. REITER: Well, the dual employment form is such that you apply for dual employment and it is passed by your

superior. In the case of Gordon, his superior would have been the Commissioner. So the Commissioner would, in fact, have allowed him--

SENATOR STOCKMAN: To have this dual employment. Of course, the Commissioner testified about that -- maybe not in so many specifics as to these jobs, I don't know. But what I am trying to get at is, I gather you-- Were you surprised at that, or did it seem to be in conflict with good policy or practices of the Commissioner otherwise?

MR. REITER: It gave me, personally, an indication that I would be in deep trouble if I, in my concerns, went up the ladder.

SENATOR STOCKMAN: Incidentally, in the chain of command, there were other people -- or a person between the Commissioner and Ascher, weren't there?

MR. REITER: Rich DiPatri.

SENATOR STOCKMAN: Would Mr. DiPatri be the only person between Ascher and the Commissioner in the chain of command?

MR. REITER: Yes.

SENATOR STOCKMAN: Why wouldn't-- Do you know why DiPatri didn't handle the question of dual office, if I understand your earlier testimony? In other words, are you telling me that the Commissioner didn't have to sign off on all dual employment forms?

MR. REITER: To my knowledge, he does not have to sign off on all of them, no. To my knowledge, it would be, like, the Assistant Commissioner level, if it were somebody underneath.

SENATOR STOCKMAN: Do you have any personal knowledge as to why Mr. DiPatri didn't handle that?

MR. REITER: No, I do not.

SENATOR STOCKMAN: Now, you indicated that in October you went to the Division of Criminal Justice with your information. Is that correct?

MR. REITER: Yes.

SENATOR STOCKMAN: Now, did you do that independently, or did you go with someone else?

MR. REITER: I went with Fred Cappello.

SENATOR STOCKMAN: All right. To your knowledge, had Mr. Cappello already visited the Governor's office?

MR. REITER: Yes.

SENATOR STOCKMAN: So, he asked you to join him in a meeting with someone in the Attorney General's office?

MR. REITER: Yes. He indicated that-- This is not a direct quote. I am not exactly sure of the wording Fred used, but Fred indicated that we would finally have a vehicle to air our concerns, in going to the Attorney General.

SENATOR STOCKMAN: What did you air in the way of concerns with the Attorney General in October -- or thereabouts -- of 1986? Can you recall?

MR. REITER: Yes. I gave him -- as Fred mentioned in the preceding testimony-- I gave the Criminal Investigation people a little written escalation, if you will, of the involvement of Rentz in our HSPT process. I also gave them the Modelnetics information I had gleaned -- the districts involved. Those were the initial things -- those two things.

SENATOR STOCKMAN: You gave them those when -- in October or November of '86?

MR. REITER: Yes, it was in October.

SENATOR STOCKMAN: When did the Peggy Road matter come up, do you recall?

MR. REITER: Yeah. It was in the spring of 1986 that it appeared. This was for the Fiscal Year 1987 application. So it was like in the spring of '86 for a grant in 1987. It came in, and there was some concern by the program specialists in reading it. They were concerned that, in fact, there was no written Diploma! book at that time. There was only a sample Diploma! packet. In the span of time between then and December

of 1986, they were in a quandary as far as funding it, and did not, in fact, fund it until the two Assistant Commissioners signed off in late December, early January of -- December, 1986, early January, 1987.

SENATOR STOCKMAN: Who were those two Assistant Commissioners?

MR. REITER: The two were Joel Bloom and Sylvia Roberts.

SENATOR STOCKMAN: Are they still with the Department?

MR. REITER: Yes.

SENATOR STOCKMAN: Let me understand this. They wrote letters of support for this project in December of '86 or January of '87. Correct?

MR. REITER: December, 1986, January, 1987, yes.

SENATOR STOCKMAN: Did you see those letters?

MR. REITER: Not at the time they were produced. They, quite frankly, turned up with Rich Kaplan's investigative team, and I was apprised of them at that time. I had not seen them before that. However, Rich DiPatri would not process that third-party contract until, in fact, he was convinced that there was not a duplication of effort with it. That thus led to the Joel Bloom and Sylvia Roberts letters.

SENATOR STOCKMAN: Do I understand that you had raised questions about the propriety of the Peggy Road Corporation workbook proposal before we got to this point of Mr. Bloom and Ms. Roberts writing letters?

MR. REITER: Yes, I did.

SENATOR STOCKMAN: What was your reason for having problems with this Peggy Road Corporation grant?

MR. REITER: Well, when I looked at the packet and I was showing a colleague friend of mine down in Willingboro, he said, "Gee, that reading question there in that sample is from the 1985 HSPT test." And I said, "Well, it indicates that this is going to be developed by R. Robert Rentz through the Peggy

Road Corporation." And I was in a little bit of a quandary as to how our New Jersey HSPT test could, in fact, have questions taken from it and put into another book.

SENATOR STOCKMAN: Now, did you mention the Peggy Road Corporation issue to the Attorney General when you discussed the situation with him in October of '86?

MR. REITER: It was not there in '86 -- October of '86.

SENATOR STOCKMAN: I thought your statement said, "In the fall of '86, another suspicious late grant, which could have been written inside the Division, appeared from Rutgers University VERC."

MR. REITER: I might have been--

SENATOR STOCKMAN: I am on page 4.

MR. REITER: Give me a second, please.

SENATOR STOCKMAN: Sure. (Mr. Reiter consults with his attorney.)

MR. REITER: That should be amended to the spring of 1986. Well, no, I take that back. No, it did come in late. It came in, I believe, in August of '86. I said fall because I wasn't sure of the exact date.

SENATOR STOCKMAN: So it did come in in August. You didn't meet with the Attorney General until October and November of '86, right?

MR. REITER: This is true, but at the time I just processed this thing through to the program specialist. The program specialist--

SENATOR STOCKMAN: Sent it back?

MR. REITER: Well, there was a lot of discussion going on about the grant with the program specialists. A couple of the program specialists, in fact, did not approve it. When I was aware that there was some inpropriety with it, I did, in fact, make the Attorney General's people aware of it.

SENATOR STOCKMAN: What is your best recollection of when that was?

MR. REITER: That I gave it to the Attorney General?

SENATOR STOCKMAN: Yes.

MR. REITER: Probably December or January.

SENATOR STOCKMAN: December of '86, January of '87?

MR. REITER: Yes.

SENATOR STOCKMAN: Do you know whether Mr. Bloom or Ms. Roberts were aware of your problems with the Peggy Road Corporation grant?

MR. REITER: I don't think so. I think they would only have been concerned with Rich Kaplan's concerns -- I'm sorry, Rich DiPatri's concerns.

SENATOR STOCKMAN: What were Rich DiPatri's concerns?

MR. REITER: To my knowledge, he was concerned about the fact that there was a possibility of a duplicity, which is why he asked those two individuals, you know, in fact, "Was this reinventing the wheel?" if you will, with something they already had.

SENATOR STOCKMAN: Well, let me ask you this: Was Rich DiPatri aware of your concerns about the Peggy Road Corporation grant?

MR. REITER: I would say probably not, because I would have had to go through Gordon Ascher.

SENATOR STOCKMAN: And I take it you didn't file any written criticism, or critique, or objection, or anything of that sort?

MR. REITER: No, I did not.

SENATOR STOCKMAN: Now, you said there was a great deal of discussion with program specialists about this. And you said that one program specialist left because she couldn't stand the pressure. Who was that?

MR. REITER: Her name is Janet Black.

SENATOR STOCKMAN: Janet Black?

MR. REITER: Yes.

SENATOR STOCKMAN: And the manager who was fired--
Who was that?

MR. REITER: Priscilla Walsh.

SENATOR STOCKMAN: They, "Approved the project" only
after Bloom and Roberts "wrote letters of support in
December/January 1987," correct?

MR. REITER: Yes.

SENATOR STOCKMAN: So, you're telling me that you have
no way of knowing, or believing necessarily, that Mr. Bloom or
Ms. Roberts had any awareness of these discussions and distress
on the part of program specialists and yourself over the
propriety of making this grant to the Peggy Road Corporation.
Is that correct?

MR. REITER: Yes, that is correct.

SENATOR STOCKMAN: Do you know whether either of them
attempted to talk to anybody in the Division who had any
responsibility or any involvement in that Peggy Road
Corporation project?

MR. REITER: Not to my knowledge. I wouldn't have the
wherewithal to have access to any conversation of that type.

SENATOR STOCKMAN: Well, they didn't have it with you,
I gather.

MR. REITER: Right, absolutely not.

SENATOR STOCKMAN: What was Mr. Bloom's position at
that time?

MR. REITER: He was the Assistant Commissioner in
charge of general academic programs.

SENATOR STOCKMAN: What role would he logically have
in a particular vocational education grant? In other words,
what I am trying to get at is, was it common for an Assistant
Commissioner in another area of the Department of Education to
write support letters for a particular grant?

MR. REITER: It's my understanding -- and I say my
understanding because I have not seen it in writing -- that all

grants go through, in fact, Richard DiPatri's office, and Richard DiPatri gets to review all grants, not only from the Division of Vocational Education, but also from the other areas, to avoid duplicating -- spending money to reinvent the wheel, so to speak.

SENATOR STOCKMAN: But the letters from Bloom and Roberts -- which we don't have, but which I would like to look at -- I gather were what, general support letters saying, "This is a good project," or what?

MR. REITER: Something to that effect.

SENATOR STOCKMAN: And of course, they never talked to you about this project?

MR. REITER: I'm sorry, Senator?

SENATOR STOCKMAN: They never asked you your opinion or, to your knowledge, discussed this project with any of the project specialists who had reviewed it and/or balked at it?

MR. REITER: I had knowledge of the two who, in fact, had reviewed it and turned it down, yes.

SENATOR STOCKMAN: Did you find it unusual that they would write letters of that sort in that setting?

MR. REITER: In my experiences with third-party contracts, that is the first time there were ever any letters written, to my knowledge, that I would have seen, Senator. The third-party contracts are such that when they are processed, they go through the Assistant Commissioner -- up to Richard DiPatri's office, who checks them for subsequent duplication. They are then transmitted down to the Bureau of Grants Management, which reviews them for appropriateness of budget, and so forth and so on.

SENATOR STOCKMAN: Maybe Mr. DiPatri or Mr. Bloom or Ms. Roberts can clear that up for us at another time. At any rate, this project was, in fact, financed. Was that one of the subjects that you later discussed, or became more of an issue with the Attorney General's office?

MR. REITER: Clarify that question, please.

SENATOR STOCKMAN: The Peggy Road Corporation grant was finally made, correct?

MR. REITER: Yes.

SENATOR STOCKMAN: And later, to your knowledge, did the Attorney General get into that, or discuss with you the details of that?

MR. REITER: The Attorney General and -- from what I read in the newspapers, of course-- I kept the Attorney General apprised of the status of the grant as it went through, so that they were cognizant at all times of the status of it, where it was going, and so forth and so on. The internal investigation committee, as I said, had copies of those two letters. Those two letters found their way into some folders. I said I was not aware of them until I saw them when Rich Kaplan showed them to me in one of our discussions.

SENATOR STOCKMAN: Tell me about that discussion. Did Mr. Kaplan share with you his impression, or reaction, to finding letters from two Assistant Commissioners supporting a project of that sort?

MR. REITER: Well, what Rich Kaplan asked me to do -- as a matter of fact, it was the second session we had-- I was directed to put together a set of-- Let me back this up once more. Braun sent a memorandum to the public relations person, who gave it to DiPatri.

SENATOR STOCKMAN: Who was the public relations person?

MR. REITER: The name alludes me right now, Senator.

SENATOR STOCKMAN: All right, go ahead.

MR. REITER: DiPatri, in turn, gave it to Seu, my boss, and Seu said, "Robert Braun has requested some information on these particular grants. You are to make copies of them." I made copies of the relevant documents in each of the folders, and my boss said, "Make two copies, as DiPatri/Kaplan would like to have a set, as well." So I made two copies, and then my boss said, "Leave the original folders in my office," which I did.

Subsequent to that, he took them upstairs. It is my understanding that one packet was given to Robert Braun of The Star-Ledger; the second packet was kept by Kaplan; and DiPatri retained the originals in his office.

SENATOR STOCKMAN: Now, when was this?

MR. REITER: This was in-- I have the date here. Pardon me for taking my glasses off but, unfortunately, I am nearsighted, and I am going to have to shift to bifocals.

November 23, 1987 was when I was told to prepare the data -- November 23, 1987.

SENATOR STOCKMAN: You supplied that data, what, within a couple of days?

MR. REITER: It took me a week -- six days to get the stuff together.

SENATOR STOCKMAN: As far as you know, a copy of that complete file on the Peggy Road Corporation matter, including the letters from Bloom and Roberts, was supplied to Mr. Braun of The Star-Ledger, and a copy of the complete Peggy Road Corporation file, including the letters from Bloom and Roberts, was supplied to Mr. DiPatri and to Mr. Kaplan.

MR. REITER: Yes, but the thing that was revealing-- I did not put those letters, Senator, in the file. When Rich Kaplan was questioning me, he said to me, "Den, look in these folders and see if what is in here is what you put in here." I looked through the folders, and I said, "Excuse me, I didn't put these two letters in the folder." He said, "Well, how did they get there?" I said, "I can't tell you that, because I don't know." He said, "Well, why would they not have been in the folder?" And I said, "Because they, in fact, were not financial in nature, and the files I had were basically financial files. A piece of correspondence of that sort would not be in that file." I said, "I had no knowledge of those two particular pieces of correspondence until I saw them in your office."

SENATOR STOCKMAN: I'm sorry, Mr. Reiter, I missed the beginning of that statement, and I think it is important. You are explaining some seeming disparity between these two letters and where they were. Will you run through that again with me as to how they first got to your attention?

You were asked, as I understand it-- I want to be clear on this. You were asked by a memo from Mr. Braun that reached your attention to cooperate with him and supply information -- fiscal information, I guess -- documentation concerning the Peggy Road Corporation grant application. Correct?

MR. REITER: Yes.

SENATOR STOCKMAN: And you gathered the materials that were available to you -- that were within reach of you--

MR. REITER: That's right.

SENATOR STOCKMAN: --together, and they comprised a certain number of documents, I gather.

MR. REITER: Right, an application, a third-party contract, the proposal itself, saying what they were going to do, a sample copy of Diploma! -- all of that sort of thing.

SENATOR STOCKMAN: You put that material together, and you duplicated three copies of it?

MR. REITER: I made two copies.

SENATOR STOCKMAN: Two copies of it?

MR. REITER: Right.

SENATOR STOCKMAN: One for Mr. Braun, and one for Mr. DiPatri.

MR. REITER: Yes.

SENATOR STOCKMAN: And you gave those two packets of materials to your boss.

MR. REITER: Yes.

SENATOR STOCKMAN: That's Mr. Seu. Those packets did not contain the letters from Assistant Commissioners Bloom and Roberts because what, they were kept at some other location?

MR. REITER: Yes, they were probably in another file somewhere else, and found their way in between the time I released them--

SENATOR STOCKMAN: Let me stop you. Let's assume that someone wrote a letter in support of a grant like that. Where should such a letter be kept, in the ordinary course of business?

MR. REITER: Probably in the Assistant Commissioner's file.

SENATOR STOCKMAN: Who do you mean by the Assistant Commissioner?

MR. REITER: Gordon Ascher.

SENATOR STOCKMAN: It would be kept in a file that he had, separate from-- Where was the file you dealt with that contained the application, the third-party contract, and those other documents?

MR. REITER: That is a central file that resides in my Bureau -- the Bureau of Vocational Management Services.

SENATOR STOCKMAN: So, you have a central file, but letters of support for a grant-- Wouldn't you expect that those would be kept in that file, as well?

MR. REITER: If someone had knowledge of them, yes.

SENATOR STOCKMAN: I don't understand you -- if someone had knowledge of them. What do you mean by that?

MR. REITER: I, quite frankly, had not seen anything of that sort in any grants, Senator.

SENATOR STOCKMAN: Well, if a-- Let me take it so that I have a clear picture. If a grant is going to be considered by the Division of Vocational Education, what is the first step? Take me through the steps of how a file is created and where it is kept.

MR. REITER: Okay. The application comes in from a district. It is logged in. The original copy is kept in the central file -- the original copy of the application.

SENATOR STOCKMAN: In the central file.

MR. REITER: In the central file.

SENATOR STOCKMAN: And that is in your office?

MR. REITER: Yes.

SENATOR STOCKMAN: All right. What next?

MR. REITER: Then the other copies are given out to the program specialist in charge of the specific area for which the grant is applying.

SENATOR STOCKMAN: So, the application is what, duplicated, and copies are given--

MR. REITER: No, there are five copies. Excuse me, I didn't mean to--

SENATOR STOCKMAN: Oh, under the procedure they have to submit five copies.

MR. REITER: Well, it is an NCR application. It has five copies. It's like a packet.

SENATOR STOCKMAN: Some of those copies are-- One copy is given to a program specialist, or several, or what?

MR. REITER: Four copies.

SENATOR STOCKMAN: Four copies to a program specialist. Do they set up a separate file of their own?

MR. REITER: Yes.

SENATOR STOCKMAN: All right, but that is not the central file.

MR. REITER: That's right.

SENATOR STOCKMAN: All right. They set up a file of their own, and then what? Take me through the rest of the steps.

MR. REITER: Then they either approve or disapprove the application, and they give us back, for the central file, the blue sheet, which is the second copy. It is either zeros or money; it is either approved or disapproved. It is signed by the program specialist and the bureau head. Along with that is a copy of the proposal. It is then entered into the

computer, and a third-party contract is generated. The third-party contract is then mailed out to the district; the district signs the left side of it; mails it back to the Department of Education; and then it goes through the internal process.

SENATOR STOCKMAN: Now, in the case of the Peggy Road Corporation matter, the application came into the central file. The copies of it went to the program specialists. We know they had some problems with it, and you had problems with it. At some point, it nevertheless was approved, correct?

MR. REITER: Yes.

SENATOR STOCKMAN: Apparently, two Assistant Commissioners submitted letters in support of this application.

MR. REITER: That was-- I'm sorry, go ahead.

SENATOR STOCKMAN: I was going to say, did those letters not come to you, or become part of the central file?

MR. REITER: No, they did not, because the application was passed through. The blue copy came back to us. The third-party contract was generated. The third-party contract was mailed out, in this case, to Rutgers, because Rutgers was the vendor for Peggy Road. Rutgers signed the left side and sent it back. The Assistant Commissioner signed off on it, and it went to DiPatri. At that point--

SENATOR STOCKMAN: Who was the Assistant Commissioner who signed off on it?

MR. REITER: Gordon Ascher.

SENATOR STOCKMAN: Oh, okay.

MR. REITER: Okay? Then DiPatri had some questions with it.

SENATOR STOCKMAN: Okay. It reached DiPatri in the form--

MR. REITER: Of a third-party contract.

SENATOR STOCKMAN: Now, would DiPatri, when he received that-- Would it reflect problems on the part of program specialists and you, or not?

MR. REITER: No, it would not.

SENATOR STOCKMAN: Why not?

MR. REITER: Because the Assistant Commissioner -- Gordon Ascher -- would send a memo covering the third-party contracts.

SENATOR STOCKMAN: But wouldn't there be some hint or some suggestion from anything you did, or anything the specialists did, to reflect that there was some difference of agreement within the Division on this particular project?

MR. REITER: Not once it reaches that stage, no.

SENATOR STOCKMAN: So I take it, if I am following you correctly, that you did not put in writing any resistance or opposition to this grant?

MR. REITER: At that time, I was, in fact, working with the Attorney General, and was apprising him of that. I felt that to put anything in writing would jeopardize my job further than the harassment that I had already received. Since the Attorney General's people were aware of it, I felt covered.

SENATOR STOCKMAN: So what did you do? That is what I am struggling with. Did you do nothing? I mean, in other words, you didn't have to either sign yes or not. You didn't have to sign anything on it. You just gave it back to Ascher, or what?

MR. REITER: That's right. I, much like Grants Management people, do not really question the validity of the program and the specifics of the program. I question whether all the pieces are in place as far as the third-party contract is concerned, and I question whether the thing is budgeted out properly. I am sort of a cleanser, if you will, before it goes into the internal system. But, it is not in my purview to question a program. I can question the appropriateness of a consultant -- an out-of-state consultant. I can't question whether something is good or bad.

SENATOR STOCKMAN: Well, what I am having difficulty with-- What I am trying to get at is, with regard to this Peggy Road Corporation matter which, from hindsight, we know has some real serious problems associated with it, together-- Correct?

MR. REITER: Yes.

SENATOR STOCKMAN: What I am trying to get at is, was there anything which to the trained eye of the people in this whole chain would have suggested a problem? You mentioned that a program specialist was so frustrated from this that she left. Would she have written any note about this, or not sign off, or anything, or not?

MR. REITER: She signed off when she got the assurance from the two Assistant Commissioners that, in fact, it was okay. She signed off on it after--

SENATOR STOCKMAN: Did she get a direct indication from them, or are you referring to the letters she saw?

MR. REITER: I would assume the letters she saw. I can't really speak for her. I don't know that, Senator.

SENATOR STOCKMAN: What was her name again?

MR. REITER: Janet Black.

SENATOR STOCKMAN: Do you know where she lives?

MR. REITER: It's B-L-A-C-K. I am not aware of her address.

SENATOR STOCKMAN: She is no longer a State employee?

MR. REITER: No.

SENATOR STOCKMAN: When Mr. DiPatri got this application-- Would he get every grant application that was handled by the Division of Vocational Education?

MR. REITER: Yes.

SENATOR STOCKMAN: Now, when he got this one, to your knowledge was there anything peculiar about it at that stage -- in the form it was? Do you follow my question?

MR. REITER: Sort of.

SENATOR STOCKMAN: What can you tell me?

MR. REITER: Could you--

SENATOR STOCKMAN: I mean, there wasn't any note by yourself saying, "Hey, there is something I don't like about this," or "It's wrong." You explained that that was not your role actually at this point, right?

MR. REITER: That's true.

SENATOR STOCKMAN: There wasn't any notation by Janet Black saying, "Well, you know, it's bad news, but I want to keep my job"? There was nothing that Mr. DiPatri had that was out of the ordinary with regard to this grant application. Was there or wasn't there? That is what I am trying to get at.

When he first got it-- I am going to get now to what happened after that, but I want a clear understanding from you as to your understanding of what he got, and what, if anything, it should have alerted him to.

MR. REITER: I believe he was concerned because it was dealing with HSPT, and he was afraid of duplicity in developing something which, in fact, maybe some of the other divisions had already started, or were going to do -- that type of thing.

SENATOR STOCKMAN: Okay, but was there anything, Mr. Reiter, about this grant application that in your opinion should have alerted him to be uncomfortable with, or to have any other problems with, other than this duplicity issue, which apparently he was concerned about?

MR. REITER: I'm trying to get this -- to answer your question, Senator. To my knowledge, I did not do anything to alert DiPatri to the fact that there would be something wrong with it.

SENATOR STOCKMAN: That is not my question. My question was -- and I don't mean to be critical-- To your knowledge, was there anything in that folder -- in that packet -- at that point when it arrived at DiPatri's desk, that would have, or should have alerted him to something unusual or potentially something amiss about this application?

Now, let me say this: When it first arrived there, it didn't have letters from two Assistant Commissioners endorsing it. From what you said earlier, I would suspect that that would have been something unusual, but it didn't have them. I don't want to confuse you. It arrived on his desk without them. What I am asking you again is, from your experience, was there anything in that packet of material that would have or, in your opinion, should have alerted Mr. DiPatri that this was an unusual -- that there was something unusual or odd about this grant application?

MR. REITER: I would say, no, there was nothing in that packet.

SENATOR STOCKMAN: All right. But, nevertheless, apparently Mr. DiPatri saw something, or had some concern about signing off and approving it, correct?

MR. REITER: Yes.

SENATOR STOCKMAN: And, you're telling me that you believe his concern was the issue of duplicity with the High School Proficiency Test matter. Is that correct?

MR. REITER: I am only assuming that, Senator, in that his role, because he is in charge of all the different areas in the Department of Education-- His role is to review the third-party contracts for that duplicity. It is my understanding that he does that.

SENATOR STOCKMAN: Is it your understanding that that is his only role in this process?

MR. REITER: Yes.

SENATOR STOCKMAN: He never had any discussion with you, I gather, about the Peggy Road Corporation?

MR. REITER: No. To my knowledge, this was done Gordon Ascher to Rich DiPatri to Joel Bloom to Sylvia Roberts to whomever else on a higher management level than I have access to.

SENATOR STOCKMAN: But those higher level people who worked this out, so to speak, never spoke to you at all, correct?

MR. REITER: That's true, yes.

SENATOR STOCKMAN: What if Mr. Bloom or Ms. Roberts had come to you and said, "What do you know about this Peggy Road Corporation application? What do you think about it?" What would you have told them?

MR. REITER: It would have depended on whether Gordon Ascher was on the floor or not.

SENATOR STOCKMAN: Well, suppose he wasn't?

MR. REITER: I really have to think on that one as to whether I would or would not, Senator, because--

SENATOR STOCKMAN: What if they had asked you your opinion as to whether it should be approved?

MR. REITER: Again, I don't have the ability to ascertain what's good and what's bad, as far as program, across all the different disciplines. I could do that if it was office occupations, because that is my background.

SENATOR STOCKMAN: But you did have information that led you to believe there was something improper about that grant, correct?

MR. REITER: Yes. It's sort of muddled as far as time sequence on that, Senator, as far as when I discovered that it was, in fact, a little bit funny. I'm sorry, I am a little bit fuzzy on the dates. This was a couple of years ago. I am a little fuzzy as to the time sequence as to when I, for instance, found out that the HSPT reading test -- question was on there.

SENATOR STOCKMAN: Do you know whether Bloom or Roberts ever talked to any people below Gordon Ascher in the Division about the Peggy Road Corporation grant application?

MR. REITER: Not to my knowledge.

SENATOR STOCKMAN: You refer to approaching the Department of Education Director of Administration, who is also the Chairman of the Department's Ethics Committee, both in person and in writing on October 29. Who is that?

MR. REITER: Steve Blaustein.

SENATOR STOCKMAN: You did have some dealings with the internal investigation?

MR. REITER: Yes.

SENATOR STOCKMAN: Did you hear the earlier testimony about that internal investigation and Mr. Kaplan's handling of it?

MR. REITER: Yes.

SENATOR STOCKMAN: Do you agree basically with what was testified to earlier?

MR. REITER: Absolutely.

SENATOR STOCKMAN: You acknowledge Mr. Kaplan's sincerity in trying to do the job?

MR. REITER: I would have to say that Rich Kaplan, in fact, was trying to get at the bottom of what was going on. However, I felt it was very inappropriate of him, after I had been dealing with the Attorney General since 1986, to directly accuse me of being at fault for all the Vocational Education scandal. I really take umbrage with statements and being castigated as a "bad person," when, in fact, I, in all sincerity, tried to do the job for which I was being paid, and that is, in fact, to do as good a job as possible in the Division of Vocational Education.

Quite frankly, being put into an adversarial position with my boss was completely flabbergasting. In fact, my lawyer, here seated, said, "You were extremely incorrect in doing that when, in fact, I told you not to." I was, in that particular instance, sold a bill of goods that something was going to happen, when, in fact, something completely different did happen. I found that in that particular internal

investigation, an individual who had received a 30-day suspension, really was basically following orders. He received a 30-day suspension for following orders.

I don't know that that is right. In my opinion, I think that is indicative of the beating that we unclassifieds took.

SENATOR STOCKMAN: Was there any conduct by the two managers who remained -- and you pointed that out in your statement -- in the course of all of this, that appeared to you to be in conflict with their responsibilities as public employees?

MR. REITER: Could you ask that one more time, please?

SENATOR STOCKMAN: You pointed out that Gordon Ascher and others were fired, and John Wanat was fired the second or third week in January. Then your statement says: "Two managers still remain from the Ascher" (two or three indiscernible words here) "including my boss." I am trying to get at the question -- a very tough one in some ways, but one I would like you to answer for us: Are you aware of any behavior by those remaining managers which was in conflict with their responsibilities as public employees?

MR. REITER: I was informed by our now Assistant Commissioner a couple of weeks ago that my boss, Steve Seu, is, in fact, resigning. The termination date has not been announced at this point. But in his particular instance, he was the lead person, if you will, to Gordon Ascher, as far as providing the financial wherewithal to fund projects. He had the responsibility/job of moving money around to fit slots, if you will. If something was underspent somewhere, he could move money from another area into that deficit area.

SENATOR STOCKMAN: To your knowledge, did Mr. Seu ever lean on you, or attempt to pressure you or persuade you to do anything in your job that you felt was improper or inappropriate?

MR. REITER: I would ask questions, Senator, and when I asked questions he would say, "That's fine." Then he would say, "Okay, Den, you are no longer in charge of the competitive money as far as keeping track of where it is in the various accounts. I am going to pull that away from you."

SENATOR STOCKMAN: When was that?

MR. REITER: I'm not sure of the--

SENATOR STOCKMAN: Approximately.

MR. REITER: Late 1986.

SENATOR STOCKMAN: This intended resignation of Mr. Seu-- Was it indicated that it was something that grew out of the investigation or these hearings?

MR. REITER: It was announced that he was resigning. Really, there was no further information given.

SENATOR STOCKMAN: My same question with regard to the other manager who is remaining: Do you have any information that suggests that that manager in any way participated in any activity, or encouraged any activity which, to you, appears to be in conflict with your responsibilities as a public employee?

MR. REITER: She was the manager in charge of HOSA. That is the item that Fred Cappello brought up earlier today, where he mentioned Gwen Fell, who was in charge of HOSA. She was the Bureau Manager for HOSA. After Bob Jacoby was demoted, she was assigned to VICA, as well.

SENATOR STOCKMAN: To your knowledge, did she do anything in her position that was in conflict with policies or practices of the Division, in terms of handling these grants?

MR. REITER: To my knowledge, she did what Gordon Ascher told her to do. I don't really know of any-- I was not privy to any specific instances, and I could not say firsthand. I know that, in fact, whatever Gordon Ascher told her to do, she did unquestioningly.

SENATOR STOCKMAN: Mr. Reiter, is there anything else you can share with this Committee in the way of information or

opinion, that would help us to understand why what developed and occurred, occurred and over the span of time that it did?

MR. REITER: Obviously, a lot of blame has been laid on Gordon Ascher, but I think the Committee is also looking at the question beyond that. Do you have anything further to share with us as to how or why it was that this matter became as broad and longstanding as it did?

MR. REITER: Well, I think that with some of the other statements that were made by Charles Kunkel and by Fred Cappello-- I think initially the idea that we are all unclassified and had to deal with the whims of an individual who, through perception, or through fact, was able to parlay the fact that he was omnipotent, that he had the Commissioner's ear, that nobody best fool with him or they were going to be, in fact, terminated, or reassigned, or whatever-- I think that-- I am digressing a little bit here, excuse me.

I think, number one, that we need some sort of protection. I see a very real need. It doesn't matter if it is Commissioner Cooperman, if it is Commissioner Marburger, who was before him, or Commissioner Burke, who was in between them, or Commissioner Kilpatrick, who was in an acting capacity. I think any Commissioner could be such where things could be hidden from him, things done as Gordon Ascher did. I think there is a need for the grass-roots professional people to have this protection, where if, in fact, they do get terminated, or if, in fact, they do get reassigned, they have the right to go to an outside Administrative Law Judge, as an example, where they can, in fact, get a fair hearing.

Secondly, I think what Charlie presented -- I am going to piggyback a bit on him -- where we would have someone we would feel comfortable with in the Department, who we could go to. Quite frankly, I was very apprehensive, since right now I have-- The clock will run for three more months before I have my 25 years in, and still technically, besides the subpoena,

and the Conscientious Employee Act, they could come in and terminate me tomorrow, and I would be done. Then I would have to go from the outside, under the Conscientious Employee Act-- I would have to go from the outside to try to get my job back.

SENATOR STOCKMAN: Yeah, okay. Well, let's hope that doesn't happen.

MR. REITER: I think the Commissioner has, in fact, taken a step where he has given the letter, where he has pledged that whistle-blowers won't be punished. However, again, it remains to be seen whether, in fact, there are going to be repercussions even from, for instance, coming over here and speaking to you as I have in an honest and forthright manner.

SENATOR STOCKMAN: Senator Zimmer, do you have any questions?

SENATOR ZIMMER: I would like to explore your description of the interview you had -- the series of interviews you had with Mr. Kaplan and Mr. King. You said, toward the end of your testimony, in answer to the Chairman's question, that you were accused of being at fault for the problems in the Division. Did you gather that from the statement you quoted in your testimony, where Mr. Kaplan said, "If you had come to me in 1985, none of this would have happened"?

MR. REITER: He continued, besides that quote, yes.

SENATOR ZIMMER: What did you take that to mean? It seems to me, just reading it cold, that if he had known about it earlier, he might have been able to take action earlier.

MR. REITER: His statement in the presentation doesn't really come off. I apologize. It was really a long series of sentences, Senator Zimmer, at the end of the interview, because I felt, at that point, threatened, and I, quite frankly, got up, and was not going to go back there without legal assistance the next time I--

SENATOR ZIMMER: This was after Mr. Seu had left?

MR. REITER: Yes, yes. What he said was-- In essence, what he said, besides the particular sentence in the presentation, was, "Quite frankly, I find you partially at fault for this whole thing." He said, "If you would have come to me in '85, I would have solved all of this, and that would have been the end of it."

SENATOR ZIMMER: So, you were at fault, in that context, for not bringing it to his attention--

MR. REITER: Yes.

SENATOR ZIMMER: --rather than for being a co-conspirator, or part of the actual wrongdoing.

MR. REITER: Oh, yes, right; right. He did not-- I don't think at any particular point he perceived that I was in league with any of the proceedings. On the other hand, I could not tell him that, in fact, I had gone to the Attorney General until later on.

SENATOR ZIMMER: It was bum rap, but he was not really trying to nail you, or make you a scapegoat for the actual improprieties.

MR. REITER: Well, it was my perception, Senator Zimmer, that he, in essence, was charging me with abrogating my duties. He was charging me -- this is in my perception -- with not doing my job and, quite frankly, I got some hypertension over it, and ended up going to the doctor that night.

SENATOR ZIMMER: You said that when he put you and your boss in the same interview situation, as you say, pitted you against your boss--

MR. REITER: Yes?

SENATOR ZIMMER: --he misled you as to the nature of the interview. What did he say the interview was going to be about?

MR. REITER: He said he had my boss in his office, and would I come over because he had some SOPs -- standard

operating procedures -- and he wanted to be clear -- much like Senator Stockman-- He was trying to get the chronology, as far as funding was concerned. He said he wanted me to come over, and just tell him, you know, the way things worked out.

SENATOR ZIMMER: You didn't know that your superior was there?

MR. REITER: I knew my boss was there, but he said that he was only going to talk about standard operating procedures. Instead of doing that, he brought out the Bayonne contract, which happened to have the Scanticon \$60,000 in it, and put it to me, and put it to my boss, and said, "How do you do this." Then he looked over at me, and did this (gestures), and pitted questions. I became very uncomfortable with that and, quite frankly, didn't say anything. I didn't get involved in it, because I was-- I guess, in hindsight, I should have just gotten up and walked out at that point, and said, "I am not going to do this without legal representation." He was, quite frankly, I guess, infuriated by the fact that I would not attack my boss in front of him. I think it disturbed him that I would not do that.

SENATOR ZIMMER: Okay. Let me just try to ask you a couple of questions about the information you got from your acquaintance about the selection of Gordon Ascher. Did your friend explain why Ascher was selected, or how he became the choice?

MR. REITER: No, he did not.

SENATOR ZIMMER: Did the woman from Philadelphia who was reported as the first choice-- Did she drop out before the committee transmitted its recommendations to whoever it transmitted them to?

MR. REITER: I am not sure of the time sequence of that.

SENATOR ZIMMER: By the way, who did the committee report to? Was it directly to the Commissioner?

MR. REITER: I believe the committee was chaired by Jeff Osowski, and Jeff reported directly to the Commissioner.

SENATOR ZIMMER: Okay. After the woman from Philadelphia dropped out, who was number one then, do you know?

MR. REITER: I do not know that.

SENATOR ZIMMER: Do you know how the committee operated, whether it was charged with ranking all the applicants from one to whatever, or did it simply submit a number of people who made the cut, to Osowski to make a final decision?

MR. REITER: To my knowledge, they interviewed the applicants, and they came up with a number -- I believe a number -- of candidates.

SENATOR ZIMMER: Did they rank them?

MR. REITER: I'm not sure. I can't really answer that.

SENATOR ZIMMER: They submitted all the candidates then on to whoever got it next?

MR. REITER: I'm not sure. I'm sorry, Senator, could you repeat the question?

SENATOR ZIMMER: I was asking whether the committee gave a number of names -- recommended a number of names, without indicating which one -- without putting them in rank order, and gave it to the final selection authority, presumably the Commissioner, to make the choice, or whether it ranked the names amongst themselves?

MR. REITER: To my knowledge, they ranked them. I'm really speaking secondhand, because I was not directly--

SENATOR ZIMMER: Okay. In what connection did this information get transmitted to you? Was it an explanation of how Ascher got chosen?

MR. REITER: We in the Division were a little concerned. We were concerned about Vocational Education. We were a little concerned as to who would come in to be the next Assistant Commissioner. Pete Contini did an excellent job in

the caretaker role, and we were concerned about the state of Vocational Education.

SENATOR ZIMMER: Was he a candidate?

MR. REITER: No, he was not. He was on the committee. He had no desire to continue. He was quite happy being county superintendent.

SENATOR ZIMMER: You said you were concerned, so you, as a member of this Division -- as an employee of this Division -- sought out a member of the committee, or when you bumped into him, you asked him these questions?

MR. REITER: It was a chance happening and a brief discussion. We said, you know, "We can't understand why a non-voc person would, in fact, get in." He said, "Well, he wasn't the leading candidate."

SENATOR ZIMMER: But he was one of the group whose names were transmitted to the Commissioner?

MR. REITER: I don't know whether he was or was not. He was ranked-- It is my understanding that he was ranked, let's say, below the top three.

SENATOR ZIMMER: Were you told who the top three were?

MR. REITER: No, I was not.

SENATOR ZIMMER: But this was at a time when it had become public knowledge that Ascher was the choice, and that's what prompted the discussion?

MR. REITER: Yes, exactly. Our concern was that it was a non-vocational person from outside the State who was coming in.

SENATOR ZIMMER: All right. I have no further questions.

SENATOR STOCKMAN: Thank you very much.

I have a problem. We are not going to be able to get through all of the people on the witness list. Because of the time problem we are running into, what I would like to do is call up the remaining witnesses and their counsels, remind you

of your rights, swear you in, and receive any written statements you have, under the subpoena, and then also inquire whether there are any special areas of testimony you would like to give at this point, beyond your statements.

I am faced with that alternative, or holding another hearing on this particular aspect of the matter. I am hesitant to do that. I think you have been very patient and have stayed here a long time.

Are the other witnesses here? Let me ask: Shirley Morton?

S H I R L E Y M O R T O N: Yes.

SENATOR STOCKMAN: Shirley, do you have counsel with you?

MS. MORTON: No.

SENATOR STOCKMAN: All right. Elizabeth Stambolian?

E L I Z A B E T H S T A M B O L I A N: Yes.

SENATOR STOCKMAN: Do you have counsel with you?

MS. STAMBOLIAN: No.

SENATOR STOCKMAN: Bob Jacoby?

R O B E R T J A C O B Y: Here.

SENATOR STOCKMAN: Do you have counsel with you, Bob?

MR. JACOBY: No.

SENATOR STOCKMAN: Don Jones? Don, do you have counsel with you?

D O N A L D J O N E S: No.

SENATOR STOCKMAN: And Rosemary Harzmann.

R O S E M A R Y H A R Z M A N N: Here.

SENATOR STOCKMAN: Rosemary, do you have counsel with you?

MS. HARZMANN: No.

SENATOR STOCKMAN: So, none of the witnesses do. Are there any of you who do not have a statement for the Committee? (no response) Do each of you have a statement? (inaudible response from audience) Well, handwritten if it is readable.

Maybe we ought to take a brief recess, and the Committee ought to talk to the five of you for just a minute. Why don't you all come up here. We'll take a three-minute recess and decide how we are going to handle this.

UNIDENTIFIED SPEAKER FROM AUDIENCE: Excuse me, Senator.

SENATOR STOCKMAN: Yes?

UNIDENTIFIED SPEAKER FROM AUDIENCE: The people who have testified already-- Are they released by the Committee?

SENATOR STOCKMAN: Yes, they are. Good question, and sure.

(RECESS)

AFTER RECESS:

SENATOR STOCKMAN: We are going to continue the hearing, at least for a while. Whether we will be able to complete all of the witnesses this afternoon is still up in the air.

Shirley Morton. Shirley, would you raise your right hand, please? Do you solemnly swear that the testimony you shall give in the matters now pending before this Committee shall be the truth, the whole truth, and nothing but the truth, so help you God?

MS. MORTON: Yes, I do.

SENATOR STOCKMAN: You may be seated. Did you receive a subpoena from the Committee compelling your attendance at this hearing today?

MS. MORTON: Yes.

SENATOR STOCKMAN: Do you understand the Code of Fair Procedure?

MS. MORTON: Yes, I do.

SENATOR STOCKMAN: You do not have counsel present with you. Is that correct?

MS. MORTON: I do not.

SENATOR STOCKMAN: Do you agree to testify here today without having counsel present?

MS. MORTON: Yes.

SENATOR STOCKMAN: Are you satisfied that you understand the nature of this proceeding?

MS. MORTON: Yes.

SENATOR STOCKMAN: Do you have any questions?

MS. MORTON: No questions.

SENATOR STOCKMAN: All right, fine. Do you have a statement, Ms. Morton?

MS. MORTON: Yes, I do. Unfortunately, I did not make copies for everyone.

SENATOR STOCKMAN: If you will leave it with us afterward, we will have it reproduced.

MS. MORTON: Okay, fine.

I am Shirley Morton, Educational Specialist with the Department of Education. I have worked for the Department of Education, the Division of Vocational Education, for 15 and a half years. Most of the time has been spent recommending funding for competitive and noncompetitive grants. I hold a Specialist degree in Career Guidance and Counseling. I am a nationally certified counselor, with additional certification in my special area of career guidance and counseling. During the time I have spent working in the Department, I have always received the highest ratings on my work performance record.

On June 21, 1983, I was assigned to work for a bureau manager who ruled his units by coercion. On that June day, I was told by the bureau secretary, at 8:15 a.m., that I was assigned to the new bureau manager, and I was to go down to his office "immediately." I went down, stood at the door to his office, and said, "Hello." Before the word "Hello" was completed, he said in a gruff voice, "I want to see you at 9:30 a.m." I felt intimidated and threatened.

SENATOR STOCKMAN: Who was this? Who are you referring to?

MS. MORTON: Greg Buontempo.

SENATOR STOCKMAN: All right, go ahead.

MS. MORTON: At 9:30 a.m., I went back to his office and was told, "Come in and shut that door." He told me I was assigned to him, and he could fire me anytime he wanted to do so. He said, "You will work for me and do whatever I tell you to do." I had a reputation for not signing or agreeing to do anything that was not written in law, regulation, or policy papers. My new bureau manager and I had previously worked together and I had refused to fund any project that did not comply with the law. I refused to circumvent the rules so that only favored projects received funds. He knew that I would not cooperate to fund favored programs at the expense of others, so I became a real threat to the way he wanted to do business.

I told him that I was always cooperative with my bureau chief and co-workers. He agreed that I did good work, but he said, while pointing a finger directly in my face, "You will do as I tell you. You are working for me." That was the beginning of four and a half years of a very difficult relationship.

At that time, I had responsibility for approving and monitoring \$568,292 in Federal and State money. The career guidance and counseling programs were located in 50 local school districts and five State and county colleges.

During the remainder of 1983 and 1984, I tried to be very professional in everything. I was told that as long as I made my boss look good to his boss, I would get favors from him. He signed and processed my work on time if I had done what he considered making him "look good." When I did something he disliked or something he imagined I did, I paid the price. Signatures needed on my work were delayed, my mail was hidden, my travel requests were denied for no reason, my

phone calls were not given to me, my reports went untyped, and frequently he denied me any secretarial help. I had gone to the Assistant Commissioner on one occasion about all the delays concerning my work--

SENATOR STOCKMAN: Who was that? Who was the Assistant Commissioner?

MS. MORTON: That was Gordon Ascher. I got no response except a grunt, and was told to go see my bureau manager. Shortly thereafter, a memo was sent to everyone in the Division stating that any problems had to go through the bureau manager first and then to the Assistant Commissioner.

In 1984, I had the responsibility to oversee the allocation of all competitive grants to eligible recipients. This was in Guidance and Counseling. By 1985, I was told that that responsibility was to be shared with a "new" employee. By 1986, I could no longer continue my role as guardian of public funds because that responsibility was completely removed from my list of jobs. Many of the projects funded after that were projects which I never would have funded, and certainly not at the level at which they were funded.

On December 26, 1984, the "new" person had been hired to work with me. She was there only a few weeks when she was invited to lunch with my bureau manager and the Assistant Commissioner. I was told, very frankly, that I was not invited. During the next few months, my responsibilities were decreased significantly. I was told that the new employee would no longer report to me for anything, including scheduling funded school program visits, completing reports, reviewing new materials, etc. When I asked why, I was told that she was more cooperative and would do whatever she was told to do. The implication was that since I did not sign or give approval for funds or activities which I thought were questionable, then I was no longer in favor.

By May, 1985, most of my travel requests were being denied, no matter how important they were to further the work in our office. Several strange proposals began to appear in the files, signed by the new employee. When I questioned my bureau manager about it, I was told those proposals were assigned to her and her decision would prevail. Next, all of my files, except a few noncompetitive funded programs to which I was assigned, were moved to another office. Then I was moved out of my office. Subsequently, there was a memo sent to all bureau members stating that no one was to look at any other bureau member's files unless that person allowed it. The secretaries were sent a memo that they were not to allow anyone to look at the files. Since I knew the law and regulations, I also knew that procedures were being circumvented. I was deliberately kept away from the files because I knew too much about the methods that could be used to circumvent the law.

By January, 1986, I was not being given any special assignments and I was kept out of many meetings. With every workshop I planned, or meeting I organized, I experienced some kind of delay or problem. I had difficulty getting my bureau manager to sign off on necessary forms, such as copier service and bulk mailings. Instead of being able to do the work I was capable of doing, I was pushed out of meetings, denied access to information, and degraded by remarks made at bureau meetings. The more questions I asked about the way the money was being spent, the less I was being told or allowed to see.

With the stress at work, I became ill. After being out of work for six weeks, I returned to find that I had almost no assignments. All competitive grants in Guidance were moved to someone else. I asked to see the files and was denied on the basis that, "It's not your job." By 1987, I decided to go to the CWA shop steward for help. Although I probably could have started a grievance procedure, I believed that there was much more going on than just management problems. After being

alerted by the union and another co-worker that the so-called Whistle-Blower Law had been enacted, I decided to write my concerns to my bureau manager. I was really afraid. I feared that I would be fired and I feared for my own and my family's safety. But, due to the strong support of one of my co-workers, I did write a letter to my bureau manager expressing my concerns. Many of those concerns are still under investigation by the internal compliance office. My bureau manager never spoke to me again. He was fired the following month. The "new" employee who took over the funding responsibilities was fired at the same time as my bureau manager.

However, before he was fired, he violated the confidence of the information I had sent to him. As a result of that breach of confidence, I was threatened with a lawsuit. I went to talk with several people to find out what I could do. No one had any answers. They all thought I should go to see my own attorney. I felt dismayed and frightened. All of the concerns I had about illegal and unethical actions on the part of management were being investigated, so that worry was gone. However, because I did what I considered my duty, I was now being threatened, which caused me to be emotionally upset. Consequently, I hired my own lawyer at a personal cost of \$1150.

My feeling about this is that there has to be some protection for others who will follow me as employees in the Department. I plan to leave soon -- to retire. I believe that classified protection of some sort would have enabled a greater flow of information to the Commissioner. I would not wish for anyone -- anyone at all -- to be put in the same position as I have been during these past few years, and especially during these past few months.

SENATOR STOCKMAN: Thank you, Ms. Morton. You heard earlier testimony today from other people at various levels of involvement. I think your remarks just bear out what was said

earlier, and what has been acknowledged, in substantial measure, by Commissioner Cooperman himself.

Is there anything you can add, beyond the tragic story of your own mistreatment, that would help this Committee in terms of understanding why what happened happened, who was responsible for what happened, and how to avoid it happening in the future?

MS. MORTON: That's a large question.

SENATOR STOCKMAN: I know.

MS. MORTON: A big question. The only way I can respond to that is to tell you about how I felt about things and why I didn't try to do something else. Every avenue that I tried, as far as policies and procedures that are set, failed. I tried to go to my superior; I tried to go to my co-workers; I tried to go to Gordon Ascher; I tried to talk to other people to try to find out what I should do. Absolutely no one could give me any help in the sense of what I should do, with the exception of my one co-worker, who really stimulated my thinking about it. I said, "Hey, I can't live with myself if I don't do something."

There has to be some person, some way, because no matter who I would have gone to-- I knew Rich Kaplan a long time before, but even if I had gone to Rich, Rich would have gone back some way to Gordon Ascher. He would have gone to Greg Buontempo, and I would have paid the price again, and who knows what, you know, or how. There has to be some way that someone can go and know to whom they can go to get some kind of policy or procedure, so that they know they can get some help, and it is not going to come back and haunt them.

I wanted to finish out my years in the Division. I enjoy working with the people there and with the people out in the districts. I feel I have a lot of knowledge and a lot to contribute. But I just didn't know where to go. I had no recourse whatsoever.

SENATOR STOCKMAN: All right. I have no further questions for you. Thank you very much.

Elizabeth Stambolian: Please raise your right hand. Do you solemnly swear that the testimony you shall give in the matters now pending before this Committee shall be the truth, the whole truth, and nothing but the truth, so help you God?

MS. STAMBOLIAN: I do.

SENATOR STOCKMAN: You may be seated. Ms. Stambolian, did you receive a subpoena from the Committee compelling your attendance at the hearing today?

MS. STAMBOLIAN: Yes, I did.

SENATOR STOCKMAN: Do you understand the Code of Fair Procedure and your rights?

MS. STAMBOLIAN: I do.

SENATOR STOCKMAN: You have elected not to have an attorney with you today?

MS. STAMBOLIAN: Yes.

SENATOR STOCKMAN: Do you agree to testify without counsel present?

MS. STAMBOLIAN: Yes.

SENATOR STOCKMAN: Do you think you understand the nature of this proceeding?

MS. STAMBOLIAN: Yes.

SENATOR STOCKMAN: Do you have any questions?

MS. STAMBOLIAN: No.

SENATOR STOCKMAN: All right. Do you have a statement for us?

MS. STAMBOLIAN: I will try to abbreviate it.

I would like to introduce myself as the Vocational Equity Coordinator. I have worked in that position since March, 1984, in the Division. Prior to entering the Department, I directed four sex equity federally funded projects at the Educational Improvement Centers and the Morris County Office of the Department of Education. I have had more

than 25 years of experience in education in New Jersey at the secondary college and teacher training levels. As a member of the Board of Directors, I represented New Jersey for the National Council of Teachers of English for 17 years. It was a policy-making position which affected the direction of the teaching of English nationally. I was responsible for desegregating the branches of that organization. I have assisted in the development and writing of the National Guidelines on Nonsexist Language which has been distributed for the last 12 years across the country for use in English classrooms. My background in civil rights' activities stems from graduate study in racism at Drew University, and I have been an active participant in a number of advocacy groups for the elimination of race, sex, and age discrimination.

With the passage of the present law under which Vocational Education is operating, a Federal subsidy was created -- a set-aside for equity purposes, and it increased my authority over direct funding from approximately \$350,000 to \$3 million. My responsibility involves the awarding of grants. It is supposed to involve policy making for the distribution of those moneys, and other program activities related to equity which are spelled out in the administrative charge of the present law.

I am a part of the National Network of Professionals -- one in each state of the country -- and have served on their executive committee, helping to shape national policy and to make recommendations to the Congress for the reauthorization of the present legislation.

I would like to add that in each of the equity positions I have held, I have been sought out for the jobs. I have not sought them myself.

I have been involved with the program in New Jersey prior to, and since the enactment of the present legislation. When I came into the Division, I was given the charge by the

previous Assistant Commissioner to make New Jersey look good, and I was pledged full cooperation in all equity matters. I had no reason not to believe that this would be the fact. However, I feel one of the reasons for poor morale and one impediment to the fulfillment and the compliance with law of my program has been the attitude of the previous Assistant Commissioner toward equity, toward women's issues, and toward the post of the equity coordinator, per se.

I invited the Assistant Commissioner to be the guest at the Washington meeting where 50 equity coordinators were having their National Leadership Conference in 1985. Faced with this new legislation, we clearly wanted training in management skills. The Assistant Commissioner was purported to have those skills, so I arranged for him to be the guest speaker at one of our main functions.

He introduced himself at that function with a joke. The joke was: What is the difference between a dead skunk and an equity coordinator lying in the road? The answer was, you brake for the skunk. That was the way we launched the Perkins period for New Jersey, and gave a national impression of the support for equity.

In 1986, a newsletter was prepared by one of my projects. It was required that I pass it through his office for approval. He looked at it, took exception to the headline, which said, "Are We Training Women for Continued Poverty?" He flung it at me, and asked, "What's this garbage?" I, at that point, spoke to several of my friends and indicated that I was about to terminate my employment at my choice, and was urged by them not to do so, but to tough it out and wait, that something might change. Apparently, some of my colleagues knew what was going on with the investigation at that time.

While I was in Washington and that joke -- which I never got the point of -- was told, I was also able to take the Assistant Commissioner to a reception on Capitol Hill. He took

me aside and said he had something very important to tell me. It seems that someone had just been appointed to the Washington office -- the U.S. Office of Education to head equity coordinators nationally. He advised me that that person would be coming to me with stories, but that I should not believe the stories; they had no validity. It turned out that this was a person who had worked with him in Oregon. This person was known to have had a sexual harassment suit against Gordon Ascher, and he was concerned that I would hear about this, obviously, and didn't want me to believe it.

I didn't believe it for a while, but ultimately I not only came to believe it, but I found the story that was told to me by this person to be entirely credible. I had professional relationships with this person and became a very good friend of hers, so much so that in the events of recent months, there have been frequent calls from Oregon to me, to verify why she is being called by several investigative agencies that have been conducting the inquiry.

My friendship, professional and personal, with this person did not do anything for me in the way of positive reenforcement with the Assistant Commissioner. Subsequently, there were members -- several female members -- of our staff who were subjected to sexual harassment on site here and, since they sought me out for advice, I did not, again, increase my credibility with the Assistant Commissioner.

At a staff meeting in 1986, this man challenged me because I kept maintaining in the presentation of our funding guidelines that equity programs are targeted toward the needs of women. The language I was using was directly quoted from the Congressional Record, and it was in the charge to the equity coordinators. I brought not only that, but about 20 more pages of legal affidavits to show that, indeed, this was the thrust of the legislation.

The Assistant Commissioner is publicly known, in professional circles of the American Vocational Association and the state directors to have been part of the committee that was recently dedicating itself to the eradication of the equity set-aside as it exists in present law.

I think another reason for poor morale has been the noncompliance by management with the Federal regulations concerning the equity coordinator's job. It is a new position, and with the money that was awarded, because Congress was very specific about the administrative level, the administration of this program is supposed to be directly responsible to the Assistant Commissioner, and that never was a fact in New Jersey.

Part of the charge is that the equity coordinator is supposed to review all expenditures of Federal funds, to ensure that the needs of women are being met. During the regime of the previous Assistant Commissioner, I was not allowed to review those grants, and faced with a three-person job and one person to do it, I didn't have time to fight that one. But I knew after the investigation started why I was not privy to the other contracts.

Funding decisions and policy development, which come under the authority of the equity coordinator, have regularly eroded, and this has come out in a national document that was just published by the "Wider Opportunities for Women" -- the coalition for women and girls in education in Washington, D.C., where they point out that New Jersey is deficient in the administration of this law; that we are in noncompliance in the limitations we put on the distribution of funds, and on the assignment of the equity coordinator's responsibilities.

I don't want to leave without indicating that I have been pressured at a couple of points to spend equity funds in ways that were not appropriate. One of those was a request in 1986 to take some of the equity funds -- a sizable portion -- for a Modelnetics conference for vocational student leaders. I

was brought into the Assistant Commissioner's office and interrogated about this, since there was reserve money available. I indicated that I did not think two days could achieve what this material purported to deliver, and was then told that I was not supposed to discuss it, just answer yes or no. I said, "No," and I left the conversation and the room.

The Assistant Commissioner persistently asked me to hold an equity conference to develop an equity plan. He said it should be in a setting similar to the Vocational Guidance and Counseling Conference that had been held in Princeton. He said he thought it was important to hold it in a luxurious setting like that; that it was a time for collegial relationships to manifest themselves, and that that was slow in coming about.

Because the job has not been assigned in the proper way, they haven't known what to do with me. So I have been working since I started with four different managers. At the outset when I was told that the thing to do was to make New Jersey look good, I asked what assignment I would have, assuming it would be one dictated by law. Instead, I was told as a joke in the presence of the several bureau managers who were working at the time-- I was told by the Assistant Commissioner that I would be assigned to the Program Division. This is the remaining manager who heads up all of the vocational programs. We had just left a meeting where the representatives of Congress had told us that was not the bureau; it was the last place in which any vocational equity coordinator was to be assigned under present law. They only told me an hour later that it was a joke; that they would not do that; that they clearly understood it was a violation -- it would be in noncompliance. However, at the present time, that is my assignment.

The previous manager I worked for encouraged me, at some point, to hire a marketing professional -- not to hire

directly, but to recommend hiring through one of my projects in the State, and that is an individual who has been the subject of part of the investigation. That individual was not retained by that project, by my recommendation and the acquiescence of the project directors.

The present manager with whom I work indicated to me last June that I was to reconsider a rejected competitive proposal, one that had been rejected by six readers. It was for the Vocational Resource Center. Since Division policy does not allow for this recall of projects, I was disturbed about it, but I was required to bring in the people from VERC and to meet with them and reinstitute the project. That was the kind of pressure-- These were all kinds of pressures that would allow for low morale.

I have been pressured to hire individuals who were unqualified to deliver equity services. One of them, a young woman who the previous Assistant Commissioner met at a conference, was encouraged, as the leader of a technical assistance project, to work with school people. I indicated that I could not hire anyone without qualifications, and I was told that I had to take her, and that my job would be to train her, since I was the repository of all the equity knowledge in the Division. I worked with her, one on one, for three weeks, and she went out to the project. She was a total disaster. After four weeks, I went into his office, and I said, "If it costs me my job, I don't care. I will not have this person representing us in the schools." His question to me then was, "Well, why did you hire her?" It was a rehearsed answer, because I was to do it as a favor for my bureau manager. Indeed, it was at the insistence of the Assistant Commissioner.

Within five minutes, Priscilla Walsh was brought in and created a new job for her at the Vocational Resource Center, at a significant increase in salary, when she had been

on board only four weeks. It was something like a \$5000 increase in salary. In addition-- Well, never mind the in addition. I need water. (witness pauses to get a drink of water) I'm sorry, my mouth went dry.

After she had that position, I was finally given a copy of her resume, and it turned out that the person had absolutely no experience in education. I can understand people not having any background in my field, but this person's education qualifications were two weeks in a rehab program for drug addicts in a summer camp.

I have been in my present position with the program director since a year ago April. But since January, which was the time when I testified to Richard Kaplan's committee and indicated that I thought the way in which the equity plan that was supposed to be held in a luxurious setting -- the way in which that particular matter was finally resolved raised questions in my mind about funding, which is what Kaplan asked me-- Since that time, I have been subjected to what I believe is intense harassment by my bureau manager. I think there have been deliberate efforts to erode the authority of the vocational equity coordinator.

I presently have a grievance suit. I think I have beaten Fred Cappello, because Fred Cappello is rated as a three. I am presently rated as a five, which is the last step before you go out the door. Since it is not Christmas yet, I will hope for some resolution.

I wanted to speak to you because I wanted to indicate that in an era when civil rights is not uppermost on people's minds, we have had a rather difficult time of it in the Vocational Division, with a person whose attitude toward women and toward equity has been terribly, terribly negative. I have been at conferences with young women who clinged to me in terror that this former Assistant Commissioner--

SENATOR STOCKMAN: Are you talking about Mr. Ascher?

MS. STAMBOLIAN: Yes.

SENATOR STOCKMAN: Well, I think the Lord has taken care of that issue anyhow.

MS. STAMBOLIAN: All right. The climate of receptiveness toward equity has to be such that we are in compliance with the law, and it has to be such that we are not advancing those very causes which the education establishment is fighting to contradict.

Thank you. Do you have questions for me?

SENATOR STOCKMAN: I do not have any questions.

SENATOR ZIMMER: I have one brief question.

MS. STAMBOLIAN: Yes?

SENATOR ZIMMER: Is it your statement that we are not -- that the Division is not in compliance with Federal directives?

MS. STAMBOLIAN: We have not been since the institution of the Perkins Act, because of the assignment of the vocational equity coordinator and several other steps along the list of rules and regulations.

SENATOR ZIMMER: How is it that we are still getting Federal funds?

MS. STAMBOLIAN: There has been no monitoring. The document to which I refer now calls for biannual reviews from the U.S. Office of Education to do that. We are not the only state that is remiss, but I am only responsible for New Jersey's program. They want to have a biannual review out of the U.S. Office of Education just of the equity programs, to ensure that things are being carried out as they should be, but nobody has gone through and held back Federal funds yet.

SENATOR ZIMMER: Does anyone have to certify in the New Jersey Division of Vocational Education that the Federal directives are being complied with?

MS. STAMBOLIAN: There has been no such review or sign-off, other than whatever routine statements of assurance the State gives to the Federal government.

SENATOR ZIMMER: Are those routine assurances incorrect?

MS. STAMBOLIAN: I don't think there has been any enforcement of them, because there has been a lack of knowledge about them.

SENATOR ZIMMER: Are those statements incorrect?

MS. STAMBOLIAN: I'm sorry?

SENATOR ZIMMER: Are the so-called routine statements of compliance--

MS. STAMBOLIAN: I have no idea what the reporting procedure is. While I should have signed--

SENATOR ZIMMER: Are you involved in that?

MS. STAMBOLIAN: I should have been, but I have not been privileged to take part in that step.

SENATOR ZIMMER: So, somebody else other than an equity officer is certifying the compliance with Federal regulations?

MS. STAMBOLIAN: If, indeed, such documents are required by the Federal government, someone else has been handling that for the Division, yes.

SENATOR STOCKMAN: Thank you very much, Ms. Stambolian. Bob Jacoby? Please raise your right hand, Mr. Jacoby. Do you solemnly swear that the testimony you shall give in the matter now pending before this Committee shall be the truth, the whole truth, and nothing but the truth, so help you God?

MR. JACOBY: I do.

SENATOR STOCKMAN: You may be seated. Did you receive a subpoena from the Committee compelling your attendance at this hearing today?

MR. JACOBY: Yes.

SENATOR STOCKMAN: Do you understand the Code of Fair Procedure and your rights to have counsel?

MR. JACOBY: Yes.

SENATOR STOCKMAN: You do not have counsel, I gather?

MR. JACOBY: That is correct.

SENATOR STOCKMAN: Do you feel you know and understand the nature of this proceeding?

MR. JACOBY: Yes.

SENATOR STOCKMAN: Do you have any questions about it?

MR. JACOBY: No.

SENATOR STOCKMAN: And you do have a statement?

MR. JACOBY: Yes, I do.

SENATOR STOCKMAN: All right. Go ahead, Mr. Jacoby..

MR. JACOBY: I have organized my comments on paper, so I will appreciate your indulgence while I read them.

My name is Bob Jacoby. I thank you for the opportunity to speak before you today. Regarding history about myself, I started my career in education in 1955 as a classroom teacher. I joined the Department of Education in New Jersey in 1971 as a supervisor. I am currently a Program Planning Associate in the Division of Vocational Education. Before my assignment to this title, I was a Bureau Manager from 1979 until October of 1987, when I was demoted by former Assistant Commissioner Gordon Ascher. This action followed several meetings with Dr. Ascher, during which I was told that I was "out of control," a term which has become commonplace in our past history.

Dr. Ascher was dissatisfied with my management style. This style was one that I practiced in which staff members were treated as professional equals and open expression of opinion was encouraged. In fact, this openness resulted in an investigation into apparent irregularities in the administration of the Vocational and Industrial Clubs of America contract that was administered through our Division.

I, personally, and staff under my management at the time, were subjected to consistent pressure to be less critical of programs and of schools. These were programs and schools

that were reviewed and programmatically under our supervision. We were all, more than once, categorized as "out of control." We were, however, attempting to apply regulations in a consistent manner.

I would like to relate some of my impressions and observations that might illustrate the uncomfortable working environment that existed for at least some of the Division of Vocational Education staff.

As time passed after the Department reorganization in 1983, it became more and more apparent that decisions were being made on personality, rather than professional ethics. The Bureau of Special Training Services that I managed at the time was assigned to the South Broad Street office. This is the one referred to in the past as "Siberia South." When the Division administration wanted to ostracize a staff person, he or she was assigned to the Bureau of Special Training Services at Siberia South. These assignments were based on emotion, rather than logic, and involved, I believe eight employees from 1983 to 1987.

I was told on one occasion, "You are the only one who can control this person, so the person goes to you." Assignments came later. On another occasion, I was told, "I want this person out of here" -- that was the 225 West State Street office -- "by four p.m. today -- out of my sight."

The result of these arbitrary reassignments was that programs suffered and initiatives faltered. Many program specialists who were assigned to specific programs based on their expertise, because of these decisions by former Assistant Commissioner Ascher were moved to another office and another assignment, just to get them out of sight.

My involvement with the private vocational school approval and monitoring was also difficult. This office was run by a very dedicated staff member who, because of excessive numbers -- there were 200 private vocational schools under our

supervision in the Department -- fell further and further behind on approvals and reapprovals which are required annually. With cooperation and help from other staff members, we reduced, substantially, the unacceptable backlog. We revamped the reapproval process to reduce paperwork and staff time. We brought reporting statistical data in line with the departmental calendar, and prepared the first draft of a new, stronger administrative code, which has since been approved by the State Board of Education.

Also, I was a contributor to the preparation of legislation to charge fees to the private vocational school industry to support the regulatory requirements of the Department of Education. I personally met with leaders of the industry, and spoke to their constituency on several occasions, in successful attempts to obtain their support for this legislation. In fact, our arguments were so convincing for this industry to pay for its own regulation, that the industry itself had their own person in the Legislature introduce this legislation.

I was called to the Assistant Commissioner's office about two years ago, to be told that Dr. DiPatri was not pleased with the progress of this office, and that we needed a "fall guy" -- and that is a quote -- and I was elected. This responsibility was then reassigned to another manager.

The visit to the Division in May, 1987 by you, Senator Stockman, and Mr. Watson, was used by Dr. Ascher as a personal threat. After I was introduced to you and the other visitors, I was viciously attacked by the Assistant Commissioner, who wanted to know why you talked to me, what you wanted, and what did I tell you? I was also advised that I had been seen talking with Fred Cappello, the CWA shop steward, and if I were to continue this practice, it would be viewed as inappropriate for a manager and would imply support of all the bad things the union was about.

My association with my friend of many years was considered to be -- and this is another quote -- "inconsistent with expressions of loyalty." My supervisor, the Assistant Commissioner, told me that if I didn't voluntarily move aside, our relationship would be one of consistent conflict. My comment to that was that I could take flak from just about anybody, but if my own supervisor could not be trusted to stand behind me, I couldn't work under those conditions.

Under this pressure and intimidation, I requested more programmatic responsibilities and, as a result, I was removed from my manager's title. Under the current conditions, fortunately, I have observed, and have confidence that Assistant Commissioner Newbaker is in touch with the Division, and his leadership has already produced a positive environment where service is more important than control. My opinion, incidentally, of the past administration was that control was the important function of our Department, rather than service. I view that kind of a bureaucracy as an upside-down bureaucracy, where I think the members of the Department should be a service-functioned education, rather than simply involved with control.

I hope I clearly related the negative and hostile environment under which many staff members were forced to work in the Division of Vocational Education. I, and other bureau members, attempted to function within the established requirements of the Department and under the direction of our managers to implement programs, but we consistently rejected pressure to provide support to activities that were in violation of ethical standards or legal parameters. We freely voiced opinion when professional integrity made this necessary. My management style encouraged questions and discussion, but this was not shared by Division management, who consistently related this attitude to be inflammatory and lacking in control. This dissatisfaction was purported to be

-- to me anyway -- directed from a higher administrative level. Many times, the former Assistant Commissioner said to me, personally: "The Commissioner wants," -- "The Commissioner thinks," -- "This is what the Commissioner wants." When that preceded a direction which, in my opinion, was in violation of some ethical standards or some requirements of our Department, it became more and more difficult to operate.

I feel it is necessary for our Department to make sure that we have a system that provides our professional staff with the freedom to move freely within their professional responsibilities. I think one of the problems we experienced in the past was that the professionals felt intimidated by their position as operating at the pleasure of the Commissioner. I think it is in the best interests of the State of New Jersey to make sure that those people who are unclassified are not classified as expendable.

Again, I thank you for listening. I will be glad to answer any questions you may have.

SENATOR STOCKMAN: Thank you, Mr. Jacoby. Do you have any questions, Senator Zimmer?

SENATOR ZIMMER: No questions.

SENATOR STOCKMAN: Thank you very much. I think we understand and appreciate your testimony.

MR. JACOBY: Thank you.

SENATOR STOCKMAN: Donald Jones. Mr. Jones, please raise your right hand. Do you solemnly swear that the testimony you shall give in the matter now pending before this Committee shall be the truth, the whole truth, and nothing but the truth, so help you God?

MR. JONES: Yes, I do.

SENATOR STOCKMAN: Please be seated. Did you receive a subpoena from this Committee compelling your attendance at today's hearing?

MR. JONES: Yes, I did.

SENATOR STOCKMAN: Do you understand the Code of Fair Procedure?

MR. JONES: Yes.

SENATOR STOCKMAN: You are here without an attorney. You understand you have the right to an attorney, but you have elected not to have one?

MR. JONES: Yes.

SENATOR STOCKMAN: Do you have any questions about the hearing, Don?

MR. JONES: None at all.

SENATOR STOCKMAN: Okay. Do you have a statement for us?

MR. JONES: Yes, just a two-minute statement, Senator.

My name is Donald Jones. I am an Education Program Specialist in the Division of Vocational Education. For the past 18 years, I have worked in the area of special needs programs for handicapped and disadvantaged students. These programs include: Work Study, the Work Experience/Career Exploration Program, and Employment Orientation.

Prior to coming to the State, I was a teacher in the Trenton and South Brunswick public schools. I was also a supervisor at the Kilmer Job Corps in Piscataway, New Jersey.

Previous witnesses have testified about poor morale and harassment of professionals in the Division of Vocational Education. I attest to it; I witnessed it; and I was a victim of it. But rather than be repetitive, I would like to inform you about employment practices with the Division of Vocational Education during the last four years.

There are only two black professionals and one Hispanic professional out of a staff of 52. Although the Vocational Division receives \$19 million in Federal funds and \$8 million in State funds to serve students of the State of New Jersey, this is the only Division in the New Jersey Department of Education that does not have one black or Hispanic in a

policy-making position. It is evident that in the past the best qualified friend was hired and promoted. I am hoping that these hearings will help to remedy this situation.

Thank you, Mr. Jones. You are here without an attorney.

SENATOR STOCKMAN: Thank you very much, Mr. Jones. Senator Zimmer, do you have any questions?

SENATOR ZIMMER: No questions.

SENATOR STOCKMAN: Don, do you want to spread on the record any instances of alleged discrimination that you are familiar with and aware of now? I know the hour is late, and you have been very thoughtful, I think, in summarizing your testimony, which is very helpful.

MR. JONES: Senator, my concern in making a statement here is, I am an older employee, and maybe in another two or three years I will probably be moving along. But we're dealing with Federal funds and State funds, and I think it is important that we have minorities in policy-making decisions, for the simple reason that we are serving 30% Hispanic and black students.

SENATOR STOCKMAN: I was going to say, actually in terms of the constituency you serve, that failure is all the more egregious and distressing, because the effects of -- the implications of vocational education are there. You just confirmed what I thought. That ties in, incidentally, it seems to me in a way, with the whole question of urban public education, because while vocational education isn't peculiar or unique to urban areas, I suspect it has a special importance and significance in urban areas.

MR. JONES: Sure. Like in our own Division, we have one Hispanic woman who has been there going on seven or eight years. She has never received a promotion. Right now, we have a civil rights case, with a young black man, who has been there, I guess, for the past 10 years. He was upgraded, I guess, one notch, but his case is now with the Civil Rights

Division, and I think you are investigating it in the Division. So we are waiting now to see how he is going to make out with this complaint.

SENATOR STOCKMAN: I think the record should reflect that Assistant Commissioner Newbaker is here for these hearings, and has shown an obvious interest and great attention to the testimony. I'm sure he has listened carefully to your testimony, and I hope and expect that he will be giving it consideration in terms of future actions within the Division and the Department. I thank you on behalf of the Committee.

MR. JONES: Okay. Thank you.

SENATOR STOCKMAN: Our last witness will be Rosemary Harzmann. Ms. Harzmann, do you solemnly swear that the testimony you shall give in the matters now pending before this Committee shall be the truth, the whole truth, and nothing but the truth, so help you God?

MS. HARZMANN: I do.

SENATOR STOCKMAN: You may be seated. Did you receive a subpoena from this Committee compelling your attendance at this hearing today?

MS. HARZMANN: Yes, I did.

SENATOR STOCKMAN: And, do you understand the Code of Fair Procedure and your rights under it?

MS. HARZMANN: Yes.

SENATOR STOCKMAN: You don't have an attorney with you, I gather?

MS. HARZMANN: No.

SENATOR STOCKMAN: Are you satisfied to proceed without an attorney?

MS. HARZMANN: Yes, I am.

SENATOR STOCKMAN: Do you think you understand the nature of this proceeding?

MS. HARZMANN: Yes.

SENATOR STOCKMAN: Do you have any questions?

MS. HARZMANN: No.

SENATOR STOCKMAN: All right. With that, do you have a statement for us?

MS. HARZMANN: I have a brief statement.

Senator Stockman, members of the Committee, ladies and gentlemen: I am Rosemary Harzmann, a Program Specialist in Home Economics and Consumer Education in the Division of Vocational Education. As a Program Specialist, I have had primary responsibility for the administration of home economics and consumer education programs.

In September, I will have completed 20 years of service in the Department. During this time, I have been recognized by national and State leaders for my contributions to the field and the development of quality standards. Never in my professional career have I compromised these standards.

However, it was obvious that once the late Gordon Ascher took office, that my standards of performance were in direct conflict with his. The reason I am here today is because I am an employee who was subjected to job reassignment, travel denial, reduction in job responsibility. It has been difficult to adequately serve the youth and adults of New Jersey under these circumstances. I would like to share examples of the management style I was subjected to.

After the reorganization -- in the summer of 1983 -- I was the lead person out of four positions assigned to the Home Economics and Consumer Education Project, which is housed in the Bureau of Agriculture, Business, Health, Home Economics, and Occupations. I also served as the acting manager in the absence of the bureau manager.

The following year, the Assistant Commissioner eliminated one position from our program. This resulted in additional work for the three remaining staff. It was difficult to address the consumer and homemaking mandates of the Carl D. Perkins Vocational Education Act, Public Law

98-524. It also resulted in diminished services to New Jersey youth and adults.

In the winter of 1986, the Department of Higher Education conducted on-site private vocational school guaranteed student loan audits. I was given the responsibility of representing the Division on these visits. I recall a discussion with the Assistant Commissioner, at which he stated he thought that Dr. DiPatri was out to get him, and I was to report any evidence of this to him. I disregarded his remarks and performed my tasks in my usual professional manner.

In June, 1986, I was informed by my Bureau Manager that the Assistant Commissioner did not perceive home economics education as vocational education. He requested a program justification, which resulted in the position paper, "The Role of Consumer and Homemaking Education in Vocational Education." We never received any feedback on this paper. I believe this was another attempt to dismantle the program.

It was further evidenced by his action of August, 1986, when he moved the K-8 Home Economics Program and one staff member to the Bureau of Introductory and Exemplary Program, and left the 9-12 Adult Program in the Bureau of Agriculture, Business, Health, Home Economics, and Occupations. This resulted in the transfer of Consumer and Homemaking moneys to that Bureau, thus giving the manager access to these Federal dollars.

The division of the program has resulted in duplication, overlap of services to teachers and students, cost-ineffectiveness, and the fragmentation of the program. The Home Economics Program in New Jersey is no longer a K-12 adult continuum articulated program, as it always has been.

The following year, the Assistant Commissioner assigned me to two bureau managers, two different work sites, one which was Siberia; once again changed the source of funding for my salary; denied my participation in the U.S. Department

of Education National Vocational Home Economics Meeting, which I normally attended as the senior staff in home economics. It was also during this time that my co-workers informed me that the Assistant Commissioner directed my Bureau Manager, "to work me over." I was spending half of my time with the private vocational schools and half of my time in home economics education, in addition to special assignments such as 12 position papers, including a variety of bureau manager assignments.

Because of the work overload and the resulting stress, I decided to confront my Bureau Manager. The verbal response to my inquiry was, "You do things not because you want to, but you do them because Gordon wants you to." It was common knowledge that the Assistant Commissioner--

SENATOR STOCKMAN: Who was that Bureau Chief?

MS. HARZMANN: Joan Birchenall.

SENATOR STOCKMAN: Pardon?

MS. HARZMANN: Joan Birchenall.

SENATOR STOCKMAN: Joan Birchenall?

MS. HARZMANN: Right. It was common knowledge that the Assistant Commissioner's style was to overwork people until they gave up and quit. I am sure this was what they were trying to do with me. Without manager/subordinate discussion, my acting manager's responsibility was removed and assigned to another employee in the bureau.

In summary, the pattern of harassment, intimidation, and punishment took many forms. The aforementioned and other practices, such as holding up printing and the dissemination of curriculum guides, rewriting of letters, WPC turnaround time, and manager follow-through all contributed to an underproductive and demoralizing environment with unstable leadership.

Thank you.

SENATOR STOCKMAN: Ms. Harzmann, did Ms. Birchenall ever suggest to you uncomfortableness with this approach to her job as you say she reflected it, that is, that she did what Gordon Ascher told her to do?

MS. HARZMANN: Quite frankly, after that discussion we have coexisted. I have given the State of New Jersey a full day's work. I have done what I could within my limitations. I never went back and discussed it with her.

SENATOR STOCKMAN: When was that exchange?

MS. HARZMANN: It was in '86. I don't recall the exact date.

SENATOR STOCKMAN: At any time prior to that discussion or comment to you, did she express any difficulty in working with Mr. Ascher, or any disappointment with Mr. Ascher's performance?

MS. HARZMANN: Not to me. .

SENATOR STOCKMAN: Did she, or anyone else, ever try to persuade you to do something that you were uncomfortable with, or that you felt was either unethical or possibly even criminal -- either a criminal or unethical activity?

MS. HARZMANN: I always had a reputation for high standards, so that sort of got in the way in the beginning. Little things were done, I think, to try to break that, and to try to turn me around to be part of the team. I just didn't comply.

SENATOR STOCKMAN: So, I take it you are not prepared to indicate directly and clearly any specific act of a sort that could be described as criminal or clearly unethical, but rather little things you sensed were heading in that direction that you resisted. Incidentally, were you questioned by the Attorney General at all on this?

MS. HARZMANN: No, I wasn't.

SENATOR STOCKMAN: You have never been questioned by the Attorney General?

MS. HARZMANN: No.

SENATOR STOCKMAN: Has Ms. Birchenall-- Am I pronouncing --that correctly? (witness corrects Senator Stockman's pronunciation) Is?

Did Ms. Birchenall made any comment to you at any later time about the history of your relationship or what happened, or did she apologize in any way for any comment she made?

MS. HARZMANN: The only comment was, that morning she said she thought I was her friend. A former colleague came to me -- someone who is no longer with the Department -- and told me to be careful.

SENATOR STOCKMAN: But her explanation to you of her conduct was that she did what Gordon Ascher told her to do?

MS. HARZMANN: Yes.

SENATOR STOCKMAN: I guess there are no Committee people left to ask any questions. Is there anything else I should ask you that you want to add or that you think would help this Committee? I'm not sure I asked Mr. Jones that question, but he is still within reach. Are there any other suggestion or is there any other information you think would help this Committee in terms of dealing with its responsibilities?

MS. HARZMANN: The only reason I shared this with the Committee is because I believe that no employee should have to go through what I have gone through in the last five years. I had open-heart surgery in March of '83, came back to work in May of '83, and have lived with this regime for five years, and it has been very, very difficult.

SENATOR STOCKMAN: I can imagine. We hope and believe that that regime is fast coming to an end. We hope that the work in the Attorney General's office and the work of this Committee and the work of the Division and the Department itself will help to make that crystal clear.

MS. HARZMANN: Thank you for beginning to see it.

SENATOR STOCKMAN: On behalf of the Committee, although the other members are not here, I say to you and to every member of the Division who has testified, that your testimony has been very helpful. It was moving. It was measured, and I therefore think it is very persuasive. I think it is just unfortunate that it has taken so long, and that it has been so painful.

Thank you very much.

MS. HARZMANN: Thank you.

SENATOR STOCKMAN: I think we have had a full day, so the Committee will adjourn.

(MEETING CONCLUDED)

