

Utica Common Council investigatory committee meeting

Feb. 22, 2007

JOAN BRENON: The committee has been open. I need a motion to go into Executive Session.

COUNCILMEMBER HILL: Motion.

JOAN BRENON: Councilmember Hill made a motion to go into Executive Session to discuss matters leading to the employment, discipline or removal of a particular person.

COUNCILMEMBER ROEFARO: Second motion.

JOAN BRENON: Councilmember Roefaro second. All in favor?

COUNCILMEMBERS: Yes.

COUNCILMEMBER DONOVAN: Can we just go over who's going to be appearing here tonight?

MR. GARRAMONE: We have four witnesses. We have Mr. Arcuri, who did in fact show up. We have Gary Glatt. We have Tom Brady, and we have Larry Pawlinga. And we hope we can get them out of here expeditiously.

COUNCILMEMBER DONOVAN: Is there any reason why we were not notified Mr. Arcuri was coming when we talked the other night about people who were coming? Was there a reason why he was not mentioned to us?

MR. GARRAMONE: I told you the other night I was -- I wrote to him, and I was informed he was going to appear --.

COUNCILMEMBER DONOVAN: No, you didn't.

MR. GARRAMONE: -- I was informed today he was going to appear.

COUNCILMEMBER DONOVAN: No, you didn't tell us.

MR. GARRAMONE: I told you his representative said he would appear if he was not otherwise engaged.

COUNCILMEMBER DONOVAN: You wrote the letter last Friday.

MR. GARRAMONE: The other letter I wrote I wrote on Monday.

COUNCILMEMBER DONOVAN: The first letter you wrote was on Friday, the 16, and you told us on Tuesday that there was a chance he would be coming.

MR. GARRAMONE: Because on Monday a representative told me he would possible appear, and he would appear unless he was otherwise engaged.

COUNCILMEMBER DONOVAN: Then I didn't hear it on Tuesday. I -- I don't know if anybody else here ...

COUNCILMEMBER MITCHELL: I didn't know that.

MR. GARRAMONE: I didn't get a response until Monday. I came Monday for -- Monday morning I came here and wrote that note and put my letter and that in the letter.

COUNCILMEMBER WOJNAS: I think what --.

COUNCILMEMBER MEOLA: I think we should start.

COUNCILMEMBER WOJNAS: No, Frank, we're not going to go at your pace.

COUNCILMEMBER DONOVAN: I want a point of clarification.

COUNCILMEMBER WOJNAS: Tuesday night we were told Mr. Brady was coming, Mr. Glatt was coming--.

COUNCILMEMBER MEOLA: We weren't sure if Mr. Arcuri was coming.

COUNCILMEMBER WOJNAS: We didn't even know he was asked.

MR. GARRAMONE: Let's get this straight. I wrote to Arcuri.

COUNCILMEMBER WOJNAS: But we didn't know that.

COUNCILMEMBER DONOVAN: You put this in the box on Wednesday?

MR. GARRAMONE: Right. On Sunday I received a call he might appear unless he was otherwise engaged. His representative told me. I forgot what his name was. He says he didn't want to be referred to as Congressman Arcuri, "Mr. Arcuri told me to inform you that he will be there at 5:30 unless he's otherwise engaged."

So Monday morning first thing, so I wouldn't have that conversation, I came down here, wrote a letter, that note, saying that council -- I put it in the letter, put it in the envelope, said, "Here, distribute it to everybody for Monday."

COUNCILMEMBER WOJNAS: No, you didn't. We got it last night.

COUNCILMEMBER MITCHELL: Got it last night. You don't think I was floored when I picked this up.

COUNCILMEMBER DONOVAN: Tuesday night when I asked you who was coming to the next meeting you said Mr. Glatt was coming, Mr. Pawlinga -

COUNCILMEMBER MEOLA: I got the letter last night.

MR. GARRAMONE: Wait, let me ask Joan, because when I got called he was going to come, I came down here - Joan, when did I come down and write the note that I stuck in the box and I said, "You have to put in this thing 'confidential', I got a notice"?

JOAN BRENON: I believe it was yesterday.

MR. GARRAMONE: Was it yesterday?

COUNCILMEMBER MITCHELL: I got mine yesterday.

COUNCILMEMBER DONOVAN: I got mine last night.

JOAN BRENON: Because he had put them in the box, and I put "confidential."

MR. GARRAMONE: I was told he might come in unless he was otherwise engaged. I went to school Tuesday - or after I came out of class, I wrote you that note. I said, "Joan, put it in their box. They'll have it, and they'll know about it Tuesday." So it was the day before he was going to appear.

JOAN BRENON: It was yesterday, Wednesday.

COUNCILMEMBER WOJNAS: The thing is you could have told us Tuesday. We're just asking for fair, and we're not getting fair.

COUNCILMEMBER DONOVAN: When I asked somebody who's appearing and I don't --.

COUNCILMEMBER WOJNAS: You knew, and you knew.

COUNCILMEMBER MEOLA: I did not know.

MR. GARRAMONE: Nobody knew. What I knew that he - Why do you ask me a question and don't let me answer it? When I knew he would appear unless he was otherwise engaged, I immediately put it in a letter and put it in an envelope. The other way's useless.

COUNCILMEMBER WOJNAS: So Tuesday you did not know, so you could have said, "Mike Arcuri may be appearing." I didn't know.

COUNCILMEMBER ZECCA: What's the difference? I don't understand.

MR. GARRAMONE: If he ignored the letter, I'm going to tell you somebody that's coming who is not coming, then you would say, "Why isn't he coming?" As far as I found out, he might come. I wrote you a note, put it in the box and gave it to you.

My, God, I'm tired of this, because June 1 I'm done with this thing. I'm resigning. I hate it. I hate it. I tried to be fair with. All I got involved is a lot of politics. I didn't even ever, ever want to do this. I didn't take that job for that. Tell you quite frankly, when I'm done with this thing, you've seen the last of me. I have lost my confidence in this body, so there is no use of me being your lawyer. I'm tired of being treated like a thief in the night. I'm a professional. Will you ask to call the witness?

COUNCILMEMBER MEOLA: Sure.

MR. GARRAMONE: Finish my business, then get out of here. Mr. Arcuri, it's my understanding you would like to be addressed as Mr. Arcuri.

MR. ARCURI: That's correct, yes.

MR. GARRAMONE: Would you please take a seat. People have been calling me for judge for 25 years. I guess they can't get out of the habit. I probably should them otherwise.

Would you mind standing, Mr. Arcuri?

MICHAEL ARCURI

Having been first duly sworn by a Notary Public of the State of New York, testified as follows:

BY MR. GARRAMONE:

Q. Mr. Arcuri, since my brother's wake, have you seen me, have you and I met, talked, had any conversations?

A. No.

Q. Have you seen me personally?

A. No.

Q. Have you we talked to each other?

A. No.

Q. We have not had any discussion or dialogue, and I have no idea what you're going to testify?

A. That's correct.

Q. Okay. Please be seated.

MR. GARRAMONE: I'd like to share with the committee that I don't meet with the witness and give them testimony.

Q. Mr. Arcuri, it's been the practice of this committee that I usually start the questioning so that they know the areas that we're concerned with.

A. Mr. Garramone, may I make a very short opening statement? I just want to clarify something.

Q. Mr. Arcuri, do whatever you want.

A. Just for the record, you know, and you alluded to it when I walked in, I'm appearing strictly in - not in my capacity as a congressman. I'm appearing strictly as a former district attorney.

I will - and I understand that you want to ask me some questions about my role as district attorney, and my interaction with the Utica Police Department and the police chief. And in that capacity as a person who does work in the legislature knows and knows what the legislature does and people appear before my committee, I felt that - and I appreciate not being subpoenaed to be here, but I felt my obligation to be here and answer questions if that's what you had.

Q. You understand, then, that this committee being the Common Council Committee is done behind close doors? You understand that?

A. Yes, I do.

Q. So what the - eventually happening would be with this, I cannot tell you, because I don't have any role, that's a matter for the Common Council to decide, do you understand?

A. Yes.

Q. Whether this be public or be in some courtroom, I cannot guarantee it will or will not. That's for the Common Council to decide. Do you understand?

A. Yes.

Q. And you understand that this investigation has nothing personally to do with you or your role as district attorney as far as any charges or any incriminations or anything of that nature?

A. I understand that completely.

Q. Only thing I made a note of, yeah, the article in the newspaper concerning you and Chief Pylman which he wrote you to that you sort of emphasize that started a lot of talk between the relationship with the district attorney and Utica Police Department, in general Chief Pylman, in particular, occurred on 12/10/06, and it was a Sunday paper.

A. I had an article, and I referred to it tonight, and I wrote it down.

Q. Okay. Now, in that article, if I'm correct, and you can correct me if I'm wrong, at some point you and Chief Pylman had a couple conversations concerning the Anthony Franco - no Anthony, James Franco matter, who I understand was sentenced today, is that correct?

A. The article, as I recall, alluded to a conversation - referred specifically to a conversation I had with the editorial board earlier in the year. I think it was towards the end of November, early December, and talked about some situations and I related to them about my relationship and my conversations with Chief Pylman as a result of the Franco investigation, that is correct.

Q. I didn't read the article. I just wanted to get the date on it and make sure it was 12/10. Now, can you describe your conversations with the chief of police during that particular scenario?

A. As I indicated to the - the editorial board, the - the first conversation that I had with the chief, and I don't recall the date. The chief called me up and indicated to me that there was a situation that they had discovered with respect to Sergeant Franco.

Q. Franco?

MR. ARCURI: Sergeant - the only sergeant, Sergeant James Franco.

(Continuing) And he indicated to me that in his opinion that there was no crime. He felt that there was no crime, that it was an internal matter. That is - that was not something out of the ordinary, that's something that happens pretty frequently in the role of district attorney whether it's the chief of police in Utica, whether the state police, whether it's another department. If there's an issue with one of their personnel, they will generally tell the district attorney what the situation is. In fact, it happens very frequently with the state police, that they refer testimony to the DA's office, we look into it, and then we make a determination whether we're going to proceed with a prosecution or whether we're going to turn

it back over to the department and tell them to handle it internally.

In this particular case nothing specifically was turned over to me. He said that, you know, we looked at it, you know, I'm pretty comfortable that there's no crime. I said, "If you're pretty comfortable there's no crime, handle it internally." That was the extent of our conversation.

Over time I continued to hear a great deal about this. I continued to hear it publicly, privately. I heard about it from police officers, I heard it from public officials. And it got to the point where I was concerned that perhaps there was something that needed to be looked into, which is without a double the role of the district attorney. We are not a police agency. We're an investigatory agency. And our role is to basically work with police but not work for police or vice versa.

I contacted the chief and said that, "Chief, you know, we're at the point now where I'm hearing too much about this, and, you know, people are complaining about it, and it's probably a good time for me to look into it. We'll look into it and if it's as you say, there'll be no problem. We took a look at it and it will confirm what you said, but at least we'll have another pair of eyes looking at it."

And I can't tell you exactly what he said, cause I don't remember, but basically he said, "Well, there's no reason for you to do that. I told you that there's no crime here, and there's no crime here." I said, "Al, that's not how it works. I want to take a look at it." And there was a - the - the conversation quickly deteriorated from that point.

And I'll never forget it, the day I was talking to him, and I was on my cell phone. It was at night when he had called me back. I was at home. And he continued to say, well, you know, we're - "you're bending to political pressures." I said, "I'm not bending. How dare you say I'm bending to political pressures. That's my role as a district attorney, that's what I do. And, you know, what do you care if nothing happens? Let me take a look at it and I'll make that determination, and then, you know, there will be no questions. Why would you - "why would you hesitate in me looking at it?"

And I got resistance from him as I had never received resistance before. And I can't tell you how many cases he had asked me to look into it, and I looked into them. And what really, I guess, was troubling me at that point, I had probably two other cases that he had turned over to me to investigate that he had given me all the paperwork on.

So I said, "Al, you give me these cases all the time. I want" - you know, -- and I - and I have to tell you, I took the general, I guess, position of a prosecutor. The more he resisted, the more I became troubled by the fact that he was resisting it, which, you know, -- I mean, prosecutors tend to be suspicious. And, you know, when you say no or when you hesitate, we tend to become more suspicious. So I became more suspicious. And I finally got to the point where I can tell you that our voices were - were - were raised, and we were yelling at each other on the phone to the - like we had never been.

I mean, we had always had a spirited, good relationship. We were very close friends, but never at that point the way were yelling at each other night that. And the conversation ended, and I will never forget that night, I said, "What you need to remember is that I'm the DA, and it is the role of the district attorney to investigate cases whether the police like it or not, and I will investigate this case, and you will turn the stuff over to me" and click, click, and the phones hung up. And that was it. That was the last time we spoke that night.

And I can tell you that thereafter, I was not getting the information. I requested the information. I didn't get it to the point where I had to send a subpoena over to get the information because he wouldn't turn the information over that we wanted. And I'll never forget this, and this is hearsay, but since we're not in a court of law I can tell you this, my investigator from my office, Jim Helmer, and -- came back to me, and -- I gave Jim a subpoena to give to them because they wouldn't give us the documents. And Jim has been with the DA's office probably close to 20 years. He said -- came back and he said, "Mike, I can't believe what just happened." I said, "What?" He said, "When I gave Al Pylman the subpoena, he said to me, "If I haven't" - "If I didn't know you so long, I'd punch you in the face." That was what Pylman told Jim Helmer, my investigator, who had to serve him with a subpoena because he wouldn't give us the documents that we requested.

And all the time he was saying that his was political, that this was politically motivated by the district attorney's office. Now, I don't know why he would possible say that. I can't imagine after all the cases that we handled together, you know. We -- you know, we stood back to back on the Desiree Case case, on so many cases where we both took a lot of heat for things, I mean, and I defended him and he defended

me. He knew that I didn't bend to political pressure, and it really troubled me that he did that. So we continued, got the documents, and he continued to say it was political, and we wouldn't respond. We did what I felt was the role of the DA's office and not respond. And he continued to say it. We then put it in the grand jury. And when we put it in the grand jury, we came back with a 24 count indictment, and the grand jury also issued a grand jury report, okay.

Obviously at that point he, you know, was still saying that it was politically motivated, and I, you know, I mean, our position was how could it be politically motivated? A body of 23 people just came back and said there were 24 counts of felonies. And today, you know, he pled guilty thereafter, Franco, admitted the charges. He was sentenced on it today. And now they're saying it's political some other way. There's - I have to tell you that from a prosecutor's perspective, there's nothing that a prosecutor wants to do less than prosecute a police officer. It creates - I mean, I - obviously it's our job to prosecute police officers who do something wrong, we have to do that, but it creates exactly the kind of problems that we're seeing right now.

This is exactly why prosecutors always cringe when a police officer does something wrong, and they have to look into it because, you know, the ramifications. And what made it worse, I was running for another office, and he was accusing me of being political. Nothing could have hurt me more politically than to -- you have to do it. We did exactly what we were supposed to do. We put it into the grand jury. The grand jury indicted, you know.

And again - you know, and again, I think you can tell by the disposition, we weren't looking to do anything, because the disposition we were giving, we were going - we were criticized the disposition that we gave to Sergeant Franco was too easy for what he did. We were not looking for - for anything to do but what our job was. So I'm very troubled when I hear Pylman say these things.

But what I can tell you what bothered me even more than all this was the fact that what I was seeing afterward in the police department, the way that they - you know, I went - I was not - what ended up happening afterwards. I stopped getting called on murders, police stopped doing the kind of cooperative efforts that they normally do.

So finally I didn't get called on a murder. It was late in the evening. You know, I can tell you there's a personal reason for it, too. A murder takes place at eight o'clock at night, you'd like to be called at eight o'clock at night rather than being called at three o'clock in the morning when you're asleep, then they need to call you at three o'clock in the morning because then they have a question on something they need help with. Our rule is call us when the homicide is there, we'll bring somebody down there, a prosecutor there, DA there. And especially because judges won't approve warrants unless somebody from the DA's office says - has reviewed the warrant.

So we got to the point where I wasn't being called. So finally I - you know, I was really upset about it. I went into Pylman's office. I said, "This is ridiculous. You can't not call me, you know. You have to - I don't care what you think about Mike Arcuri. The district attorney is supposed to be called. That is what is supposed to happen in this county." His response to me, and I'll never forget it, is what I told the media, "We all want things but we don't always get what we want." That was his response to me. And my response to him as I was walking out the door, "You know, Al, it's sad because you know what we're here for. It's not about what Mike Arcuri wants or what Al Pylman wants. It's what's best for the people in Utica. And if we operate this way, we're not operating for what's best for the people of Utica." And that's the last conversation I ever had with Al Pylman.

He talks about an open door policy. I can't speak for what his policy is with his people, but, you know, that was uncalled for. I have been - I was DA for 13 years, and I have never experienced anything quite like that. It was absolutely childish. And I think that is the kind of thing that hurts law enforcement. It hurts the image.

We should - you know, we shouldn't be, you know, too close, police and DA should not be too close, that's the wrong image, but they should not be at war the way they were, and it's bad for a community, and it's bad for law enforcement. Q. Mr. Arcuri, before you answer another question, I'm having an exhibit marked, and I'd like you to identify it. Would you look at that exhibit please?

(Exhibit 14 was marked for identification)

Q. Mr. Arcuri, I show you what's been marked as exhibit 14. Do you recognize that document?

A. Yes, judge. This appears to be a subpoena, judicial subpoena, by Judge Dwyer dated February of 2006,

February 16, 2006. And I believe that this is in response to an application which we made for this judicial subpoena.

Q. Is that for Sergeant James Franco?

A. Well, it's actually to the Utica Police Department for a series of records dealing with Sergeant Franco and his - the investigation that we were doing with respect to the hours that he worked.

Q. Would you give that to the court reporter? Mr. Arcuri, I have a few more questions and then the panel may.

Were you aware when you were having these conversations with Chief Pylman of his personal relationship with Sergeant James Franco?

A. Yes, I was.

Q. And would you describe what you think that relationship was?

A. Well, I thought - they played golf together, and that was - they were golf partners. And that was the one other thing that troubled me. I was concerned that he might have been too close to the situation, because they were friends, that, you know, it was a concern.

And I have to tell you, I trusted him. I - you know, I felt he was a man of honor, and I - you know, I didn't question him. The fact of the matter was I thought, you know, there may have been an appearance of impropriety. And it's always good when there's an appearance of impropriety to take steps. And I thought me looking into it would surely clear that, and if nothing happened, fine. Obviously I wasn't looking for any police officers to indict. I would take a look at it. If it was as he said, there would be no problem.

But I was - you know, I didn't - I had never seen the two of them play golf together, but I knew they were golfing partners. They're - I knew they were friends, so it was a concern for me.

Q. Now, the - so you received this resistance, and I - I want you to know that I - I know of that conversation you testified to with Helmer, and I went up - because would it be fair to say that in this community people tell you an awful lot?

A. Sure, that's right.

Q. And most of us get our information about anything from many people who want certain people to know information, so they tell everything. I knew about -- .

A. I would say that's correct, yes.

Q. And that's - without you naming any names, would you say you were getting pressure to look into the James Franco matter?

A. You know, people were coming to me and telling me that, "Hey, look, you got a real problem here." And, you know, look, I - I was DA for 13 years, you know. You get a lot of people talking, a lot of people telling a lot of stories. You learn - especially at that time I thought I had - I had - I had come to the point where I wouldn't succumb to pressure, you're able to sift through what's crap and what's legitimate.

And this one I was concerned about because this was a real appearance - there was a real concern because of the close relationship between the two of them, because of the fact that I kept hearing it over and over from different people, and I - don't forget, I deal with police officers every day, my staff deals with police officers. And the thing that really put me over the top was the police officers were complaining about it. Of course, you know, the - the problem with that is you can't ask the police officers because once you ask the police officers, they say, "I don't know what you're talking about." But when they come into your office and they talk to your assistant DAs and they tell our assistant DAs "this is terrible, I can't believe this is going on, I can't believe you guys aren't doing anything about it." But, of course, then when we start doing about it, they all run for cover and say "We don't know what you're talking about," but they're there telling us what the problem is. And I'm sure you all have experienced that in this investigation.

Q. Somebody told me Investigator Helmer went there to serve a subpoena on the chief and, the chief of police actually said something like a physical threat?

A. Yeah. He said, "I would punch you in the face."

Q. Now, do you think that's a professional remark by the chief? Were you surprised?

A. I was very surprised. The statement speaks for itself. Obviously we speak to each other in a different way when we're law enforcement. We talk to each other in a way which it's one thing to say it in - but in

that respect it was very different because it was because – it wasn't because he was mad at him for a personal reason or a professional reason. He was angry with him because we were – we were questioning his authority, we were questioning his authority. And it really troubled me because I felt that is my job. Who are you to tell me what my job is as district attorney? I never told you what your job is as chief of police. This is our job, this is what we do. You know, if you live by the law, you can't – you can't – you can't object to a subpoena. That's your responsibility. If you're going to enforce the law, you enforce it in ever degree.

Q. You described that you stopped getting calls about murder investigations, is that correct? That they weren't calling you when there was a murder?

A. That's correct, they were not.

Q. Could you tell us – after this little blow up you had with the chief, did you have any difficulty with any other officers down there where they responded to?

A. I don't know – you know, at this time – that's very difficult to say, because, you know, your perception of things sometimes, you know, is hard. Some of the officers were kind of being a little standoff-ish.

They were afraid to get in the middle of it. But I can give a real example of the kind of lack of cooperation. The case in particular where an individual was stabbed on – I think it was on Jay Street in Utica. They charged murder. They didn't ask us, and we didn't want to charge of murder. It was not a murder – it should not have been a murder charge. They went and did it anyway, and we had to dismiss the murder charge because it clearly was not a murder charge.

When that degree of cooperation between police and district attorney breaks down, you get situations where police, you know, will charge something that they shouldn't charge. And in that particular case, you know, we said, "We don't think this is a murder, this should not be charged as a murder." They didn't pay any attention. I'll never forget it. They charged it. They said, " We're charging it with murder." And we ended up, you know – and then we dismissed it because there was not murder. It clearly – it – I'm not even sure it was manslaughter. I don't remember the details, but it clearly was not a murder. Well, the response was, "Well, The DA shouldn't have dismissed it."

There was no political. We don't do things like that for political reasons. They've gotten to the point where they're using this – everything is political. Everyone who doesn't agree with the chief of police is doing it for political reasons. And nothing could be further from the truth in my occasion.

Q. Were you asked by other agencies in matter found there, besides the chief of police's office, have other people come to you and asked you to look in the other matters at the police station?

A. In Utica?

Q. Yes.

A. No.

Q. Nothing?

A. No.

Q. Did you have what you thought before this a pretty good relationship with those people?

A. I had an excellent relationship with UPD.

Q. And after the blowup with James Franco, it fell apart?

A. Absolutely. To think that your relationship you built for 12 years – I don't want to sound melodramatic, a relationship you built for 12 years can break down because we're doing our job. That's what troubles me. I'm a little bit passionate about it because it troubles me being accused of being political when you do your job.

It's one thing when the public does it, you expect that. We're all elected so, you know, that happens. But to be accused of being political by a police chief when you're doing the job that he knows full well that you have to do, that's when I have a problem with it.

MR. GARRAMONE: Anybody want to ask Mr. Arcuri any questions?

COUNCILMEMBER WOJNAS: Mike, when he called you the first time, what did he say happened with the Franco case? How did he explain that to you?

MR. ARCURI: He said that it was just a – you know, it was a problem with the record, that, you know, it was – he signed some documents, but, you know, there was no crime. And he specifically said there was no crime, which clearly there was. He didn't give me any details.

I said, "Al, if there's no crime, let me take a look at it. What's the problem?" Then he said, "Because you

said you wouldn't investigate it." I said, "I wasn't going to investigate it because you told me there was no crime. I'm beginning to question whether or not there's a crime." And with Al it's like this, he says if you give - with Al everything is giving your word. "You gave me your word you wouldn't look into it." I said, "Al, I told you I wouldn't look into it because you told me there's no crime. I'm not convinced anymore there's no crime. If I want to look and there's no crime, that's fine." "Well, you gave me your word. You're succumbing to political." "That's ridiculous. I'm doing my job, Al. Doesn't matter. I'm doing my job." And it just deteriorated from there.

COUNCILMEMBER WOJNAS: And your relationship with him before this issue?

MR. ARCURI: It was very good. In fact, I can tell you, remember we had the police officer - the two police officers, state police officer and Utica police officer, and they shot an individual in Cornhill? And I went into - I went down at the Martin Luther King School and did a -- like an open forum, and I asked Al, I said, "Al, will you come down? We're going to catch some heat." And he came down, and we sat there, and we answered questions, and we took heat together. We did the kind of things for each other that a chief of police and district attorney do. So we had a very good relationship until this point.

MR. GARRAMONE: I just wanted to tell you that -- have you been in town in the last few weeks at all?

MR. ARCURI: Yes.

MR. GARRAMONE: When we were discussing the James Franco matter on a previous occasion, it was reported, although I didn't hear it, that Chief Pylman went on the radio, and he still goes on the radio, and on that particular occasion he said on the radio that the Sergeant Franco was not anything, he did nothing wrong, and he stands behind him a hundred percent. That's paraphrasing. And he still says that. And here's a man that was indicted on 24 felony counts, not misdemeanors, is that correct?

MR. ARCURI: That's correct.

MR. GARRAMONE: And he pled guilty to 12 misdemeanors?

MR. ARCURI: That's correct.

MR. GARRAMONE: And he could have faced 12 years in jail, cause each was a separate act, isn't that correct?

MR. ARCURI: That's correct.

MR. GARRAMONE: And you could have given him a thousand dollar fine for each one plus restitution?

MR. ARCURI: I think that's it.

MR. GARRAMONE: Well, gee, you haven't been out of the job that long, have you?

MR. ARCURI: I think so.

MR. GARRAMONE: Anyway, do you feel that he was engaged in an active cover-up?

MR. ARCURI: You know, I don't want to say - I'm not going to comment whether or not I feel there was anything about an act of cover-up. That's not for me to say. All I can tell you is that he clearly acted in a way that I thought was totally unprofessional. He knew full well that there was a crime committed and tried to do everything in his power to prevent, in my opinion, our office from looking into it.

COUNCILMEMBER DONOVAN: Mike, did he - when he first called you the first time, did he infer that it was payroll records or not? I know you said documents. I just don't know if he inferred payroll.

MR. ARCURI: I honestly don't remember what documents - you know, what he said. I honestly can't remember that.

COUNCILMEMBER DONOVAN: And just a question that the judge had, too, just to follow up. I think you mentioned, Judge, other organizations that might be asked to look into police department matters in Utica. Would you say either before Chief Pylman - did you ever get those inquiries to look into things at the police department before Chief Pylman was chief?

MR. ARCURI: Yeah. I mean, you - you always - you get requests to look into every department, you know, and you have - there's no doubt that happens, you know. And that's what - part of what I say you always have to weight it. Sometimes they're legitimate, sometimes they're crazy. People are not happy with the deal they had, sure, you get that all the time.

COUNCILMEMBER DONOVAN: And just one last one, if you want to express your opinion or not on what you think beyond Chief Pylman, which I think you communicated, the professionalism of the Utica Police Department, do you think?

MR. ARCURI: The - the - I have to say the department, of course, is a professional department. They're - I think they've been accredited. I can tell you in my opinion that, you know, this is a bit loose, But I get

pretty -- I had a pretty good sense in the DA's office the morale was the worse I had every seen in the Utica Police Department. There's a real sense down there, and I have to tell you this, and again, this my opinion, so -- but it's a very strong opinion that I have because I -- I think it's been backed up pretty well, that there is a sense among the police officers that if you're one of Pylman's people, you get taken care of and you don't get prosecuted and you can do what you want. If not, you better be careful, because if you make a mistake, you're going to, you know, be out doing the least favorable job that you could possibly do. So the morale, in my opinion, is the lowest I have ever seen. And I have heard that from people -- people that used to be in the DA's office with me as well. You better dot your I's and cross your T's.

COUNCILMEMBER MITCHELL: Mike -- Is it okay if I call you Mike?

MR. ARCURI: Absolutely, please do.

COUNCILMEMBER MITCHELL: Is there any one particular incident in your mind that prompted you -- I know you said you had a number of inquiries, but is there any one thing that prompted you to think, "Hey, this is not right here," to make that follow-up all and request the records or look into it?

MR. ARCURI: No. I mean, the fact that there were -- I would say probably the incident that pushed me the most was the fact that the assistant DAs in my office were saying that they were starting to hear it from the police officers. You know, you hear it on the street, you hear it from other elected officials, you take it with a grain of salt. But when you start hearing it from the police officers, it makes you a little concerned, because if we can't help to protect the police officers and keep the integrity, then we're not -- I guess we're --- we're not doing the job that we actually have to do as prosecutors. So I would say that was probably the straw, if you will, that broke the camel's back that finally pushed me to make the decision that we should look into it.

COUNCILMEMBER MITCHELL: And since your successful election, do you think things have changed between the people in the DA's office, or has this put a big crimp into the office, as you explained, that is revert back to the way it was? Is it just as bad?

MR. ARCURI: In speaking to Scott McNamara, I think Scott has been working hard to reestablished a relationship. The relationship is much better now than when I was there. So, you know, and -- you know, I think the relationship is better from what Scott tells me. The personal dynamic between Scott and Pylman is obviously -- I got to tell you, with Al, it's like this, either you do it his way or you don't deal with him. He doesn't deal with you. He says he has an open door. In my opinion that's not -- just -- it's his way or the highway. I mean, it really is. And that has been clearly -- you know, I had a chance to work with Al when he was a major in the state police as well and when he was an inspector, so I've known Al Pylman for quite a long time, and it's , you know --.

COUNCILMEMBER MITCHELL: Did you always know him to be that way, in your opinion?

MR. ARCURI: It's his way or the highway. Hey, you know, you work with him, you -- you get a pretty good understanding. And there were times when I would disagree with him, and he'd say, "Okay, I'll do it your way." It was not always like this. We had a great relationship. We'd butt heads, but it was always in a positive way. I have never seen -- you know, again, really we disagreed probably as much as we agreed, but we always were able to keep it -- you know, to work through it, you know, -- Let me give you a for instance --with respect to task forces.

He didn't like task forces. I had a couple task forces. We were able to work our way through that kind of get it in to a way that worked for all of us. But I got a sense with the fire -- when we tried to do the fire -- just toward the end, we tried to get the -- reengage the task force for the fire department, they just would not -- they would not have anything to do with it, nothing whatsoever to do with it because Al didn't want to do it. And that's -- that's sort of -- it's his way or, you know, the highway,

COUNCILMEMBER MITCHELL: One last question. I apologize again. I think in so many ways you've said this, just so it's clear, in your mind why in this case, Jim Franco case, be clear, do you think he went as far as he did to, in your opinion, you know, cover it up or however you want to characterize it?

MR. ARCURI: I mean, guys, that what you're here -- realistically, that's what you're here to decide. I said I think that -- my concern was that I had an understanding that they were friends, that they were close. And I wanted to just be sure that, you know, he was doing -- and he -- you know, there were times he came to me with incidents in his department, and I'd look at him, and I'd say, "All right, Al, handle it the way you want to handle it."

COUNCILMEMBER MITCHELL: That's happened?

MR. ARCURI: Let me give you a for instance. There was a situation – And this is a secret? I just want to ask.

COUNCILMEMBER WOJNAS: I wouldn't say it.

COUNCILMEMBER MITCHELL: It should be.

MR. ARCURI: There's another situation within the department where Jim Franco's brother had a situation, and he brought it to me. This was a long time ago. I looked into it, and I made an determination, "Al, you know, you handle it the way you think internally." All right. So he knew full well that it wasn't politics.

COUNCILMEMBER WOJNAS: Mike, that was Tony Franco?

MR. ARCURI: That was Tony Franco. I said, "Hey, you handle it internally the way you want to handle it. I said, "Give me all the records." He gave me all the records. I looked at them, talked to the other officers. I said, "Okay, okay. Well, I'm not exactly sure but we're – "our feeling is we don't want to indict this.: What I would say to the police officer is, "How are you going to handle it internally?" And then he would tell us how he was going to handle it internally, – and we were – said we're satisfied.

COUNCILMEMBER MITCHELL: I'm sorry, wasn't my last question. When you say you talked to the officer, is there a chain of command that you work through in that, or do you talk – I don't understand when you say that?

Mr. arcuri: well, you know, if we're doing an investigation on a case, we can ask police officers questions, you know. We can ask them -- call them in, read their statements. You say – I might say to them, Chief, can you have so and so deposed from your department? I want to read what you have to say.

COUNCILMEMBER DONOVAN: Mike, is that the Marshall Owens incident?

MR. ARCURI: I'm not sure which one.

MR. GARRAMONE: Marshall Owens was the complainant who said he was tortured by Anthony Franco and shot four five times with a pellet gun. He kept saying, "Where's the drugs?" And he kept shooting him.

MR. ARCURI: Yeah. That was not the rendition of the facts that we – that we arrived at but in fact the situation that we – that we had, he had shot once with a pellet gun.

COUNCILMEMBER DONOVAN: But your office was able to get the whole file from the chief? He was cooperative?

MR. ARCURI: that's correct.

councilmember mitchell: So that was reviewed by your office?

MR. ARCURI: That's correct.

MR. GARRAMONE: You read Marshall Owens' narrative that he was shot while being asked to give – tell him where the drugs were?

MR. ARCURI: Yeah. But the thing that's left out of there, that he pointed the BB gun at the police officers when they walked in the door and the police offices all, you know, just about shot him because he almost got shot, and that's what triggered the police officer – he shouldn't have done it. And again, he was – he was treated pretty severely within the department. But in our determination, based upon the facts and based upon what the other officers had said and the marks that also were on him, that – that was in fact what happened, that he was shot once. Shouldn't have happened, but we chose no to prosecute that.

COUNCILMEMBER WOJNAS: Mike, do you feel bad that relationship broke down with you and Al?

MR. ARCURI: Yes, I do.

COUNCILMEMBER WOJNAS: Because I remember you always felt that finally you had somebody that you could communicate with and you had a good working relationship with him.

MR. ARCURI: That's correct.

COUNCILMEMBER GIRUZZI: Mike, within the last ten days we've had these meetings, and I pretty much have come to the conclusion Chief Pylman, he's probably a tough boss and probably an egomaniac that probably has carte blanche and doesn't have a boss that overlooks him, and he's able to do whatever he wants to do. And I don't have a problem with that, because a boss is a boss sometimes.

And we've talked about fairness and to me sometimes what is fair for one might not necessarily be fair for the other. And I don't have a problem. My only problem is if he's overusing his authority and saying – with Sergeant Franco, and he's covering certain things up and morale is down, I don't even – cause I –

when you have a new administration, sometimes that happens, but in 13 years, and you've been eight years with, I think, Mr. Rotundo and five years with Mr. Pylman, have you seen a difference in how the ethics of the police department and -- is there a difference? I mean, has -- you know, he talks about accreditation and, you know, they're more on the job, and they're -- just everything else, that the police department within the last five years is so much better than the police department within the previous 30, which you've only been part with Mr. Rotundo's regime eight years.

Is there a difference? I want to know, is he doing a good job and -- in your opinion? Because, I think, at the end of this, we got to come up with a conclusion where, what do we do? Because I'm still confused. We've had this investigation. I don't want to take a guy out and vote against something where a guy has 30, 35 years of law enforcement. I want to know if he's really doing a good job. And I respect you, and I want to hear your opinion.

MR. ARCURI: Look, I gave you my -- I gave you the facts. Look, I tried to keep my opinions at minimal, you know. This is the last -- look, as annoyed as I can be, this is the last thing that I really want to be doing. I want to be -- I want -- I'm done with it. But I think that, you know, he criticized Benny Rotundo because Benny had a, you know, take-care-of-our-own-guys kind of thing. And I thought, this is exactly what we need, somebody who treats everybody -- But, you know what, in my opinion it hasn't changed, just the group that he's taking care of has changed. This is just a different group.

And I can tell you one thing everybody knows, nobody locked horns with Benny Rotundo more than me. Nobody was happier when Benny -- I don't mean this bad, Benny was just old school, and I -- and I have the utmost respect for him. I learned more from Benny Rotundo than anyone else. But we were from different areas and different ages. But I can tell you one thing, if I had told Benny Rotundo when he was chief that one of his boys or one of his friends had -- we believed had broken the law and we wanted the records, those records would have been in my office. There's no ifs, ands, buts or maybes about it. And this is from somebody who locked horns with Benny Rotundo more than anybody else.

And, you know, Benny, you know, was difficult to work with, and I worked much better with Al, much, much better. But in this situation, I have never -- and, you know, the one thing about the difference with Benny, I'd have knockdown, dragout fights with Benny. Six months later, we'd be working. He'd understand. And he'd see me -- we can have fight one day, and the next day he'd see you, "How are you, District Attorney? If everything going good?" I mean, whether it was disingenuous or not, I don't know, but he worked -- he functioned, and he continued to do his job as chief. That is not what I see now.

COUNCILMEMBER HILL: Mr. Arcuri, during this blowup conversation with Chief Pylman, at any time point did the public safety commissioner -- or acting safety commissioner become involved in any conversation with you regarding Mr. Pylman?

MR. ARCURI: I -- my understanding is the -- only the public safety commissioner. The assistant public safety commissioner is Rob Palmieri, who has no jurisdiction, as I understand it, has not been given any authority over the police department. The only acting person is the mayor. I talked to the mayor on a number of occasions, told the mayor my problem, and he -- and, you know, tried to address it with him, but no, nothing--nothing really changed.

COUNCILMEMBER HILL: Thank you.

COUNCILMEMBER MEOLA: I just got one, Mike.

MR. ARCURI: Yes.

COUNCILMEMBER MEOLA: If you didn't make the effort to go investigate this, the Jim Franco case, it would have just went by the way side and nobody would have known about it, am I correct?

MR. ARCURI: That's correct.

COUNCILMEMBER MEOLA: So that would be considered covering up a crime within a department, wouldn't it be?

MR. ARCURI: I don't know that that is the case.

COUNCILMEMBER MEOLA: But there was a crime committed that we know about?

MR. ARCURI: That's correct.

COUNCILMEMBER MEOLA: So if nobody knew about it -- I mean, if it never went forward and if you didn't -- or another agency didn't come and take a look at it, that would have been considered -- ?

MR. ARCURI: No, no. I don't know. I will say this, and let me say this. One of my problems is this, you know, this was not a personal thing between Al Pylman and Mike Arcuri. And I tried very hard to

continue to do my job. It had nothing to do with personal differences. He now tries to paint it as, "Now we have a new district attorney. We'll get along just fine." It had absolutely nothing to do with that. It comes down to the fact I attempted to investigation the Jim Franco case, and he didn't want it investigated. That's all this came down to. That is it in a nutshell.

MR. GARRAMONE: And if Mr. McNamara had another case similar to that, do you see any difference in his reaction?

Mr. Arcuri: Don't know.

MR. GARRAMONE: Well, that's his personality.

MR. ARCURI: I don't know. I can - I'm - but I can just tell you what my observations were and in my workings with him. I can't say what he would do in the future.

MR. GARRAMONE: Did you ever hear a police chief, after a man's been indicted and pled guilty, say the man is innocent?

MR. ARCURI: Never, ever. And he kept doing it on the radio, on the television. That is beyond anything I have ever seen. You know, you don't ever hear that, that's just unheard of.

MR. GARRAMONE: And I'll tell you another thing, and you confirmed that - that after this thing happened with you and him and he stopped telling you about murders and things, that was purely a spite thing on his part. He forgot his role as chief of police, and he became C Alan Pylman, didn't he?

MR. ARCURI: Pretty much. It certainly seems he took it personally.

MR. GARRAMONE: Did Benny Rotundo ever have a murder and not call the district attorney?

MR. ARCURI: Well, Benny wasn't really big on calling the DAs down to murders.

MR. GARRAMONE: But that was different.

MR. ARCURI: Look it goes like this. They every often don't - police officers don't like the DAs to be down there, because we look over their shoulders. That's understandable. Every now and again we have to remind them, "Hey, we want to be down there are you make sure you always call." And deputies have always been good about calling us, Utica's always been good about calling us. After this, that obviously tailed off.

MR. GARRAMONE: Well, I had a big fight with Benny Rotundo one time, and he and I were good friends, I thought. I go see him almost every day. Ewe had a big fight one time, a very embarrassing fight., And I can tell you that as little as the next day, like we never had this fight, and it just went away.

COUNCILMEMBER WOJNAS: I don't believe it. Italians take it to the grave.

MR. GARRAMONE: Pardon me? Anybody want to ask any further questions?

COUNCILMEMBER PHILLIPS: Yeah. Ever we talk the rumor mill, Mike, this grand jury that was convened, it was told to me that Bernadette Romano was the foreman of it.

MR. ARCURI: I think - Yes, I think she was.

COUNCILMEMBER PHILLIPS: And would that have a bearing of what he was indicted, because the reference was made that she was in -- she used to be your first district attorney?

MR. ARCURI: There was a motion made precisely on that, and I can't remember the exact steps that she took. I think that she was the foreperson, but I think that she didn't - and I think that they reviewed the grand jury transcript in that regard. And she did not, you know, really take any kind of lead in terms of the debate on it, but that was a motion that was raised. My recollection that was a motion raised by the defense, and the jury reviewed the grand jury transcript and made a determination that she did not play any significant role, any different role or anything like that.

COUNCILMEMBER PHILLIPS: Did you wait till she became jury foreman --?

Mr. Arcuri: Oh, No.

councilmember phillips: -- grand jury foreman to --?

MR. ARCURI: In fact, the specifics of it were that we had - and I'll tell you exactly what it was. We had - and this was what we put - now I remember. We put in our answering motion papers, we had set the date in the book, and we had it clear for the date before the grand jury was even selected. So in other words, the date was picked. We were going to do it, let's say, on Tuesday, March 13. The grand jury was never - had not even been selected yet. We just know we're going to do - the grand jury was selected say March 1 for the March 13 date, so ewe didn't know who was going to be on or she was even in the panel of jurors.

COUNCILMEMBER PHILLIPS: You mentioned there was a grand jury report. What would be different in the report than in the indictment?

MR. ARCURI: I can't go into details. I can tell you what a grand jury report is. A grand jury report is a report by a grand jury that they -- that they can create at their own discretion under Section 190 of the Criminal Procedure Law. And it says that if they choose to talk about an incident that is not criminal and get an incident that they would like to comment upon, they can do that. There's then appeals -- then it's up to the -- actually the discretion of the judge whether or not to reveal it. So the grand jury report has not been made public yet, obviously. I can't tell the grand jury -- all I can tell you there was a grand jury report, and it's in the judge's hand at this point.

COUNCILMEMBER MITCHELL: Which judge is that?

MR. ARCURI: Judge Dwyer.

councilmember phillips: You mentioned that what really -- what really triggered you to move forward with getting the information was the fact that other cops were complaining to you.

MR. ARCURI: Right.

COUNCILMEMBER PHILLIPS: Tell me if I'm correct what triggered is that -- is that usually cops don't tell on cops.

MR. ARCURI: That's true.

COUNCILMEMBER PHILLIPS: Okay. So if a cop came before you with something, then that certainly would be a reason to look into it?

MR. ARCURI: Yeah. That's -- that is definitely the case. You know, initially, as I said earlier, when I asked him and he became, you know, really evasive and tried not to give me the documents, the more he said, "No, you don't" -- "why are you doing this?" I mean, you know, you hang around with police long enough you become suspicious like they are. And the more he said, "No, why are you doing this?", the more suspicious I became. But you're right with respect to the police officer.

COUNCILMEMBER PHILLIPS: I got a couple more questions on another case, but I want to kind of say this for the record. It's suggested that because you're gone things are going to be fine. My point is, is that because of this type of behavior? And you know, Mike. I don't know you personally, I just know you living in back of me, respect. My thing -- I've lost total confidence with the chief because of this incident with you, okay. And the reason why I said that, I don't care if it's Mike Arcuri or Scott McNamara. If there's another situation that comes down that he disagrees with, there's no doubt in my mind he's going to take the same action that he took with you. You can either concur with that, agree, but it's -- I just don't -- It looks like now that you're gone, everything's going to be fine. Losing my confidence in him, is, the fact that to act like this, to jeopardize this city in a murder case because he's pissed off that you indicted him's not something that's going to happen one time. The minute somebody else pisses him off again, he's going to do the same thing. So, I mean, that's that. Now I have some serious questions on another matter, and that's with Anthony Franco.

COUNCILMEMBER ZECCA: Bill, before we get into Anthony, can we finish up. Because I have questions, rather than going back and forth?

COUNCILMEMBER PHILLIPS: Okay, go ahead.

COUNCILMEMBER ZECCA: Mike, do you -- did you think it was unusual for him -- you said he personally called you in the evening at your home. Is that unusual for the chief to do that?

MR. ARCURI: No, it's not at all unusual. And I have -- I -- I think that was in response to my call to him, so that were we playing phone tag. We talked at all hours of the night, obviously, because of the nature of the job.

COUNCILMEMBER ZECCA: Just one other question. Again, a number of times the chief has said, he said it here at a meeting, he said over and over again, this is politically motivated, this is politically motivated. Did he ever say what he meant by that? Because I still to this day don't understand what he's talking about when he says politically motivated. It made no sense to me. Did he ever tell you what he meant by that?

MR. ARCURI: No. I mean, I -- you know, he talked about, you know, there's council members who want to make this into a political thing, you know, and that was -- that was the only specific reference. You know, I think there were a couple of council members in particular that he felt were acting in a political way. And, you know, I -- you know, I seem to recall -- I'm not -- I think the two of you he was referring to were Frank Meola and David Roefaro. And, you know, I think that's -- I think that's -- those were the two he said, "You look to the political people. You're becoming political like them, and that

kind of thing. And that thing is what incensed me.

COUNCILMEMBER ROEFARO: As they know, I'm pretty outspoken here. As you know, Teresa, we're both A types together. In the very beginning -- .

MR. GARRAMONE: Is there somebody out there -- Mr. Arcuri, do you know, -- Sorry, go ahead.

COUNCILMEMBER ROEFARO: In the very beginning, I remember one night, I remember I asked Pat, I -- Pat, I asked you about the rumbling about all this in the police department. And I was standing out here in the offer office talking to Frank and I was talking to Billy.

COUNCILMEMBER DONOVAN: I think that night Stemmer was here or something, and you asked Stemmer --.

CONCILMEMBER ROEFARO: No, I never asked Stemmer. I actually didn't know who Stemmer was. I never talked to Stemmer that night. We were sitting in the back, and I -- either Frank or Billy says, "Well, have Pylman come in and explain this to us and -- at the next Wednesday meaning." So -- Joan Brenon's not here. I leaned back and go, "Joan, can you see of Chief Pylman can come in on the next Wednesday's meeting and ask him to come in and explain to us what happened? And that's how this whole thing started. I don't know if I ever said this, okay. This is exactly how it started. And so I left, and that was on -- it must have been -- I don't know why we were here, but then we were coming from -- following Wednesday must have been a special meeting or --.

COUNCILMEMBER MITCHELL: Probably.

COUNCILMEMBER ROEFARO: Anyway, the next day Joan calls me, "Pylman says he can't come. For you to call him." I says, "Why me?" "Because you requested it." I go, "No. We were all around. I just said" -- "I'm the one that just asked if he could come. We said, 'Why don't we bring him in.'" I don't think at that time we knew it was Jimmy Franco. So she gave me his number, I put it in my cupholder, never called him. Next day, it's probably five o'clock in the afternoon, I think it was, and I looked down. I see his name in the cupholder, and I pick it up. I says, let me call. So I says, "Chief, this is David Roefaro. I've got to ask you some questions. You can't come to the council meeting this Wednesday?"

He said, "Yes, I got to go to Dan Lowengard's retirement party." I said, "Okay." "What do you want to ask me?" I said, "Well, I heard there were some allegations going on down at the police department, something about overtime, something like that." He says, "No, don't worry about it. It's a personnel issue." I said, "I realize that, Chief, but I'm asking you as a public official because I'm getting bombarded with questions every day of people calling me asking me, no matter where I am on the street, and it comes from police officers. I have no knowledge of that, but I'm an elected official, and I" -- honestly, anybody that knows me, you know, if I'm -- there's something wrong, I'm going to bring it to light because I don't care. So he say, "Listen, you're listening to the Mar-Logg gossip."

So I says, "Chief, I don't listen to anybody's gossip. I'm hearing things. Is there illegalities going on at the police department?" He says, "No, just improprieties." I said, "I don't know what the difference is between improprieties and illegalities." He said, "Want to come down and look at my books?" I said, "Chief, I don't know what I'd be looking at in your books." As the conversation went on, just the mere tone of his voice because I questioned his authority or just questioned anything, he got -- he started to get a little bit upset. I wasn't going to get into it. I said, "Okay, that's -- that's the end." He said, "That's it? You don't want anymore?" I said, "No." "You mean to tell me you don't want anymore?" I said, "No, Chief, I don't anymore."

I hung up the phone, and that was the end of the conversation. And I never talked to the chief until he came in that one time when we had him before this panel. Remember awhile back? And I asked him that night, I says, "Chief, I remember that you couldn't come" -- attend the meeting that night. He says, "Yes, I was out of town." And I said, "Oh," I says, "you were out of town?" And I had my notes. He says, "Yeah, I was out of town." "I thought you went to Dan Lowengard's retirement party?" "Oh yeah, that's right, I went to Dan Lowengard's retirement party, then I went out of town." I said, "Chief, in other words, you went to Dan Lowengard's retirement party, you left there nine, ten o'clock at night, and then you were out of town?"

"Yeah, that's what I did." So in other words, I don't know if he was out of town or whatever. What I feel, he was just dancing around it. And, you know, it's been downhill ever since. And ever since then he accused me of starting this whole thing. Well, kudos to him if he thinks I could start this whole thing. I jumped in head first because I felt it was wrong, but no way in God's green earth -- it had to come out of

the police department, because there's no way in God's green earth -- but when you're talked to like that, -- I feel there's a coverup. We're elected officials, shame on us if we don't do anything about it. And when I see a fellow who's convicted -- indicted on 24 felony counts and you've got other people in this department who are let go for far less, I'm not saying they're all right here, don't get me wrong, because everybody has their own side of their story, anything like that, but this whole thing has been an absolute nightmare. This has been an absolute nightmare.

Just to get back to the point, is that in my eyes there was a crime committed here. He covered up a crime. He covered up a crime as far as I'm concerned. The evidence is here. I don't know, you can talk about it till we're blue in the face about everything else, but the thing is the mayor did nothing about it. The mayor could have taken this situation, and he could have squalled it. I didn't say he had to get rid of, but he wasn't doing anything about it. All he's being on the radio and TV bashing me about because if I want to run for mayor. And only reason why I would ask, because I'm angry about the way he runs this government. But honestly, this should have been handled a long time ago, and it's gotten way out of hand. But you know, what we're losing site of, one thing, crimes were submitted here and something's got to be done. I'm not saying -- .

MR. GARRAMONE: Why don't we leave that for when you discuss with the rest of the body and -- Mr. Arcuri, I don't want to keep you forever. We have a couple other witnesses. Dave, I know how you feel.

COUNCILMEMBER ROEFARO: I understand that. That's all right. I got off the beaten path.

MR. GARRAMONE: I have a question. One of the things I told one of the other witnesses, I think was another witness, I won't say his name. I told him I thought that if you had been a -- if you wanted to be an aggressive DA, which you were not, which I said to someone who was here, that if you wanted to be a real aggressive DA and be spiteful, you could obviously have charged Chief Pylman with obstructing governmental administration, because he was interfering with a lawful act of another agency that had the authority to act as an investigatory agency. You were asking for things from him, and he was refusing. The fact that you had to make the chief of police of the City of Utica react to a subpoena, duces tecum, is just unheard of. And that is -- if you read the statute, he's -- It's almost classic. You could have made a complaint, but you chose not to do any of that. And I'm sure you never even breached that subject with him, would I be correct?

MR. ARCURI: Breach the subject?

MR. GARRAMONE: Of charging him. Saying to Chief Pylman, you know, "If you keep doing this, I may have to charge you."

MR. ARCURI: We never discussed nor -- we never threatened him whatsoever of ever discussed with him any possibility of him ever being charged.

MR. GARRAMONE: And that is because of who you are. Would you agree with me that there would be some district attorney's who are faced with the same thing might not have taken the same position you did had this been out there?

MR. ARCURI: I don't think it would be appropriate to me to answer that question.

MR. GARRAMONE: Okay. Anthony else, ladies and gentlemen?

COUNCILMEMBER ROEFARO: I knew where I was going. I got off. I want to say one thing. In -- what has happened in the last week, you probably were away, maybe you weren't, wherever you were --.

COUNCILMEMBER MITCHELL: Washington.

COUNCILMEMBER ROEFARO: Something got breached out of this room. Can I say that, Judge?

MR. GARRAMONE: I prefer not to get into that.

COUNCILMEMBER ROEFARO: I wasn't going to say what was breached.

MR. GARRAMONE: I just want to leave any witness -- have any witnesses that leave here have any personal knowledge of something that we have done other than what we have done with the witness.

COUNCILMEMBER ROEFARO: I wasn't even going to talk about that. I was going to the ramifications, but never mind.

COUNCILMEMBER HILL: Get too affair, astray with Mr. Arcuri.

COUNCILMEMBER HILL: Mr. Arcuri, in -- regarding there was an individual that you had alluded to earlier, and I might -- I'm going to have to try to get the name right, where an individual was shot with a pellet gun by a police officer.

MR. ARCURI: Um-hum.

COUNCILMEMBER HILL: Is that individual being shot by a police officer, would that become a crime in terms of police officers are shooting a civilian with the pellet gun? Could that be considered a crime?

MR. ARCURI: An individual been -- have been individual shooting another individual?

COUNCILMEMBER HILL: No, a police officer.

MR. ARCURI: I'm not sure that it's any different.

COUNCILMEMBER HILL: Okay.

MR. ARCURI: It could be. We -- Let me say this with respect to that event. We looked at it -- we evaluated it, and there's -- The thing about district -- the prosecutors is they can choose to prosecute or choose not to prosecute in certain instances. We looked at that. We waited. We looked at the totality of the circumstances, and we chose, you know -- and then we looked at what the police department was going to do internally and the way -- in the way of punishing, and we felt that the punishment that the police department was going to exercise upon the individual was sufficient. And then we chose not to -- not to prosecute.

In the same way that one of the things we looked at in the James Franco thing was the penalties that the -- that the chief was attempting to give to James Franco. And we didn't -- you know, we looked at it, "Wait a minute, this guy, there's forgeries here, and he's got" -- "he got basically a very, very light slap on the wrist." We didn't think it was appropriate. And again, that is strictly a judgment call. Obviously if -- we're criticized on that. That's -- we understand, but that was a judgment call we made in that particular circumstances.

COUNCILMEMBER PHILLIPS: My -- my -- I guess I got a few questions. Could you have charged the chief, the judge asked that question for holding back evidence?

MR. ARCURI: I don't know. Honestly, I don't know. One of the things we look at is, "What are we going to accomplish by it, you know?" We looked at basically what he did, and the totality of the circumstances, and we felt that what was important here was the fact of Franco -- was what James Franco did. Because he had forged documents.

And if we did this, you know, what we were doing would be taking away from what the major crime was, making it look like there was -- I was a little concerned we were going to open this thing up to, you know, this joint investigation when it really was Franco, was limited.

And I have to tell you, one of the things we were concerned before with, we don't want the appearance to be out there that the Utica Police Department is corrupt. That is not the case. There was one instance. The chief probably overreacted in what he did. We didn't feel it was appropriate to even consider that. We felt, you know, the focus was what James Franco did. If there was an impropriety, we needed to deal with that.

COUNCILMEMBER PHILLIPS: The thing that I have, just like -- and I -- I have to say because Marshall Owens was an African-American was a -- I have to state for the record because that's how it comes back to me when they referred to, and, you know, what we went through with the Washington case and a few other things, it comes back to me as -- from police officers on the scene that Anthony Franco shoot this kid with the pellet gun, okay. I think the number of times was six, okay.

I guess my -- my question is, do you have the documents that were submitted to you in this case so that I can compare them to the documents that we have before us? Because as 30 years in this business, I can't make sense out of why wasn't an assault charge filed? I can understand the part of being pissed off with a gun pointed at you. And if we were in a battle, and it went off, chances are, I guess, I would -- I would have accepted murdering this kid more than what I'm getting on this case. Because if you got a gun, I'm within my right to blow you away.

I guess what I can't understand, okay, that it's not acceptable to me that you're so mad that after you get the gun from him, you shoot him six times. That's to me go beyond being -- being something that I can turn my back to. To me that would have been -- If we were charged with that as correction officers, somebody would have been charged with a crime, and the crime would have probably been assault. So I don't know if you have records, what was submitted to you.

MR. ARCURI: Again, I think records are probably there. I don't know. In -- my recollection was that -- I'm reasonably certain was that I saw was he shot once. And, you know, I may have -- frankly, I may have made the wrong decision. I don't know. But in looking at it at the time, weighing the circumstances, people I talk to and judging from the penalty that he was going to receive, that was -- you know, try to

put myself in both the place of both people in it. Maybe I made the wrong decision, I don't know. But I felt at the time and I continue to feel that the — what happened in that case was appropriate. I mean, I may have been wrong. It was a judgment call. But I felt that was the appropriate situation. And again, I — I could've been wrong.

COUNCILMEMBER PHILLIPS: That, you know, that there was a couple things that bothered me in this whole investigation, and one was the James Franco and the other happened to be another Franco, Anthony, and I'm trying to look at this as objectively as I can, and I can't get any objectivity of the shooting. I just can't.

MR. ARCURI: Well, I mean, I was — I was asked to come here today to speak on the James Franco case, and, you know, I — I know I, in a sense, opened the door because I mentioned it, but I was asked to come here and talk to you about the James Franco case, and I'm willing to do that. And if you have any others questions, I'd be happy to answer them.

COUNCILMEMBER MITCHELL: Maybe one last question again. Is it typical for the DA's office to review a particular disciplinary disposition or action toward a police officer, say, well, that discipline is — meets — faces the crime, and we're okay with that?

MR. ARCURI: No, not unless that chief brings it to me and says, "Take a look at this. We're not sure if a crime was committed" or "We want you to take a look at it." That would be the only time we would evaluate —

COUNCILMEMBER MITCHELL: And in those cases, if you feel the crime was committed, would you let it be handled internally, or would you be obligated to take it to court?

MR. ARCURI: It's a judgment call of the district attorney whether we choose to indict it. It's like any other case. There are so many times — I mean, let me — you know how many times kids shoot kids with a BB gun and we don't prosecute it? You know how many times kids shoot other kids with pellet guns and we don't prosecute it? Those things happen all the time, and we choose not to prosecute them.

COUNCILMEMBER MITCHELL: In the case of James Franco, in this case, when you saw that he was basically being dealt a slap on the wrist, would it be typical to say, hey, this is not sufficient and you should be dealing with this differently?

MR. ARCURI: No. I mean, it wouldn't be that way normally. What ends up happening, the department says, "Here's what we're going to do. You know, we're turning it over to you, and you make a determination whether or not there's criminal charges." And Al Pylman knows that because he was an inspector. He did that to me so many times when he was an inspector for the state police. You know, they come in and guys would do something wrong, say, "Here's the case. We would like you to review it." I mean, that's standard operating procedure for the state police.

COUNCILMEMBER WOJNAS: Mike, do you think Al purposely held evidence, or do you think Al was just being Al, that he was going to take care of it? Do you think he tried, in your opinion?

MR. ARCURI: You know, Al was being Al. I mean — you know, which — I — he still — he still was not — he still was not cooperating the way he should have, but it was Al being Al. And again, that was why we didn't even get into whether or not he was withholding evidence. We didn't — again, Al was being Al. It was not — we didn't — but I figured we'd have a fight, we — we'd lock horns, we wouldn't talk for a while, and then it would pass. But it just kept snowballing and snowballing with him.

COUNCILMEMBER HILL: Well, I'd like to thank you.

COUNCILMEMBER MEOLA: Thank you.

MR. GARRAMONE: Anything further? Mr. Arcuri, thank you for coming. We appreciate your time and wish you success.

MR. ARCURI: Thank you very much.

MR. GARRAMONE: Mark this as an exhibit.

(Exhibit 15 was marked for identification)

MR. GARRAMONE: Captain Pawlinga, will you please raise your right hand? **LAWRENCE PAWLINGA,** having been the first duly sworn by a Notary Public of the State of New York, testified as follows:

BY MR. GARRAMONE:

Q. One of the reasons that you are here, the committee can correct me if they feel otherwise, that when we were investigating and discussing Anthony Franco, reports in the case of Anthony Franco, you will acknowledge, I'm sure, because it has been acknowledged by others, that he received a suspension of 30

days without pay.

A. Yes, Your Honor.

Q. And it was 30 days without pay. Now, 30 days without pay was described as being – one as being 30 days without pay, not something else. Now, the comptroller of the City of Utica was consulted on this matter, and although there are varying opinions about this, he cannot find that there was any loss of anything beyond 21 days of pay. Do you have any opinion about that?

A. I – obviously I did some research when –

Q. You knew why you were being called for that purpose?

A. Yes.

Q. That's why I was asking you to be here, because Councilperson Wojnas said she didn't think there was any discrepancy there. The comptroller doesn't agree with it. He says 21 days. He doesn't see 30. And the emphasize was it would be 30 days not something else unless the comptroller says weekends did count. What is your take on that, sir?

A. In this situation, yes, weekends did count, because the memo says effective – I take that as calendar days, 30 calendar days.

Q. I don't have that memo.

A. It should be right up on top. It should be the first item.

Q. I see. Okay.

A. The memo from Deputy Chief Benzo. So we did in fact place him on suspension for a period of 30 days. The records – it's in the records, but the actual suspension took place for actually beyond October 31, simply because we noticed that in the second pay period of the suspension he did receive a paycheck, so we extended the suspension. And in effect, instead of being returned to the payroll October 31, he actually returned to the payroll, I do, believe November 14, according to my records here, because somewhere along the line we had discovered that he had gotten a paycheck when he shouldn't have gotten a paycheck.

Q. But to conclude your testimony on that particular issue, he actually did not receive 21 days of pay?

A. Correct, he did not receive 21 days.

MR. GARRAMONE: That's all I have. I have no further questions of Office Pawlinga.

COUNCILMEMBER DONOVAN: I do. When it first came before the committee, there was an inference that he was not docked at all. When you suspend somebody for 30 days, 14 days or whatever, is it standard procedure to count weekends?

MR. PAWLINGA: Yes, unless I'm told that it's actually loss of pay.

COUNCILMEMBER DONOVAN: So you followed what you felt was the prescribed procedure as the payroll person for a number of years down at the police department of what you believe had a suspension meant whether for pay days verses calendar days?

MR. PAWLINGA: That's correct.

COUNCILMEMBER ROEFARO: Can I ask a question? I don't know – were you here before the committee?

MR. PAWLINGA: No, sir.

COUNCILMEMBER ROEFARO: Did he receive any – I don't remember this, did he receive any other type of punishment, or was it 30 days?

COUNCILMEMBER WOJNAS: He got pulled out of the task force.

COUNCILMEMBER ROEFARO: Where did he go from there?

COUNCILMEMBER ZECCA: He's back?

MR. PAWLINGA: He went on the street.

COUNCILMEMBER ROEFARO: This was years ago this happened?

MR. PAWLINGA: Correct, 2002.

COUNCILMEMBER ROEFARO: Okay.

MR. GARRAMONE: The reason why this is important is because the officer who has testified, his name is in the record, said this was a severe punishment, 30 days meant 30 days pay, and that was about as severe as you can get, he thought, in his opinion. But in realty, he never really got 30 days deducted. That's all the point we're trying to make. Am I correct in that?

MR. PAWLINGA: Yes, Your Honor.

MR. GARRAMONE: Any other questions?

COUNCILMEMBER PHILLIPS: Just for the record, are you allowed in suspensions to use your personal time or vacation time?

MR. PAWLINGA: No, sir.

COUNCILMEMBER PHILLIPS: So you cannot use that?

MR. PAWLINGA: Correct, you're off the payroll for those 30 days.

COUNCILMEMBER PHILLIPS: Could you identify exhibit 15, please?

MR. PAWLINGA: Exhibit 15 are the records concerning Officer Franco's suspension. The first page is the memo from Deputy Chief Benzo and myself relative to the suspension. The next four pages are actual copies of payroll change sheets we submitted to City Hall. First one indicated the 30 days suspension. The next change sheet would be indicating reminding the comptroller's office that he is not suspension, and this was after it was discovered that he had received the check for the previous pay period when he should not have. The third payroll change sheet covers his return to payroll as of November 14, 2002, rather than October 31, 2002. And then the last payroll change sheet covers him going back to his normal rate of pay, because the previous sheet he had only got two days worth of pay.

COUNCILMEMBER PHILLIPS: Did you ever inquire of Captain Benzo what the 30 day suspension meant?

MR. PAWLINGA: I don't recall if I did or not.

COUNCILMEMBER PHILLIPS: And who made the judgment it was 30 days exclusive of the weekends?

MR. PAWLINGA: Exclusive or inclusive?

COUNCILMEMBER PHILLIPS: Well, he got paid for the weekends?

MR. PAWLINGA: No, he didn't. He was totally —

MR. GARRAMONE: He only got — he did not get — he — Where do the other nine days come from?

MR. PAWLINGA: He was removed from the payroll for that entire 30 days. There was no pay for the weekends.

MR. GARRAMONE: But he go —?

MR. PAWLINGA: He got —

MR. GARRAMONE: Yes, and I — agree with you on that. Who makes that decision that it wasn't 30 days pay, but it was 30 days as computed in the manner you have described? Did you make that decision that would be done in that manner?

MR. PAWLINGA: Yes. When I — if it were told me it would be a total loss of 30 days pay, it would have been done differently.

MR. GARRAMONE: And if the officer who testified said that was his understanding, then his understanding and your understanding are different?

MR. PAWLINGA: Could you rephrase that?

MR. GARRAMONE: The other officer said, testified, that it was his understanding that 30 days deduction pay meant 30 days deduction pay. I said, "Could it have been anything else?", and he said, "No, that's what was it. That's a severe penalty. The comptroller agreed it was 21 days. So my answer to you is there some way that some superior communicates to you, look, it's going to be 30 days pay not 21. There's not going it be — it's you — you lose 30 days pay. Did anybody ever say that to you?

MR. PAWLINGA: In this case I don't — I don't recall. I mean, I'm going by what I have in the memo. If the individual person actually lost 30 days, the memo would read 30 days loss of pay rather than the way it reads here.

MR. GARRAMONE: So the other person who thought that that was the way the penalty was doled out was incorrect, because that's not the way the memo came to you?

MR. PAWLINGA: Right. The memo came to me as it is in front of you.

MR. GARRAMONE: Thank you, Officer. Anyone else? Let the record show that we have accepted 15, that Captain Pawling has identified as his records, and those records that are pursuant to subpoena that you produced, sir?

MR. PAWLINGA: Yes.

MR. GARRAMONE: Thank you very much. Go ahead.

COUNCILMEMBER MEOLA: Mr. Pawlinga, did you have a confrontation with a police vehicle in 2006?

An accident, I'm sorry.

MR. PAWLINGA: Did I?

COUNCILMEMBER MEOLA: Yeah.

MR. PAWLINGA: No.

COUNCILMEMBER MEOLA: Didn't have an accident with a police officer, cruiser, anything like that in 2006?

MR. PAWLINGA: No.

COUNCILMEMBER MEOLA: Nothing?

MR. PAWLINGA: No.

COUNCILMEMBER MEOLA: The HIPPA laws that were brought, was there any violation that came recently through HIPPA laws?

MR. PAWLINGA: Not that I'm –

COUNCILMEMBER MEOLA: Not that you're aware of?

MR. PAWLINGA: Not the I'm aware of.

MR. GARRAMONE: What's the HIPPA law?

COUNCILMEMEBER MEOLA: Those are the laws that the police officers have to file for the medical – for the doctors.

COUNCILMEMBER ZECCA: Medical records are protected.

COUNCILMEMBER MEOLA: You know nothing about that?

MR. PAWLINGA: I'm not aware of any violations.

COUNCILMEMEBER MEOLA: And there was a statement here by another officer that some of the captains, they were getting line-up pay and nighttime differential pay, but they weren't working at that time. Do you know anything about that?

MR. PAWLINGA: The captains do get line-up pay and night differential. And my understanding, because this was actually initiated under the previous chief of police, was that in lieu of putting in overtime when you're – when you get called back to work, as we all do, that would all be covered with those two payroll items. And in fact, most of our callback is during the nighttime hours regardless. You know, you're getting a phone call two, three o'clock in the morning to come in. Those two items were presented to us in order to – and that would compensate for the callback, so we wouldn't put in overtime for callback or for if you work a ten-hour day or whatever, that would balance that out.

COUNCILMEMBER MEOLA: Everything goes through your desk?

MR. PAWLINGA: Through my office.

COUNCILMEMBER MEOLA: And then you forward it to the – ?

MR. PAWLINGA: Yes.

COUNCILMEMBER MEOLA: Since you've been on patrol or since you've been a captain, whatever, have you ever damaged a police vehicle?

MR. PAWLINGA: Yeah, one time I damaged a bumper of my car.

COUNCILMEMBER MEOLA: Police vehicle?

MR. PAWLINGA: Yeah.

COUNCILMEMEBER HILL: Excuse me, excuse me for a minute. Judge, you called him for – to testify in terms of the time records?

MR. GARRAMONE: Subpoena was for that.

COUNCILMEMBER HILL: Frank, I'm not sure where you're going with this.

COUNCILMEMBER MEOLA: If he said no, then I'm all set. The question led to another question, but I'm all set.

MR. GARRAMONE: Does anyone else have any other questions for Officer Pawlinga? Thank you, Captain Pawlinga, for appearing tonight and producing those records.

COUNCILMEMBER WOJNAS: And for the record, Officer Glatt or whoever, was at my desk, whatever he was doing, and then took my name tag and wiped his behind with it. That just happened out there, and I want that on the record. That's who's going to testify here right now.

MR. GARRAMONE: Okay.

COUNCILMEMBER DONOVAN: Who would you like next?

COUNCILMEMBER WOJNAS: Why don't we get Officer Glatt in and get him out of my desk before I call

the police, and he lied and said he didn't do it after I was peaking out and saw it.

COUNCILMEMBER ZECCA: Really shouldn't have been out there period.

MR. GARRAMONE: Before you sit down, Officer, would you stand for a minute? Raise your right hand.

GARY GLATT, having been first duly sworn my a Notary Public of the State of New York, testified as follows:

MR. GARRAMONE: Would you please be seated?

COUNCILMEMBER HILL: You are?

MR. GLATT: Gary Glatt, G-l-a-t-t.

BY MR. GARRAMONE:

Q. Now, Officer Glatt, you're no longer a member of the police department, is that correct?

A. That's correct.

Q. And you left as a sergeant?

A. That's correct.

Q. And at some point you were PBA president, is that correct?

A. That's correct.

Q. And you preceded the PBA president Thomas Brady?

A. Yes.

Q. You were the PBA president when Chief Pylman – let's see, you became PBA president after he became chief, is that correct?

A. That's correct.

Q. And before you became PBA president, who was PBA president?

A. James Franco.

Q. And how long had he been PBA president?

A. I believe it was eight years, I believe, approximately.

Q. And what year were you elected PBA president?

A. 2003.

Q. 2003?

A. Yes. That's when I took over. That's when the second election was held, and I took over.

Q. Would it be correct to say that your election occurred twice?

A. Yes.

Q. There was the first election, and the candidates for president were whom?

A. It was myself and James Franco.

Q. And there were other officers, too, were there not?

A. For other positions, yes.

Q. And who was the next senior position for?

A. Vice president.

Q. And who was that?

A. It was Jerome Murray against Rob Russell.

Q. And, now, when that first election ended, who won the election?

A. The first election?

Q. Yeah.

A. For which office?

Q. For anyone including yourself.

A. James Franco won the office for president and Rob Russell won the office for vice president.

Q. Okay. Now, did there come a time after the election that you protested the election?

A. Yes, sir.

Q. And on what basis?

A. There were several basis. The first basis was that a number of the bylaws of the – of the John E. Creeden Benevolent Association was violated in holding the election. One of the first violations was they refused to put the ballot box where it was dictated to be, and I objected to that prior to the election. And I was told by James Franco that that's where it was going to be.

Q. Explain – To those of us who don't know anything about police elections, what do you mean where the ballot boxes go?

A. The elections were held by paper ballot, and there was two boxes, one was a ballot box and one was a stub box. An officer would come in, he would have to sign for his ballot. Once he signed for his ballot, he was given a ballot. He's supposed to go into the booth, make his vote, put the stub in that box and then bring the ballot out to the ballot box, which is in plain view of the officers, which it clearly states. And, well, they refused and put the ballot box inside the voting booth. And they – I told them they can't do it, and they said it was always done this way, which, of course, it wasn't. That was the first basis, but that was just the beginning.

Q. Okay. Did there – when you determined – were other people other than you contesting that election?

A. Yes.

Q. People whom lost?

A. Yes.

Q. Who else lost? Who was contesting the election?

A. Jerome Murray, Jeff Pilipczuk, John Martello. There was a couple of the Board of Directors, but I'm not sure of their names.

Q. Now, what led you to believe that this was not a legitimate election? I'm not going to ask you if you protest. I know you did, because I know of the lawsuit. But what led you to believe there was something wrong with this election.

A. Immediately following the election, I was approached by several officers, quite a few, actually, two in particular who told me that they booth had voted for only one Board of Directors. There were four Board of Director seats available. You had to vote for three.

Well, both of these officers, Paul Filletti, Dominick Nitti had signed sworn affidavits that they only voted for Dominick Nitti, in other words, they only put one vote in for Board of Director instead of three, to give them a better chance of winning.

During the count of the ballots, not one single ballot had a vote for only one Board of Director. Every single ballot had three votes on it, so they knew that their ballots weren't counted.

A few other officers came to me and told me they had signed their ballots, and that they had voted for me and Jerome Murray and John Martello, and they thought that we should look at those ballots and see if their ballots were in there.

One of the biggest things that happened when they counted the ballots, which I believe was 154 ballots that were cast, the very first 28 ballots that came out of the box were exactly identical in every single way, that it was voted for every single office, the first 28 in a row.

After that I spoke to Jimmy Franco. Went to him, and I sat with him and spoke to him and told him what had been told to me, and that I felt we had a serious problem and that a new election should be held.

And, of course, he refused and didn't want to hear any of it.

During our conversation he offered me a Board of Directors seat to just – thought that would appease me, and, of course, I refused that.

I wanted a new election. There was a problem.

Q. Mr. Glatt, I told you that I was familiar with the election because I was there in the building, and I remember the whole thing. But prior to your coming here today, have you and I met concerning your testimony?

A. No.

Q. Did you call me once to ask me what time you had to be here?

A. Yes.

Q. Did we discuss your testimony then?

A. No, absolutely not.

Q. Did I ask you anything about what you were going to testify to?

A. Absolutely not.

Q. I want that clear on the record. Now, after the election was over you knew something was wrong?

A. Absolutely.

Q. Is there a time you go see the chief of police? Is that the next sequence?

A. No.

Q. Tell us what you did after that.

A. After I spoke with Jimmy Franco and he refused to grant a new election, I told him that a lot

Of officers come to us and told us they voted a certain way and they weren't on the ballot that way. I told him I wanted to see the ballots. So within 18 hours of the election, I asked to see the ballots. They told me they were destroyed, gone. I told them how it could possible, they needed to be kept so they could be reviewed. They said they didn't see a need to keep them, they destroyed them.

At that point I told them I was going to get a sworn affidavit from officers who were willing to tell us how they voted. He told us you would need at least 50 percent of the voting members to do that. I said fine. So we put together a petition, a sworn affidavit, and despite the fact that they put out papers telling people not to tell us, we asked everybody in the police department if they wanted to voluntarily tell us who they voted for for the office of vice president. We only asked for that office, because they were both nonsupervisory personnel, and we didn't want anybody to feel any pressure that they would have to say who they voted for if it was a supervisor in the department. They were both patrolman rank, and so we felt that was the best thing to do. We didn't involve Franco and myself. We only asked who they voted for for vice president between Jerome Murray and Rob Russell.

When all is said and done within a couple days, we had 88 signatures on a petition from officers who swore that they voted for Jerome Murray. In the election Jerome only got 62 votes. We had 88 signed petitions and about another two dozen people who swore they voted for him but wouldn't sign the petition. So I called Chief Pylman and told him that there was a serious problem I needed to talk to him about.

Q, Go ahead.

A. He asked me to come in. I met him in his office. This was approximately within a week after the election took place. So I went into his office, and we sat down. And he asked me what it was, and I said, "I have strong circumstantial evidence and believe that a crime was committed in this police department by police officers." And he instantly got angry and wanted to see what I had. So I laid out everything I had, and I showed him the petition with the signed affidavit from all the officers. And he threw it back at me and said that this was a union matter, and he wasn't going to get involved. I said, "Well, Chief, I highly disagree with you. This is not a union matter. I'm talking about a conspiracy, because there was more than one person involved, obviously a crime committed by police officers in this department, and I'm telling you that this needs to be investigated and looked at." He told me it was nothing but pure sour grapes on my part, and he wasn't doing anything about it, "get out of my office." I told him, "That's not right. You have an obligation to do it." He got even angrier. And I said, "This is not the end. I'm going to continue to pursue this." He said, "You do what you got to do, just get out."

Q. What'd you do next?

A. Next I contacted an attorney, attorney from Ron Dun's office in Albany, New York.

Q. Did you go to Supreme Court?

A. Yes, I did.

Q. And they overturned the election. Did they - did they tell - I believe - I think Judge Siegel handled it?

A. Yes.

Q. And Norm Siegel, after meeting with someone, suggested there be a new election?

A. Yes, he did. He said if we didn't come to an agreement to have a new election, we'd have to subpoena all the people who signed the petition to be in court. And he told us if all the people got on the stand and testified that they signed that petition and voted for Jerome Murray, that he was going to personally call the attorney general and bring him in to investigate.

Q. And you settled the matter, and you had a new election?

A. That's correct.

Q. In the new election, obviously, you won?

A. Yes.

Q. You took over as PBA president, and then from there on you had to deal directly with the chief, did you not?

A. That's correct.

Q. Would you describe your relationship with the chief after you won the election?

A. After I took over the PBA, which was May 1 of 2003, this was after the new election, and I actually took over the office, I immediately called the chief and said, you know, "I thought it would be a good idea to sit down with you and, you know, discuss a few matters now that I'm PBA president," He said,

“Fine, come in.”

So I went in, and we sat down, and I said just that to him, “I came here to just, you know, discuss some things you might want to talk about that we could be started. We got a contract to finish up that was two and a half years at the time and there were a lot of other unresolved issues.” He said, “Well, the first order of business is I’m going to take away the four hours of PBA time that the PBA president has.” I said, “Chief, what are you talking about, that’s, you know, that’s contractual.” I had said, “PBA presidents always had four hours of time off for PBA every day.” He said, “Yeah, well, I think it’s time for a change now, and I’m going to take it away from you.” I said, “Chief, Jimmy Franco had PBA time off.” He said, “Well, things changed. New regime. I’m making it so you don’t have it.” I said, “Chief, you can’t do that. If you’re going to do that, I’m going to file a grievance.” “I don’t care what you’re going to do. It’s your money. Go spend it.” That was the end of our conversation. I walked out of the office, called PBA, filed a grievance.

Q. How’d that work out?

A. They overturned it. Jim Roemer told them immediately it was PBA past practice for 35 years, they had to give it to me.

Q. Did you have any like grievances with him while you were PBA president?

A. Many.

Q. Many?

A. Many.

Q. Were you – well, you have been a police officer a long time and –?

A. 32 years.

Q. Were you aware of the relationship with James Franco with the chief?

A. Yes.

Q. Are they close?

A. I would say very.

Q. Do you think he resented the fact you beat him?

A. Absolutely.

Q. From that point on did he ever cooperate with you?

A. Never.

Q. Now, everybody in the police department knows about the confrontation on the street, even I know about that, but I – I was not there when you were PBA president because I left before you became PBA president.

A. No, you were still there.

Q. No. On May 1, 2003 –.

A. Oh, okay.

Q. But everybody knows about your confrontation on the street while the shifts were changing.

A. Yes,

Q. Do you acknowledge that happened?

A. Absolutely.

Q. Why don’t you explain to the committee what happened with you and the f of police out on the sidewalk while shifts were changing about four o’clock?

A. Right at four o’clock, yeah.

Q. Shifts were changing?

A. Yes.

Q. Lots of policemen outside?

A. Yes.

Q. What happened?

A. Well, we came out of roll call. At the time I was a sergeant and – on the four to 12 shift, and I was in the supervisor’s SUV so I had just gotten into the vehicle on Chapman Drive. It was facing the building. And I was sitting there filling out the daily radio log, and I had the door open in the – door – door of the car. All of a sudden I saw the chief of police and Mayor Tim Julian come out of the building. And they walked by the front of my car, and they walked over to where the mayor’s car was, and they were talking, and the mayor got in and pulled out. The minute the mayor got in his car and started pulling out,

Pylman came – stormed over to the police car I was sitting, and I got right – I had the door open. I was sitting in the driver’s seat. He came right inside where the door was open and stood right here and started screaming at me. “We’re sick of you” and blah, blah, blah. “You can go to arbitration, mayor and I both agree.” He was screaming at me. I said, “Chief, why are you yelling?” “Never mind why I’m yelling.” He was screaming, screaming. Finally I said, “Step away. I don’t have to listen to you yell.”

Q. Was he yelling any obscenity?

A. Yes, he did, so did I. He was going to yell all he wants. He was chief of police. I said, “No, I don’t have to listen to you, get out of my face.” I said – used obscenities, too. He used the F word, and so did I.

Q. And other police officers were there watching this?

A. Yes.

Q. How long do you think this little incident lasted?

A. In reality 60 seconds, probably a minute. It seemed longer, but in reality probably a minute or two, no more than two minutes.

Q. Is there anything else – Let me ask you this, because I think you know that Tom Brady’s here.

A. Yes.

Q. He’s your successor, is he not?

A. Yes.

Q. Would you describe for us what you think the morale of the police department was when you were PBA president?

A. Extremely low.

Q. And give the committee more than just that opinion. How – how would you know it’s extremely low, people reporting to you?

A. All the time. I had a lot of officers come to me, wanted to talk to me alone in the office. They felt intimidated. They just felt like they were under a lot of pressure, intimidation, and they were being dealt with unfairly. It was plain to see that some were dealt with differently than others, And, you know, I give these – these young guys that are on the job, that came on, a lot of credit, because there’s a lot of pressure down there for them to perform.

And, you know, I don’t – believe me, I have no criticism of Pylman as a tough leader. I don’t have a problem with that or making people accountable. I was in full agreement with that. In fact, when he first became chief of police, I was elated. I was ecstatic. I thought it was going to be wonderful. And he led everybody to believe that it was going to be a new department, and that everybody was going to be treated the same, and that accountability and integrity were going to be number one. And, hey, I was all for that, okay. But that all changed, you know, and everybody felt this. And he made plenty of statements and comments about my integrity. And, you know, I never made any bad comments about his. Although, it seemed quite funny to me the only person that showed any integrity in dealing with each other was myself.

Q. Let me ask you this. You don’t live in Utica anymore?

A. No, I don’t.

Q. Are you aware that one of the statements the chief of police has made in defense of himself, he says, “A lot of people are going to come whining because I’m a tough leader but I’m a fair leader.” That’s his description. And people who are going to come before this committee are all whiners that couldn’t live up to his tough, fair treatment of them. Do you agree with that statement?

A. Absolutely not.

Q. Do you think that occurred any time while you were there?

A. Nothing could be further from the truth. I don’t think anybody would have a problem, him or anyone else, being a tough leader. Like I said, we’re police officers. You know, it wasn’t kindergarten. You’re in a paramilitary organization. Having a tough leader and fair leader is a good thing. That’s not a bad thing. But you’ve got to be fair to everybody. You can’t treat individuals differently because of who they are or what their relationships are.

Q. I have one more question of you, Officer Glatt. You were there as a police officer, not a PBA president, when Anthony Franco incident happened, were you not?

A. Yes.

Q. Are you familiar with the Anthony Franco incident?

A. Somewhat.

Q. Was it talked about at the police station?

A. Yeah, a lot. Well, I was working that night.

Q. You were working on that night?

A. Yeah.

Q. Tell us what you know about it.

A. I know a guy was brought it by the – and the ambulance personnel were called, and they found several pellet gun wounds on his body. I know that Lieutenant Williams was in a dither, and they were – all kinds of narratives were being written and phone calls being made. They called in Captain Stephens. It was a big thing at the time. And I – I mean, things like that get around real quick and everybody kind of finds out immediately what happened, but I don't have any firsthand knowledge of it. I wasn't there at the scene. I just know what I heard and –.

Q. Police officers do talk amongst themselves, don't they?

A. Of course.

Q. And sometimes they go talk to public officials very quietly, too?

A. I'm sure they do.

Q. All right. I don't have anything more, Officer Glatt.

MR. GARRAMONE: Anybody else?

COUNCILMEMBER DONOVAN: Okay, Just how many years did you work?

MR. GLATT: 32

COUNCILMEMBER DONOVAN: Where were you stationed? I mean, were you in different positions throughout your career?

MR. GLATT: Yes.

COUNCILMEMBER DONOVAN: Did you ever work in City Court?

MR. GLATT: Oh, yes.

COUNCILMEMBER DONOVAN: For how many years?

MR. GLATT: I think it was approximately 14 or 15 years. I don't recall the exact number. First 11 – first 11 – 11 and a half to 12 years. I was on patrol duty, and then I went to City Court about 13 to 14 years, then I was back on the street as sergeant for the remainder of my career.

COUNCILMEMBER DONOVAN: How long were you a sergeant?

MR. GLATT: From 2001 until I retired in 2005.

COUNCILMEMBER DONOVAN: Chief Pylman promote you?

MR. GLATT: Yes, he did.

COUNCILMEMBER DONOVAN: Is that based upon performance or civil service list.

MR. GLATT: I was never number one on the civil service list.

COUNCILMEMBER DONOVAN: So 2001 you were promoted?

MR. GLATT: That's correct.

COUNCILMEMBER DONOVAN: The incident, Mr. Glatt, you just talked about regarding Anthony Franco, did you realize the case went to the district attorney's office for review?

MR. GLATT: No.

COUNCILMEMBER DONOVAN: And the district attorney determined not to charge Mr. Franco?

MR. GLATT: I wasn't privy to that. I have no personal knowledge of that. Most of what I know about is what I heard.

COUNCILMEMBER DONOVAN: You were subpoenaed to come here tonight?

MR. GLATT: No.

COUNCILMEMBER DONOVAN: Came on your own free will?

MR. GLATT: Yes.

COUNCILMEMBER DONOVAN: Was it told that you'd be reimbursed for your attendance tonight?

MR. GLATT: No.

COUNCILMEMBER DONOVAN: You were – So you were not given a subpoena to come here?

MR. GARRAMONE: Can't subpoena him. He's not an employee of the City of Utica. Only subpoena people who are employed by the city of Utica.

COUNCILMEMBER DONOVAN: Are there rules that govern the PBA election?

MR. GLATT: Oh, yes.

COUNCILMEMBER DONOVAN: And if those —?

MR. GLATT: Would you like to see them?

COUNCILMEMBER DONOVAN: No. If those incidents happen again, had there been rules changed to govern the election?

MR. GLATT: Not quite sure I follow —.

COUNCILMEMBER DONOVAN: You felt that many of the things that happened during that time, whether the ballot box was here or there, have the rules been changed to accommodate —?

MR. GLATT: No. They're still the same, because they're written that way. They should have been followed the first time. They haven't been changed. I can show them to you.

COUNCILMEMBER DONOVAN: But when you were president, why couldn't you institute rule changes on how elections are carried forward so that type of incident could not happen again?

MR. GLATT: Well, I can explain it. The way the rules were set were fine, and an incident like that should have never happened had the rules been followed. It's not like there was a bad rule or rule that wasn't clear that somebody could interpret different. The rule — I have them with me. They're very clear where a ballot box needs to be, where a stub box needs to be and what you do.

I don't see a reason for those rules to be changed, however, I will tell you this. In the second election we did use voting machines. But the rules are very clear. If you'd like to see them —.

COUNCILMEMBER DONOVAN: No. It was just a question.

MR. GARRAMONE: Reason, Officer Glatt, that I asked you to come here as a witness is because you're one of the few witnesses who went to Supreme Court. You paid for it.

MR. GLATT: Yes.

MR. GARRAMONE: And you did so after Chief Pylman refused to investigate the election?

MR. GLATT: He refused.

MR. GARRAMONE: And Judge Siegel said that unless this thing is settled, he's going to go to the attorney general?

MR. GLATT: Absolutely.

MR. GARRAMONE: But the chief of police didn't think it was an important matter, did he?

MR. GLATT: No, apparently not.

MR. GARRAMONE: But there was fraud in an election done by police officers in the police station?

MR. GLATT: Absolutely.

MR. GARRAMONE: And he saw nothing wrong with it?

MR. GLATT: Well, I can't say whether he saw anything wrong about it or not. He refused to do anything about it.

MR. GARRAMONE: He didn't conduct an investigation?

MR. GLATT: Never, not a word was asked of anybody.

MR. GARRAMONE: Anybody else?

COUNCILMEMBER MITCHELL: Who — once the judge made a threat to take it to the attorney general if needed, who decided to — who were the individuals that were responsible for making the decision to have another election?

MR. GARRAMONE: Good question. How'd that come about, Officer Glatt?

MR. GLATT: The attorney for Franco and the union and my attorney and me met at the courtroom, and they agreed to have another election.

COUNCILMEMBER MITCHELL: Why wasn't Pylman called in?

MR. GLATT: I don't understand.

COUNCILMEMBER MITCHELL: Why would Pylman not be part of that decision?

MR. GLATT: He's not a union member.

COUNCILMEMBER MITCHELL: So it's a union matter?

MR. GLATT: Having an election is definitely a union matter, but a crime being committed is not a union matter. Let me rephrase that. You shoot Mr. Zecca in the head tonight, should that be a Common Council matter, or should it go to the DA's office? Because you're a member of the Common Council, if you commit a crime against another councilman, should it be a Common Council matter?

COUNCILMEMBER MITCHELL: No, I don't think it would be. But as far as the decision to have another

election, whether it was a threat by the judge or whether it was internal, I mean, this – obviously the way – well, not obviously, because I’m not – Mr. Phillips would be because he’s involved in these kind of things in his job, but I’m certainly – I’m not so – I’m truly asking because I don’t get this part. The – if there was a belief of fraud, okay, at the time, isn’t that a union matter? And why – isn’t the election conducted and arranged by the union? By union members, I should say.

MR. GLATT: Yes, it is.

COUNCILMEMBER MITCHELL: If – so if you go to Franco in the case that you did and say, “Hey, this is not where the stub box goes, this is not where the ballot box goes,” is it only up to Franco to make that decision that, “Hey, this is what we’re going to do and the hell with you,” essentially?

MR. GLATT: That’s exactly what happened.

COUNCILMEMBER MITCHELL: But that’s his prerogative only as a union – I’m talking about as a union body. I don’t know.

MR. GLATT: Well, at the time this happened, it was like two minutes before the official start of the election, people were waiting to vote.

COUNCILMEMBER MITCHELL: But are there rules of law that should have stopped the election at that point, as the union body that should say, “This is not the rules. Can’t we stop this dog gone thing and reschedule for another date?”

MR. GLATT: I asked for it to be stopped. He refused. He put the box up.

COUNCILMEMBER MITCHELL: As I always understood, union things are done by committee not simply an individual, that’s what makes you union.

MR. GARRAMONE: He was the president, remember.

MR. GLATT: It wasn’t like he was having a union meeting where all the members were there. It was him and Lou Ruggerio, who was the secretary, I believe, at the time and me, that’s it.

COUNCILMEMBER MITCHELL: I just find it so odd. It does sound like fraud was committed here, I guess it was never proven in a court of law, but it’s hard to dispute that.

MR. GLATT: Very.

COUNCILMEMBER MITCHELL: But it’s hard for me to believe that something like this could go on in a union without anybody having the power to say, “This is not” – “the laws that govern this election are not being followed. How can we proceed?” Or even if we did proceed, step back afterwards and say, “They weren’t followed. This should be questioned within the union body.”

MR. GLATT: You’re absolutely right. And that’s in all the court papers that were filed.

COUNCILMEMBER MITCHELL: I don’t understand how it goes as far as it did.

COUNCILMEMBER PHILLIPS: It would really be impossible from stopping the election from happening that day.

COUNCILMEMBER HILL: Where we going with this?

MR. GARRAMONE: The chief of police is the leader.

COUNCILMEMBER PHILLIPS: What would happen is, people – the union heads, okay, in our case, would say, “This election is under objection.” And they would pretty much rule if it was illegal or not.

COUNCILMEMBER MITCHELL: The union body.

COUNCILMEMBER PHILLIPS: But if that doesn’t happen, there’s an appeal process that in our case we could take it to our head union. We have a head union that – that – the president of the whole union state wide.

MR. GLATT: No, we don’t have that.

COUNCILMEMBER PHILLIPS: So it would be the courts.

MR. GLATT: In fact, I did file papers right to the union board itself afterwards and showed them all the evidence and still rejected – they refused to do anything. They refused to even consider a new election.

COUNCILMEMBER MITCHELL: And that would have been influenced by the union president at the time?

MR. GLATT: Absolutely, no question about it.

MR. GARRAMONE: You said when Chief Pylman came there he said to everybody “This is a new day.” Didn’t he say that?

MR. GLATT: Absolutely.

MR. GARRAMONE: “Tough but fair”?

MR. GLATT: Yep.

MR. GARRAMONE: And “this is going to a paramilitary outfit. I’m going to run the rules.” He was the general.

MR. GLATT: Yes, he was.

MR. GARRAMONE: And you went to the general and said your troops have committed fraud, and the general told you, it’s a union matter, get out?

MR. GLATT: Yep.

MR. GARRAMONE: That’s basically what it was all about, wasn’t it?

MR. GLATT: Yes, it was.

MR. GARRAMONE: And it never changed, and he resented you from that moment?

MR. GLATT: Yes. And that’s another thing I don’t understand. Prior to me – this wasn’t brought up, but prior to my running as union president, Mayor Julian came to me at least on a half a dozen occasions and I front of – those times in front of witnesses who can testify and asked me to run for union president. I was not going to. I had no intention. He asked me at least a dozen times. He wanted me to run for union president.

COUNCILMEMBER MITCHELL: Why would that be?

MR. GLATT: I don’t know. Well, I can tell you what he told me, but I don’t want to put statements in somebody else’s mouth.

COUNCILMAN ZECCA: I’d like to hear what he told you.

MR. GLATT: He told me he wanted Franco out of there. He needed to go. He was part of the Benny regime, and he needed to go. And I was the person to take him out. After he asked me, one night I was walking into work at the police station at about 3:30. Chief Pylman was in his car backing out of his space, stopped the car dead in his parking space as I walked up to him, and I said, “Hi, chief.” He said, “Gary, I understand from the mayor you’re considering running for PBA president.” I said, “Yeah.” He just said, “If there’s anything I can do for you, let me know.” I said, “Okay, Chief. Thanks.” So I don’t know how it went from that to where it did. Very puzzling.

COUNCILMEMBER PHILLIPS: So, Gary, let me just ask you one question. I don’t know – I certainly don’t know that you were expecting the chief – What were you expecting the chief to do? That’s where I’m confused.

MR. GLATT: About the election?

COUNCILMEMBER PHILLIPS: Yeah.

MR. GLATT: I was the expecting the chief to either conduct an investigation himself or to bring in an outside agency to conduct an investigation as to allegations of crimes that were committed by police officers in his department. There were definitely crimes committed, and there was a conspiracy, because there was obviously more than one person involved. It should have been investigated. I felt it was his duty and obligation as the head of the police department to look into it. It’s not like I was some drunk or drug addict who came in and said I saw a cop commit a crime. I was a police officer with 30 years on the job, and came in with some evidence that a crime had been committed. I feel it was his duty and obligation to look into that, not to pooh pooh it. I mean, these are police officers. Aren’t we held to a higher standard?

COUNCILMEMBER PHILLIPS: Did you refer to the district attorney?

MR. GLATT: No, I did not. I went –

COUNCILMEMBER ZECCA: During this time did you also try to talk or speak – did you speak to the mayor about this being the – to look for somebody at a higher office at any point?

MR. GLATT: No, I didn’t talk to the mayor about this. We didn’t have a whole heck of a lot of conversation at that point. I think – my own personal belief was that at the time the department and Chief Pylman in particular were so concerned about obtaining the accreditation for the Utica Police Department that they couldn’t afford any of this negative – I mean, I don’t think the accreditation process would have went so well if a few officers were brought up on charges and arrested. It was like a hot potato that nobody wanted to touch. This should have been looked at when it happened four years ago. It’s my personal belief.

MR. GARRAMONE: Anyone else have any questions for Officer Glatt?

COUNCILMEMBER ZECCA: For the record, the questions been about union business but there are

many unions that have been – had fraud like this and there’s people in jail. That’s a known fact. You’re asking questions about unions. There are cases like this and we all know that union members are jailed because of fraud and voting.

COUNCILMEMBER PHILLIPS: I think on that point, Jim, when he was at the Supreme Court judge, if they hadn’t settled there might have been charges.

MR. GARRAMONE: Might have been an indictment.

MR. GLATT: Well, I – to be honest with you, I didn’t want to settle it, but I was convinced by my attorney to do because he kept insisting that was the main objective there. But I was – believe me, it took a lot of convincing by him to make me go along with that. Because I had subpoenaed the officers, I had them all there, and I wanted them to testify in that court hearing. I wanted it to be looked at. I went along with – I knew there was a lot of police officers there who didn’t want to be there. They were under – they felt a lot of stress and pressure about being there, but they were subpoenaed. So for everybody’s good, I just went along with it and agreed to a new election. I would have preferred to see everybody testify. I would have preferred the attorney general or some other organization investigate it and look at it.

COUNCILMAN ZECCA: But to clarify, the chief said it was a union matter and it was not.

MR. GLATT: It was just sour grapes on my part, and he was not going to get involved in it.

MR. GARRAMONE: Anything else, ladies and gentleman?

COUNCILMEMBER DONOVAN: I do. Obviously, a while ago Councilwoman Wojnas came in very upset. Was there a particular reason you were at her desk?

MR. GLATT: I was looking for a pen to write myself a note. The thing fell accidentally. I picked up her legislature name sign. I scratched my leg. I was searching for a pen.

COUNCILMEMBER HILL: Did he answer your question?

COUNCILMEMBER PHILLIPS: Gary, I will follow up on that, too. Do you know Councilwoman Wojnas?

MR. GLATT: Personally, no, I don’t know her, not personally.

COUNCILMEMBER PHILLIPS: Did you hear that she was – she didn’t like you or did you – anybody talk to you about that?

MR. GLATT: No, I didn’t know that until tonight.

COUNCILMEMBER WOJNAS: I don’t even know you.

MR. GLATT: I said I don’t even know her. No, I don’t know if she doesn’t like me. I don’t think I ever had a dealing with or ever spoken to her, as I recall.

MR. GARRAMONE: Would you say, then, you did not commit any obscene act?

MR. GLATT: Absolutely not.

COUNCILMEMBER WOJNAS: Judge, for the record, I was peaking out there and saw it with my own eyes. He’s lying under oath, cause I saw with my own eyes.

MR. GLATT: What she’s saying I did isn’t what it was. I picked it up, I scratched myself, and I put it back. I didn’t look at the name on it. I didn’t know whose it was.

COUNCILMEMBER PHILLIPS: I didn’t know if you -- .

MR. GLATT: I don’t know the lady. I don’t know anything about her. I don’t like her or dislike her.

COUNCILMEMBER PHILLIPS: That’s what I’m trying to get at. I don’t know why you would pick her desk out.

MR. GLATT: I didn’t even look at the name. I didn’t know whose name tag it was. I don’t know this lady.

COUNCILMEMBER DONOVAN: Was the pen inside where she keeps her mail?

MR. GLATT: I didn’t know. I was looking for a pen, so I opened it up. I saw a pen, let me borrow this thing. I had no idea. I’m sorry if I touched something I shouldn’t have touched.

COUNCILMEMBER WOJNAS: I’ll take it back instead of you going back in my personal desk. By the way, you can be charged with going into my personal desk.

MR. GLATT: You go ahead and do that, okay?

MR. GARRAMONE: Please, let’s not do that. Anybody else? You’re excused. Now, would you ask Officer Brady to step in, please?

COUNCILMEMBER DONOVAN: Do we have any others?

MR. GARRAMONE: There’s one. Would you go to the table, please sir? Raise your right hand. Stand, please.

THOMAS BRADY, having been first duly sworn by a Notary Public of the State of New York, testified as follows:

MR. GARRAMONE: Please be seated.

BY MR. GARRAMONE:

Q. Your name, sir?

A. Thomas Brady.

Q. And your present position?

A. I'm a sergeant with the Utica Police Department.

Q. And you also have an office there that's not related to the police department but is a union position?

A. That's correct, sir.

Q. That's related to the police, but it's as union president?

A. Union president.

Q. When did you become union president?

A. I took over for the retiring union president back in February of '05, '06, '05. I completed two more months of his, then I had my own two years, which would be expired now, so '07. It was 2005.

Q. Now the reason you were called by me - And you were called by me and subpoenaed, were you not?

A. Yes, sir.

Q. So you didn't come here voluntarily?

A. No.

Q. Is because you came to a council meeting at one time and you made a lot of statements in front of the council that were published?

A. Yes.

Q. It's one thing to make statements in the public. It's another thing to make statements under oath. Do you understand that?

A. That's correct, sir.

Q. I want - I want to know from you that we've already had the previous PBA president testify. You know Officer Glatt?

A. Yes.

Q. And you knew he was a sergeant in the police department, was the PBA president, he was elected, you know he went to Supreme Court to get elected?

A. Yes, I do.

Q. Is everybody familiar with that?

A. Yes, sir.

Q. Now, when you were here, he says - well, forget what he says, but you said two things that are very interesting. One was you said the police department morale has been the lowest since you have been there.

A. Yes, sir.

Q. Would you explain that to the committee? Give us some sort - something beyond that as a basis for that. See, I can say anything I want about what I think as the city court, but I have to have some basis for what I'm saying. So your mere statement means nothing to anybody else.

Tell the committee what you mean by that. How could you substantiate that?

A. I have been working patrol and - pretty much working patrol in my career. Been on the job maybe 16 years. I enjoy the police department. I took it because I enjoy the job. My father was a cop. It's not about benefits, pay. I like doing the job. I do enjoy the narcotics work. I - I do enjoy catching the burglar. It's very rear to catch some of your criminals. And when you do, you like to pat yourself on the back. Unfortunately, we can no longer do any aggressive police work because we are pretty much in a responsive mode. We have to run to call to call to call to call to call. We cannot sit on a house. We don't know who's dealing drugs anymore because I don't have the time to do that -

Q. Explain.

A. - therefore - Well, the call volume is too heavy, and the manpower is not enough to do these things.

Q. That's the fault of the chief of police?

A. No, I didn't say it was the fault of the chief of police. That's not the case. He took - well, I could say he took manpower out, so I would say he's got some part to blame.

Q. In other words, you have criticism in the manner in which he performs the managerial job, because he's really the manger of the police department?

A. Right.

Q. And you find fault with that?

A. I find fault with a few things he does, yes.

Q. Now, what is your - as a PBA president have you had the opportunity to discuss matters personally with the chief?

A. I attempted to on many occasions.

Q. Now, that's what we're getting at. You're the PBA president?

A. Yes.

Q. Does he treat you with the respect of the PBA president?

A. I got to tell you ,no, he does not.

Q. Explain that behavior.

A. The first time I went up to go speak to him, and I have an e-mail he sent out to the entire department if you'd like to read it. I went up to address myself and say, "Hi, I'm the new union president, and I'd like to start anew," because of the fact that obviously he was not getting along with my predecessor, Sergeant Gary Glatt. He proceeded to yell and scream, throw things around, told me things that I - I couldn't even respond to.

Q. This isn't like - this is like when people in a courtroom, they say they don't want to say this word, be that swear word. I want you to tell us the substance of your conversation, what he said, what you said, that he - Did he use a profanity on your first meeting with him as a PBA president?

A. He may have. I used profanity and doesn't even bother me.

Q. Tell me the tone of it.

A. He was very aggressive. He told me - and all I did was sit and let him go, and obviously he had some venting to do. And he went on and on and on to conclude that Sergeant Franco was the best PBA president ever, and that's he's also the best supervisor down here. At that point in time I don't care to answer him, so I let him continue. He touched on many different topics. I said, "I'm sorry you feel that way, sir," and I left.

Q. How long did your - you have been union president how long?

A. Two years, two months.

Q. How many times have you been back to talk to the chief of police on other occasions for other subjects?

A. I would say pushing ten to 12.

Q. Ten to 12. Would you describe to the committee what your reception is like?

A. Most of the time it's - it wasn't like that the first time where he screamed and yelled, hasn't been like that, but it's very condescending, talks down to me, very short. Says he will look into things, doesn't offer any information. Just wants to hear what I say, then move on. Gets very frustrated that I respond to him in certified mail now, because he's constantly telling me that things I'm bringing up are not done in a timely manner, so now I'm trying to document the timely manner, and that's upsetting him. He doesn't like that. He doesn't feel I should be doing these things, grieving certain subjects that are going on. I should talk to him. And every time I come up and talk, I compare it to kicking myself in the head. I'm not going to do it any more. It hurts.

Q. So that's your relationship with him?

A. Yes, sir.

Q. Would you say it doesn't really exist, you don't have a relationship with him?

A. No, sir.

Q. And you realize by coming to the public like you did, that that really exposes -- ?

A. Yes.

Q. - I think, a real dire situation?

A. My personal opinion, I know what's right and wrong, and I will be able to sleep at night.

Q. Now, as far as the other members of the police department -- ?

A. Yes, sir.

Q. - you have described the morale as being very low. Do they come and talk to you and tell you that?

A. Yes, sir, they do.

Q. Are they frightened?

A. I work a lot with young officers down there, and I can tell you from fact they are scared to make the wrong decision for fear of getting in trouble and being disciplined and not going anywhere. So they're constantly calling supervisors and asking them how should I do this should, how should I do that, without making their own judgment call and making their own decision, and I believe that's dangerous.

Q. How do you react to his statement "I'm tough but I'm fair"?

A. That may be with some people.

Q. And "people that come here are whiners"?

A. That's with some people, not everybody.

Q. Do you feel his manner of handing out discipline is different for some than others?

A. I can confirm that, yes.

Q. Are you familiar with the paint brush affair?

A. Yeah.

Q. Where somebody supposedly stole paint brushes?

A. I heard bits and pieces of it, sir.

Q. Do you know anything about it personally?

A. No, I don't.

Q. Then I won't ask you anything further about it. What else can you tell us about the police department? What's your relationship with the sheriff's department?

A. I believe that we have a great relationship with the other agencies around. We have a Metro program that was implemented that allows us to work with other officers. I happen to think that is great. I was utilizing that overtime assignment. I got to know many officers. I think it's get for them, because they are getting good training.

Q. Do you work with the district attorneys?

A. I work with the district attorney's office, been in there for grand jury. I been in there for different trials and so forth, yes, sir.

Q. Do you get along with them?

A. Yes, sir.

Q. Anything else you can tell us about the relationship with the chief of police, with the police department and its members that you think is germane to this hearing?

A. Well, in regards to discipline, it's one thing if it's being dished out fairly. I do not believe it is. And we have individuals that have - I won't give names, that have lost five days for smoking, have lost ten days for accidents. We're talking vacation time. Not saying that sometimes some of the things they do are not in need of some type of attention, but I think it's excessive

And then there are other incidents where I know personally that I was - I was disciplined for two days for making fun of his disciplinary system, believe it or not. That was when Sergeant Glatt was issued a letter of reprimand for identifying himself as a police officer yet having a confrontation with an individual and using foul language. He was giving a letter of reprimand. It was ripped up by the lieutenant at the time who was working who's now retired.

Q. One last question. Earlier this week a group of police officers appeared here.

A. Yes, sir.

Q. Now, Chief Stemmer said in the newspapers that this was all voluntary and nobody was called to come to that meeting. Now, I don't believe that, because I know a police officer who was called and told me what his response was He was called by a superior officer --.

A. That's correct.

Q. -and said, "I think you ought to go there", and he told him, he said, "No, well, I'm not going." And Chief Stemmer surprised me when he said that there were no telephone calls made. I don't know why he made that statement, because I know it to be untrue personally. Do you know it to be untrue?

A. Yes, sir, I do.

Q. Why don't you describe what happened at the police station that you know about?

A. As the rumor mill goes in the police department, guys started coming out of the woodwork. This one up at the deputy chief's office, this one was told to start calling the men who's in his unit. They were

going to show support for the chief. They were being told it was an open meeting. They were being told – have one officer who said he wasn't going to be able to attend because he had some child care issues. And he was told by his immediate supervisor that wasn't a good enough excuse and no excuses would be tolerated. This was all coming down the chain of command from the deputy chief down. And then way – I had an officer who was there mark as to which officers actually attended. And I – I can actually break it down for you as to who was there by rank. I can give you names.

Q. That were here that night, you mean?

A. Correct.

Q. Well, I think the Common Council knows why – who was here and the reason for it. Anyone have any questions of Officer Brady?

COUNCILMEMBER DONOVAN: Are you making an inference that if you did or did not attend disciplinary could happen?

MR. BRADY: I am, yes. Not physical disciplinary action would happen, but they may be removed from their unit in some form maybe. There are ways to go about that. There's a certain preferred protocol that shows if you're not doing your job correctly, they can remove you. And with a five hundred plus page policy and procedure, that's absolutely -- .

COUNCILMEMBER DONOVAN: When we heard different testimony, we heard a lot about progressive discipline.

MR. BRADY: Yes.

COUNCILMEMBER DONOVAN: Do you believe progressive discipline does happen? So the person who gets five days, to use your example, for smoking, may have had three incidents before that that led to a five days verses somebody who had had nothing in his file that may have – may get the same -- may be caught doing the same thing but may get one day? Is that a fair statement to make -- ?

MR. BRADY: No, sir. Those do happen. There are some people that have done – the accident, for example, person lost ten days. That was his third accident that year. There were other examples of things that happened. There's counseling memos, there's letters of reprimand, then there's time off. You can start taking from the individual, suspending them without pay. I believe that the department jumps way ahead for some of these things, which is a fear tactic and which is why these guys are afraid to do their jobs.

COUNCILMEMBER DONOVAN: The last time you appeared before Public Safety Committee you had made – and I'm just going to roughly have your statement so it won't be accurate to the word, but you can correct it, is that there's been more grievances filed in the last two years than in the last ten.

Again, I have the years wrong or whatever, but do you care to elaborate on that statement now?

MR. BRADY: Yes. Chief Benny Rotundo contacted me after that to correct me and say no grievances ever left the building, so, yes, I can say that's the case.

COUNCILMEMBER DONOVAN: No grievances left --?

MR. BRADY: Under his tenure.

COUNCILMEMBER DONOVAN: I'm lost.

MR. BRADY: There were no grievances, is what he was trying to say, actually filed.

COUNCILMEMBER HILLIPS: What happens, Pat, they're taken care of in-house.

COUNCILMEMBER DONOVAN: But a grievance is filed?

COUNCILMEMBER PHILLIPS: Not filed.

COUNCILMEMBER DONOVAN: So if somebody thinks they're treated improperly, there wasn't a formal grievance, it got handled somehow, is what you're telling me, I think?

MR. BRADY: Yes, sir.

COUNCILMEMBER DONOVAN: They went right to the chief, and it got straightened out.

COUNCILMEMBER PHILLIPS: That's probably how 99 percent of the police departments work.

COUNCILMEMBER WOJNAS: But then, Bill, are you saying they're hiding something?

COUNCILMEMBER PHILLIPS: No, it's not hiding nothing, Theresa. It's like me and you having an argument, we talk about it and say, okay, nothing happens to anybody.

MR. BRADY: Let me give you an example as to what's going on right now while it's fresh in my mind. We have a part in our contract that says that any time that we are injured on duty and any time that we actually spend in the hospital will not be charged against our sick time accumulation. The way it has

been read and the way it has been done --.

COUNCILMEMBER WOJNAS: Excuse me, time that's in your contract?

MR. BRADY: Yes.

COUNCILMEMBER DONOVAN: As it relates to being on duty?

MR. BRADY: It talks about what privileges that we could have, so to speak, as it relates to on duty and off duty.

COUNCILMEMBER DONOVAN: So if you fell off your roof verses getting hurt on the job, they are the same?

MR. BRADY: Yes, it is, exactly. It is loosely written, as is most of our contract, which I'd like to have straightened out, but it's been done that way for the past 30 years. So to say it's a past practice, which is another thing we have in our contract, it's slam dunk. The chief didn't read it that way and started charging people in the hospital with sick time. I been fighting back and forth. He went ahead and took care of a couple guys, "Okay, we'll take care of" - Another officer, he came up to me that other day, "I was in the hospital, it's not supposed to be a sick day, but my sergeant's charging me a sick day." I went to Captain Pawlinga's office. They couldn't tell me anything else other than they were told to do it this way. When it was written many years ago, it was as - Our new policy that we're working on, it's a catastrophic illness where if an individual was - wound up with something long term, if I was on the job 19, 18 years and I have lung cancer, I'm in the hospital a lot and I'm burning up my sick time, because it's not job related and I run out of sick time, then I'm out of a job. So they put that in there.

COUNCILMEMBER WOJNAS: Is it black and white, or is it a gray area?

MR. BRADY: It read "ends." That's the big word, "Injured time on the job end, time actually spent in the hospital." Now, we're arguing this all day long, but if I'm injured on the job and I end up going to the hospital, it's the same thing. We're saying end time actually spent in the hospital as it's a different issue, not so much going in and getting a time, but I'm there, I'm admitted, I might be overnight. That's what I'm talking about. It's been done that way for 30 plus years.

COUNCILMEMBER DONOVAN: But I can't imagine you would want to give up the ability - the ability to fall off the roof and have the same type of coverage.

COUNCILMEMBER PHILLIPS: I'm looking at this everybody that gets hurt is not faking, and that's the assumption. That's the assumption, because it's an assumption on our job, because somebody always beats the system in faking, everybody gets punished.

COUNCILMEMBER MITCHELL: Correctional facilities are notorious for that. They have that imagine.

COUNCILMEMBER PHILLIPS: That's what happened. But I can tell you that there's been - in fact, his cousin is one that got hurt legitimately off duty, so what we can do as correction officers, and this is negotiated, we can loan - not even loan, we can give - I can give up to 40 hours of my time to him until he recovers.

MR. BRADY: That's exactly what our catastrophic illness bank is now. All the officers that want to join had to give a vacation day and give a sick day. And now when the board meets and convenes says this individual is - we believe should be granted this time, then they --.

COUNCILMEMBER PHILLIPS: Pat, important thing about that, we - if a guy was faking, we wouldn't give him time either. I guess my point is not everybody's faking, but the assumption is everybody is faking.

MR. GARRAMONE: Officer Brady, are you familiar with a situation where an officer needed four hours of time to get his sick - Are you familiar with that situation?

MR. BRADY: Very much, sir.

MR. GARRAMONE: Do you know what that particular incident cost the City of Utica when it was over?

MR. BRADY: No. I know it cost us a lot of money, sir.

MR. GARRAMONE: Who's us?

MR. BRADY: The union.

MR. GARRAMONE: How'd it cost you a lot of money?

MR. BRADY: Our attorney.

MR. GARRAMONE: You had to pay for that?

MR. BRADY: Yes, sir.

MR. GARRAMONE: How much did it cost your attorneys for that four hours that that man was refused

which he finally got, how much did it cost the union?

MR. BRADY: I don't have a cost. I can get that for you. Thousands.

MR. GARRAMONE: Thousand dollars?

MR. BRADY: Thousands.

MR. GARRAMONE: You know they paid a lawyer to fight that, the city did?

MR. BRADY: Yes.

MR. GARRAMONE: Probably cost thousands?

MR. BRADY: Yes.

MR. GARRAMONE: And the city ended up paying those bills out of tax money?

MR. BRADY: Yes, sir.

MR. GARRAMONE: Insurance company never paid a nickel of that?

MR. BRADY: No, sir.

MR. GARRAMONE: Who reimbursed you?

MR. BRADY: Nobody.

MR. GARRAMONE: So PBA lost out, too, for four hours?

MR. BRADY: Yes, sir.

MR. GARRAMONE: Do you know who made that decision?

MR. BRADY: Yes, sir.

MR. GARRAMONE: Who?

MR. BRADY: Chief Pylman.

MR. GARRAMONE: Why?

MR. BRADY: He did not like the officer, sir.

MR. GARRAMONE: He did not like the officer who was involved?

MR. BRADY: That's correct, sir.

MR. GARRAMONE: And he directly ordered another officer to tell him that he wasn't getting paid, didn't he?

MR. BRADY: Yes, sir.

MR. GARRAMONE: And do you know who the other officer was?

MR. BRADY: I believe.

MR. GARRAMONE: You know who is in charge of all that, don't you?

MR. BRADY: Yes, sir, captains.

MR. GARRAMONE: That's all I have to say.

COUNCILMEMBER ROEFARO: Who's in charge?

MR. BRADY: Captain Pawlinga.

COUNCILMEMBER MEOLA: And who was the officer that didn't have the four hours?

MR. BRADY: The officer was Driemiller. What I found interesting, he got to the point he had an arbitration date, and the day before they settled.

MR. GARRAMONE: For a lot of money.

MR. BRADY: They didn't let it go because they believed it would have been egg in their face if they hadn't.

COUNCILMEMBER PHILIPS: I've talked to you on several occasions.

MR. BRADY: Yes, sir.

COUNCILMEMBER PHILLIPS: Different functions?

MR. BRADY: Yes.

COUNCILMEMBER PHILLIPS: And you've shared some concerns with me. And I've said to you that, you know, if you really have these concerns, you have to bring them before the council, because there's nothing - I mean, I can't take it back to the council and say we got problems down there and just somebody telling me this. I just want to put that on the record.

MR. GARRAMONE: Officer Brady, I asked every witness the same thing, have you and I talked about your -- before you came here tonight?

MR. BRADY: Absolutely not.

MR. GARRAMONE: And I never asked you any questions or asked what you were going to testify about?

MR. BRADY: Absolutely not.

MR. GARRAMONE: There's one other thing, you know, that the Common Council passed an ordinance forbidding the chief of police from bring any disciplinary actions against any police officers who appeared before this committee, because right after one did testify, as you know, he was about to be disciplined.

MR. BRADY: Yes, sir.

MR. GARRAMONE: Now, how they knew whatever he testified, I don't know, and I don't really care at this point, but you know about that, don't you?

MR. BRADY: Yes, sir, I do.

MR. GARRAMONE: We put a stop to that because we promised everybody that came here that we would immune them for the purpose of anything they said that might be a crime so they wouldn't have to be - worry about being the target of any investigation. And so we had to pass that ordinance to prevent that officer from ending up in a disciplinary matter.

MR. BRADY: Yes, sir.

MR. GARRAMONE: I want you to know before you do leave here that ordinance is still in effect, and you have the same protection. Because I know as a union president coming here, everybody knows you had to report you got a subpoena like every other officer.

MR. BRADY: Policy and procedure states we have to notify our immediate supervisor.

MR. GARRAMONE: Which you did get?

MR. BRADY: Yes.

MR. GARRAMONE: So they know who came here. That's why the Council passed that ordinance. I think they - I think they passed it unanimously. So if anything happens, like with the other officers who immediately tell us that it did happen, and we reacted, I would expect that you would do the same. I think we're through.

COUNCILMEMBER PHILLIPS: Thanks for coming here, you know. And I have to say that it takes courage, because - and I'll say this on the record, you might not ever make lieutenant.

MR. BRADY: I know for a fact that I don't want it, because I see these people make that rank and they become that - they're no longer -

COUNCILMEMBER WOJNAS: Did you ever take the test?

MR. BRADY: No, I didn't.

COUNCILMEMBER WOJNAS: You're not coming here to say you're getting skipped?

MR. BRADY: No.

COUNCILMEMBER WOJNAS: You're not on the list for getting skipped?

MR. BRADY: I like my job. I like being a cop on the street. And every time I do a good job, I pat myself on the back and go home.

MR. GARRAMONE: Officer Brady, does that document have any bearing - should be marked an exhibit?

MR. BRADY: I think you should take a look at it, because that was given to the entire department the day I was running for office.

MR. GARRAMONE: Would you give that to the court reporter, please? We'll mark it first. Nobody say anything. Let her do it.

(Exhibit 16 was marked for identification.)

MR. GARRAMONE: Officer Brady, we've marked a document that you brought here and you suggest might be germane to this proceeding, should be in the record. It's Exhibit No. 16. Would you describe that document to the panel, please?

MR. BRADY: This is an e-mail that I printed up from my computer from the chief to all UPD personnel. It was dated February 8, 2005, shortly after I took over for Sergeant Glatt because he retired, so I became the acting union president for the remaining two months that he had given up.

MR. GARRAMONE: So you were not elected when that document came out?

MR. BRADY: No, sir.

MR. GARRAMONE: What does the document say?

MR. BRADY: It also happened to be a Tuesday. I believe it's the second Tuesday of the month, and second Tuesday of every month there's a union meeting, and it just so happens this union meeting I was nominated for president.

COUNCILMEMBER ZECCA: Sergeant, I got a lot of things on my mind here, but first of all I do know -

Sergeant, I have known you for a number of years. We haven't talked - or I haven't talked to you in quite a while. I do respect you, and I respect - as far as I was concerned you were one of the best officers that came to our blocks social meeting, and you really did care, and I saw that. I really do appreciate that. I wanted that on the record.

The other question I had is, we been talking about - everybody seems to be confused with the process of grievance. Could you take us quickly through a worse case scenario from the start to the end a grievance process, worse case scenario?

MR. BRADY: Our contract says they have a 45-day window to file a grievance. If it's beyond 45 days, the chief will tell me it's untimely and try to throw it out, which is why I send him certified mail. I like to show a regard of time. He has five days within to make a decision on that. If it's not in my liking, I then take it to the public safety commissioner or mayor, depending on who's the individual, and then he has a ten-day window to make a decision as to what he thinks he will do with that. And if it's still not to our liking, then we file for an arbitration, someone we both agree to and let that individual hear the case, and he makes a decision, and it's binding. And that's just how it is, and everybody has to stand by it.

COUNCILMEMBER ZECCA: So there's no personnel officer or personnel department that you would deal with in that final stage? The final stage would be the chief and the mayor to make the final decision -- ?

MR. BRADY: Yes.

COUNCILMEMBER ZECCA: -- in a grievance, and then it would be arbitration if it was not negotiated?

MR. BRADY: Yes, sir.

COUNCILMEMBER ZECCA: Okay.

MR. GARRAMONE: And most grievances ever filed with this chief.

MR. BRADY: In my 15 years I can absolutely confirm that.

MR. GARRAMONE: Thank you.

COUNCILMEMBER ZECCA: But that's in the contract?

MR. BRADY: It exhausts the grievance procedures, and it's exactly - that's exactly how it works out.

COUNCILMEMBER ZECCA: Getting away from that. You had mentioned when you first came in, and this concerns me, the fact that you said officers are not able to - you said the officers will not able to follow through with certain cases because of the way he manages. I've heard this myself, but I really want to hear what you - what you have to say.

We had an incident - or individual actually that came to the council meeting yesterday that was very concerned over an issue. We're not done with that, but it seems like there was no follow through on a particular case. Again, I don't know enough about it, but I want you to tell us --.

MR. BRADY: I'll tell you what happened. We changed our schedule. What ultimately happened was the squads became smaller. There were also individuals that were moved and put into community policing units, which at the time was myself and Sergeant Franco, Sergeant Ruggiero.

What's happening now, too, is we answer just above every call for service. I'd like to say it's up to the 60 thousand mark as to the calls we're taking per year. And the calls can be anywhere from a dog that's barking to shots fired to domestic, but they pretty much keep coming. You're just clearing a call, and then you're going to the next one, clearing a call, going to the next one. That's how it is about an eight-hour period.

COUNCILMEMBER MITCHELL: Officer, how were those calls handled previously to this new arrangement? I mean, I'm sure those calls were always coming on some level. How was it dealt with?

MR. BRADY: When you had senior officers in the radio room, they were able to handle a lot of this stuff over the phone. They would hold calls.

COUNCILMEMBER MITCHELL: Did that create other problems?

MR. BRADY: Anytime there's that kind of leniency and laws are changing as well it's because you have someone that either abuses it or someone that doesn't, you know, use it in a right tune.

COUNCILMEMBER MITCHELL: I would hope if it was a serious call it wouldn't be held.

MR. BRADY: No. When you had senior officers - or I had a woman - not a woman, I don't want to say that, a woman called when I was in the radio room, cause I answered the call, she wanted a police to come because a tree fell on her house during a storm. You're going to tie up officers to run over there when there's other things that could happen, maybe the fire department could assist there. There's calls

that are coming in, they could be handled differently. When you had senior officer in the radio room, you were able to redirect them, get them the help they needed.

COUNCILMEMBER MITCHELL: So are you saying no longer are we sitting on serious drug calls or potential drug problems whatever however you might -- ?

MR. BRADY: There's a priority now to our calls. It's up to the radio room operators to decide what priority they fall in. It depends how much information they get from the caller and depends on the job of the individuals who took the phone calls.

COUNCILMEMBER MITCHELL: Don't special task personnel or community policing do - sit on drug busts or what have you?

MR. BRADY: Yes.

COUNCILMEMBER MITCHELL: Are we part of the drug task force?

MR. BRADY: Yes, Oneida County District.

COUNCILMEMBER MITCHELL: Are we part of the arson task force?

MR. BRADY: Yes, sir.

COUNCILMEMBER MITCHELL: As an accredited police department, are we not, in your opinion, any better than the one we had before?

MR. BRADY: There are some things that were inevitable when Chief Rotundo left. It's like from - we went from the Flintstones to the Jetsons, but we're not quite the Jetsons. Not everything the chief has done is bad.

MR. GARRAMONE: Anything else? You're excused, Officer Brady. Thank you very much for coming here. Ladies and gentlemen, I'm finished. I have no other witnesses to call for any other meetings.

COUNCILMEMBER ZECCA: Go out of Executive Session.

MR. GARRAMONE: Yeah.

(Whereupon, the proceedings were adjourned.)