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LEGISLATIVE AUDIT COMMISSION MEETING

Report of proceedings had at the Legislative  
Audit Commission Meeting, held at the Bilandic Building,  
160 North LaSalle Street, Room C-600, Chicago, Illinois,  
on the 16th day of July, A.D., 2014, commencing at the  
hour of 10:15 a.m.

APPEARANCES:

- SENATOR JASON A. BARICKMAN, Co-Chair
- REPRESENTATIVE FRANK J. MAUTINO, Co-Chair
  
- SENATOR BILL BRADY
- SENATOR ANDY MANAR
- SENATOR JOHN MULROE
- SENATOR JIM OBERWEIS
- REPRESENTATIVE RICH BRAUER
- REPRESENTATIVE FRED CRESPO
- REPRESENTATIVE DAVID REIS
- REPRESENTATIVE ROBERT RITA
- REPRESENTATIVE RON SANDACK
  
- MS. JANE STRICKLIN, Executive Director

1 REPRESENTATIVE MAUTINO: At the hour of 10:15 -- I  
2 apologize if I'm a few minutes late -- having arrived,  
3 I'd like to call the Legislative Audit Commission to  
4 order.

5 Jane Stricklin, Executive Director, would you  
6 go ahead and take the roll.

7 MS. STRICKLIN: Senator Barickman.

8 SENATOR BARICKMAN: Here.

9 MS. STRICKLIN: Senator Brady.

10 SENATOR BRADY: Here.

11 MS. STRICKLIN: Senator Brady.

12 SENATOR BRADY: Here.

13 MS. STRICKLIN: Senator Manar.

14 SENATOR MANAR: Here.

15 MS. STRICKLIN: Senator Martinez.

16 (No verbal response.)

17 MS. STRICKLIN: Senator Mulroe?

18 SENATOR MULROE: Here.

19 MS. STRICKLIN: Senator Oberweis?

20 SENATOR OBERWEIS: Here.

21 MS. STRICKLIN: Representative Brauer?

22 REPRESENTATIVE BRAUER: Here.

23 MS. STRICKLIN: Representative Crespo?

24 REPRESENTATIVE CRESPO: Present.

25 MS. STRICKLIN: Representative Mautino.

1 REPRESENTATIVE MAUTINO: Present.

2 MS. STRICKLIN: Representative Reis?

3 REPRESENTATIVE REIS: Present.

4 MS. STRICKLIN: Representative Rita?

5 REPRESENTATIVE RITA: Here.

6 MS. STRICKLIN: Representative Sandack?

7 REPRESENTATIVE SANDACK: Here.

8 MS. STRICKLIN: That's --

9 REPRESENTATIVE MAUTINO: 11?

10 MS. STRICKLIN: 11.

11 REPRESENTATIVE MAUTINO: Okay. Eleven answering  
12 the roll. A quorum is present. And the subject of  
13 today's meeting -- I'd like to call the meeting to  
14 order.

15 We have many issues before us. What I would  
16 like to start with is -- As you are aware and everyone  
17 is aware from the -- the U.S. Department of Justice,  
18 specifically James Lewis and the United States Attorney  
19 for the Central District of Illinois --

20 SENATOR BARICKMAN: Mr. Chairman --

21 REPRESENTATIVE MAUTINO: -- has asked -- Yes.

22 SENATOR BARICKMAN: I ask -- I think one of the  
23 issues to be attended to in addition to the call of the  
24 roll is the call of the witnesses who have been asked to  
25 appear here, before we get into that.

1 REPRESENTATIVE MAUTINO: Well, what I'd like to do  
2 is -- is finish with discussing of the federal request,  
3 and then we will at that time move to that.

4 The Commission --

5 SENATOR BARICKMAN: Well, Mr. Chairman, again,  
6 while I understand the objective, certainly part of the  
7 objective today is to consider that request. I think  
8 that it is prudent that the Committee first address the  
9 attendance of the roll, which would customarily include  
10 the call of the witnesses, some of which have been  
11 subpoenaed, compelled by law to attend today and to  
12 produce certain documents. I think we need to --

13 REPRESENTATIVE MAUTINO: Mr. Barickman --

14 SENATOR BARICKMAN: -- attend to that first.

15 REPRESENTATIVE MAUTINO: -- I have the chair, and I  
16 am going to proceed. And we'll entertain those  
17 questions later.

18 Specifically James Lewis, the United States  
19 Attorney for the Central District of Illinois, has asked  
20 the Commission to refrain from taking any interviews or  
21 testimony regarding the Neighborhood Recovery  
22 Initiative.

23 SENATOR BARICKMAN: Chairman, again, why would we  
24 break --

25 REPRESENTATIVE MAUTINO: If you would --

1 SENATOR BARICKMAN: -- what is a customary --

2 REPRESENTATIVE MAUTINO: The request --

3 SENATOR BARICKMAN: -- protocol --

4 REPRESENTATIVE MAUTINO: -- has been made during a  
5 phone call --

6 SENATOR BARICKMAN: At every hearing, we first --

7 REPRESENTATIVE MAUTINO: -- with my counsel and --

8 SENATOR BARICKMAN: -- we first --

9 REPRESENTATIVE MAUTINO: -- your counsel as well.

10 SENATOR BARICKMAN: Is there a reason why there are  
11 members here who do not want to know whether the  
12 witnesses who we as a body have compelled to appear are  
13 before us? What -- What motive --

14 REPRESENTATIVE MAUTINO: We will get to that  
15 actually. But as you and I have discussed in the  
16 meeting, we are going to discuss with the members the  
17 request of the federal government. And so I continue.

18 On a formal letter followed by a verbal  
19 request -- and yesterday we received another request  
20 from James Lewis. He is the U.S. Attorney for the  
21 Central District. His letter states: We are genuinely  
22 concerned that the interviews and testimony about this  
23 matter during the 90-day time period would pose several  
24 substantial risks to our ongoing criminal investigation.  
25 He also wrote that, We have only for -- We ask only for

1 deference and that we believe this is necessary to avoid  
2 interference with our investigation.

3 Now, I asked Co-Chairman Barickman if the  
4 Commission could convene a public meeting preferably by  
5 a phone conference so that the Commission could discuss  
6 this request, and that request was refused.

7 Given that I'm not an attorney or a lawyer and  
8 no one on this Commission is a federal prosecutor, I  
9 have asked Representative Scott Drury to explain this  
10 request, as he is a former federal prosecutor, and the  
11 potential consequences if this Commission defies a  
12 request to the U.S. Attorney.

13 At this time I would ask Representative Drury  
14 to join us.

15 SENATOR BARICKMAN: And, Mr. Chairman, with all due  
16 respect, I object to your calling of a third-party  
17 witness before we have finished the first item, which  
18 would be the roll call. And --

19 REPRESENTATIVE MAUTINO: We have --

20 SENATOR BARICKMAN: -- with all --

21 REPRESENTATIVE MAUTINO: -- already completed roll  
22 call --

23 SENATOR BARICKMAN: With all due respect,  
24 Mr. Chairman, we intend to take this request as we have  
25 discussed. The request, mind you, is very specific as

1 to how this Commission may proceed in regards to the  
2 compelling of witnesses and also the production of  
3 documents. Is it your intention to --

4 REPRESENTATIVE MAUTINO: And those have been  
5 discussed with our counsels and with you and I, and we  
6 will take those in order. But in the meeting that we  
7 met with the U.S. Department of Justice --

8 SENATOR BARICKMAN: Why do you not want to hear  
9 whether or not the witnesses who we compelled by law --

10 REPRESENTATIVE MAUTINO: We will get to the  
11 witnesses.

12 SENATOR BARICKMAN: Do you -- Do you disagree --

13 REPRESENTATIVE MAUTINO: But I think each of the  
14 members --

15 SENATOR BARICKMAN: Do you disagree --

16 REPRESENTATIVE MAUTINO: -- needs to understand --

17 SENATOR BARICKMAN: Mr. Chairman, the integrity --

18 REPRESENTATIVE MAUTINO: -- what the federal  
19 government means --

20 SENATOR BARICKMAN: -- of this institution relies  
21 on us making a decision as a body. We have made those  
22 decisions. In fact, the decision to compel witnesses  
23 was a decision that was made --

24 REPRESENTATIVE MAUTINO: And we will get --

25 SENATOR BARICKMAN: -- unanimously.

1 REPRESENTATIVE MAUTINO: And we will get to those  
2 witnesses.

3 SENATOR BARICKMAN: It -- It --

4 REPRESENTATIVE MAUTINO: But we will do --

5 SENATOR BARICKMAN: It appears --

6 REPRESENTATIVE MAUTINO: -- what we agreed to --

7 SENATOR BARICKMAN: -- Mr. Chairman --

8 REPRESENTATIVE MAUTINO: -- which is --

9 SENATOR BARICKMAN: -- that you are trying to -- to  
10 utilize here a third-party witness to--

11 REPRESENTATIVE MAUTINO: No. Actually I'm trying  
12 to have a meeting to discuss a request from the federal  
13 government.

14 And with that --

15 SENATOR BARICKMAN: Has this body ever --

16 REPRESENTATIVE MAUTINO: -- Representative Drury --

17 SENATOR BARICKMAN: -- considered the request --

18 REPRESENTATIVE MAUTINO: -- a former prosecutor --

19 SENATOR BARICKMAN: Have we ever had --

20 REPRESENTATIVE MAUTINO: We will get to those.

21 SENATOR BARICKMAN: -- a member -- With all due  
22 respect to Representative Drury, has this body  
23 considered the testimony of a legislator for whom is not  
24 a member --

25 REPRESENTATIVE MAUTINO: He is here because --

1 SENATOR BARICKMAN: -- of this Commission --

2 REPRESENTATIVE MAUTINO: -- I would like to hear  
3 what a federal prosecutor says the documents from the  
4 U.S. Department of Justice, specifically at the request  
5 of the Assistant U.S. Attorney --

6 SENATOR BARICKMAN: Okay. Mr. Mautino, let's be  
7 reasonable.

8 REPRESENTATIVE MAUTINO: And we -- we knew that.

9 SENATOR BARICKMAN: Let's hear from Mr. Drury, and  
10 then we'll call the witnesses and figure out who has  
11 com- -- complied with the request.

12 REPRESENTATIVE MAUTINO: Representative Drury,  
13 thank you very much. I appreciate you coming in to join  
14 with us.

15 As you know, we have received request  
16 letters -- a phone call from the Department of Justice  
17 followed up by a letter explaining what their request is  
18 and how should we react with the dissemination of  
19 information, specifically e-mails. What I wanted you to  
20 do is in your experience as an Assistant U.S. Attorney,  
21 can you tell us exactly, for the members like myself who  
22 are not attorneys, the gravity of this request.

23 Representative Drury.

24 REPRESENTATIVE DRURY: Thank you, Mr. Chairman.

25 I come here today as a colleague but, more

1 importantly, as a former federal prosecutor --

2 SENATOR BARICKMAN: Just a further point of order.  
3 We have been instructed by the U.S. Attorney's Office,  
4 Mr. Chairman, to take no further testimony.

5 REPRESENTATIVE MAUTINO: Representative --

6 SENATOR BARICKMAN: It appears that we are taking  
7 testimony in violation of that request at this moment.

8 REPRESENTATIVE MAUTINO: This --

9 SENATOR BARICKMAN: Is it your intention --

10 REPRESENTATIVE MAUTINO: -- testimony is --

11 SENATOR BARICKMAN: -- to hear this testimony --

12 REPRESENTATIVE MAUTINO: This is not --

13 SENATOR BARICKMAN: -- in violation --

14 REPRESENTATIVE MAUTINO: -- testimony --

15 SENATOR BARICKMAN: -- of the U.S. Attorney's  
16 request?

17 REPRESENTATIVE MAUTINO: This is related to the  
18 request of the federal government that you and I agreed  
19 we would disseminate to our members and discuss the  
20 gravity. I think that is my intention here. It is not  
21 in defiance. Actually it is in furtherance of the  
22 federal request, and I think it is important that all of  
23 our members hear what a former federal prosecutor says  
24 this request means.

25 SENATOR BARICKMAN: To be clear, this is -- this is

1 a -- this is a hearing, an interview. If the federal --  
2 the U.S. Attorney says they believe interviews and  
3 testimony --

4 REPRESENTATIVE MAUTINO: You've allowed him to  
5 testify.

6 SENATOR BARICKMAN: -- would pose substantial --

7 REPRESENTATIVE MAUTINO: Now please --

8 SENATOR BARICKMAN: -- risks to our --

9 REPRESENTATIVE MAUTINO: -- let him testify.

10 SENATOR BARICKMAN: -- investigation of  
11 Governor Quinn's failed NRI program. So it's your  
12 intent here to continue with hearings and testimony  
13 in -- without observing what the U.S. Attorney has  
14 requested here?

15 REPRESENTATIVE MAUTINO: Actually this is related  
16 to the duties of the Legislative office -- Audit  
17 Commission specifically and to getting some expert  
18 testimony on an issue of whether we should move forward.

19 Representative Drury.

20 REPRESENTATIVE DRURY: Thank you, Mr. Chairman.

21 Again, I come here today as a colleague, and I  
22 appreciate the opportunity to speak. But, more  
23 importantly, I come here today as a former federal  
24 prosecutor to strongly encourage this Committee to heed  
25 the request of the United States Attorney for the

1 Central District of Illinois and refrain from conducting  
2 interviews or taking testimony from witnesses for  
3 90 days.

4 In making this request, I have read the two  
5 letters that have come from the U.S. Department of  
6 Justice and from the United States Attorney himself.  
7 Based on the recent letter from the United States  
8 Attorney, this committee -- or Commission should be very  
9 concerned that its failure to put the brakes on witness  
10 interviews and hearings could impede or obstruct the  
11 progress of a federal criminal investigation. At a  
12 minimum, this Commission should act responsibly and talk  
13 with the federal government about its concerns to find  
14 out what is in the public's best interest moving  
15 forward. It is my understanding that these meetings  
16 have not yet happened.

17 In a worst-case scenario, the Commission's  
18 failure to respect the U.S. Attorney's request could  
19 interfere with the federal government's ability to  
20 properly investigate and, if necessary, prosecute any  
21 criminal wrongdoing that may have occurred. Beyond  
22 interfering with justice, such a result would reinforce  
23 the widely held public belief that Illinois is not  
24 serious about tackling public corruption.

25 As you know, I've only been in the General

1 Assembly for about a year and a half now, so this type  
2 of legislative process is new to me. But what is not  
3 new to me is how the federal criminal investigations --  
4 what is not new to me is how federal criminal  
5 investigations work. Before joining the General  
6 Assembly, I was an Assistant U.S. Attorney here in  
7 Chicago for over seven years. During which time, I  
8 investigated and prosecuted public corruption matters  
9 among other things.

10 A key aspect to any serious criminal  
11 investigation is that it is not conducted in public.  
12 Indeed, by law, a federal grand jury is secret. One  
13 important benefit of nonpublic proceedings is that  
14 witnesses may talk more freely and honestly, knowing  
15 that their comments will not show up in the nightly  
16 news. The purpose of a grand jury investigation is to  
17 find out the truth, not get a sound bite for each day's  
18 new cycle. Sometimes the evidence reveals that there's  
19 probable cause and that the persons under investigation  
20 committed a crime, at which time charges are brought in  
21 public. We saw this process happen with Governors Ryan  
22 and Blagojevich. It worked. Other times it turns out  
23 that there is not probable cause that a crime was  
24 committed. In that case, no charges are brought and the  
25 details of the investigation are not made public.

1 Importantly, under either scenario that I just  
2 described, this Commission could still conduct its  
3 hearings at a later date if it so chooses.

4 Presently this Commission should allow the  
5 federal criminal investigators to do their jobs. The  
6 fact that the U.S. Attorney had to acknowledge in public  
7 that a criminal investigation has taken place may have  
8 already impeded or impaired its investigation. This  
9 Commission should not compound the harm by moving  
10 forward with a hearing that could just as easily take  
11 place 90 days from now.

12 I have heard the argument that this Commission  
13 owes it to the public to conduct these hearings.  
14 However, it is beyond question that the public has more  
15 trust in the federal government when it comes to matters  
16 of eradicating public corruption than any State body  
17 does.

18 Moreover, if it turns out that these State  
19 hearings actually interfere with the federal  
20 investigation and prevent future charges from being  
21 brought, those here today pushing for the hearings will  
22 learn how counterproductive their position actually was  
23 but by then it would be too late, the damage will have  
24 been done, and Illinois's credibility will have taken  
25 yet another hit. This conclusion is not any different

1 even if these hearings yield good political sound bites  
2 at the end of the day.

3           Assuming that the goal of this Commission and  
4 its members is to find out what happened with the  
5 Neighborhood Recovery Initiative, partisan politics and  
6 politics generally must be put aside in favor of a  
7 search for the truth. History has shown that the  
8 federal government is best equipped to find out that  
9 truth.

10           While I, again, encourage this Commission to  
11 heed the request of the U.S. Attorney and stand down on  
12 witness interviews or testimony for the next 90 days,  
13 good government and public trust demand that the  
14 Commission take such action. Thank you.

15           REPRESENTATIVE MAUTINO: Thank you. I appreciate  
16 your view as a former prosecutor. At this time, I would  
17 like you to remain. We have some questions from members  
18 of the Commission.

19           Representative Oberweis. Oh, I know you. I  
20 just --

21           SENATOR OBERWEIS: Senator.

22           REPRESENTATIVE MAUTINO: -- wanted to see who  
23 was -- who was next in line.

24           Senator Oberweis.

25           SENATOR OBERWEIS: Representative, thank you for --

1 for joining us here today and -- and providing your  
2 testimony.

3 Just a couple quick questions. Did you just  
4 read your testimony?

5 REPRESENTATIVE DRURY: I had -- I had testimony  
6 that I read from. Yes.

7 SENATOR OBERWEIS: And did you share that testimony  
8 with others before this presentation?

9 REPRESENTATIVE DRURY: I did not.

10 SENATOR OBERWEIS: So no one else knew what you  
11 were going to say?

12 REPRESENTATIVE DRURY: My wife may have had a sense  
13 of what I was going to say.

14 SENATOR OBERWEIS: Did you discuss this testimony  
15 with any of your colleagues?

16 REPRESENTATIVE DRURY: I discussed the fact that I  
17 would be here and would be willing to testify, but I did  
18 not discuss the contents or what I would be testifying  
19 about.

20 SENATOR OBERWEIS: Could you tell us how you --  
21 Obviously you didn't just decide to walk in today  
22 because you knew there was a hearing and be available.  
23 You must have discussed with someone that you would be  
24 willing to testify. With whom did you discuss that?

25 REPRESENTATIVE DRURY: Well, the history of this is

1 I've been following this proceeding very closely all  
2 summer as it -- as it's been --

3 SENATOR OBERWEIS: As we all have.

4 REPRESENTATIVE DRURY: -- as it's been showing up  
5 in the Tribune and the Sun-Times and have concerns as a  
6 citizen, not just as an elected member of the General  
7 Assembly. When I saw, I believe it was last Thursday,  
8 that the Department of Justice had made the first  
9 request, I started actually writing a -- an op-ed  
10 because I thought that it was very important that this  
11 body not move forward with these hearings. And I  
12 started working on that with my -- my internal staff, of  
13 what we were going to do. I -- There are various drafts  
14 of that that were never completed.

15 I believe it was sometime earlier this week  
16 that I -- I made contact with -- with members of the  
17 Commission. And we just had a mutual discussion about  
18 what -- what do these requests mean and -- and what --  
19 what would happen, what are the consequences of moving  
20 forward with this, and are you familiar with these types  
21 of requests. And I said I -- I was.

22 And so the question was posed to me: Would  
23 you be willing to come and share that with the  
24 Commission? And because I was already inclined to be  
25 writing on this topic because I believe, again,

1 passionately that we should not be interfering with a  
2 federal investigation -- And that is the -- the normal  
3 process that I've been familiar with, that when -- when  
4 two bodies, whether it's the State General Assembly and  
5 the U.S. Attorney's Office, the U.S. Attorney's Office  
6 and the Attorney General -- There's been some writings  
7 about a letter that my former boss, Pat Fitzgerald,  
8 wrote to Attorney General Lisa Madigan where they agreed  
9 to work things out. I know that this happens on the  
10 stateside with State's Attorney Alvarez and the U.S.  
11 Attorney's Office. They work it out, and they don't  
12 work it out in a public hearing like this with cameras  
13 all around because it's not in the best interest of the  
14 public and doing justice. So when I was asked, Would  
15 you be willing to come and testify, I said absolutely.  
16 Because I --

17 SENATOR OBERWEIS: By whom were you asked?

18 REPRESENTATIVE DRURY: By whom was I asked? I  
19 discussed this matter with -- with Will Cousineau.

20 SENATOR OBERWEIS: I'm sorry. With whom?

21 REPRESENTATIVE DRURY: Will Cousineau.

22 SENATOR OBERWEIS: I don't know who that is. Who  
23 is that?

24 REPRESENTATIVE DRURY: He is Will Cousineau.

25 SENATOR OBERWEIS: Is he -- So he was just a

1 friend, and he just happened to have an interest, so you  
2 started discussing --

3 REPRESENTATIVE DRURY: I -- I --

4 SENATOR OBERWEIS: -- it with him?

5 REPRESENTATIVE DRURY: I don't know -- I don't know  
6 what his -- his official position is. I -- I know that  
7 he -- I don't know if he's a member of the Speaker's  
8 staff or what -- what his exact title is, where his  
9 paychecks come from, but that, you know, he's on the  
10 floor of the General Assembly every day and the House of  
11 Representatives.

12 SENATOR OBERWEIS: You said you discussed this also  
13 with members of the Commission. Which members?

14 REPRESENTATIVE DRURY: The members sitting here  
15 today.

16 SENATOR OBERWEIS: Well, I'm sitting --

17 REPRESENTATIVE DRURY: The Democratic --

18 SENATOR OBERWEIS: -- here today. It was not  
19 discussed with me.

20 REPRESENTATIVE DRURY: The Democratic members  
21 sitting here today.

22 SENATOR OBERWEIS: So let me understand this. You  
23 discussed this only with the Democratic members, but you  
24 said in your testimony that you just gave that politics  
25 must be put aside in the search of the truth.

1 REPRESENTATIVE DRURY: Absolutely.

2 SENATOR OBERWEIS: Does that sound like you're  
3 putting politics aside in the search of truth, when you  
4 discuss your testimony with one side and not the other  
5 side of this Commission?

6 REPRESENTATIVE DRURY: My understanding was that  
7 attempts had been made to talk with the other side  
8 because this -- I'll talk with anybody. No one reached  
9 out to me. Everyone knows -- And Representative Sandack  
10 can attest to this. Everybody knows that I'm a formal  
11 federal prosecutor. If Rich Miller is here, he knows  
12 it. So it's -- it's no secret what my background is.  
13 And --

14 SENATOR OBERWEIS: Well, Representative, I'm pretty  
15 available at -- at most times. And you didn't make any  
16 attempt to discuss with me or bring me into the  
17 discussions, and nobody else did either, by the way.

18 REPRESENTATIVE DRURY: As -- As I said, when people  
19 reached out to me and said, Are you willing to talk  
20 about this, I said yes. When people reached out to me  
21 and said, Would you come testify, I said --

22 SENATOR OBERWEIS: So what --

23 REPRESENTATIVE DRURY: -- yes.

24 SENATOR OBERWEIS: -- you're saying is the Democrat  
25 side of this Commission reached out to you to find out

1 if you would testify and perhaps to get a little idea of  
2 what your testimony might be?

3 REPRESENTATIVE DRURY: No. They didn't get any  
4 idea of what my testimony would be.

5 SENATOR OBERWEIS: But just that you would testify?

6 REPRESENTATIVE DRURY: That -- That I would come  
7 here and testify. And had you reached out to me, I  
8 would have been happy to meet with you and provide you  
9 with the same comments that I provided --

10 SENATOR OBERWEIS: Well, now wait a minute. That's  
11 silly. How could I have reached out to you when I  
12 didn't know you were going to testify? That doesn't  
13 make any sense. There are, what, 2 million people in  
14 Chicago. I couldn't reach out to those 2 million people  
15 to find out if anybody was going to testify.

16 REPRESENTATIVE DRURY: Again, the people who  
17 reached out to me didn't know I was going to testify  
18 until they asked. Had you wanted to reach out to me and  
19 ask or anybody else who wanted to come could have done  
20 that --

21 SENATOR OBERWEIS: So what you're saying: The  
22 Democrat members of this Commission reached out to you  
23 to ask you to testify? That's different --

24 REPRESENTATIVE DRURY: I asked --

25 SENATOR OBERWEIS: -- than what you were saying

1 initially.

2 REPRESENTATIVE MAUTINO: Senator --

3 SENATOR OBERWEIS: I just want to make sure --

4 REPRESENTATIVE MAUTINO: Senator --

5 SENATOR OBERWEIS: -- where we're at here.

6 REPRESENTATIVE MAUTINO: I asked as well because  
7 he's the only sitting member of the General Assembly who  
8 is a former federal prosecutor. So I asked for that  
9 response. Today he is here, and he is telling us what  
10 it means.

11 SENATOR OBERWEIS: And --

12 REPRESENTATIVE MAUTINO: If this is an issue --

13 SENATOR OBERWEIS: -- I just want to make sure.

14 Politics must be put aside in the search of the truth.

15 REPRESENTATIVE DRURY: Absolutely.

16 SENATOR OBERWEIS: Thank you.

17 REPRESENTATIVE MAUTINO: Further questions?

18 Representative Sandack.

19 REPRESENTATIVE SANDACK: Good morning, Scott. Nice  
20 to see you.

21 REPRESENTATIVE DRURY: How are you?

22 REPRESENTATIVE SANDACK: A couple things. You  
23 mentioned in your testimony that you thought it was  
24 prudent for us as a Commission to speak with the  
25 prosecutors to get an idea if we could work together?

1 Yes?

2 REPRESENTATIVE DRURY: Yes.

3 REPRESENTATIVE SANDACK: And you know because you  
4 were probably at the prosecutor's office at the time --  
5 in the Blagojevich instance. That was a perfect example  
6 of different tribunals working in parallel ways, in  
7 different instances but working together and  
8 cooperatively?

9 REPRESENTATIVE DRURY: At which point in times?

10 REPRESENTATIVE SANDACK: Well, there was an  
11 impeachment process along the same time as there was a  
12 prosecution over at -- at your old building on Dearborn,  
13 right?

14 REPRESENTATIVE DRURY: Right. But the -- the  
15 reason I'm asking that question is because during the  
16 grand jury phase --

17 REPRESENTATIVE SANDACK: You stood down.

18 REPRESENTATIVE DRURY: -- my understanding was that  
19 the General Assembly was -- was not involved. When the  
20 charges were made public and it became we now have a  
21 sitting governor who's been arrested and later indicted,  
22 that the bodies were able to -- to work it out. And my  
23 understanding is -- and correct if I'm wrong because I  
24 wasn't a member of the General Assembly -- was that  
25 conversations outside of public forums like this were

1 had between the U.S. Attorney's Office and members of  
2 the General Assembly and they worked it out.

3 REPRESENTATIVE SANDACK: I think that's exactly  
4 right, Scott. In both instances -- In that instance and  
5 in the Derrick Smith instance, it was the federal  
6 government actually leading the charge. There was an  
7 indictment or an arrest that brought those federal  
8 charges, and then there were parallel but distinct State  
9 processes with respect to impeachment and removal. And  
10 there was conversations. You're right. And I think  
11 that was your point.

12 Would it surprise you to know that there had  
13 been conversations with the U.S. Attorney, Mr. Lewis?

14 REPRESENTATIVE DRURY: It -- It would be somewhat  
15 surprising to me, but I don't know if there's been a  
16 conversation since this letter was written.

17 REPRESENTATIVE SANDACK: What letter?

18 REPRESENTATIVE DRURY: There's a letter that came  
19 from Mr. Lewis yesterday.

20 REPRESENTATIVE SANDACK: Yeah. That came at 4:30  
21 yesterday. So that was actually Senator Oberweis's  
22 point.

23 At what time were you invited to -- to testify  
24 today? Because that letter came at 4:30. So were you  
25 already going to be here because of the DOJ letter?

1 REPRESENTATIVE DRURY: I -- I was asked after the  
2 DOJ letter. I made a commitment to be here after I saw  
3 the U.S. Attorney's letter --

4 REPRESENTATIVE SANDACK: By whom were you asked,  
5 Scott?

6 REPRESENTATIVE DRURY: By who was I asked? I  
7 already testified it was Will Cousineau.

8 REPRESENTATIVE SANDACK: Cousineau, who's not, as I  
9 understand it, anywhere affiliated with the Legislative  
10 Audit Commission. Do you know if he has a position on  
11 staff with Mr. Holland's office?

12 REPRESENTATIVE DRURY: I don't.

13 REPRESENTATIVE SANDACK: Do you see him here today,  
14 right here?

15 REPRESENTATIVE DRURY: I do.

16 REPRESENTATIVE SANDACK: Yeah. Where is he?

17 REPRESENTATIVE DRURY: Mr. Cous- --

18 REPRESENTATIVE SANDACK: Where is -- Yeah. Point  
19 him out, please.

20 REPRESENTATIVE DRURY: He's standing back there in  
21 the corner.

22 REPRESENTATIVE SANDACK: Yeah. He's -- He works  
23 for the Speaker, right?

24 REPRESENTATIVE DRURY: I believe so.

25 REPRESENTATIVE SANDACK: And you're a member of the

1 Speaker's caucus; isn't that correct?

2 REPRESENTATIVE DRURY: I'm a Democrat.

3 REPRESENTATIVE SANDACK: Okay. And you spoke to  
4 Democrats on this Commission prior to testifying today,  
5 correct?

6 REPRESENTATIVE DRURY: Yes.

7 REPRESENTATIVE SANDACK: And you did not reach out  
8 to Senator Oberweis or myself -- and we know each  
9 other -- and other members of my caucus with respect to  
10 your testimony this morning, did you?

11 REPRESENTATIVE DRURY: That's correct.

12 REPRESENTATIVE SANDACK: Okay. And so you --

13 REPRESENTATIVE DRURY: And I didn't reach out to  
14 any Democrats.

15 REPRESENTATIVE SANDACK: You didn't reach out to  
16 any Democrats?

17 REPRESENTATIVE DRURY: No.

18 REPRESENTATIVE SANDACK: You just happened to speak  
19 with Democrats on this Commission?

20 REPRESENTATIVE DRURY: Who reached out to me.

21 REPRESENTATIVE SANDACK: Got it. But you did say  
22 it was important to talk with the prosecutor. My side,  
23 my attorneys and the -- the Senate attorneys, did talk  
24 to Mr. Lewis.

25 REPRESENTATIVE DRURY: Okay.

1 REPRESENTATIVE SANDACK: Would that alter your  
2 testimony at all if you knew we had a conversation?

3 REPRESENTATIVE DRURY: I'd like to hear what it  
4 was.

5 REPRESENTATIVE SANDACK: So it may alter your --  
6 your -- It may -- It may alter your testimony, but you  
7 want to know what it is?

8 REPRESENTATIVE DRURY: It wouldn't -- It wouldn't  
9 alter my testimony unless it said that his letter was  
10 wrong.

11 REPRESENTATIVE SANDACK: Oh, so it doesn't matter  
12 what he said?

13 REPRESENTATIVE DRURY: Well, no, no. It matters,  
14 but there was a letter at 4:30 where he said I'm asking  
15 this body to -- to not take further testimony. And I  
16 have the letter if we want to quote from it.

17 REPRESENTATIVE SANDACK: So do I.

18 REPRESENTATIVE DRURY: And so that's what he said.  
19 If the conversation with him was -- he said I think it's  
20 a good idea for you to have this public hearing  
21 tomorrow, I -- I would like to know that, absolutely.

22 REPRESENTATIVE SANDACK: Well, if he said that, you  
23 probably wouldn't be sitting here because the people you  
24 talked to would say your testimony today wouldn't be  
25 necessary, right?

1 REPRESENTATIVE DRURY: I don't -- I don't know. I  
2 can't predict what that would be.

3 REPRESENTATIVE SANDACK: Mr. Lewis also did say,  
4 however -- In connection with the subpoenaed witnesses,  
5 not his request not to take testimony, he did say he had  
6 no problem with this Commission collecting documentation  
7 from the subpoenaed witnesses and also seeking  
8 additional documentation; isn't that right?

9 REPRESENTATIVE DRURY: It is.

10 REPRESENTATIVE SANDACK: Okay. Do you have an  
11 opinion you want to share on that?

12 REPRESENTATIVE MAUTINO: In fact, if I may.

13 REPRESENTATIVE SANDACK: No, you may not. I'm  
14 asking the questions.

15 REPRESENTATIVE MAUTINO: Well, when he is done, I  
16 would then respond.

17 REPRESENTATIVE SANDACK: Fine.

18 REPRESENTATIVE DRURY: If I have an opinion on  
19 what? I'm sorry.

20 REPRESENTATIVE SANDACK: On Mr. Lewis's request  
21 that -- statement that we are free to continue to look  
22 at documents, seek documents from subpoenaed witnesses,  
23 and continue our -- our investigation or the review of  
24 this audit with respect to documents that help us in  
25 that review?

1 REPRESENTATIVE DRURY: That -- That's what he  
2 wrote.

3 REPRESENTATIVE SANDACK: I'm asking what your  
4 opinion is, sir.

5 REPRESENTATIVE DRURY: But I -- I guess the  
6 question --

7 REPRESENTATIVE SANDACK: You're here as an expert  
8 witness talking about what the U.S. Attorney does or  
9 doesn't do. And now I'm asking you in that endeavor --

10 REPRESENTATIVE DRURY: Right.

11 REPRESENTATIVE SANDACK: -- what your opinion is on  
12 that portion of his letter.

13 REPRESENTATIVE DRURY: But I -- I guess I'm not  
14 understanding what the opinion is that you're asking  
15 for.

16 REPRESENTATIVE SANDACK: Do you have any kind of  
17 opinion on his permission, clear permission, to continue  
18 to look for documentation from subpoenaed witnesses or  
19 other parties?

20 REPRESENTATIVE DRURY: My -- My testimony has been  
21 that -- that you should respect the request of the U.S.  
22 Attorney's Office.

23 REPRESENTATIVE SANDACK: So then you're in  
24 furtherance of and you agree that that's okay for us to  
25 do?

1 REPRESENTATIVE DRURY: Provided that he continues  
2 to say that it's okay.

3 REPRESENTATIVE SANDACK: Yes. So you -- So that  
4 portion of the letter you also agree with, and you think  
5 that's okay?

6 REPRESENTATIVE DRURY: Sure.

7 REPRESENTATIVE SANDACK: Thank you.

8 I have no further questions, Mr. Mautino.  
9 Thank you.

10 REPRESENTATIVE MAUTINO: Okay. For --

11 REPRESENTATIVE DRURY: What I would like to ask --

12 REPRESENTATIVE MAUTINO: -- a little clarification,  
13 if I could --

14 REPRESENTATIVE DRURY: Go ahead.

15 REPRESENTATIVE MAUTINO: -- on that. In the  
16 meeting with Mr. Kellner of the Justice Department, I  
17 made two requests. One is that the request for us to  
18 defer for 90 days be placed in writing. He said he  
19 would get back to us quickly.

20 I also told him in that same meeting that  
21 jointly we had requested e-mails from the Governor's  
22 Office which we were expecting, do they have any  
23 recommendations or requests regarding those e-mails.  
24 And so the letter is in -- in answer of both of my  
25 requests made amongst all four caucuses with

1 Representative Barriman (phonetic) there -- Barickman  
2 and Faith Burton, who is the Special Attorney --  
3 Assistant for the U.S. Department of Justice, Ken  
4 Kellner, U.S. Department of Justice, who is the lead  
5 Counsel for the Government's Ethics Commission and those  
6 members. And they responded very quickly, but I wanted  
7 answers to both of those so I knew when we could pass  
8 the information to the general public as well as to the  
9 members of the Commission. So that's just as a little  
10 clarification, where the two points of that came from.

11 REPRESENTATIVE DRURY: Mr. Chairman --

12 REPRESENTATIVE MAUTINO: Thank you, Mr. Drury.

13 REPRESENTATIVE DRURY: If I may, there's been some  
14 questions about documents and whether or not -- you  
15 know, what my opinion is as to documents. Should  
16 this -- this body decide to move forward with collecting  
17 documents and -- and heed the U.S. Attorney's request in  
18 all other respects as well, I would just point out that  
19 the normal course in an investigation for documents is  
20 not to drag witnesses out in public and have them turn  
21 over the documents in a big ceremonious way. They  
22 can -- They can just produce the documents. They can be  
23 reviewed. And then if there's follow-up, you can do  
24 that.

25 Now, the -- the Commission will -- will handle

1 this however they want to do that, but, again, I think  
2 that the Commission should just be cautious of what  
3 they're doing because, again, grand jury proceedings are  
4 secret and they're secret for a reason. And  
5 historically they've been secret. And if we want to  
6 debate whether that's the best way to find out the truth  
7 or not, we can do that, but that's the way that it's  
8 done. And so if this Commission is going to move  
9 forward in -- in any way with -- with looking at this,  
10 they should know that it's not going to be done in  
11 secret, which is -- get backs to what the U.S. Attorney  
12 was saying, is that it could impede the investigation.  
13 And I just think that everybody needs to be really  
14 cautious about this.

15 No one is asking this investigation be  
16 quelled. If there's wrongdoing, we should find it out,  
17 absolutely. That's why I wanted to write about -- I was  
18 thinking about writing about this before anyone ever  
19 talked to me. We -- We should want to find out what  
20 happened. If there's criminal charges, we should find  
21 them out. I don't care what party the people are from.  
22 We should find them out, and they should be brought to  
23 justice.

24 The question is: Is this body the best body  
25 to do that? And I emphatically say the answer to that

1 question is no. And -- And we need to take that  
2 seriously. And -- And that's not a political comment  
3 from me. I've taken several votes on both sides of the  
4 aisle on the issues, and if people want to debate that,  
5 that's fine.

6 I am here wearing the hat of a former federal  
7 prosecutor who is concerned that we have gone astray,  
8 that we are beyond what a Legislative Audit Commission  
9 probably should be doing. We have a request from the  
10 federal government to stand down. And for whatever  
11 reason, we have to debate it in public whether we should  
12 listen to the top criminal justice official in the  
13 Central District of Illinois. We should heed his  
14 request. And -- And I just think that it's, in my  
15 experience, unprecedented to ignore that. And I think  
16 it is a dangerous path to head down.

17 But thank you again for allowing me to come  
18 here before you.

19 REPRESENTATIVE MAUTINO: Mr. Crespo.

20 REPRESENTATIVE CRESPO: Thank you, Chairman.

21 Scott, thanks for -- for coming here today.  
22 And just for the record, I did support issuing the  
23 subpoenas several -- I think it was last month. And  
24 back then we even knew that the Feds were looking into  
25 this. We also knew then and we know now that the

1 State's Attorney is looking into this. However, since  
2 then, there's a new development obviously. We're  
3 getting a request from the federal government. And --  
4 And I've spoken to other former federal prosecutors to  
5 get some sense of, you know, how big is this thing.

6 So let me ask you: Does -- Does the -- The  
7 Department of Justice, other than just asking us, do  
8 they have any other option, vehicle to enforce that,  
9 asking us or telling us not to do this? Is this the  
10 best they can do, or do they have other options?

11 REPRESENTATIVE DRURY: You know, I've -- I've never  
12 seen it get past this point of them making the request  
13 and people sitting down and coming to conclusions.  
14 There may be other options, but I don't -- I don't want  
15 to guess and be wrong as -- as to what they would be,  
16 whether they can go to court and try to -- try to stop  
17 this process. I think that would be very disrespectful  
18 of the U.S. Attorney's Office, for -- for this body to  
19 take a -- an office that is -- is resource-challenged  
20 just like the State of Illinois and have them use their  
21 resources to stop a public body from trying to  
22 accomplish the same -- the common goal. And that --  
23 that -- that's why I'm here, is we're -- we're all in  
24 search of the same goal yet we're taking up a lot of  
25 resources, both state and federal now, to try to get to

1 this goal. And I think from the public's perspective  
2 they're just wondering what is going on and why can't  
3 this be worked out.

4 REPRESENTATIVE CRESPO: So based on your  
5 experience, usually when it gets to this point, those --  
6 that entity that has been asked to stop usually goes  
7 along with it?

8 REPRESENTATIVE DRURY: Whether they -- they stop or  
9 they have a meeting and they say, let's -- You know,  
10 sometimes task forces are formed. And I don't know what  
11 would happen in this case, but --

12 REPRESENTATIVE CRESPO: Okay.

13 REPRESENTATIVE DRURY: -- it's worked out in some  
14 way. And the fact that that wasn't happening here is --  
15 is what's concerned me.

16 REPRESENTATIVE CRESPO: Thank you, Scott.

17 Thank you, Chairman.

18 REPRESENTATIVE MAUTINO: Senator Barickman.

19 SENATOR BARICKMAN: Sure. Thanks, Mr. Chairman.

20 (Discussion off the record.)

21 REPRESENTATIVE MAUTINO: Representative Reis.

22 REPRESENTATIVE REIS: Mr. Chairman, if I might, I  
23 would like to make a motion that Senator Barickman be  
24 put in the chair's position.

25 SENATOR OBERWEIS: Second.

1 REPRESENTATIVE MAUTINO: We have a -- a motion and  
2 a second.

3 Discussion. From that, that will require  
4 seven votes.

5 One second.

6 (Discussion off the record.)

7 REPRESENTATIVE MAUTINO: Representative, the -- the  
8 motion -- This is a co-chaired committee. I am in the  
9 chair. And my ruling is that motion is out of order.  
10 You may appeal the ruling of the chair. That takes a  
11 three-fifth --

12 SENATOR BARICKMAN: The motion is out of order or  
13 the -- Your declaration, Mr. Chairman, is that the  
14 motion is out of order or --

15 REPRESENTATIVE MAUTINO: Yes.

16 SENATOR BARICKMAN: What is the basis for your  
17 finding?

18 REPRESENTATIVE MAUTINO: Because that is the ruling  
19 of the chair. I had gone to the gentlemen for questions  
20 of the witness, and so we are not on that order. So  
21 that motion is out of order.

22 SENATOR BARICKMAN: Do you intend to honor that  
23 motion immediately upon the adjournment of the witness?

24 REPRESENTATIVE MAUTINO: You have the option to  
25 appeal the ruling of the chair. That's the ruling of

1 the chair.

2 Further questions of the witness?

3 Representative Rita.

4 MR. RITA: Scott, can you maybe explain a little  
5 more in detail. What would -- How would this compromise  
6 the criminal investigation if we continue to go forward  
7 with -- with not honoring the request of the U.S.  
8 Attorney?

9 REPRESENTATIVE DRURY: There are -- There are  
10 several ways. Like I said, firstly, it's possible that  
11 it has already been impaired somewhat by the fact that  
12 the U.S. Attorney himself had to publicly state that  
13 there is a criminal investigation going on. So now --  
14 now --

15 REPRESENTATIVE RITA: So we have already now put a  
16 possible compromise into the criminal investigation?

17 REPRESENTATIVE DRURY: Potentially, because in the  
18 normal world people wouldn't know that there was a  
19 criminal -- the public wouldn't know. There wouldn't be  
20 all these cameras around hearing about a federal  
21 criminal investigation.

22 If there are witnesses that you're calling to  
23 testify that are also potential witnesses in the  
24 criminal investigation, those witnesses may be deterred  
25 from cooperating with the government. Those witnesses

1 may in public say something under the lights of a camera  
2 to save themselves from embarrassment that may not  
3 actually be true and then hurt their credibility and  
4 hurt the government's possibility of successfully  
5 prosecuting somebody.

6           There's the possibility of working at  
7 cross-purposes. The investigations could be at  
8 different points in the investigation. One could be  
9 trailing the other and catching up to the other, and it  
10 could impede the one that's behind from doing a maneuver  
11 or -- or directing the investigation that -- in a way  
12 that they wanted to go because it's already -- some  
13 witness has already said something or -- or this body  
14 has done something that precludes that from happening.

15           And so the short answer would be it just will  
16 have -- it creates the potential for a whole lot of  
17 people tripping over a whole lot of each other. And  
18 that is not the way that a serious criminal  
19 investigation should be conducted.

20           And that's why I think that the request had to  
21 be made publicly like this. It was to -- to stop this  
22 from happening. And like I said, in the normal course,  
23 that letter would have been good enough.

24           Now, I don't know if the letter was sent  
25 publicly to the press or the letter was leaked. That,

1 in and of itself, if it was sent privately to Commission  
2 members, you know, that -- that could be a way that it  
3 was compromised. You know, just because the U.S.  
4 Attorney writes a letter to this body asking it as a  
5 fellow legis- -- well, not -- they're -- they're  
6 different branches but asking it to -- you know, to  
7 listen to its request and then find that letter put out  
8 in the press five minutes later or twenty minutes later,  
9 that could hinder the investigation.

10 And it's things like that where they're  
11 competing, they're trying to do things under the  
12 auspices of a grand jury, which should be secret. This  
13 body is trying to do everything publicly. And we're  
14 seeing how that plays out, that every move that is made  
15 is being made public.

16 And I understand why people may want this to  
17 be public, but we have to look at history in Illinois.  
18 And it has not been the General Assembly that has  
19 attacked public corruption. It just hasn't done it.  
20 And the body that has has been the U.S. Attorney's  
21 Office. And the U.S. Attorney's Office is looking at a  
22 criminal investigation and saying that they think that  
23 we should stand down as the General Assembly. And if we  
24 don't, then it's kind of embarrassing to the State of  
25 Illinois, again, on a public corruption matter. And I

1 just don't know why we want to be in that position. And  
2 that is not a partisan statement.

3 I am actually quite surprised that this  
4 hearing even went forward, to even have me testify. I  
5 kept saying that everyone is going to agree not to be  
6 here today, but -- but I was wrong about that and we're  
7 here. But I'm -- I'm -- I'm speaking again as -- as --  
8 as a citizen, as someone who's worked on investigations  
9 like this, and saying that -- that this approach is  
10 nowhere close to the best approach for a criminal  
11 investigation.

12 And if -- seriously, if people are concerned  
13 that something was wrong with the Neighborhood Recovery  
14 Initiative in a criminal way, then we should let the  
15 U.S. Attorney's Office do its job. And if we think that  
16 the U.S. Attorney's Office can't do its job, then I ask  
17 someone on this Commission to publicly say that and  
18 state why you think the U.S. Attorney's Office isn't  
19 capable of doing its job. Because if not, I think we  
20 should heed the request.

21 REPRESENTATIVE MAUTINO: Further questions?

22 Senator Mulroe.

23 SENATOR MULROE: Thank you, Scott, for coming here  
24 today. It's been very helpful.

25 You know, I'm a former Assistant State's

1 Attorney with Cook County. And when we brought our  
2 cases, the captions read: People of the State of  
3 Illinois versus the defendant. I believe the caption in  
4 the -- in the federal cases are the U.S. Department; is  
5 that correct?

6 REPRESENTATIVE DRURY: The United States of  
7 America --

8 SENATOR MULROE: Okay.

9 REPRESENTATIVE DRURY: -- versus the defendant.

10 SENATOR MULROE: All right. And that's on behalf  
11 of all the people of the United States of America. It's  
12 not, you know, singling out Democrats or Republicans or  
13 anybody who doesn't have a party affiliation.

14 When a federal government -- the -- the U.S.  
15 prosecutor tells an individual -- I'm not talking any  
16 individual in this -- part of this Commission, although  
17 I am concerned that us even participating in this  
18 process is interfering or obstructing with their  
19 investigation, which is -- gives me great concern as  
20 well. But just take it down to a civilian. A civilian  
21 who's told to refrain from interviewing a witness who is  
22 part of an active criminal investigation, if that person  
23 disregards or defies the U.S. Attorney's Office because  
24 they think they're smarter than the U.S. Attorney's  
25 Office and wants to move ahead without them, what

1 happens to the regular citizen of the United States of  
2 America?

3 REPRESENTATIVE DRURY: So if a citizen interferes  
4 or attempts to interfere with another witness or someone  
5 called to testify, they could potentially be charged --  
6 I believe it's 18 U.S.C. 1512 -- with obstruction of  
7 justice, or under 18 U.S.C. 1503 as well.

8 SENATOR MULROE: Can I -- You know, as part of this  
9 authorization of subpoenas, I've heard from members not  
10 only at that meeting but also in an interview I did on  
11 TV that they'd gladly step aside if the U.S. Attorney's  
12 Office asked them to refrain. Somehow they've done a  
13 flip and now want to continue with it, notwithstanding  
14 their previous statements, because we're trying to  
15 investigate a crime and hold -- possibly hold someone  
16 that's responsible for breaking the law rather than  
17 postpone this Commission and take it up at a later time.  
18 I mean, we've already dissolved the -- the agency.

19 Why -- You know, can you give us a little  
20 reflection on why aren't we going to be held personally  
21 or criminally responsible for interfering with the U.S.  
22 Attorney's investigation if we start participating in  
23 this process. It's very -- It bothers me a lot.

24 REPRESENTATIVE DRURY: You know, I -- I don't want  
25 to -- to make a statement and it be viewed as legal

1 advice and be wrong. I think in that respect, you know,  
2 there are some provisions in -- in Section 1512 and 1503  
3 that may provide guidance on that. But to the extent  
4 that anyone is concerned about that, you know, I -- I  
5 think that -- that lawyers for the Commission should --  
6 should discuss that. I -- I don't want to be in the  
7 position of saying it is or isn't obstruction, and I  
8 don't want anything to be read into that. But if that's  
9 a concern, then the Commission should absolutely consult  
10 with its attorneys and determine whether or not moving  
11 forward would be -- would be problematic.

12 SENATOR MULROE: Thank you.

13 REPRESENTATIVE MAUTINO: Further questions?

14 (No verbal response.)

15 REPRESENTATIVE MAUTINO: Senator Barickman?

16 (No verbal response.)

17 REPRESENTATIVE MAUTINO: No further questions.

18 Thank you very much for --

19 REPRESENTATIVE DRURY: Thank you.

20 REPRESENTATIVE MAUTINO: -- joining with us. I

21 appreciate all your --

22 REPRESENTATIVE DRURY: Thank you, Commissioner.

23 REPRESENTATIVE MAUTINO: -- time and comments.

24 At this time we would go to witnesses. Since we

25 did not have a schedule of order, I would ask the

1 witnesses to come forward or their counsel.

2 SENATOR BARICKMAN: Mr. Chairman, again, to be  
3 clear, I think the request has been issued by a legal  
4 document, a subpoena for witnesses to appear. So I  
5 certainly would like for the witnesses to introduce  
6 themselves to the body.

7 MR. CUTRONE: I was asked to --

8 SENATOR BARICKMAN: As well as their counsel.

9 MR. CUTRONE: -- appear as a witness, but I was not  
10 subpoenaed. I just -- But the call was for witnesses to  
11 step forward.

12 REPRESENTATIVE MAUTINO: Okay. Gentlemen, if you  
13 would -- and lady, ma'am, if you would step to the mike,  
14 introduce yourself to the roll. Why don't we start  
15 here.

16 MR. KING: Thank you. Good morning. My name is  
17 John King.

18 (Discussion off the record.)

19 MR. KING: There we go.

20 My name is John King, and I am counsel for  
21 Dr. Toni Irving.

22 MR. THEIS: Good morning. John Theis, T H E I S,  
23 attorney for Barbara Shaw. I'm appearing here on her  
24 behalf.

25 MS. STEPHENS: Good morning. Lisa Stephens,

1 General Counsel for the Criminal Justice Information  
2 Authority.

3 MR. CUTRONE: Jack Cutrone, Executive Director,  
4 Criminal Justice Information Authority.

5 MR. MOORE: Good morning. My name is Thomas S.  
6 Moore, and I'm here on Jack Lavin's subpoena.

7 MR. SALDINGER: Good morning. My name is Richard  
8 Saldinger. I'm here on behalf of Andrew Ross.

9 MR. PRENDERGAST: Good morning. My name is Richard  
10 Prendergast. I'm here on behalf of Warren Ribley.

11 MR. OCASIO: I'm Billy Ocasio.

12 REPRESENTATIVE MAUTINO: Shall we start?

13 I would ask: Do you have any comments, sir?  
14 And, also, we have a court reporter who's with us today.  
15 So when you sit at the mike, would you please spell out  
16 your name and who you're representing. Yes, sir.

17 MR. KING: Sure. It might be easier --

18 SENATOR BARICKMAN: Mr. Chairman, again, before we  
19 hear from counsel for the witnesses, I think the  
20 question before us is whether the witnesses who have  
21 been compelled by law have complied with the subpoena.  
22 And that is the first order of business that we need to  
23 attend to.

24 REPRESENTATIVE MAUTINO: I believe their attorneys  
25 are here, and they can respond.

1           SENATOR BARICKMAN: The question -- The -- The --  
2           The compliance with the subpoena is a two-part question:  
3           One, whether the witness has appeared, and, two, whether  
4           the witness has documents in their possession that they  
5           are compelled by law to turn over to this body today.  
6           And I wish, first, to consider those two questions.

7           REPRESENTATIVE MAUTINO: Is that a motion? There's  
8           no -- no current motion on the floor. I've asked that  
9           the counsels or the folks who are representing those who  
10          have been requested or summoned here make a statement.

11          MR. KING. Thank you. It might be easier if we sit  
12          down and I'm --

13          REPRESENTATIVE MAUTINO: Please.

14          MR. KING: -- closer to the mike.

15          REPRESENTATIVE MAUTINO: As I said, with the court  
16          reporter, would you please state your name and spell  
17          that.

18          MR. KING: Certainly. My name, again, is John,  
19          J O H N, King, K I N G, and I represent Dr. Toni Irving,  
20          who is not here --

21          REPRESENTATIVE MAUTINO: Mr. Cutrone -- Excuse me.

22                  Mr. Cutrone, would you step back.

23          MR. CUTRONE: Happily.

24          REPRESENTATIVE MAUTINO: Those who -- who are not  
25          here as -- I want to hear either specifically from

1 either the witnesses or their counsel.

2 MR. KING: Thank you.

3 I was starting to say Dr. Toni Irving is not  
4 here this morning because of her belief that it would be  
5 inappropriate for her to do so in light of the U.S.  
6 Department of Justice investigation, in particular the  
7 now two requests that we've seen from the DOJ that this  
8 Commission postpone the taking of testimony. I do want  
9 to be clear that Dr. Irving welcomes the opportunity to  
10 provide relevant testimony to this Commission, but with  
11 respect to the Department of Justice and in particular  
12 regard to the risks that are raised in the two  
13 communications from the Department, it is not her intent  
14 to testify at this time.

15 REPRESENTATIVE MAUTINO: Sir, please continue.

16 SENATOR BARICKMAN: Can I clarify the -- again, for  
17 the body to understand that communication. Her intent  
18 is not to appear and testify, or her intent is to  
19 simply -- in response to any questions asked by the  
20 Commission, to simply plead the Fifth? What is her  
21 intention?

22 MR. KING: She has --

23 SENATOR BARICKMAN: Can you clarify that?

24 MR. KING: Yes. She has absolutely no intention of  
25 pleading the Fifth. I didn't say that, and I do not

1 intend to say that. Her intent is to postpone her  
2 testimony and not to risk the obstruction and other  
3 issues that were addressed and raised by the two  
4 communications from the United States Department of  
5 Justice. And that is her position and will continue to  
6 be until this issue is resolved.

7 SENATOR BARICKMAN: And, again, to clarify, so her  
8 intent is not to honor the subpoena?

9 MR. KING: Her intent is not to provide testimony  
10 in deference to the request of the United States  
11 Department of Justice.

12 SENATOR BARICKMAN: Is your client's intent to  
13 produce the documents that she has made this Commission  
14 aware that she possesses, State documents that she has  
15 taken into her possession as a part of her departure  
16 from state government? We are aware through  
17 communication possibly from you that she is in  
18 possession of those documents. The subpoena that is at  
19 issue here requires her to turn over those documents  
20 now. And we have no communication from the Department  
21 of Justice at all that indicates that she should not  
22 comply or that her compliance with that request would in  
23 any way jeopardize the federal government's criminal  
24 investigation of Governor Quinn's failed NRI program.  
25 Does your client intend to comply with the subpoena?

1 MR. KING: Absolutely. And I believe you did hear  
2 about that request, if not directly, of course, through  
3 me -- from me in disclosing to counsel for the committee  
4 or at least a member of the committee as well as  
5 Ms. Stricklin that she possessed something on the order  
6 of a hundred and seven thousand e-mails, I believe  
7 duplicative of the e-mails that you have received, in my  
8 understanding, from -- or at least a subset of that  
9 group that you received from the Governor's Office. I  
10 have been --

11 SENATOR BARICKMAN: The Governor's Office has  
12 provided us some roughly 2,000 e-mails from at least 6  
13 witnesses covering a 2-year period. The Governor's  
14 Office has indicated that the e-mails that have not been  
15 turned over are privileged documents. They have not  
16 indicated to us in any way the nature of the privilege  
17 that they're asserting, but I think what I just heard  
18 from you is that your client possesses in her control  
19 well over 100,000 documents. This committee is in  
20 receipt of a subset of those, some 2,000. Many of  
21 which, quite frankly, are not documents that involve  
22 your client's -- they're e-mails. They don't have your  
23 client's name on them. So it's fair to say this  
24 committee -- this Commission has less than 2,000  
25 documents pertaining to your client. Your client holds

1 well over 100,000 documents. Is it your intention to  
2 turn those over today and comply with the subpoena  
3 request?

4 MR. KING: I -- I have been in communication with  
5 counsel for members of this committee about the way to  
6 turn over documents.

7 SENATOR BARICKMAN: Who did you communicate with?

8 MR. KING: Heather Wier.

9 SENATOR BARICKMAN: Could -- Could Heather Wier be  
10 identified for us?

11 MS. WIER: I'm over here.

12 SENATOR BARICKMAN: Ah.

13 Who is Heather Wier? Is Heather Wier counsel  
14 to the Speaker.

15 REPRESENTATIVE MAUTINO: She is the counsel to the  
16 Speaker of the House of Representatives and the  
17 Democratic counsel.

18 SENATOR BARICKMAN: Thank you.

19 Is it your intention to comply with the  
20 subpoena?

21 MR. KING: My intention is not to produce a hundred  
22 and seven thousand e-mails today when I have not been  
23 through those e-mails to determine whether or not they  
24 are responsive or relevant or privileged. And I would  
25 note that it is not my privilege or my client's

1 privilege. It would be the privilege of the -- of the  
2 Governor's Office or the State, presumably.

3 My efforts have been to reach an  
4 accommodation, which is in my experience pretty typical  
5 of the act of producing documents particularly of this  
6 magnitude, so that the Commission can get what it needs  
7 and we all don't have to go through the time and the  
8 trouble and the expense of culling through them. The  
9 preferred way of doing that, in my view, would be for  
10 the State to review them, the Governor's Office,  
11 whomever is the appropriate person to do that, and then  
12 determine which they're going to assert privileges  
13 for -- again, it's not Dr. Irving's privilege -- and  
14 then produce those. I was told -- I was under the  
15 understanding that this issue could not be addressed  
16 until this morning, which is why I'm here without the  
17 hundred and seven thousand e-mails.

18 SENATOR BARICKMAN: We too, Counselor, wish to be  
19 accommodating. Unfortunately, we're left as a body  
20 making decisions over the course of today and tomorrow  
21 about how to proceed. This body has issued subpoenas.  
22 Those subpoenas have been received by your client,  
23 presumably the others here, and we have to make a  
24 decision over the course of the -- today and tomorrow  
25 about how we intend to enforce that subpoena.

1 I think I -- I don't want to speak for others,  
2 but I can tell you that we wish to be accommodating with  
3 you. However, it is more than alarming to know that the  
4 Governor's Office has turned over a subset of documents  
5 that total 2,000 from, I believe, 6 witnesses and that  
6 you on behalf of one of those witnesses have withheld  
7 from this body well over 100,000 documents that we have  
8 asked for.

9 MR. KING: Well --

10 SENATOR BARICKMAN: So -- And so I think the -- the  
11 question that will come before us -- and, again, we'd  
12 like to be accommodating with you -- is -- we are going  
13 to need to choose a path of whether to enforce the  
14 subpoena or to hear from you some reasonable proposal  
15 for how you intend to turn over those documents directly  
16 to this body. The Governor's Office, with all due  
17 respect to it, I think has raised concerns by the nature  
18 of the limited number of documents they've turned over  
19 to us already. So do you have a proposal for the  
20 committee to consider about how those documents will be  
21 forthcoming and -- and when?

22 MR. KING: I do. Two quick observations upfront.  
23 First of all, I quarrel with the concept that I have  
24 withheld anything. I am here at the first meeting since  
25 I received the subpoena. And I raised the issue of the

1 possession of those e-mails to parties that I believed  
2 were the appropriate parties to raise the issue with.

3 Second, I do not mean to suggest in any way  
4 that those hundred and seven thousand e-mails are  
5 relevant to this investigation or this inquiry or within  
6 the scope of the subpoena. My understanding, my  
7 understanding, is that Dr. Irving was provided with  
8 discs containing all of her e-mails for the entire  
9 period of her service when she left government service.  
10 That's what's contained on the discs.

11 If the Governor's Office or anyone else wants  
12 to assert a privilege for those documents, then my  
13 suggestion is to do what I believe is appropriate and  
14 typical in these circumstances and allow the Governor's  
15 Office or anyone else that wants to assert a privilege  
16 to review them, assert the privilege, and then allow the  
17 production of all remaining documents.

18 REPRESENTATIVE MAUTINO: For the record, also  
19 the -- Counselor Vaught, when she was contacted by you,  
20 immediately contacted Counselor Johnson about it with --  
21 with the discussion of those requests. So both staffs  
22 have received that.

23 MR. KING: Thank you. That's my understanding.

24 It's also my understanding that -- that the  
25 message that came back was this issue could not be

1 addressed except here at this time, which is why I'm  
2 here.

3 REPRESENTATIVE MAUTINO: Representative Sandack.

4 Also, if I could just as a -- Also, under  
5 Section 3 of the Legislative Hearing Act, 25 ILCS 85,  
6 any witness that's summoned to appear at a hearing shall  
7 have the right to counsel as well. So, I mean,  
8 that's -- I wanted just to put that forward and put that  
9 into the record.

10 REPRESENTATIVE SANDACK: I don't think that's --

11 REPRESENTATIVE MAUTINO: And we have had --

12 REPRESENTATIVE SANDACK: -- in lieu. I think  
13 that's in company.

14 But, Mr. King, I was moved for a second with  
15 respect to the question of privilege. How exactly would  
16 privilege work? If I heard you correctly, Dr. Irving  
17 received four discs of e-mail and documents on her exit  
18 from State service. How would anyone claim privilege  
19 when they turned documents over to her?

20 MR. KING: Well, again, I'm not asserting  
21 privilege and --

22 SENATOR BARICKMAN: How could anyone do so?

23 MR. KING: That's for the Governor's Office or --  
24 or whoever wants to assert the privilege. If the  
25 position is taken -- And I'm not opining in any way

1 here. But if the position is taken that privilege was  
2 not breached because those e-mails were given to her in  
3 her capacity as a government employee, that will be the  
4 position asserted.

5 REPRESENTATIVE SANDACK: She's not a government  
6 employee anymore, though, correct? And you said it was  
7 on her exit from her service as a government employee.  
8 So assuming that information is correct, there would be  
9 no privilege conceivably able to be offered or exercised  
10 given it was handed over.

11 MR. KING: I'm most respectfully not going to weigh  
12 in on that debate. I have documents. If someone wants  
13 to assert privilege, then they may do so.

14 REPRESENTATIVE SANDACK: Well, that actually is the  
15 point, sir. Because how long should we sit and wait  
16 until someone who doesn't really have the right to  
17 assert the privilege may make themselves known and  
18 assert something?

19 My question is: What reasonable parameter  
20 should we permit your client to turn over documents that  
21 you have made clear are available, that may or may not  
22 be within the scope of the subpoena but certainly some  
23 are? When are you going to go through the exercise of  
24 determining what's responsive so that you can on behalf  
25 of your client respond to a lawfully served subpoena?

1 MR. KING: Well, I -- I have also had the  
2 opportunity to communicate with John Schomberg, who I  
3 understand is the Governor's -- is the general counsel.  
4 My suggestion would be that at a break or when I'm  
5 allowed to step away from this table that I reach out to  
6 the Governor's Office.

7 REPRESENTATIVE SANDACK: Excellent. I think that's  
8 a great idea, sir. Thank you.

9 REPRESENTATIVE MAUTINO: Further questions?  
10 Representative -- Excuse me. Senator Brady.

11 SENATOR BRADY: Thank you, Mr. Chairman.

12 Mr. King, this body issued a subpoena. And  
13 I'm going to confess. I'm not a lawyer. But this Audit  
14 Commission, not the Speaker's office, not counsel to  
15 Republicans, issued under its authority a subpoena. And  
16 that authority bears with it the weight of the statutes  
17 of the State of Illinois. We are all here, duly elected  
18 people to represent the people of Illinois. Did the  
19 subpoena not require your client to appear?

20 MR. KING: The subpoena asks for my client's  
21 testimony and for her to provide --

22 SENATOR BRADY: Excuse me. Does it --

23 MR. KING: -- testimony.

24 SENATOR BRADY: Does it ask or does it require  
25 under the statutes of the State of Illinois and the

1 authority this body holds your client to appear?

2 MR. KING: The subpoena requires on its face -- I  
3 don't have -- I do have the subpoena in front of me.  
4 The subpoena commands her to appear, I believe, is  
5 the --

6 SENATOR BRADY: Yeah. So that's not asking.  
7 That's demanding. And it carries with it the full  
8 weight of the statutes of the State of Illinois. And as  
9 duly elected representatives, I find your advice to your  
10 client, not to appear, to be in contempt in a broad  
11 strain of words. I want to know what authority you  
12 think you have to tell your client to avoid a statutory  
13 requirement.

14 MR. KING: Well, first of all, I'm not going to get  
15 into any advice I've given to my client.

16 Second of all --

17 SENATOR BRADY: Wait a second. You already have  
18 gotten into advice. You've already started in your  
19 opening remarks by saying you advised your client not to  
20 appear due to the nature of the -- but you have not  
21 advised your client not to take the Fifth Amendment.

22 MR. KING: I believe what I said was my client  
23 would not be asserting her Fifth Amendment, and that is  
24 absolutely the case.

25 SENATOR KING: Did you --

1 MR. KING: With respect to your --

2 SENATOR BRADY: -- advise your client not to assert  
3 the Fifth Amendment?

4 MR. KING: I'm not talking about what advice I  
5 gave, most respectfully.

6 With respect to your question about --

7 SENATOR BRADY: Well, then who gave your client the  
8 advice not to appear subject to law of the subpoena  
9 issued?

10 MR. KING: Sir, your -- your second -- your  
11 question with respect to the authority -- And I'll  
12 actually direct you to what I understand to be the  
13 authority. And I understand this because this was  
14 provided to me along with the subpoena. It is contained  
15 in Section 4 of the Legislative Audit Commission Act.  
16 And that provides for the following: Should any person  
17 fail to obey the summons -- and I'm going to skip  
18 through to the pertinent part -- the Commission may  
19 apply to the Circuit Court, and such Court, if it finds  
20 that the Commission has not exceeded its authority, may,  
21 by order duly entered, require the attendance of  
22 witnesses and the production of relevant books and  
23 papers. Upon refusal or neglect to obey the order of  
24 the Court, the Court may compel obedience of such order  
25 by proceedings for contempt.

1 My understanding is that that process has not  
2 happened. And the suggestion that Dr. Irving is in  
3 contempt is, in my view, incorrect.

4 SENATOR BRADY: So you did advise your client that  
5 she didn't need to appear?

6 MR. KING: I am not talking about advice. I -- I  
7 am not going to respond to --

8 SENATOR BRADY: Do you represent your client?

9 MR. KING: Do I represent my client? Yes.

10 SENATOR BRADY: Did you advise your client?

11 MR. KING: I am not talking about advice that I  
12 gave my client. You may or may not be aware that would  
13 be privileged information that I would not be  
14 permitted --

15 SENATOR BRADY: I didn't ask --

16 MR. KING: -- to provide.

17 SENATOR BRADY: -- for the privileged information.  
18 I just wondered if you advised your client.

19 MR. KING: I've obviously spoken to my client. I  
20 will not provide the substance of any advice I gave, nor  
21 would it be reasonable to ask --

22 SENATOR BRADY: So you believe that a subpoena  
23 issued under the laws of the State of Illinois by this  
24 body is a preliminary step and not a true requirement?

25 MR. KING: I'm merely reciting, sir, the statutory

1 provision which was provided to me along with the  
2 subpoena. And as I read the provisions, again, first,  
3 should any person fail to obey the summons; second, the  
4 Commission may apply to the Circuit Court for an order;  
5 third, upon refusal and neglect of the order, the Court  
6 may compel obedience of such order by proceedings for  
7 contempt.

8 SENATOR BRADY: We -- We -- We understand that, but  
9 I just want to tell you that I find the fact that your  
10 client is not here as well as the rest of you, for  
11 whatever reason you may give, to really be an affront to  
12 the people of Illinois and the process.

13 I also want to point out that this is not a  
14 criminal investigation as someone suggested earlier.  
15 This is a legislative body that is authorized and  
16 obligated to review audits of the State of Illinois so  
17 that we can determine what can be best done to move the  
18 State forward in a proper way. Your client and others  
19 were found to be less than exemplary in their efforts to  
20 do the work of the people of Illinois. And for them not  
21 to come in accordance with the subpoena to help us  
22 improve, I find alarming, sir.

23 MR. KING: Well --

24 SENATOR BRADY: Thank you.

25 MR. KING: -- all I can do is repeat what I've

1 said, that Dr. Irving welcomes the opportunity to come  
2 here to testify, to provide any information that this  
3 Commission requires of her, but not under circumstances  
4 where the Department of Justice has two times said that  
5 for her to do so would risk serious damage and harm to  
6 their ongoing grand jury investigations. That is not  
7 intended by her as an affront to this Commission, and  
8 she will respond when it is appropriate given the --

9 SENATOR BRADY: Well, is your excuse for not  
10 providing over a hundred thousand dollar -- a hundred  
11 thousand e-mails the same? Because the attorney -- the  
12 U.S. Attorney's Office never suggested we shouldn't  
13 collect data. You were subpoenaed to provide those here  
14 and at this date, not to discuss providing them at this  
15 date but to provide them here at this date. Are you  
16 using the same excuse that we're going to have to go get  
17 a court order?

18 MR. KING: No, absolutely not.

19 SENATOR BRADY: Why did you not meet the  
20 obligations of the subpoena and provide the documents?

21 MR. KING: Because there is a request -- there  
22 is -- In my understanding, there is a privilege issue  
23 with respect to documents. I attempted, as is the  
24 normal process in my experience to --

25 SENATOR BRADY: Does she have the documents in her

1 possession?

2 MR. KING: I have a hundred and seven thousand  
3 e-mails in my possession.

4 SENATOR BRADY: So why are those privileged?  
5 They're hers. They were subpoenaed. Why are they not  
6 here today?

7 MR. KING: Again, if the Governor's Office wishes  
8 to assert a privilege -- Dr. Irving is not asserting a  
9 privilege --

10 SENATOR BRADY: The Governor's Office, have they  
11 asked you not to provide the documents?

12 MR. KING: No.

13 SENATOR BRADY: But why wouldn't you provide them?

14 MR. KING: Because --

15 SENATOR BRADY: They understand what's going on.

16 MR. KING: I'm sorry?

17 SENATOR BRADY: They understand what's going on.  
18 If they asked you not to -- If they asked -- If they  
19 provoked their executive privilege and asked you not to  
20 provide the documents, I could understand your excuse.  
21 But no one has asked you not to comply with the subpoena  
22 to provide the documents, not the U.S. Attorney, not the  
23 Governor's Office. You simply said we're not bringing  
24 them.

25 MR. KING: I said we are bringing relevant

1 documents when I am told --

2 SENATOR BRADY: We weren't -- Wait, wait. Did we  
3 ask you to provide relevant documents, or was the  
4 subpoena to provide the documents?

5 MR. KING: The subpoena --

6 REPRESENTATIVE MAUTINO: Actually, yes.

7 MR. KING: The subpoena --

8 REPRESENTATIVE MAUTINO: The request was for  
9 NRI-related documents.

10 SENATOR BRADY: Well, okay. And we know --

11 REPRESENTATIVE MAUTINO: And the hundred and seven  
12 thousand are not.

13 SENATOR BRADY: Well, he just said he's got a  
14 hundred and seven thousand --

15 REPRESENTATIVE MAUTINO: Correct. But are they --

16 SENATOR BRADY: -- NRI-related documents.

17 REPRESENTATIVE MAUTINO: -- NRI --

18 MR. KING: No. No, that's not what I said at all.  
19 What I said is I have a hundred --

20 REPRESENTATIVE MAUTINO: Please clarify. Thank  
21 you.

22 MR. KING: -- and seven thousand documents. It is  
23 my understanding -- And I have not been through anywhere  
24 near all of those documents. It is my understanding  
25 that those are the entirety of the e-mails that were on

1 her system at the moment in time when she left the  
2 employment of the State and that they are all of her  
3 e-mails during her period of time when she was appointed  
4 by the State.

5 SENATOR BRADY: Why didn't you advise her to comb  
6 through those and provide them at the required time?

7 MR. KING: Again, as what is in my view a customary  
8 way to proceed in this regard, I reached out to people  
9 that I believe to be lawyers who are in a position to  
10 decide the best way to produce these documents.

11 SENATOR BRADY: I just spoke with our counsel, and  
12 she said she never gave you authority not to provide  
13 them.

14 MR. KING: I'm --

15 REPRESENTATIVE MAUTINO: I believe that is --

16 MR. KING: Yeah.

17 REPRESENTATIVE MAUTINO: -- an incorrect statement.

18 MR. KING: I don't know --

19 REPRESENTATIVE MAUTINO: No one gave authority.

20 Right. He was -- Were you told to not produce  
21 documents?

22 MR. KING: No, absolutely not.

23 REPRESENTATIVE MAUTINO: Okay, for clarification.

24 SENATOR BRADY: So why did you not produce  
25 documents?

1 MR. KING: I think --

2 SENATOR BRADY: Why are you not producing  
3 documents?

4 MR. KING: I think I said this several times  
5 already, but I'm willing and able to say it again.  
6 Because they are documents that are not relevant, they  
7 are documents for which I believe --

8 SENATOR BRADY: Well, provide the relevant  
9 documents. Why have you not provided the relevant  
10 documents according to the subpoena?

11 MR. KING: Because the process which I described a  
12 moment ago --

13 SENATOR BRADY: They both said they didn't tell you  
14 that.

15 SENATOR MULROE: Let him answer the question.

16 MR. KING: Yeah. If you would allow me to answer  
17 the question.

18 No one told me how to proceed. I  
19 affirmatively reached -- I affirmatively reached out in  
20 an effort to resolve this ahead of time. I am not  
21 standing, as you noted, on the provision here in  
22 Section 4 and requiring this Commission to obtain an  
23 order. I'm perfectly willing to provide --

24 SENATOR BRADY: When was your --

25 MR. KING: -- documents.

1           SENATOR BRADY:  When was your client served with  
2 notice to provide the documents?

3           REPRESENTATIVE MAUTINO:  Sir, I believe you made a  
4 request of the counsel relating to both counsels -- all  
5 counsels of the four caucuses and said it was your  
6 belief that the e-mails were duplicative of what the  
7 Governor was to provide.  Is that the statement that you  
8 made to the counsels?

9           MR. KING:  Yes.

10          REPRESENTATIVE MAUTINO:  Thank you.

11          MR. KING:  And it's my understanding that that has  
12 been communicated directly to Heather Wier or Wier, if  
13 I'm pronouncing the name correctly.

14          SENATOR BRADY:  So do you think that -- do you  
15 think that eliminates your obligation under the subpoena  
16 to provide them?  Are we going to get --

17          MR. KING:  I'm not --

18          SENATOR BRADY:  -- these documents or not?

19          MR. KING:  You are going to get the documents.  And  
20 the process I worked out seems to be the appropriate way  
21 to proceed, which is that I reach out to the Governor's  
22 Office.  If the Governor's Office wishes to assert a  
23 privilege for them --

24          SENATOR BRADY:  We don't -- We don't think the  
25 Governor's Office should be involved.  If they want to

1 assert privilege, they could do so. If they're trying  
2 to protect them from being disclosed, they could -- they  
3 could proactively take that venue.

4 Why would you approach them? Have you talked  
5 to someone from the Governor's Office who's asked you to  
6 do this?

7 MR. KING: I have talked to someone from the  
8 Governor's Office and -- about that issue and as well as  
9 the issue of the -- the duplicativeness [sic] of these  
10 e-mails. In fact, it's my --

11 SENATOR BRADY: Who did you talk to in the  
12 Governor's Office?

13 MR. KING: John Schomberg.

14 SENATOR BRADY: And what did John Schomberg tell  
15 you?

16 MR. KING: I believe my -- if my recollection is  
17 correct --

18 SENATOR BRADY: And for the record, what's his  
19 title?

20 MR. KING: He's the general counsel.

21 If my recollection is correct, what I spoke  
22 about with Mr. Schomberg was a process for eliminating  
23 duplicative e-mails from the collection that we have.

24 It was my intention to raise that with the  
25 Commission this morning, and that's what I'm doing. I

1 don't believe that it is in anybody's interest that we  
2 go through the time, trouble, and expense of producing  
3 e-mails --

4 SENATOR BRADY: But that's not in --

5 MR. KING: -- that you have already.

6 SENATOR BRADY: -- your purview. That's not in  
7 your purview, sir.

8 This body issued a subpoena -- I'm not a  
9 lawyer. But this body issued a subpoena for documents.  
10 The U.S. Attorney never, never told you not to do that,  
11 so your excuse for your client not showing up can't be  
12 used in the case of the documents. He never told you,  
13 well, check with the Governor's Office before you do it.  
14 You were compelled by statute to provide these documents  
15 here and today. Why have you not done so?

16 MR. KING: Again, sir, for the fourth time, because  
17 of the duplicative nature of -- of the e-mails, because  
18 there are in my under- --

19 SENATOR BRADY: Is that -- Is that your -- Is that  
20 within your purview, to determine whether they're  
21 duplicative or not? One of the reasons we might want  
22 them is because someone else may not have provided them.  
23 It's up to us to determine whether they're duplicative,  
24 aren't we -- isn't it?

25 MR. KING: It is within my purview to determine

1 what is a responsive document. It is -- It is --

2 SENATOR BRADY: But you didn't bring one?

3 MR. KING: I didn't bring any because I had  
4 discussions beforehand about the best way to produce  
5 them. I -- I can't say that any differently.

6 SENATOR BRADY: Sir, I -- I -- I find your actions  
7 and your advice to your client in contempt because the  
8 subpoena is pretty clear. It says all relevant  
9 documents should be delivered by this day. You have --  
10 and your client have had over one month. It doesn't say  
11 for you to determine whether they're duplicative.  
12 Provide them. And I'd recommend that you do so  
13 immediately.

14 REPRESENTATIVE MAUTINO: Further questions?

15 Senator Mulroe.

16 SENATOR MULROE: John, I just want to make sure I  
17 understand. There's a hundred thousand e-mails. Some  
18 may be relevant, some may not be, and -- and you haven't  
19 gotten through them all; is that correct?

20 MR. KING: That's correct.

21 SENATOR MULROE: And there's some duplicity going  
22 on, some -- some other things that may bar privileges or  
23 whatever. So -- So what I'm hearing you today say, hey,  
24 you didn't present your -- your client because of the  
25 letter from the U.S. Government and there's these

1 hundred thousand e-mails that you haven't had a chance  
2 to get through.

3 And I just want to point to you that Section 4  
4 of the -- our statute that provides, you know, a person  
5 who fails to appear. So it says, Should any person fail  
6 to obey the summons or refuse to surrender or afford  
7 access, it says, without reasonable cause. Then the  
8 Commission can apply for some Court intervention to  
9 force this from happening.

10 So to me, it sounds like what you're telling  
11 me is you have reasonable cause to ask for more time  
12 consistent actually with the U.S. Government telling us  
13 to refrain from asking any questions of your client. So  
14 is that basically what you're saying?

15 MR. KING: It is, although -- although, again, I'm  
16 not suggesting that we will not produce the e-mails  
17 because of the grand jury investigation. But,  
18 absolutely, that my intent was to come here and work out  
19 a process for producing some portion of a hundred and  
20 seven thousand e-mails and, again, under the assumption  
21 that the vast majority of those e-mails are not within  
22 the scope of this inquiry and some may be privileged.

23 SENATOR MULROE: Okay. And I -- like you, I am --  
24 I'm not alarmed that your client is not here because we  
25 have the federal government asking us to refrain from

1 talking to her. Otherwise, she and us would be  
2 interfering with an active criminal investigation where  
3 we have to -- we're trying to find out whether there was  
4 any wrongdoing, criminal wrongdoing, that we want to  
5 hold somebody responsible or accountable for if that, in  
6 fact, exists.

7           So I'm -- I'm -- I guess I'm alarmed that  
8 we're here, you know, continuing with a process that we  
9 can defer consistent with what the U.S. Attorney's  
10 Office has asked us to do for 90 days, why we are  
11 jeopardizing or compromising a criminal investigation.  
12 So I don't know whether you wish to comment on any of  
13 that or not.

14           MR. KING: I -- I don't. Thank you.

15           REPRESENTATIVE MAUTINO: A question from  
16 Senator Barickman.

17           SENATOR BARICKMAN: Just to follow up, so I  
18 understand, again -- because we're going to need to make  
19 some decisions here today -- you have asserted in a line  
20 of questioning with Senator Brady that you believe  
21 your -- the documents held by your client are  
22 duplicative of those of the -- that the Governor has  
23 turned over to this body. I draw from that statement  
24 two things. One, you've reviewed your client's  
25 documents. Two, you reviewed the documents that the

1 Governor has submitted to this body. Is that true?

2 MR. KING: No. Neither of those --

3 SENATOR BARICKMAN: Well, how do you know that  
4 they're duplicative?

5 MR. KING: My understanding is that the Governor's  
6 Office provided -- And I may have even received some of  
7 these e-mails from Ms. Stricklin. But that the  
8 Governor's Office provided e-mails requested by this  
9 Commission which were, for want of a better term,  
10 relevant and within the scope of your inquiry. By  
11 definition, if I have a hundred and seven thousand  
12 e-mails, which is every e-mail that was on the system,  
13 at the same time as those were produced, involving  
14 Dr. Irving, then I'm under the -- would be under the  
15 understanding that you would have those e-mails already.

16 SENATOR BARICKMAN: Let -- Let me understand.  
17 Is -- Has Ms. Stricklin provided to you certain e-mails  
18 that are in the possession of the Audit Commission? I  
19 think you just suggested that.

20 MR. KING: I -- I -- I believe so. I have a disc I  
21 received from Ms. Stricklin. I ...

22 SENATOR BARICKMAN: Ms. Stricklin, can you make  
23 the -- the Commission aware of what e-mails you have  
24 provided to Mr. King.

25 (Discussion off the record.)

1           SENATOR BARICKMAN: Can -- I think -- Let's have  
2 you speak into the microphone.

3           MS. STRICKLIN: I'd have to -- Senator Barickman,  
4 I -- I would have to go and look at my e-mail record,  
5 but I think those are the ones that the Auditor General  
6 provided us, the Barb Shaw e-mails.

7           SENATOR BARICKMAN: Let's get some clarification,  
8 if we can, on that, Ms. Stricklin.

9                   Mr. King, you've also asserted the suggestion  
10 that -- that your client may raise a privilege that the  
11 Governor's Office has raised. The Governor's Office, to  
12 be clear, raised no privilege with any specificity,  
13 which is a -- for those attorneys in the room, I think,  
14 is a -- is a questionable act. But for the sake of your  
15 testimony to us today, what privilege would your client  
16 claim on documents that she has taken into her  
17 possession, documents that, I believe, by State law  
18 are -- are documents of the State of Illinois?

19 Ms. Irving is no longer an employee of the State of  
20 Illinois, and she has these documents in her possession.  
21 Therefore, the question is: What privilege would you  
22 intend to assert on any documents of those hundred and  
23 seven thousand that you do not turn over to this body?

24           MR. KING: I -- I believe I've said several times  
25 now that Dr. Irving is not asserting any privilege.

1           SENATOR BARICKMAN: You -- You have said that  
2 she -- And, In fact, I think the communication that came  
3 to this body suggested that she would assert the same  
4 privilege that the Governor's Office has raised. Do you  
5 believe that your client has -- has certain rights to  
6 raise privilege upon the documents that we've requested?

7           MR. KING: What -- What I -- I think I've said this  
8 three times now. What I did in this case in advance of  
9 this proceeding was reach out to the Governor's Office  
10 and to lawyers who I believe to be associated with this  
11 Commission and who would be appropriate to work out a  
12 manner and method of production in advance, again, in  
13 order to determine whether the Governor's Office or  
14 anyone else was going to assert a privilege. My hope  
15 was that any privilege issues asserted by anybody, not  
16 including Dr. Irving, would be worked out in advance of  
17 this date. That did not happen. In fact, my  
18 understanding from the communication I received back  
19 from Ms. Wier was that this Commission could not take up  
20 that issue until today. That being the case, there is  
21 no process apparently to do what is normal and typical  
22 in my experience, which is to work this issue out in  
23 advance of the hearing. That's why I'm here describing  
24 what we have.

25                           Again, we raised the issue. Dr. Irving and I

1 raised the issue of her possession of these e-mails in  
2 advance of this hearing in order to have this issue  
3 addressed beforehand. Apparently it can't be worked out  
4 beforehand.

5 As I mentioned -- I would say a moment ago,  
6 but it isn't a moment ago. At a break, I -- I think an  
7 appropriate way to proceed is for me to reach out to  
8 Mr. Schomberg and see if the Governor's Office is  
9 asserting any privilege.

10 SENATOR BARICKMAN: Okay. The final two here, I  
11 think. So the -- the reason that you did not comply  
12 with the subpoena requiring your client to produce  
13 documents is because of a communication that has been --  
14 or an interpretation of a communication that came from  
15 the Speaker's counsel to you that compliance with that  
16 request was not necessary?

17 MR. KING: I -- I quarrel with the term "was not  
18 necessary." It is my understanding that -- that by my  
19 coming here today, which is the first opportunity to  
20 raise the issue, that would be an appropriate way to do  
21 just that.

22 SENATOR BARICKMAN: And your understanding, though,  
23 comes from your interpretation of the communications  
24 you've had with the Speaker's counsel on this issue?  
25 You certainly have had none of those conversations with

1 me.

2 MR. KING: I have not had any communications with  
3 you. That's correct.

4 SENATOR BARICKMAN: Okay. And then, lastly, I -- I  
5 think -- And I want to respond to Senator Mulroe's  
6 comments that the -- the Department of Justice has made  
7 certain requests of this body. Certainly that is true,  
8 but I believe this line of questioning that we have had,  
9 this dialogue with Mr. King, for all the members, you  
10 need to understand that line of questioning clearly  
11 falls within the scope of what the U.S. Attorney's  
12 Office has said that we should proceed with. So with  
13 all due respect to those who simply say we should shut  
14 the door on this matter and reconvene in 90 days, I want  
15 to be clear that the U.S. Attorney's Office has not  
16 requested that of this body.

17 And so, Mr. King, I -- And, again, I can only  
18 speak for myself, but I would like to take you up on  
19 your request that you're going to convene with your  
20 client and that you will reappear before us here shortly  
21 and let us know how you intend or your client intends to  
22 proceed.

23 MR. KING: Yes.

24 SENATOR BARICKMAN: No further questions.

25 REPRESENTATIVE MAUTINO: And further -- We do have

1 one from Senator Brady, a final question.

2 I wanted to also note the subpoena, I believe,  
3 was received by you on the 27th from my -- And I'll --  
4 I'll ask each --

5 MR. KING: I believe that's right.

6 REPRESENTATIVE MAUTINO: Okay. So you've had  
7 18 days basically. So we'll continue on from there.  
8 But for my record I'll be asking each of the counsels  
9 that as well.

10 Senator Brady.

11 SENATOR BRADY: Mr. King, if you get the answers  
12 that you're looking for today, since we're convening  
13 tomorrow, is there any reason you can't provide us with  
14 those documents tomorrow?

15 MR. KING: Short of mechanical difficulties with  
16 producing a hundred and seven thousand e-mails --

17 SENATOR BRADY: I thought they were on a disc.

18 MR. KING: They're on several discs. Right. I'll  
19 have to copy discs and produce them.

20 SENATOR BRADY: Do you think you can get that done  
21 in the next 24 to 30 hours?

22 MR. KING: I'm -- I'm not a technical person, but I  
23 don't see why that can't happen.

24 SENATOR BRADY: Good. Thank you.

25 REPRESENTATIVE MAUTINO: Mr. Theis.

1 MR. THEIS: Thank you, Mr. Chairman.

2 I appear on behalf of Barbara Shaw, and I just  
3 have a brief statement that I'd like to read on her  
4 behalf.

5 REPRESENTATIVE MAUTINO: Please do.

6 MR. THEIS: This Commission's hearing concerning  
7 the audit of the Neighborhood Recovery Initiative is an  
8 appropriate exercise of its statutory function.  
9 Ms. Shaw's former position as the long-term director of  
10 the Illinois Violence Prevention Authority places her in  
11 a position to provide insight into the program which  
12 began nearly four years ago as a serious effort to deal  
13 with a critical problem of violence in many  
14 neighborhoods. As you know, Ms. Shaw was the first and  
15 only director of the IVPA from its inception in 1997  
16 until her retirement in 2012. Barbara Shaw has over  
17 30 years' experience in violence prevention, and her  
18 experience might be a valuable resource for this hearing  
19 process.

20 Ms. Shaw has been made aware through numerous  
21 sources that in addition to this Commission's hearing,  
22 other bodies, including federal and state grand juries  
23 and law enforcement authorities in Cook County and the  
24 Central District of Illinois, are investigating some of  
25 the same areas of concern expressed in the Auditor

1 Gen- -- Auditor General's audit of NRI.

2           The existence of these inquiries as has been  
3 pointed out this morning is not a matter of speculation.  
4 Last week a request was communicated to this body by the  
5 United States Department of Justice asking to postpone  
6 the testimony of several witnesses, including Ms. Shaw,  
7 for a reasonable period of time until these  
8 investigations were concluded or at least had moved  
9 significantly forward. The Department stated  
10 unequivocally its concern that the public testimony  
11 before this Commission -- and this is a quote from their  
12 letter -- would pose substantial risk to its  
13 investigations. A similar request was made yesterday by  
14 the United States Attorney for the Central District.

15           Therefore, although this Commission or members  
16 of this Commission have expressed disagreement with or  
17 at least skepticism of the Justice Department's  
18 expressed concerns that parallel inquiries might pro- --  
19 pose substantial risks to the United States Attorney's  
20 investigation, it is Ms. Shaw's decision at this time  
21 that it would be inappropriate not to respect the intent  
22 of the Justice Department's request and the concerns  
23 raised therein, and, therefore, until these concerns are  
24 resolved, it is her decision not to testify before this  
25 Commission.

1 REPRESENTATIVE MAUTINO: Thank you.

2 Questions?

3 Representative Sandack.

4 REPRESENTATIVE SANDACK: Good morning, Mr. Theis.

5 Is it your client's intention to produce  
6 documents responsive to the subpoena served upon her?

7 MR. THEIS: I've been thinking about that in  
8 response to --

9 REPRESENTATIVE SANDACK: There's been plenty of  
10 time, right?

11 MR. THEIS: -- while you were talking to Mr. King.

12 I think you will find -- And I've had a  
13 conversation with her. And she -- Unlike apparently  
14 what happened with some other people -- She's a private  
15 citizen. She's -- She left the Illinois Violence  
16 Prevention Authority in 2012. She retired. She did not  
17 take with her her files. Her files were all turned over  
18 to the Illinois Criminal Justice Information Authority,  
19 all of the files relating to the program which is the  
20 subject of this audit. I would be surprised if there  
21 are any but certainly very few documents that you don't  
22 already have.

23 REPRESENTATIVE SANDACK: Well, that's not -- that's  
24 not quite what I asked.

25 MR. THEIS: Right.

1 REPRESENTATIVE SANDACK: I mean, that may be the  
2 case, but that's ultimately what discovery and subpoenas  
3 and document productions are all about.

4 MR. THEIS: Right.

5 REPRESENTATIVE SANDACK: And sometimes duplications  
6 occur. That actually proves up that people have the  
7 same documents.

8 So my -- my question is: Has she not looked  
9 or advised you that she has responsive documents?

10 MR. THEIS: Without going into specific  
11 conversations, of course, she has -- has -- And she's  
12 been aware of this -- not only the -- this Commission's  
13 investigation but the audit itself. And she is --  
14 has -- is aware of what's in her possession and -- and  
15 that there. I do not believe at this time. And we  
16 could revisit this issue, and I will contact your --  
17 your staff immediately if I learn that there's anything  
18 that she has that come under the definition of -- of  
19 the -- what's responsive in the subpoena. But I don't  
20 think there is anything.

21 REPRESENTATIVE SANDACK: Well, with all due  
22 respect, a formal request has been made. And -- And  
23 Senator Brady has made it perfectly clear, quite  
24 accurately, it's a direction. What is typically the  
25 case is there is a formal reply that there are no

1 responsive documents, we've checked and here's our  
2 letter, or something from an attorney or a respondent  
3 saying, I have nothing responsive, or Here are the  
4 three pieces of paper I have. So I'm hopeful that you  
5 will give the process that's been permitted to continue  
6 through the U.S. Attorney, which is the production of  
7 documents -- that is unequivocally clear -- and that you  
8 will go to your client and that you will formally  
9 respond to the request, to the subpoena for documents  
10 that was served upon her, that she's had in her  
11 possession for some period of time now. So I'm hopeful  
12 you'll do that.

13 MR. THEIS: Right. If -- If they exist, I  
14 certainly will.

15 REPRESENTATIVE SANDACK: Thank you.

16 REPRESENTATIVE MAUTINO: Senator Brady.

17 SENATOR BRADY: Could your client have respected  
18 the subpoena and appeared here and not testified?

19 MR. THEIS: I think I understand your question. I  
20 did have a conversation with Ms. Stricklin concerning  
21 procedure. My understanding was, as has proven to be  
22 the case, that there were a number of issues that will  
23 be taken up, including testimony of another witness who  
24 has already testified before this Commission, before  
25 they would get to calling certain witnesses. I informed

1 Ms. Stricklin that -- that at 10:00 o'clock in the  
2 morning, when this proceeding was scheduled to be called  
3 to over -- order, that I would appear on her behalf and  
4 then make her available --

5 SENATOR BRADY: Is that -- Is that common, that  
6 attorneys would --

7 MR. THEIS: Absolutely.

8 SENATOR BRADY: -- appear on behalf of their client  
9 when the client is issued a subpoena?

10 MR. THEIS: Yes, absolutely it is, particularly  
11 when there's a question of several people being  
12 called --

13 SENATOR BRADY: Because what we're --

14 MR. THEIS: -- at the same time.

15 SENATOR BRADY: Because what we're doing here -- I  
16 think it's clear to point -- we should point out that we  
17 are not yet discussing the voluntary request of the U.S.  
18 Attorney. We're simply discussing your all respect for  
19 the subpoena powers offered this Commission by the State  
20 of Illinois. We haven't gotten into the discussions of  
21 what the -- whether -- how we're going to deal with the  
22 U.S. Attorney's Office. We're just trying to figure out  
23 why you all feel your clients didn't need to appear and  
24 don't need to at least respond on documentation. And I  
25 appreciate it.

1           So you advised -- would you have advised your  
2 client to take the Fifth Amendment?

3           MR. THEIS: Oh, I certainly can't answer a question  
4 like that. She's not taking the Fifth Amendment.  
5 But --

6           SENATOR BRADY: I wouldn't --

7           MR. THEIS: Just so that you know -- I'm sure you  
8 do know that it would be inappropriate for me to discuss  
9 any attorney-client conversations I had with my client.

10           And just so that we're -- we're clear, I did  
11 discuss this matter with your staff and informed  
12 Ms. Stricklin that my understanding was there were many  
13 items that would be taken up at 10:00 o'clock. And this  
14 is very, very routine in other proceedings -- maybe this  
15 isn't the way this Commission does things -- where when  
16 there are a number of people called at the same time,  
17 you say, Well, I will be there, and then when you -- if  
18 and when there comes a time when her testimony is  
19 there -- to begin, she'll be able available to do that  
20 if that was what was required.

21           SENATOR BRADY: So if we decide to proceed and we  
22 want her here this afternoon, you'll have her here this  
23 afternoon?

24           MR. THEIS: Well, I think my letter speaks to that.  
25 She ...

1           SENATOR BRADY: I think you just told us that you  
2 told Ms. Stricklin that you would represent until your  
3 client was asked to testify and then she'd be here.

4           MR. THEIS: Well, if she were -- Your question  
5 related to her physically coming into the room and --  
6 and being here personally. She is available on a phone  
7 call to do that, but she will not, based on our -- our  
8 position with regard to the -- our respecting the --

9           SENATOR BRADY: So she would show up but just  
10 not say anything?

11          MR. THEIS: If I may.

12                   (Continuing.) -- our respecting the position  
13 of the United States Attorney and the Justice Department  
14 that she would not be testifying.

15          SENATOR BRADY: So she'd show up but not testify?

16          MR. THEIS: She would not testify.

17          SENATOR BRADY: Thank you.

18          REPRESENTATIVE MAUTINO: Representative Reis.

19          MR. REIS: Thank you. Thank you, Mr. Chairman.

20                   Mr. Theis, have you ever advised a client not  
21 to appear in a -- to a subpoena?

22          MR. THEIS: I think the best way to answer that is  
23 when a client is subpoenaed, it's routine for the  
24 attorney who represents that client to have  
25 communication with the other side or the body who has

1 issued the subpoena to discuss what action to take as a  
2 result of that. And that -- so --

3 REPRESENTATIVE REIS: Maybe I didn't -- Maybe I  
4 didn't issue that question properly. Has any of your  
5 clients ever not showed up for a subpoena?

6 MR. THEIS: On -- I would say probably literally  
7 hundreds of times. I've had a conversation with a  
8 person from the other side and said, Are you going to be  
9 calling this person on this day? And they say: Well,  
10 actually we're in the middle of this other witness.  
11 That witness -- We're not going to get to that witness  
12 today. Have him or her show up at such and such other  
13 time. That happens all the time.

14 REPRESENTATIVE REIS: Okay. A couple of things.  
15 The Governor, in one of his many press releases or press  
16 comments, said that if -- this was before we issued the  
17 subpoenas -- that he's -- he wants to get to the bottom  
18 of all this and he has no tolerance for corruption and  
19 he would urge anyone asked to fully comply and -- and be  
20 forthcoming of further questions. Doesn't this kind of  
21 go on the advice -- or the comments that the Governor  
22 said not more than a couple, three weeks ago?

23 MR. THEIS: I can't speak for the Governor, and I  
24 don't -- I don't know what the Governor said. And I  
25 suppose my opinion is no greater than anybody else's --

1 REPRESENTATIVE REIS: Okay.

2 MR. THEIS: -- as to whether these -- those things  
3 are not consistent.

4 REPRESENTATIVE REIS: Well, as Senator Brady said  
5 and a couple other of us, I'm a farmer, not a lawyer.  
6 And, you know, we -- we get so wrapped up in legal terms  
7 and what is and what isn't. And, you know, this is  
8 (indicating) a very disturbing report. We're not  
9 investigating criminal activity on this panel. We are  
10 merely going over this audit, page after page after page  
11 of recommendations from the Auditor General. We just  
12 want to get to the bottom of it.

13 Barbara was in charge of this program. I find  
14 it just bizarre that we can't just go over this and move  
15 forward with what we are statutorily required to do.  
16 That's what the people of Illinois want. Lawyers aside  
17 and -- and subpoenas aside, they just want us to get to  
18 the bottom of this and make sure it never happens again.

19 REPRESENTATIVE MAUTINO: Chairman Barickman.

20 SENATOR BARICKMAN: Thank you.

21 REPRESENTATIVE MAUTINO: There you go, Senator.

22 SENATOR BARICKMAN: Mr. Theis, you mentioned that  
23 you have submitted a letter to the Commission. I think  
24 we're --

25 MR. THEIS: I -- I have a copy of the letter, and I

1 have many copies if you'd like extras.

2 SENATOR BARICKMAN: I think that -- I think we  
3 would.

4 MR. THEIS: I'd like it to be part of the record.  
5 Yes.

6 SENATOR BARICKMAN: And I think some of us want to  
7 better understand your -- the reason why your client is  
8 not here. I think that's outlined in that letter.  
9 Maybe it would be best that you simply read it so that  
10 we can know what that is.

11 MR. THEIS: It's not beyond what I just read. That  
12 was the letter that I read.

13 SENATOR BARICKMAN: Okay.

14 MR. THEIS: If you'd like me to read it again --

15 SENATOR BARICKMAN: No.

16 MR. THEIS: -- I will.

17 SENATOR BARICKMAN: That's fine. That's fine.

18 MR. THEIS: I don't think anyone --

19 SENATOR BARICKMAN: And so --

20 MR. THEIS: -- else would appreciate that.

21 SENATOR BARICKMAN: Yeah. A copy for the -- for  
22 the Clerk.

23 MR. THEIS: Do you have someone who could just --

24 SENATOR BARICKMAN: We'll get it in a second here.

25 The -- The other question is -- that remains

1 open is whether or not your client has in her possession  
2 documents that have been requested by the Commission.

3 MR. THEIS: I'm sorry.

4 SENATOR BARICKMAN: Sir, the -- the other question  
5 is whether or not your client has documents in her  
6 possession that have been re- -- subpoenaed by this  
7 Commission. I think it's -- What I think I heard you  
8 say earlier is she might. And I think we need a firm  
9 answer to whether or not she does and if she does, when  
10 you intend to produce those documents.

11 MR. THEIS: Okay.

12 SENATOR BARICKMAN: And like with Mr. King, I would  
13 hope that while we're convened here, we might be able to  
14 get an answer to those questions.

15 MR. THEIS: To the extent you interpreted my  
16 response as she might, I don't believe she does. But I  
17 will go back to her and talk to her, and we can do that  
18 in the next 48 hours. If there's -- If there's anything  
19 that -- that we interpret as something that isn't --  
20 that should -- that was covered by the subpoena, we  
21 can -- we can --

22 SENATOR BARICKMAN: Yeah.

23 MR. THEIS: -- get that to you.

24 SENATOR BARICKMAN: We are set to convene, I  
25 believe, at 9:00 a.m. tomorrow. I think from my own

1 perspective I'd certainly like to have an answer by then  
2 so that the body can determine how to respond to any  
3 information that you provide to us, accordingly.

4 MR. THEIS: We'll make every effort to do that.

5 SENATOR BARICKMAN: Thank you.

6 REPRESENTATIVE MAUTINO: Senator Mulroe.

7 SENATOR MULROE: Just a couple of comments and a  
8 question.

9 You know, nobody on this panel disagrees that  
10 we're -- we all in a bipartisan effort want to get to  
11 the bottom of this, make sure whatever faults that  
12 occurred during this process of creating the agency and  
13 implementing it never happen again. So that's one  
14 thing. And we will continue to work on that.

15 But the comments that it's bizarre that your  
16 clients would -- would not appear here, I'm just baffled  
17 by that. I think -- So we owe it to the people to make  
18 sure this kind of -- type of thing doesn't happen again,  
19 but we owe it not only to the people of the state of  
20 Illinois but all the people in the United States of  
21 America to get out of the way and let the federal  
22 investigators and prosecutors do their job. It's --  
23 It's pretty much a no-brainer to me.

24 We have two competing interests here. One  
25 that we're -- we're going to suspend -- it would be my

1 preference -- and we'll pick it up after the federal  
2 prosecutors say you're good to go. Because right now  
3 there's an active criminal investigation that's going on  
4 and we want to get to the bottom of that too. That's  
5 active. The other -- The other agency -- The agency has  
6 been dissolved. So I don't understand why some people  
7 can't understand the significance of allowing the  
8 criminal investigation to occur and the fact that by us  
9 interviewing people, it will interfere with that  
10 investigation. It's plain as day. The U.S. Attorney's  
11 Office from the Central District has said: Do not  
12 interview or take testimony of any of the people that  
13 were connected to the NRI. So I guess I'm having  
14 trouble with understanding how -- other than some other  
15 motives, which we all can, you know, understand the --  
16 the undertones -- at the expense of everyone, we're  
17 going to try to provide some political theater or  
18 circustry [sic] to a few.

19 But I guess the -- legally -- and I am a  
20 lawyer. So looking at the statute that we're relying  
21 on, Mr. Theis, based on everything that you said today,  
22 you believe you have reasonable grounds or reasonable  
23 cause to have your client not appear today. Is that a  
24 fair statement?

25 MR. THEIS: That is absolutely the case. Yes.

1           And -- And -- And to the extent -- And this is  
2 sort of responsive to Representative Reis as well. To  
3 the extent that Barbara Shaw -- The -- The suggestion  
4 that she does not want to provide information that would  
5 be helpful not only to this Commission but to the -- to  
6 the future efforts to find ways to fight violence in the  
7 state of Illinois, no one is more committed to that than  
8 her. She would love to discuss this -- the -- the  
9 process and what happened here and the wonderful things,  
10 the good things that were done, as well as mistakes that  
11 may have been made along the way. But I think the  
12 request of the United States Attorney at this point is a  
13 reasonable one and certainly one that she's going to --  
14 to honor and respect, and it's only for 90 days.

15           SENATOR MULROE: Thank you.

16           REPRESENTATIVE MAUTINO: Mr. Moore.

17           MR. MOORE: Yes, sir.

18           REPRESENTATIVE MAUTINO: And spell your name for  
19 the record and also please make some comments.

20           MR. MOORE: My name is Thomas S. Moore,  
21 M O O R E, not the saint. And I represent Jack Lavin.

22           Jack was a -- has all of his career been a  
23 dedicated public servant. He's ready, willing, and able  
24 to come in front of this body. He actually kind of  
25 wanted to do it and get it over with, but given the

1 letters and all the things that have been said, it would  
2 be inappropriate at this time. So he will come at the  
3 appropriate time, and he'll be glad to share his rather  
4 limited involvement in this with the committee and  
5 answer all their questions.

6 REPRESENTATIVE MAUTINO: Thank you.

7 Questions, Members?

8 Representative Sandack.

9 REPRESENTATIVE SANDACK: Mr. Moore, thank you for  
10 being here.

11 The same question I've asked your learned  
12 colleagues to your right. There was a subpoena for  
13 documents as well. And others may speak of Mr. Lavin's  
14 attendance, physical, or not here. My inquiry is about  
15 documents.

16 MR. MOORE: Yeah. On documents, I discussed that  
17 with him. He made a search. He had none. Given this  
18 conversation, I'll ask him to do that again.  
19 Ms. Stricklin did give me some e-mails that I have in my  
20 possession. I think they're the same ones that  
21 everybody has. And if that changes, I'll certainly  
22 respond.

23 REPRESENTATIVE SANDACK: One area of inquiry you  
24 may want to pass along to your client is the -- in the  
25 2,000 e-mails -- we got some e-mails from the Governor's

1 Office -- some seem to show Mr. Lavin forwarding e-mails  
2 to himself and off-site, a personal e-mail. So perhaps  
3 that's a -- an area of inquiry you may want to make with  
4 him that would be responsive, specifically responsive to  
5 the subpoena served upon him. And I would ask that that  
6 conversation happen soon.

7 MR. MOORE: Sure.

8 REPRESENTATIVE SANDACK: And I would ask that that  
9 response of documents, whether he says he has them or  
10 not, be answered in a formal manner and not with a "he  
11 doesn't have any." A subpoenaed was served, and we are  
12 owed, I think, the respect of a formal response. And I  
13 would hope that would be forthcoming shortly, sir.

14 REPRESENTATIVE MAUTINO: Representative Rita.

15 REPRESENTATIVE RITA: Mine is not so much a  
16 question. It's more of a comment. You know, in --  
17 in -- I've reread this letter here, and it talks about  
18 the Commission deferring the collection of documents and  
19 disclosures. I mean, the U.S. Attorney has asked us not  
20 to interfere with their criminal investigation. Aren't  
21 all these documents provided through the audit? I mean,  
22 it -- it appears and what it looks like we're trying to  
23 do here is become investigators and investigate what  
24 we're doing.

25 It has been determined that there was issues

1 in this -- this -- this program. The program has been  
2 dissolved. In my understanding, there's been a bill or  
3 several bills passed to -- to deter or to change future  
4 programs to -- to run like this is -- in answer to the  
5 audit.

6 I mean, where are we going at -- Where --  
7 What's the end here? What -- What -- Are we going to  
8 collect these documents and -- What are we going to do  
9 with them, I mean, at -- at this point? With -- The  
10 U.S. Attorney, they can get these documents. They're  
11 investigating it. They said they're investigating it.  
12 I mean, we've got two letters here asking us.

13 Now, I know you're -- you're -- you're  
14 splitting hairs here, standing on the testimony, but you  
15 can still collect documents and -- and information. But  
16 wasn't that all done through our audit, or didn't our  
17 auditors do a complete job? I -- I don't know who --  
18 what the endgame here is. It's -- We've been providing  
19 and going through this for -- for a number of hearings  
20 that we're -- we're putting on.

21 It's my understanding they all have  
22 representation here that we've asked for. We keep, you  
23 know, asking the same questions. Are we going to go  
24 down the line and continue to ask the same questions to  
25 all these attorneys? I mean, it feels like we're

1 interfering in what -- what -- what is being conducted.

2 REPRESENTATIVE MAUTINO: No further questions.

3 From -- Senator Oberweis.

4 SENATOR OBERWEIS: Thank you.

5 And thank you, Mr. Moore, for joining us here  
6 today.

7 You made a comment that your client feels that  
8 his testimony would be inappropriate today. I would  
9 just like to make the point that I don't believe it's  
10 really up to him to make the decision whether or not  
11 it's inappropriate. It's up to this committee to make  
12 the decision whether or not it's inappropriate. So I  
13 would ask you to please encourage your client to be here  
14 tomorrow. He's been subpoenaed both for today and  
15 tomorrow. We will ask him to be here tomorrow so that  
16 we can make the decision as to whether or not it's  
17 appropriate or not.

18 Secondly, you've indicated you're not sure  
19 whether he has any relevant documents, that he might  
20 not. I think it's already been asked that he make a  
21 special effort to find out whether he has additional  
22 relevant documents. If he determines that he does not  
23 have relevant documents, I would ask you tomorrow to  
24 bring a sworn statement from him that he does not have  
25 any documents. Thank you.

1 REPRESENTATIVE MAUTINO: Senator Barickman.

2 SENATOR BARICKMAN: Thank you.

3 I want to bring some clarity to this line of  
4 questions regarding the documents that may be withheld  
5 by Mr. Lavin.

6 MR. MOORE: Well, there's been no statement of that  
7 at all.

8 SENATOR BARICKMAN: The -- The Governor's Office --  
9 It's been discussed, I believe, earlier today the  
10 Governor's Office has released some 2,000 documents,  
11 e-mails. Many of which come from the fall of 2010,  
12 August through early October primarily, which appears to  
13 be the time frame in which NRI, as a program, really  
14 came to a -- to a head. I think it's fair to believe  
15 that there were many discussions, e-mails, and other  
16 things that occurred prior to the August time frame that  
17 may have -- that may have been conceptual in nature  
18 about what became NRI.

19 What's troubling, Mr. Moore, is that, again,  
20 your client has been subpoenaed, asked to comply with  
21 the request to turn over documents in his possession  
22 today. And a review of those e-mails, as suggested  
23 earlier, makes it clear that during this time frame  
24 Mr. Lavin, himself, was included on e-mails with others,  
25 many of whom are represented by counsel today,

1 Mr. Ocasio as well. In those e-mails, what became NRI  
2 was memorialized in two documents that were included  
3 as -- as attachments on these e-mails. And what's  
4 troubling is to see the e-mail chain from one State  
5 employee to another with this document, that document  
6 landing through an e-mail to Mr. Lavin at his State  
7 e-mail address, and Mr. Lavin immediately forwarding  
8 that document to a personal e-mail address. If that is  
9 true, it would be reasonable to believe that Mr. Lavin,  
10 with the e-mail service provider for which he maintains  
11 this account, would have a copy of those records and  
12 those records would actually be in his personal  
13 possession. And in order to comply with today's  
14 subpoena, he would need to turn those over to us today.

15 So I want to make that clear. When the other  
16 members have suggested that, again, we believe you need  
17 to have a conversation with your client to determine how  
18 he intends to comply with our request for documents.

19 But I also want to switch to comments that  
20 have been repeatedly made today regarding this program  
21 and this notion that this program has been fixed by the  
22 fact that the Illinois Violence Prevention Authority no  
23 longer exists in law today. We did hear from --  
24 significant testimony from Mr. Cutrone, the head of the  
25 Illinois Criminal Justice Information Authority, in our

1 last hearing suggesting that CJIA, who has a history of  
2 operating grants, at some time in, I believe, 2012, late  
3 2012, took over the authority of NRI. Many members then  
4 said that it was a wonderful thing, it was a blessing  
5 that CJIA took over that failed agency and CJIA took  
6 over the failed program. It's been suggested time and  
7 time again by these members that we fixed that problem  
8 because CJIA took over control.

9 And I want to read for the members an e-mail,  
10 an e-mail made available to us Friday night by the  
11 Governor's Office. It's from Mr. Cutrone. It's dated  
12 August 31, 2012, 10:00 a.m., to Toni Irving.

13 It says: We have a quarterly meeting of our  
14 full Authority Board next Friday at CJIA at 9:00 a.m.  
15 It goes on. As I mentioned when we met with Jack Lavin  
16 sometime ago about NRI, I think it might be a good idea  
17 for you to come to the meeting. As we discussed with  
18 regards to the Summer Jobs For Youth Program, all grant  
19 awards have to be made by the Authority Board and its  
20 Budget Committee in order to comply with our statute and  
21 our administrative code. Due to time constraints, we  
22 thought it would be appropriate to present the matter to  
23 the full Board rather than a separate Budget Committee  
24 meeting in order to expedite the grants. What we will  
25 be asking them to do, while not without precedent, is to

1 make a generalized designation, award, of the NRI grant  
2 funding and give discretion to CJIA staff working with  
3 the Governor's Office to work out the particulars in  
4 light of the reduced funding. This is a departure from  
5 our normal grant procedure, where we would ask the  
6 Budget Committee to make an award of a particular amount  
7 to a particular agency for a particular program which is  
8 then the subject of discussion by the Budget Committee  
9 and approval by the full Board. We will simply not be  
10 able to use our normal procedure because to do so would  
11 likely pre- -- pre- -- prevent us from having a smooth  
12 transition and the continuation of the programs without  
13 interruption on November 1st and also likely create  
14 difficulties in spending down the entire amount  
15 appropriated within a 12-month period. While the Board  
16 and Budget Committee have considerable confidence in  
17 CJIA staff so that our recommendations are usually  
18 accepted, what we will be presenting is a very unusual  
19 request for discretion with regard to the identification  
20 of the particular grantees and particular amounts of the  
21 grants to those grantees for what in total is a very  
22 large amount of grant money. We will also be taking  
23 advantage of the fact that we can present the request to  
24 our full Board at its regularly scheduled quarterly  
25 meeting without first presenting it to our beget

1 committee, which cuts out step in the process and  
2 removes what can be up to a 15-day delay. While the  
3 materials -- While the materials we are sending out in  
4 advance of the meeting will explain these issues, it is  
5 my opinion, knowing our Board, that it would be  
6 extremely helpful to have you come to the meeting to  
7 assist in presenting the request so that it comes with  
8 the added gravitas of the Governor's Office.

9 If you continue to read the e-mails, you see  
10 that this plan of action to take over the failed NRI  
11 program from the failed Illinois Violence Prevention  
12 Authority did not follow the customary process used by  
13 CJIA. We don't know today whether they simply broke  
14 their own grant-making rules or they violated the  
15 statutes, but what we do know from our review of the  
16 documents is that this has not yet been fixed.

17 The Governor's Office, by the way, did show up  
18 at that next quarterly meeting, did make a presen- --  
19 presentation in accordance with this e-mail, and CJIA  
20 proceeded accordingly.

21 Thank you.

22 REPRESENTATIVE MAUTINO: Senator Mulroe.

23 SENATOR MULROE: Tom, this is just to -- to put in  
24 the framework of why your client is not here today, and,  
25 you know, there was -- there was a subpoena issued and

1 we cited to the provision, Illinois Compiled Statutes.  
2 25 ILCS 150/4. It says the client -- you know, if  
3 you're given a subpoena, there's certain things we can  
4 do if the person doesn't show up. But one of the  
5 exceptions is unless there's reasonable cause or  
6 reasonable grounds that you believe or -- for your  
7 client not to appear here. Is that why your client is  
8 not appearing today?

9 MR. MOORE: Well, yes. And, also, I -- originally  
10 I was talking with Jane Stricklin who said that probably  
11 today they're going to call Cutrone and -- and  
12 Mr. Holland and they probably wouldn't get to us until  
13 tomorrow. That was all before these letters.

14 And since the letters are here, it's our  
15 position at this time that we'll come after the federal  
16 government is -- has conducted their investigation  
17 and -- I mean, there's -- there's -- I understand that  
18 everyone here wants to correct the mistakes that were  
19 made, but the legislature isn't even in session until  
20 November, so there's plenty of time to do that. It  
21 doesn't have to be done today. And Jack will be here at  
22 an appropriate time.

23 SENATOR MULROE: One follow-up to that. So in  
24 light of some of the questioning that we're actually  
25 scheduled to meet tomorrow, is your opinion regarding

1 reasonable grounds --

2 MR. MOORE: It will be no different tomorrow.

3 SENATOR MULROE: It will be no different tomorrow  
4 than it is today --

5 MR. MOORE: That's --

6 SENATOR MULROE: -- unless the federal prosecutors  
7 say, Hey, it's okay to go ahead at this point?

8 MR. MOORE: Absolutely. And Jack will be here  
9 then.

10 SENATOR MULROE: Okay. Thanks.

11 REPRESENTATIVE MAUTINO: Richard Saldinger.  
12 Saldinger?

13 MR. SALDINGER: Saldinger is correct,  
14 S A L D I N G E R.

15 REPRESENTATIVE MAUTINO: I apologize for the  
16 pronunciation.

17 MR. SALDINGER: No problem at all.  
18 I'm here on behalf of Andrew Ross.

19 REPRESENTATIVE MAUTINO: Oh, is your mike on?  
20 (Discussion off the record.)

21 REPRESENTATIVE MAUTINO: Thanks.

22 MR. SALDINGER: Richard Saldinger,  
23 S A L D I N G E R, on behalf of Andrew Ross.

24 And I echo the comments of Mr. Moore and the  
25 other -- other counsel, Mr. Shaw. Certainly when the

1 dust has settled and the Department of Justice completes  
2 their investigation, he is happy and will be willing to  
3 testify before this -- before this committee.

4 And to answer Mr. Sandack's next question, he  
5 does not have any responsive documents. And I'm happy  
6 to put that in a letter, formally responding to the  
7 subpoena, to -- to make that clear.

8 REPRESENTATIVE MAUTINO: Questions? Members of the  
9 Commission?

10 (No verbal response.)

11 REPRESENTATIVE MAUTINO: Okay.

12 MR. SALDINGER: Thank you, Chairman.

13 REPRESENTATIVE MAUTINO: Mr. Prender- --  
14 Prendergast.

15 MR. PRENDERGAST: Yes, Mr. Chairman.

16 REPRESENTATIVE MAUTINO: Please go ahead.

17 MR. PRENDERGAST: My name is Richard Prendergast.  
18 I represent Mr. Warren Ribley.

19 I provided --

20 REPRESENTATIVE MAUTINO: Can you speak a little  
21 more into the mike --

22 MR. PRENDERGAST: Excuse me.

23 REPRESENTATIVE MAUTINO: -- just for transcribing  
24 purposes. We're getting a sign from our stenographer.  
25 Thank you.

1 MR. PRENDERGAST: I represent Mr. Warren Ribley.

2 I provided a letter to Ms. Stricklin this  
3 morning with extra copies for the chairs, which she may  
4 or may not have provided to you by now. The letter  
5 identifies the U.S. Attorney's requests in the first  
6 three paragraphs. I won't bore you with that. You've  
7 been through it.

8 But to -- to -- for the record, the final  
9 paragraph is that: It is Mr. Ribley's desire to  
10 cooperate with the Illinois Legislative Audit Commission  
11 in providing testimony at the appropriate time. By the  
12 same token, I've advised him that it would be  
13 inappropriate to provide testimony at this time given  
14 the representation that interviews and testimony given  
15 within the next 90 days could substantially risk the  
16 government's ongoing investigation. Accordingly,  
17 Mr. Ribley will not appear to give testimony at this  
18 time and respectfully requests that the Commission  
19 continue his subpoena to a later date consistent with  
20 the requests to the Commission from the U.S. Attorney's  
21 office.

22 I -- I am confident that my answers to the  
23 questions that have been asked would be very much the  
24 same as you've heard from Mr. King and others, but I'm  
25 happy to answer any questions you may have.

1 REPRESENTATIVE MAUTINO: Representative Sandack.

2 REPRESENTATIVE SANDACK: Unlike your colleague to  
3 your right, I'm not -- He asked -- He volunteered that  
4 he'd be giving a formal response with respect to  
5 documents. Mr. Prendergast, the same question: Does  
6 your client possess responsive documents to the subpoena  
7 served upon him?

8 MR. PRENDERGAST: I don't believe so.

9 REPRESENTATIVE SANDACK: Okay. Can we get a formal  
10 response to that so that we have something conclusive?

11 MR. PRENDERGAST: I could provide a letter to  
12 Ms. Stricklin, if you'd like.

13 REPRESENTATIVE SANDACK: I would. Thank you.

14 REPRESENTATIVE MAUTINO: Further questions?

15 Senator Brady.

16 SENATOR BRADY: No.

17 REPRESENTATIVE MAUTINO: Are there any further  
18 questions for the attorneys and counsel who are -- who  
19 are here?

20 (No verbal response.)

21 REPRESENTATIVE MAUTINO: And then it would be -- at  
22 that time then I would ask to dismiss them and -- the  
23 counsels that are representing them. So --

24 SENATOR BRADY: I guess --

25 REPRESENTATIVE MAUTINO: Senator --

1           SENATOR BRADY: -- just to understand then, you  
2 gentleman will appear tomorrow with either your client,  
3 where they tell us -- either deliver their documents or  
4 tell us they don't -- or have a letter here tomorrow?

5           MR. PRENDERGAST: Well, as I indicated, I'll  
6 provide a letter to Ms. Stricklin. I don't plan to be  
7 here tomorrow. I don't expect my client to be here  
8 tomorrow because I don't expect our position to have  
9 changed unless you hear something from the U.S.  
10 Attorney's Office that would change the circumstances.

11           As I said, Senator, my client and I think most  
12 of the people that have been represented here understand  
13 the --

14           SENATOR BRADY: If your client does have documents,  
15 he'll deliver them tomorrow?

16           MR. PRENDERGAST: Oh, yeah, yeah. I think  
17 they're -- I think they're -- If -- I'd like to check it  
18 out one more time and find out if there's any other  
19 document -- any document that's responsive. But my  
20 understanding is that the -- the scope of the  
21 proceedings is -- is covered in the subpoena that we  
22 received, and that is in the matter of the performance  
23 of audit issued by the Illinois Auditor General  
24 pertaining to State monies provided to the -- the  
25 Illinois Violence Prevention Authority and the

1 Neighbor- -- Neighborhood Recovery Initiative. So, I  
2 mean, I'm -- I'm answering that question within the  
3 scope of the documents requested because it states you  
4 are commanded also to bring all relevant documents in  
5 your possession or control pertaining to the  
6 implementation, planning, oversight, administration,  
7 financial assistance, parenthetical, and interagency and  
8 third-party communications relating to the Neighborhood  
9 Recovery Initiative. That's my understanding of the  
10 scope of the documents requested.

11           And I certainly will inquire one more time,  
12 but I can tell you that based upon the conversations  
13 I've had to date, I don't know of any documents that he  
14 has that are relevant to the Neighborhood Recovery  
15 Initiative. He did not take a disc of documents or any  
16 documents with him when he left this position, and he's  
17 no longer with the state government.

18           SENATOR BRADY: And those are electronic or  
19 otherwise?

20           MR. PRENDERGAST: I beg your pardon?

21           SENATOR BRADY: And your -- your claim is that  
22 those would be electronic or otherwise?

23           MR. PRENDERGAST: Yes, sir. And I -- I -- I view  
24 the definition of documents to be electronic or -- or  
25 paper.

1 I might add, for what it's worth, in -- in the  
2 148-page report from the Auditor General, Mr. Ribley is  
3 not mentioned once. So it's not too surprising that he  
4 would not have a lot of documents regarding this program  
5 in his possession.

6 REPRESENTATIVE MAUTINO: Senator Barickman.

7 SENATOR BARICKMAN: Sure. You've mentioned --  
8 Mr. Prendergast?

9 MR. PRENDERGAST: Yes.

10 SENATOR BARICKMAN: (Continuing.) -- that any  
11 response that you would be -- make would be within what  
12 you believe is the scope of the subpoena which clearly  
13 identifies the nature of our inquiry.

14 MR. PRENDERGAST: It not --

15 SENATOR BARICKMAN: I want --

16 MR. PRENDERGAST: It not only does that; it -- it  
17 describes the scope of the documents requested.

18 SENATOR BARICKMAN: Right.

19 I want to be clear -- And I think if there's  
20 any -- if there's any debate on this issue, we may need  
21 to take a vote. But it is my opinion that Mr. Ribley  
22 was intimately involved with the creation of this  
23 program. In fact, the e-mails that we've reviewed thus  
24 far from the Governor's Office clearly indicate his  
25 involvement in the implementation of this program.

1 Further, Mr. Ribley and the -- and DCEO were the  
2 recipient of dollars, some federal, some state, that  
3 were provided to lenders and agencies in the form of  
4 grants and small business loans. And those programs  
5 that were implemented by DCEO clearly -- through the  
6 e-mails that we've reviewed thus far, clearly were  
7 dollars that were spent within the context of the NRI  
8 program itself.

9           So it would be the opinion of this body  
10 expressed by myself that there should be no attempts to  
11 limit your client's response to our request for  
12 documents based on some narrow interpretation you and  
13 your client may have about whether his -- whether DCEO  
14 was involved in NRI.

15           MR. PRENDERGAST: I hope you're not suggesting that  
16 I'm trying to be evasive because I'm not. I'm reading  
17 the subpoena. The subpoena says, In the matter of the  
18 performance of the audit issued by the Illinois Auditor  
19 General, which my client is not mentioned in, provided  
20 to the Illinois Violence Prevention Authority for the  
21 Neighborhood Recovery Initiative.

22           Senator, I'll be glad to inquire of my client  
23 as to whether he has any such documents. That was the  
24 inquiry that was made here. I'm not in a position to  
25 discuss with you -- and I will not -- the scope of any

1 involvement in this matter relative to the Department of  
2 Commerce and Economic Opportunity. I'm just reading the  
3 subpoena. I'm -- I'm reading the words. I will not  
4 read them narrowly. I will read them reasonably. I'm  
5 not trying to hold back anything; neither is my client.

6 As one of the other counsel here indicated,  
7 there was a strong argument for having Mr. Ribley here  
8 today, so that he could put this behind him and move on  
9 because he's not the target of your inquiry and he will  
10 not be. But rather than get into that at this point,  
11 we -- we are prepared to appear before the committee at  
12 the appropriate time and with due respect to the U.S.  
13 Attorney's Office's request and testify. At which time  
14 you may inquire about any e-mails you have found with  
15 his name on them or any other documents.

16 SENATOR BARICKMAN: And -- And simply -- The only  
17 words that you have made here today that gives me pause  
18 is your suggestion that Mr. Ribley's name is not  
19 contained within the 150-page audit. His name is  
20 certainly included within the documents held today by  
21 the Auditor General, their work files and others. We  
22 have seen his name frequently there. We know that  
23 interviews were conducted. We know that from a review  
24 of the documents turned over by the Governor's Office on  
25 Friday that Mr. Ribley's name appears frequently and it

1 appears he was intimately involved with the creation of  
2 this program, which is a question of the audit. Let me  
3 give you a specific one.

4 To date, we know that DCEO administered some  
5 \$5 million in grants. That roughly \$5 million came  
6 through federal money, dollars that were available  
7 through a -- a flood relief fund. We know those -- the  
8 dollars in that program were spent through DCEO's  
9 implementation of NRI and those funds were given to  
10 three lenders. I believe their names are ACCION,  
11 Women's Business Development Fund, and Chicago Community  
12 Ventures.

13 And today we have no idea why those three  
14 lenders were selected other than what the e-mails tell  
15 us, which is that Mr. Ribley said, Put the money through  
16 these three lenders. So if he has documents that would  
17 help us answer the question of how those lenders were  
18 chosen, I think it would be helpful to us in our review  
19 of this audit, through the documentation that exists.

20 MR. PRENDERGAST: The only document I know on that  
21 subject, now that you've mentioned it, is a press  
22 release that was issued, which I have seen. If you have  
23 seen it, I won't bother turning it over to you again.  
24 If you want me to send it to you, I'll send it to you.  
25 It's -- Representative Sandack is knocking -- nodding.

1 Have you seen it?

2 REPRESENTATIVE SANDACK: I want you to -- to  
3 respond with the other documents.

4 MR. PRENDERGAST: I'll be happy to send it.

5 REPRESENTATIVE SANDACK: Thank you.

6 MR. PRENDERGAST: Okay. The -- The nature of that  
7 program is -- is something that Mr. Ribley can address  
8 when he appears before this committee to testify. But  
9 as my letter indicates, in deference to the request  
10 that's been made by the U.S. Attorney's Office that this  
11 committee stand down until the U.S. Attorney's Office is  
12 at that point within its investigation, that that  
13 investigation will not be compromised, we do not have  
14 any intention of participating in -- just in deference  
15 to the U.S. Attorney's Office's request.

16 I can say to you I've been practicing law for  
17 a long time and a request from the United States  
18 Attorney's Office of this nature is normally honored as  
19 the original -- the initial speaker here today  
20 indicated.

21 So we're -- we're -- we want to -- we want to  
22 cooperate with the committee. We want to cooperate with  
23 the spirit of the communication from the United States  
24 Attorney's Office.

25 REPRESENTATIVE MAUTINO: Representative Crespo.

1 REPRESENTATIVE CRESPO: Thank you, Chairman.

2 Just -- Just to kind of simplify this a little  
3 bit, the common theme today -- correct me if I'm wrong,  
4 but I'm hearing it from all of the attorneys here -- is  
5 that your clients are not refusing to testify before  
6 this committee, correct? If I'm wrong, tell me I'm  
7 wrong.

8 MR. KING: That's -- That's correct.

9 REPRESENTATIVE CRESPO: And -- And -- And -- And --  
10 And those decisions or actions today are in response to  
11 the request from the United States Department of  
12 Justice?

13 MR. PRENDERGAST: That's correct.

14 MR. THEIS: Completely.

15 MR. MOORE: Yes.

16 REPRESENTATIVE CRESPO: Okay. If I -- If I could  
17 make a point. You know, I've been a member of this  
18 committee now for, like, a year and a half, and I have a  
19 lot of respect for the Auditor General. I think they do  
20 a phenomenal job, as evidenced today by -- by the audit  
21 that came out regarding this program. I'm just  
22 concerned by the -- the adversarial tone that this --  
23 this committee has -- has taken in the last probably  
24 month or so.

25 I think the Audit Commission does a phenomenal

1 job. I serve the Appropriations Committee For General  
2 Services, so I've always make sure that whatever they  
3 need, they get because I've always felt we need an  
4 entity out there that polices what we do. I've done the  
5 same thing with the Inspector General.

6 And I'm listening to all this -- And I'm not  
7 an attorney. I'm just a law school dropout. So I'm not  
8 pretending to be one.

9 I think what we're trying to reconcile here  
10 is, from what I've heard, based on a comment that I made  
11 when we were first discussing the subpoenas -- And my  
12 question was: What's the endgame here? What can we do  
13 that the Department of Justice can't do or the State's  
14 Attorney can't do as well? And some of the responses  
15 that I got back then was: Well, we just want to make  
16 sure we get as much information that we can, and we want  
17 to make sure that this does not happen again. Today I  
18 heard one of my colleagues say we just want to get to  
19 the bottom of this. And I think we all agree that's  
20 what we want to do.

21 The question is: How do we reconcile that  
22 with the fact that we might jeopardize a criminal  
23 prosecution? And I've heard comments being made that  
24 the people of the state of Illinois, they also want to  
25 get to the bottom of this. They want to know what

1 happened.

2 But I'll tell you what folks. I think what  
3 the folks in the state of Illinois want more than  
4 anything else is for justice to be served. And if heads  
5 have to roll, so be it.

6 We -- This committee can't do that. We have  
7 the prosecutors. We have the -- the other -- the  
8 State's Attorney's Office who can make heads roll and --  
9 and -- and make sure that justice is served.

10 Now, since I did support issuing the  
11 subpoenas, a couple of things have happened since then.  
12 One, we did -- I introduced a bill, House Bill 2747,  
13 which is the Grant Accountability and Transparency Act,  
14 that pretty much addresses a lot of the issues that  
15 we've been -- we've been discussing here and to -- to --  
16 Senator Barickman, he had read a letter. And I agree,  
17 based on that letter, that is or has been the problem  
18 with our grant administration in the state. House  
19 Bill 2747 addresses just about almost all of those  
20 issues.

21 I want to take a moment to thank my colleagues  
22 here in this committee who voted for this bill. Just  
23 for the record, the bill passed 96 to 6 in the House; it  
24 passed the Senate, 45 to 6. I worked closely with  
25 Senator Patti Bellock, who's a Republican. I want to

1 thank on the House side the committee members;  
2 Representative Brauer for supporting it;  
3 Representative Mautino, who supported the bill as well;  
4 Representative Reis; Representative Sandack. On the  
5 Senate side, I want to thank Senator Brady,  
6 Senator Manar, Senator Martinez, and Senator Mulroe, who  
7 actually saw how important this bill was. And, again,  
8 it -- it goes to -- to the point that -- that we were  
9 talking about here. So that's something new that's  
10 happened since we discussed the subpoenas.

11           Something new, we got the letters from the  
12 Feds. And then based on what I've heard, testimony  
13 from -- of former prosecutors that have talked before I  
14 came here and what I've heard today, people are saying  
15 we should respect that.

16           I brought up an issue last time we were  
17 talking about the subpoenas. We've had other audits  
18 that have come before this committee. And I  
19 specifically mentioned DCFS, where they found that kids  
20 were dying, children were dying. And it just baffles me  
21 that that does not rise to the level of something like  
22 this. If people die, whether they're kids or whether  
23 they're seniors, in -- in home care, we should be  
24 dealing with that even more so than today.

25           But, again, I think at the end of the day, the

1 people of this State just to want to make sure that  
2 justice is served. That is the bottom line. And that  
3 should drive this committee, and that should drive all  
4 of us.

5 So, again, thank you for allowing me to speak.

6 Folks, thank you very much. I think you've  
7 been very consistent. I look forward at some point to  
8 have your clients come before this committee because we  
9 all want to get to the bottom of this, because we want  
10 to know and the people of the State want to know as  
11 well. Whether it happens soon or within 90 days, time  
12 will tell.

13 Thank you, Chairman.

14 REPRESENTATIVE MAUTINO: Did you have a --

15 SENATOR BARICKMAN: I just want to -- I want to  
16 follow up to Mr. Crespo's comments and simply say -- to,  
17 again, remind the committee: We are simply trying to do  
18 our job here on behalf of the people of Illinois.

19 You know, you have to remember this is a  
20 program that has failed the taxpayers of this state.  
21 This is a program that has failed the very people that  
22 it was intended to serve. So we need to learn from that  
23 and take corrective measures. And -- And we can have a  
24 political debate about that, but to continue with our  
25 process within the confines that have been outlined by

1 the Department of Justice's request that we yet have  
2 gotten to, it's important to remember we're trying to do  
3 our job here.

4           There are many people in this State who are  
5 taxpayers who are concerned about this program. There  
6 are many communities and people who are relying on the  
7 efficient use of our taxpayer dollars to do things  
8 within -- within their communities, such as combat  
9 violence. So this is an opportunity to learn, not to  
10 defer simply for the sake of political expediency.

11           REPRESENTATIVE CRESPO: If I may respond to that.

12           REPRESENTATIVE MAUTINO: Uh, no.

13           REPRESENTATIVE CRESPO: Number one, I mean, I agree  
14 with the Senator that we want to do our job and do  
15 what's right for the State of Illinois and the people we  
16 represent. And for anyone to think that this is the  
17 first time we've had a program where we've had  
18 mismanagement of funds, where we've had fraud, you're  
19 wrong. This has been going on for a long, long time.  
20 Because of the magnitude of this one, obviously this one  
21 is very important and we should address that. But if we  
22 really want to serve the people of the State of  
23 Illinois, we just want to make sure that justice is  
24 served. And if there's some criminal activity, I don't  
25 want to jeopardize that.

1 I would point out, Senator, that -- that House  
2 Bill 2747, if you take a look at that bill, it addresses  
3 a lot of the issues. And it was a bill that did receive  
4 bipartisan support, something we've been working on for  
5 a long time. And I thanked all the members in this  
6 committee who supported that bill. Of course, you did  
7 not support it, Senator, but I think that bill -- if we  
8 really cared about grant transparency, that bill  
9 addresses a lot of things that we're talking about.

10 And, again, we want to serve the people of  
11 Illinois. We want justice to be served. And if heads  
12 have to roll, so be it, we can do that. That's what I  
13 want. I want people to pay the consequences. If  
14 they -- If they -- If there's fraud, I want them to go  
15 down. I think we all want the same thing.

16 REPRESENTATIVE MAUTINO: I would like to at this  
17 time read into the record -- And I believe all members  
18 have this letter which is addressed to Executive  
19 Director Stricklin.

20 Dear, Ms. Stricklin: Thank you for contacting  
21 me today to inform me that the Chairman of the  
22 Legislative Audit Commission has elected to proceed with  
23 the IVPA/NRI hearings on July 16th and 17th. This  
24 confirms our conversation of June 25th, before the  
25 subpoena to Malcolm Weems was issued, in which case I

1 told you that I have a prior work commitment out of  
2 state on July 16th and 17th and would not be able to  
3 attend the hearing. As I confirmed with you today, my  
4 work commitment has not changed. Because I cannot be  
5 present, Mr. Weems will not attend on July 16th or 17th  
6 either.

7 Please feel free to contact me if you have any  
8 questions.

9 Lisa M. Noller of the -- Foley and Lardner,  
10 LLP.

11 I wanted to put those into the -- into the  
12 record.

13 And -- And with that, Mr. Barickman had a  
14 request.

15 SENATOR BARICKMAN: Simply, I think for the -- for  
16 the sake of the body, I presume the attorneys are to  
17 depart here shortly and to deliver back to us that which  
18 has been requested of them. Is it necessary to go  
19 through and make sure we're all in agreement of what and  
20 when will be delivered to us so we're all in agreement?

21 (No verbal response.)

22 REPRESENTATIVE MAUTINO: So at this time I would  
23 excuse the attorneys.

24 Mr. Ocasio, we are actually going to -- I  
25 believe -- Mr. Barickman, if you want to go ahead and

1 make the -- make the announcement.

2 SENATOR BARICKMAN: No. Again, I -- And I am glad  
3 to read from my notes. Other members may have other  
4 expectations. But to -- to recap here with the  
5 attorneys -- And if you can, sir, stay with us here a  
6 moment longer.

7 And I apologize if I've got people's names  
8 wrong.

9 But, Mr. King, on behalf of Ms. Irving, your  
10 intention is to tell us two things, when you intend to  
11 deliver the hundred thousand or more e-mails that exist  
12 from your client to this body as well as to identify  
13 what the reasons may be for any privilege that your  
14 client claims. I think we'll have that answer -- Is it  
15 later today or tomorrow?

16 MR. KING: Yes. My intention is to -- as I  
17 indicated in response to Representative Sandack's  
18 question, is to reach out to the Governor's Office with  
19 respect to the privilege issue that they may or may not  
20 be asserting with -- in Dr. Irving's documents and with  
21 respect to the hundred and seven thousand documents, to  
22 get back with you on a reasonable method in time of  
23 production.

24 SENATOR BRADY: Just for the sake --

25 REPRESENTATIVE MAUTINO: Senator Brady.

1           SENATOR BRADY:  -- of clarity here, I kind of  
2    thought what we all agreed that since we're convening at  
3    9:00 o'clock, you would personally deliver the documents  
4    and/or the reason you can't deliver the documents at  
5    9:00 o'clock tomorrow.

6           MR. THEIS:  That's fine.

7           MR. KING:  Yes.  That's fine.

8           MR. PRENDERGAST:  What do you mean by -- Excuse me,  
9    Senator.  You mean by 9:00 o'clock tomorrow morning?

10          SENATOR BRADY:  You -- We're requesting that you  
11    personally either bring the documents at 9:00 o'clock  
12    tomorrow or bring the reason you can't bring the  
13    documents tomorrow, be it because there aren't any or  
14    otherwise.

15          MR. PRENDERGAST:  I have a conflict, but I -- I --  
16    as I indicated, I know of one document and I will e-mail  
17    it to Ms. Stricklin.  You'll have it before  
18    9:00 o'clock.

19          SENATOR BRADY:  And you'll accompany with that your  
20    letter of why you can't -- why there's no more --

21          REPRESENTATIVE MAUTINO:  Can you speak into the --

22          MR. PRENDERGAST:  I beg your pardon?

23          REPRESENTATIVE MAUTINO:  -- mike, sir.

24          MR. PRENDERGAST:  I've got it.

25                        I didn't hear you, sir.

1           SENATOR BRADY: And you'll give us a statement as  
2 to why that's the only document and there are no more?

3           MR. PRENDERGAST: Well, I'll just state whether  
4 that is the only document. Yes.

5           SENATOR BRADY: Thank you.

6           REPRESENTATIVE MAUTINO: Oh, Representative Mul- --  
7 Senator Mulroe.

8           SENATOR MULROE: Just for clarity, I don't see --  
9 there's no reason to take up these gentlemen's time  
10 tomorrow if they can produce the documents to Jane  
11 Stricklin by tonight.

12          SENATOR BRADY: Well, I --

13          SENATOR MULROE: Why do we need them here --

14          SENATOR BRADY: I think the reason is we -- we've  
15 got one gentleman -- I mean, these -- these gentlemen  
16 are kind of, in my mind, middle of the road in terms of  
17 their respect of this Commission. I'd certainly give  
18 the former alderman kudos for respecting us enough to  
19 show up in person. But tomorrow we're going to have to  
20 make a decision about if we're going to go after a court  
21 order to require them to provide documents. And I think  
22 it's fair that they would explain to us in person what  
23 they're providing and why they're not providing us in  
24 order to make that determination and we should give them  
25 the rest of today to prepare themselves for that.

1 Because -- Particularly in the case of Mr. Weems, who --

2 SENATOR MULROE: I don't know --

3 SENATOR BRADY: -- we don't know what documents  
4 he's going to provide or not, it's going to be my  
5 thought that we will deliberate on the fact that we need  
6 to ask for a court order to require him to meet the  
7 obligations under the subpoena for documents. These  
8 gentlemen should have a right to explain why we should  
9 or shouldn't go after a court order in their case.

10 SENATOR MULROE: Is that -- I guess I -- I want to  
11 clarify rather than waste everyone's time, you know,  
12 having them appear because to get to that point, if we  
13 want court intervention, I believe there would be --  
14 have to be some formal action by this Commission. So is  
15 it your objective or motion today --

16 SENATOR BRADY: No. My objective is to give --  
17 these gentlemen have not complied in the way we thought  
18 they would today on documentation -- to give them -- and  
19 they've given various reasons -- to give them the rest  
20 of today, to come back tomorrow to tell us how they're  
21 going to comply or not so that this body would determine  
22 how we were going to execute through court order the  
23 subpoena powers that were not lived up to.

24 SENATOR MULROE: Can you -- Can you lay out how --  
25 I mean, so if Mr. Prendergast comes back with a -- a

1 statement saying I'm in possession of one e-mail that my  
2 client has or no e-mails, how are we at that point as a  
3 body -- Unless you have some information that we  
4 don't -- I'm not aware of, how are we going to compel  
5 something that doesn't exist? Or, Mr. Prendergast, we  
6 don't think you're telling the truth here or that  
7 Mr. Ribley has got other --

8 SENATOR BRADY: I'm not --

9 SENATOR MULROE: -- documents in his --

10 SENATOR BRADY: I'm not suggesting --

11 SENATOR MULROE: -- possession. Where are we  
12 going?

13 SENATOR BRADY: I'm not suggesting that we will  
14 until we know what their response is tomorrow.

15 We anticipated that they would come forward  
16 with documentation today and we wouldn't have to do  
17 that. But since they haven't, I think it's fair we give  
18 them the rest of this day to do what we thought they'd  
19 do today, and then we can make our determination  
20 tomorrow.

21 SENATOR MULROE: Let's -- Let's try to expedite  
22 this.

23 Can you guys -- I mean, if it's in your --  
24 What time is it right now?

25 MR. PRENDERGAST: Senator, I don't know what the

1 disagreement is with here. If -- If my client has  
2 documents that are responsive to the subpoena and he's  
3 not going to provide them, I will be here to explain  
4 why. That's not the case, but, hypothetically, if he  
5 had documents that are responsive to the subpoena and  
6 did not intend to produce them, in light of the letters  
7 from the U.S. Attorney's Office that indicated that they  
8 expect you should be able to acquire the documents, I  
9 would be here to explain why.

10 Short of that, I intend to send a letter to  
11 Ms. Stricklin indicating that we either don't have any  
12 documents or if we have any documents, they're attached.  
13 I have nothing else to explain tomorrow morning beyond  
14 what I will say in that letter.

15 Senator Brady, I -- in deference to the  
16 committee, I -- I -- I would request that you --

17 REPRESENTATIVE MAUTINO: And I -- I would consider  
18 that compliance with this -- with the request.

19 MR. PRENDERGAST: And -- And I -- I would hope that  
20 the -- that the chair, your co-chair, and Senator Brady  
21 would feel likewise. It --

22 SENATOR BRADY: And you explained that earlier.  
23 It's the rest of the gentlemen we want to give the  
24 opportunity --

25 MR. PRENDERGAST: Oh, okay. That's fine.

1 SENATOR BRADY: -- to provide that.

2 MR. PRENDERGAST: I thought you were --

3 SENATOR BRADY: And we'll expect you to be here if  
4 you come up with more information you can provide.

5 MR. PRENDERGAST: For sure.

6 SENATOR BRADY: But the rest of the gentlemen  
7 indicated that they would put that together for us. So  
8 we'll -- we'll accept that tomorrow and why.

9 REPRESENTATIVE MAUTINO: I guess why don't we just  
10 go down the line because I believe they've said pretty  
11 much the same thing you had said.

12 MR. SALDINGER: Right. My client does not have any  
13 responsive documents. I'll send a letter to that effect  
14 this afternoon to Ms. Stricklin. And then, again, I  
15 don't plan on appearing -- appearing here tomorrow  
16 morning. The letter will --

17 SENATOR BRADY: Well, I thought --

18 MR. SALDINGER: -- speak for itself.

19 SENATOR BRADY: -- I thought most all of you said  
20 you would re-confer with your clients. I mean --

21 MR. SALDINGER: Senator, I'm -- I'm happy to do so.  
22 And if something changes and -- and there are documents,  
23 I will produce them, or in the chance that there are  
24 documents that he's not willing to produce, I will come  
25 and explain that. I don't anticipate that, but

1 certainly I'm happy to reconvene and -- and -- and ask  
2 one more -- one more time. That's my understanding.  
3 And I plan on sending a letter to that effect unless my  
4 client tells me something differently.

5 REPRESENTATIVE MAUTINO: Mr. Moore.

6 MR. MOORE: Yes. I heard for the first time and I  
7 never heard before that maybe -- from Senator Barickman  
8 that maybe there were some e-mails that were e-mailed to  
9 a different e-mail and maybe we could find them. I'll  
10 raise that topic and re-ask the original topic. And if  
11 there is nothing, I'll get a letter to Jane Stricklin.  
12 If there is something, I'll try to have it here or try  
13 to arrange, you know, a timetable or a way to get it  
14 here.

15 REPRESENTATIVE MAUTINO: Sir.

16 MR. THEIS: Yes. If there are no documents which I  
17 believe to be covered by the subpoena, I can get a  
18 letter to that effect to Ms. Stricklin hopefully by the  
19 end of the day. If there are or if there's any issue  
20 with regard to it, I'll -- I'll come back tomorrow  
21 morning at 9:00 o'clock and -- and report to you at that  
22 time. And, of course, I will be meeting with my client  
23 this afternoon if we adjourn before the end of the day.

24 REPRESENTATIVE MAUTINO: Yes, sir.

25 MR. KING: And if I cannot for any reason make a

1 full and complete production tomorrow morning, I will be  
2 here tomorrow to provide reasons why that's the case.

3 REPRESENTATIVE MAUTINO: Thank you.

4 Anything further? Further questions?

5 (No verbal response.)

6 REPRESENTATIVE MAUTINO: Seeing none then,  
7 gentlemen, the attorneys are excused.

8 And -- Okay. We will be recessing to the call  
9 of the chair, a 30- -- a 30-minute recess and break, at  
10 which time you folks may resume. The time is now, okay,  
11 11:40, so we've got -- 12:40.

12 SENATOR BRADY: I have -- I have a question --

13 REPRESENTATIVE MAUTINO: It was such captivating --

14 SENATOR BRADY: Representative Mautino --

15 REPRESENTATIVE MAUTINO: -- testimony that I lost  
16 track of the time.

17 SENATOR BRADY: Representative Mautino --

18 REPRESENTATIVE MAUTINO: One half hour.

19 SENATOR BRADY: Just one -- The --

20 REPRESENTATIVE MAUTINO: 1:20.

21 SENATOR BRADY: -- former -- The former alderman  
22 has been kind enough to sit through all of this. Do we  
23 need him to stay here today, or could we notify him if  
24 we would need him --

25 REPRESENTATIVE MAUTINO: Well, we'll be --

1 SENATOR BRADY: -- to come back tomorrow?

2 REPRESENTATIVE MAUTINO: We'll be returning at --  
3 at 1:10.

4 SENATOR BRADY: Personally I would say that if we  
5 need him to come back tomorrow, we'll notify him but he  
6 could leave for the day.

7 (Discussion off the record.)

8 REPRESENTATIVE MAUTINO: Okay. Mr. Ocasio, thank  
9 you for holding off.

10 We are -- We are convened. We are still  
11 convened or I reconvene the Audit Commission.

12 Welcome, sir. There's been a request from the  
13 members that since you are here, we hear your testimony  
14 now and not --

15 MR. OCASIO: Thank you.

16 REPRESENTATIVE MAUTINO: -- have to return after  
17 the break. Okay.

18 MR. OCASIO: Thank you. Just real quick, I just  
19 wanted for the record to say I'm here and, two, I have  
20 no documents.

21 REPRESENTATIVE MAUTINO: Okay. We have questions  
22 from the members starting with Senator Mulroe.

23 SENATOR MULROE: Well, it's actually not a  
24 question, but I just wanted to make sure Mr. Ocasio is  
25 aware of the letter that was written by the U.S.

1 Attorney from the Central District that by us  
2 participating in or providing -- you providing testimony  
3 or us receiving it, it's going to be -- pose several  
4 substantial risks to an ongoing criminal investigation.  
5 I want you to be made aware of that for your own  
6 personal interest, but I remain uncomfortable  
7 participating in a process where the U.S. Attorney's  
8 Office has asked us to refrain in.

9 MR. OCASIO: Correct.

10 SENATOR MULROE: So --

11 MR. OCASIO: Correct. Senator --

12 SENATOR MULROE: -- I can't advise you what to do,  
13 but --

14 MR. OCASIO: No. Senator --

15 SENATOR MULROE: -- you should be aware of that.

16 MR. OCASIO: And thank you for that.

17 SENATOR MULROE: And I -- I don't want to -- I  
18 don't want to participate in it if you're going to  
19 testify.

20 MR. OCASIO: Thank you. And I -- Let me just  
21 restate what I said. I'm here --

22 SENATOR BARICKMAN: Time out. I think we're --  
23 we're trying to rush things.

24 REPRESENTATIVE SANDACK: Just the documents.

25 SENATOR BARICKMAN: Hold on. Let's -- Let's

1 proceed. I think we discussed -- Let's take a recess.

2 Let's -- Let's eat lunch or whatever it is that those

3 intend to do and reconvene on the question of the

4 documents shortly. I think that's what Senator ...

5 REPRESENTATIVE MAUTINO: Are we going to be -- Are

6 we going to be questioning him at that time?

7 (Discussion off the record.)

8 REPRESENTATIVE MAUTINO: We will recess to the call

9 of the chair --

10 SENATOR MULROE: Represen- -- Representative

11 Mautino, if I -- can I -- I -- I don't understand why

12 we're going to keep this guy here for --

13 REPRESENTATIVE MAUTINO: Senator Mulroe.

14 SENATOR MULROE: He just said that there's going to

15 be no documents, he has no documents, and we're -- and

16 it sounds to me the Commission as a whole does not want

17 to interfere with the federal investigation.

18 MR. OCASIO: And I'm not ready to testify.

19 SENATOR MULROE: And he's not ready to testify. So

20 he's got no documents, he doesn't want to testify, or he

21 will testify later, when the U.S. Attorney's Office

22 gives us the green light. Let him go.

23 REPRESENTATIVE MAUTINO: I think that's a fair

24 question.

25 (Discussion off the record.)

1 REPRESENTATIVE MAUTINO: We are -- We are still  
2 in -- Senator Mulroe has a -- has a question which he --  
3 which he has posed. I think it's a fair question.

4 SENATOR BARICKMAN: The question is fair. I think  
5 the question --

6 SENATOR MULROE: How about a fair answer?

7 SENATOR BARICKMAN: The question that you've  
8 raised, I believe, will lead to significant discussion  
9 which we can convene now or later. The result of that  
10 discussion will determine how we treat Mr. Ocasio. And  
11 no one -- And -- And, again, we just -- as everyone had  
12 discussed, let's take 30. I think that's reasonable.

13 REPRESENTATIVE MAUTINO: Actually I think that that  
14 is probably one of the critical points of why we are  
15 here. So why don't we have that discussion now. Let's  
16 continue. We can take our break momentarily.

17 I'd like to get an answer to the question what  
18 the intent would be.

19 Senator Mulroe.

20 SENATOR MULROE: Senator Barickman, that -- I guess  
21 the response to my question was sort of -- I'm not sure  
22 where you're going, or you need to be more specific.  
23 Otherwise, I'd make a motion to dismiss the witness at  
24 this time.

25 REPRESENTATIVE SANDACK: Dismiss him permanently?

1           SENATOR MULROE: No. For today, until we're given  
2 the green light to have him come back to testify.  
3 Because I'm sure he's more than willing to testify once  
4 the U.S. Attorney's Office has given us the green light.  
5 And he's nodding his head yes.

6           MR. OCASIO: I'm not ready now. I'm not ready  
7 today.

8           REPRESENTATIVE RITA: I'll second it, Frank.

9           REPRESENTATIVE MAUTINO: There is a motion,  
10 seconded by Representative Rita.

11                         Discussion of the motion.

12                         The motion was made by -- Senator Mulroe,  
13 would you repeat your motion.

14           SENATOR MULROE: Well, in light of the fact that  
15 Mr. Ocasio has stated he has no documents to provide and  
16 that he's not ready to testify today and I'm assuming  
17 it's in -- in response to the U.S. Attorney's letter  
18 asking us not to interview him or have him testify,  
19 otherwise, it would pose substantial risk -- several  
20 substantial risks to an ongoing criminal investigation,  
21 he's no longer necessary for today. In the future --

22           REPRESENTATIVE MAUTINO: The motion is to  
23 dismiss --

24           SENATOR MULROE: -- I'm sure he'd be happy to come  
25 on back.

1           SENATOR BARICKMAN: And, Senator, we would be  
2 willing to discuss how that may occur. All I'm  
3 suggesting -- It's been brought up by the chair that we  
4 might recess for 30 minutes because we -- we believe  
5 that your -- your suggestion is one that is reasonable  
6 and it will open a dialogue that will take a significant  
7 amount of time. And so we ought to handle that this  
8 afternoon. And I don't think there's any, you know,  
9 unreasonableness to that request. The chairman has  
10 suggested we break. So why not take the break,  
11 reconvene, and consider this, how we proceed.

12           REPRESENTATIVE MAUTINO: It seems --

13           SENATOR BARICKMAN: What's your -- What's your  
14 rush all of sudden?

15           REPRESENTATIVE MAUTINO: It seems to be --

16           SENATOR MULROE: Oh, no. I don't --

17           REPRESENTATIVE MAUTINO: -- the wish of the  
18 members --

19           SENATOR MULROE: Other than --

20           REPRESENTATIVE MAUTINO: -- to proceed since we  
21 have the gentleman here.

22           SENATOR MULROE: Yeah. The gentleman has been  
23 sitting here --

24           REPRESENTATIVE MAUTINO: And it is probably the  
25 central question.

1           SENATOR MULROE:  And here I got -- I got -- Maybe I  
2    can frame the motion a little more accurately, and this  
3    would accommodate any concerns that you have.  So motion  
4    to dismiss the witness, to be recalled at a later date  
5    mutually agreed by the Commission.  So whatever  
6    agreement that we come up with after we convene and let  
7    this young man go about his way, it's covered in the  
8    motion.

9           REPRESENTATIVE MAUTINO:  So your motion -- To be  
10   restated, we have a motion to dismiss the witness until  
11   a mutually agreeable date --

12          SENATOR MULROE:  To be --

13          REPRESENTATIVE MAUTINO:  -- by the co-chairs of the  
14   Audit Commission.

15          SENATOR MULROE:  Yes.

16          REPRESENTATIVE MAUTINO:  And that motion is  
17   seconded by Representative Rita.

18                    Question?

19                    Representative Sandack.

20          REPRESENTATIVE SANDACK:  Yeah.  My question is to  
21   Senator Mulroe.

22                    Senator, I know exactly what you're trying to  
23   do, and I concur with the sentiment of it, but I think  
24   it has ramifications for the other witnesses who were  
25   previously here through counsel only.  And I think we

1 need to collectively address the propriety of taking  
2 testimony not just for the gentleman here but for the  
3 entirety of the witnesses who, again, appeared solely  
4 through counsel.

5 So what I'd ask is that you withdraw the  
6 motion, we let lunch happen, and that we present a  
7 motion for everyone with respect to staying or deferring  
8 testimony only, not documentation, testimony only,  
9 pursuant to and in accordance with the spirit of the  
10 U.S. Attorney's letter of yesterday.

11 REPRESENTATIVE MAUTINO: We have a motion which has  
12 been made and seconded. I think it's a central point of  
13 the discussions we're doing today. So I would -- Excuse  
14 me.

15 SENATOR MULROE: If I could just respond --

16 REPRESENTATIVE MAUTINO: Senator Mulroe.

17 SENATOR MULROE: -- to Representative Sandack.

18 You know, he's -- he's a different  
19 representative. He's not represented by an attorney.  
20 He's been here --

21 REPRESENTATIVE SANDACK: Let's take a time-out.

22 SENATOR MULROE: -- all day. But I -- But I don't  
23 know that a time-out is necessary. We -- We want to let  
24 him go on his way. We will agree to call him back,  
25 whatever is mutually agreeable. Why -- Why do you need

1 more than that? What are you looking for?

2 REPRESENTATIVE SANDACK: I'm looking for -- I'm  
3 looking for, which I -- is what I thought you said,  
4 John. We're looking for something that works for every  
5 witness, whether it's an individual who is not  
6 represented by counsel or those who are already here  
7 through counsel only. I think we need to deal with all  
8 witnesses that have been subpoenaed, including Mr. Weems  
9 who is not here, but we have to deal with all of the  
10 witnesses who have been duly served with subpoena,  
11 who -- some of whom are -- are going to produce  
12 documents apparently tomorrow. Some have told us  
13 there's reams of documents that may or may not be  
14 relevant.

15 I think we ought to do it in one conclusive,  
16 clear motion, not through seven or eight motions. And  
17 so all I'm asking is that -- This has a ramification on  
18 how we proceed, and I want to be consistent with  
19 what and in compliance with what the U.S. Attorney has  
20 asked us to do.

21 SENATOR MULROE: All right. At this point, you  
22 know, to be cooperative -- And I think -- I'd like to  
23 know -- I mean, this is isn't the first time you heard  
24 it. But what are you thinking of? I mean, what's going  
25 to make it -- push the motion over other than what we

1 said? You've got something in your head. I know it.

2 REPRESENTATIVE SANDACK: I do.

3 SENATOR MULROE: So let -- let's hear it. But, you  
4 know, I -- I'm prepared to withdraw it, but I don't know  
5 that it's necessary to withdraw it.

6 REPRESENTATIVE SANDACK: Then we can vote on it  
7 and --

8 SENATOR MULROE: We can bring it up again too.

9 REPRESENTATIVE SANDACK: Okay. Whatever you want  
10 to do. It's your motion.

11 SENATOR MULROE: All right. I'll go ahead with the  
12 motion.

13 REPRESENTATIVE MAUTINO: So we have a -- The motion  
14 has been withdrawn, to dismiss the --

15 REPRESENTATIVE SANDACK: No. He's proceeding.

16 REPRESENTATIVE MAUTINO: Oh, he said go ahead. He  
17 wants to proceed with the motion. Okay. I  
18 misunderstood.

19 The gentleman wishes to proceed with his  
20 motion. It's been made and seconded.

21 SENATOR MULROE: After further consideration and  
22 consultation with others, I'm going to withdraw the  
23 motion at this time. Let's take our 30 minutes and  
24 revisit it, but that's -- that's it for now.

25 REPRESENTATIVE MAUTINO: Are you sure?

1 (No verbal response.)

2 REPRESENTATIVE MAUTINO: Okay. Now we have -- the  
3 motion is withdrawn. I got it. Okay. The motion is  
4 withdrawn.

5 At this time we will take a recess to the call  
6 of the chair, 30 minutes. Everyone can gather, have  
7 some lunch, and we will be back here at exactly 1:20. I  
8 will reconvene the meeting at the call of the chair.

9 (Lunch break.)

10 REPRESENTATIVE MAUTINO: I'd like to now reconvene  
11 the Legislative Audit Commission. We have taken a  
12 little extra time and discussed a few of the upcoming --  
13 upcoming -- the issues and very important issues to all  
14 of us and the people of the state of Illinois.

15 At this time I would like to -- just let the  
16 Commission know that we did receive documents from  
17 Richard Prendergast, and he is representing Warren  
18 Ribley. As he was asked to do earlier in the testimony,  
19 he has complied. I'm going to give these to the clerk  
20 so they can be entered into our record.

21 The question of the records itself is one that  
22 Chairman Barickman and I had asked of the -- of the  
23 federal government on our conversation that we had  
24 amongst the counsels and staff. When -- In speaking  
25 with them, I told the Department of Justice that we had

1 requested e-mails and to see if they had direction.  
2 They said they would get back to us promptly, and they  
3 did with the request that we not take testimony, but the  
4 collection and release of documentation they had no  
5 problem with.

6 In speaking with Senator Barickman, we've come  
7 to an agreement, and I'd like to at this time call on  
8 Representative Sandack for a motion.

9 REPRESENTATIVE SANDACK: Thank you, Mr. Chairman.

10 And in the spirit of bicameral and  
11 bipartisanship, I move to publicly post on the  
12 Legislative Audit Commission website all documents  
13 received by the Commission with respect to this audit.

14 REPRESENTATIVE MAUTINO: And I have a second on  
15 that motion from --

16 REPRESENTATIVE RITA: Second.

17 REPRESENTATIVE MAUTINO: -- Representative Rita.

18 And do we need a -- This motion will require  
19 seven votes. And Executive Director Jane Stricklin will  
20 now call the roll.

21 Question, Representative Brady?

22 SENATOR BRADY: A question on your ruling that this  
23 requires seven votes. We -- It's been a long-standing  
24 tradition that a majority of those voting in this  
25 committee carry the day.

1 REPRESENTATIVE MAUTINO: Issues that are related to  
2 items contained within the subpoenas will require seven  
3 votes under Section 4 of our Act for the Audit  
4 Commission.

5 We have -- Seeing no further questions, we'll  
6 go to roll call.

7 And, Ms. Stricklin, please take -- take the  
8 roll.

9 MS. STRICKLIN: Senator Barickman.

10 SENATOR BARICKMAN: Yes.

11 MS. STRICKLIN: Senator Brady.

12 SENATOR BRADY: Yes.

13 MS. STRICKLIN: Senator Manar.

14 SENATOR MANAR: Yes.

15 MS. STRICKLIN: Senator Martinez.

16 (No verbal response.)

17 MS. STRICKLIN: Senator Mulroe.

18 SENATOR MULROE: Yes.

19 MS. STRICKLIN: Senator Oberweis.

20 SENATOR OBERWEIS: Yes.

21 MS. STRICKLIN: Representative Brauer.

22 REPRESENTATIVE BRAUER: Yes.

23 MS. STRICKLIN: Representative Crespo.

24 REPRESENTATIVE CRESPO: I just want to make a  
25 comment.

1           You know, we all work very hard, and -- but  
2   our spouses work even harder. They sacrifice a lot. I  
3   want to take a moment and congratulate our colleague,  
4   David Reis, and his beautiful wife, Maria, on their 25th  
5   Anniversary today. Happy Anniversary.

6           And I'm a -- a yes.

7           REPRESENTATIVE MAUTINO: And you let him come here,  
8   really?

9           How do you vote?

10          REPRESENTATIVE CRESPO: Yes.

11          MS. STRICKLIN: Representative Mautino.

12          REPRESENTATIVE MAUTINO: Yes.

13          MS. STRICKLIN: Representative Reis.

14          REPRESENTATIVE REIS: Yes.

15          MS. STRICKLIN: Representative Rita.

16          REPRESENTATIVE RITA: Yes.

17          MS. STRICKLIN: Representative Sandack.

18          REPRESENTATIVE SANDACK: Yes.

19          MS. STRICKLIN: We have 11 voting "aye."

20          REPRESENTATIVE MAUTINO: With eleven voting "aye,"  
21   zero voting "no," and zero voting "present," the motion  
22   carries.

23           And we will direct Jane Stricklin to place all  
24   of the information and documentation that we receive  
25   according to the NRI on the public-accessible website of

1 the Audit Commission.

2 (Discussion off the record.)

3 REPRESENTATIVE MAUTINO: For the purpose of a -- of  
4 a motion -- and, Representative Sandack or Senator  
5 Barickman, who would like to make the motion?

6 SENATOR BARICKMAN: Thanks, Mr. Chairman.

7 I -- I want to make clear, you know, what we  
8 know today. We -- We have received clear direction  
9 through multiple communications with the U.S. Attorney's  
10 Office that they wish for us to proceed in a certain  
11 manner on this audit. We take that request seriously,  
12 and in no way do we intend to jeopardize the integrity  
13 of the federal criminal investigation into  
14 Governor Quinn's Neighborhood Recovery Initiative.

15 Representative Mautino and myself have  
16 conferred on this most recently, but I want to back up  
17 to a conversation that we had, Representative Mautino,  
18 myself, and a number of attorneys who joined in a  
19 conference call, on July 9th, 2014, with the Department  
20 of Justice and various attorneys from that office. That  
21 was the first communication from the -- from anyone  
22 within the U.S. Attorney's Office specifically  
23 requesting that we approach this audit in a certain way.  
24 And I think we would all agree that we took that request  
25 seriously.

1           To give a little insight to the conversation  
2 that was had by the -- a number of us to that phone  
3 call, we asked whether there were avenues in which we  
4 may proceed, certain topics that we might consider in  
5 our hearings. Generally the response was that no  
6 information could be provided to us because of the  
7 pending federal criminal investigation. We asked  
8 whether there were individual witnesses for whom we  
9 either could proceed with or that we should not proceed  
10 with, again seeking to find specific guidance from the  
11 U.S. Attorney's Office as to how we may handle doing our  
12 job, moving forward here. Again, the communication from  
13 the U.S. Attorney's Office was that they could provide  
14 us no guidance other than to -- that they -- that they  
15 request we defer from anyone involved with the NRI  
16 program.

17           Obviously, this complicates matters for this  
18 Commission. In addition to the tens of millions of  
19 taxpayer dollars that have gone through this program,  
20 we're aware that some 242 agencies received State funds,  
21 maybe more. Presumably hundreds if not thousands of  
22 individuals could be included within the context of what  
23 is known as the NRI program.

24           And so we asked specifically how we might  
25 proceed with fulfilling our duty here today. It was

1 asked whether this Commission could hear from the  
2 Governor, Pat Quinn, himself in response to our -- the  
3 questions that have been raised through this audit.  
4 And, again, the communication from the U.S. Attorney's  
5 Office was clear. They believe that any interviews  
6 conducted by the Legislative Audit Commission from  
7 Governor Pat Quinn on down would pose substantial risk  
8 to the ongoing federal criminal investigation of  
9 Governor Quinn's failed NRI program.

10 We've since -- And -- And -- And what was --  
11 Let me back up. What was communicated then was that --  
12 that we would take this request at today's hearing.

13 Subsequent to that phone call, we received a  
14 letter dated July 10th, memorializing the conversation  
15 that we had had and requesting that we refrain from  
16 conducting interviews for a period of 90 days, again the  
17 same communication. That 90-day period commences on  
18 July 9th, 2014. Again, the letter, which I believe has  
19 been admitted to the record, outlined the substantial  
20 risks posed to the federal criminal investigation if we  
21 would proceed.

22 Last night, yesterday afternoon, we received a  
23 letter from Jim Lewis, U.S. Attorney, Central District  
24 of Illinois, dated July 15th. That letter, like the  
25 prior one, states, again, that this Commission refrain

1 for a period of 90 days, from July 9th, 2014, from  
2 conducting interviews or receiving testimony from any  
3 individuals in connection with this NRI program. It  
4 further makes clear how we handle the production of  
5 documents that may or may not exist within the control  
6 of the Audit Commission.

7 I think this morning was an opportunity to  
8 fully explore how this body intends to move forward with  
9 the component the U.S. Attorney's Office has outlined is  
10 permissible. And I believe that we have an agreement on  
11 how will we -- how we will handle things like the  
12 documents and -- and -- and otherwise.

13 Again, our intention here is not to impede  
14 this federal criminal investigation. We do have a job  
15 to do, and we want to perform that in a way that in --  
16 certainly doesn't jeopardize that investigation.

17 So with that as a context, I offer,  
18 Mr. Chairman -- Mr. Chairman, a motion for how we feel  
19 we can proceed with this request. Our intent here,  
20 again, is to honor it. Here is our motion which we have  
21 filed with the clerk, and I'll read it for those so they  
22 can hear it.

23 REPRESENTATIVE MAUTINO: Place your -- Go ahead.

24 SENATOR BARICKMAN: In accordance --

25 REPRESENTATIVE MAUTINO: Place your motion.

1           SENATOR BARICKMAN: In accordance with the  
2 communication requesting the Legislative Audit  
3 Commission refrain from conducting interviews or  
4 receiving testimony for a period of 90 days that was  
5 received from the U.S. Department of Justice on  
6 July 9th, 2014, and confirmed by U.S. Attorney James A.  
7 Lewis, I move the following: One, to defer testimony  
8 and interviews for 90 days as requested; two, that the  
9 Legislative Audit Commission reconvene on October 7th  
10 and 8th, 2014, and that the subpoenas issued to Barbara  
11 Shaw, Malcolm Weems, Jack Lavin, Toni Irving, Billy  
12 Ocasio, Warren Ribley, and Andrew Ross for appearance  
13 and testimony be reissued to compel each person's  
14 attendance and testimony on October 7th, at 10:00 a.m.,  
15 and October 8th, 2014, at 9:00 a.m.; and, third, that  
16 pursuant to the previously issued subpoenas as they  
17 pertain to relevant documents, Barbara Shaw, Malcolm  
18 Weems, Jack Lavin, Toni Irving, Billy Ocasio, Warren  
19 Ribley, and Andrew Ross submit such documents to the  
20 Commission by 9:00 a.m., July 17, 2014.

21           REPRESENTATIVE SANDACK: Second.

22           REPRESENTATIVE MAUTINO: A motion has been made by  
23 Senator Barickman and seconded by  
24 Representative Sandack. And we will go now to  
25 discussion of that motion.

1 (Discussion off the record.)

2 REPRESENTATIVE MAUTINO: I would first like to  
3 comment and -- make some comments. I do appreciate that  
4 we were able to come to an agreement on the documents,  
5 and that motion which was made by  
6 Representative Sandack, second -- seconded by  
7 Representative Rita has been passed and will go a long  
8 way towards open and transparent issues.

9 The -- I have concerns about  
10 Representative Barickman's motion. I too was involved  
11 in -- in the calls with the Feds, with the Department of  
12 Justice and their attorneys. They did ask for 90 days.  
13 And the question asked of them also was: What happens  
14 if it takes beyond 90 days? And to that, they did not  
15 have -- they said if they needed more time -- but they  
16 did not expect that they would take the 90 days but they  
17 may need to.

18 I have concerns about the date certain issue  
19 because what I would like to see is a green light from  
20 the federal prosecutors. We've had three discussions  
21 with them. I would propose a motion as well that would  
22 have a date certain to come back so long as we get a  
23 sign off from Mr. Lewis. I have no problem bringing  
24 this back in or continuing the subpoenas.

25 I think that the wording in the motion the

1 gentleman has presented forces us back to where we  
2 started this morning, and I don't find that acceptable.  
3 I think that there is no one on this panel who has said  
4 they want to interfere with the criminal investigation.  
5 We have all said that to the -- to the effect that --  
6 that I think there is no doubt. This motion allows the  
7 flexibility -- Chairman Barickman and I have always had  
8 the ability to agree, not issuing subpoenas, regardless  
9 of the changes we may -- that comes along. That's a  
10 power that lies within us anyway, so I don't have  
11 problems working with those.

12 I have a concern that we will be coming back  
13 on a date certain to the objection potentially of  
14 Mr. Lewis. And for that reason, I will be -- I'm  
15 opposed to that motion. I do have a substitute motion,  
16 but we will deal first with the motion before us. But  
17 that is the reason that I have the concerns on the  
18 dates. I will not interfere with federal  
19 investigations. I said that on the calls between the  
20 staff, when I requested it in writing, and when I  
21 requested the determination on what we could publicly  
22 disseminate.

23 And so with that said, as long as I have a  
24 green light from those who are lawful investigative  
25 bodies -- We are not. We are a legislative support

1 group. That is what we are. We are the Audit  
2 Commission. We review audits. We don't do  
3 investigations; the Feds do. When I get a green light  
4 from the U.S. Attorney, then I'm comfortable going  
5 forward. So that is my statement toward it.

6 Are there -- Any other discussion --

7 SENATOR BARICKMAN: May I respond?

8 REPRESENTATIVE MAUTINO: -- on your motion?

9 Sure. Chairman Barickman.

10 SENATOR BARICKMAN: Thank you.

11 REPRESENTATIVE MAUTINO: As always.

12 SENATOR BARICKMAN: I -- You know, we -- we  
13 discussed some of these concerns, Mr. Chairman,  
14 privately. And I will relay now what I relayed then,  
15 which is my -- certainly my intention throughout this  
16 process has been clear, crystal clear, that I have no  
17 intentions of impeding this federal investigation. I  
18 believe there's been -- there was sufficient debate  
19 about that when we initially authorized the subpoenas.  
20 And I stand by what I stood -- what I said then, which  
21 was that we would handle any requests from the U.S.  
22 Attorney's Office in an open and transparent hearing  
23 before the Audit Commission and we -- we would decide as  
24 a body how to proceed.

25 To the question of your -- to your concerns

1 about how we might treat a future communication from the  
2 U.S. Attorney's Office, I can assure you this. We will  
3 treat those requests with the same level of seriousness.  
4 We will treat those requests in a way that is  
5 appropriate, so that we do not impede with the  
6 federal -- ongoing federal investigation, and that we  
7 would decide then how to handle those, but I think there  
8 is today ample record for how many of us on this  
9 Commission would intend to proceed and that intention is  
10 evidenced by the motion that we make here.

11 REPRESENTATIVE MAUTINO: In response --

12 SENATOR BARICKMAN: So you -- So you have -- If  
13 there are assurances that we can provide you to -- to  
14 make our motion acceptable, we are willing to hear what  
15 it is you want to hear from us. I think our record  
16 stands for itself. We are prepared -- We have the  
17 communications from the U.S. Attorney's Office, and we  
18 are prepared to act accordingly or in accordance with  
19 their request.

20 REPRESENTATIVE MAUTINO: My turn? Okay.

21 Yeah. I'd like to -- Just in response, my  
22 concern is -- and, you know, as I go back to our  
23 discussion with the staff once we hung up from the  
24 Department of Justice, is I wanted to have an  
25 open-meeting conference call with all of our members to

1 tell them how the world had changed over the course of  
2 the Feds contacting us. I thought that we could do that  
3 as an open conference call through the LIS system. That  
4 would have saved us actually all of today, which today  
5 we heard a lot of, well, the Feds are talking to us, so  
6 we can't talk to you. We can't even eventually speak to  
7 Mr. Cutrone or General Holland if I understand what the  
8 Department of Justice was saying to us. So that today's  
9 meeting could have been averted by that simple  
10 conversation. So, I mean, there's a -- there's a little  
11 bit of a barrier from there.

12 I would like to not take the risk of  
13 obstructing the federal investigation with items that we  
14 could have taken care of on a phone call, for all of  
15 these folks here. I will commit that on October 10th I  
16 will allow for the subpoenas to be extended to those  
17 dates provided that the Feds give us the green light. I  
18 don't think that's too much to ask. Each member of this  
19 committee has made that statement publicly. We are not  
20 going to interfere. So if we come back and compel at a  
21 time when the federal government contacts us and says,  
22 We're not quite done yet, We need more time, we end up  
23 where we were at this morning. And to me, that is not  
24 acceptable, that has never been acceptable if our goal  
25 is not to impede a criminal investigation.

1 REPRESENTATIVE SANDACK.

2 REPRESENTATIVE SANDACK: Thank you, Mr. Chairman.

3 I've listened intently to both co-chairmen  
4 saying many of the same things, which is a resounding,  
5 We don't want to impede, We don't want to impose,  
6 obstruct, cause any difficulties with the United States  
7 Attorney for the Central District of Illinois with  
8 whatever investigation or go-forward that gentleman and  
9 his office entails. I think if we went up and down the  
10 line, we'd get that same type of sentiment for every  
11 member of this committee.

12 One thing that I think was alluded to earlier  
13 this morning that perhaps bears clarification and a  
14 little bit of amplification: There was a discussion  
15 with Mr. Lewis yesterday. Remember, we got the letter  
16 from Mr. Lewis yesterday at 4:30.

17 REPRESENTATIVE MAUTINO: Actually only the  
18 Republican counsels have had that discussion. We  
19 weren't --

20 REPRESENTATIVE SANDACK: Can I -- Can I finish --

21 REPRESENTATIVE MAUTINO: -- privy to that.

22 REPRESENTATIVE SANDACK: -- Mr. Chairman?

23 REPRESENTATIVE MAUTINO: Yes.

24 REPRESENTATIVE SANDACK: I don't think I --

25 REPRESENTATIVE MAUTINO: And I --

1 REPRESENTATIVE SANDACK: -- yielded the floor.

2 REPRESENTATIVE MAUTINO: -- I apologize --

3 REPRESENTATIVE SANDACK: Thank you.

4 REPRESENTATIVE MAUTINO: -- but I wanted to make  
5 that clear because I wanted --

6 REPRESENTATIVE SANDACK: Well, I was about to,  
7 Frank.

8 REPRESENTATIVE MAUTINO: -- Chairman Barickman and  
9 I to actually sit down with him.

10 REPRESENTATIVE SANDACK: If I'm permitted, counsel  
11 for the Senate and Republican caucuses, members of this  
12 Commission required or asked our counsels to have a  
13 conversation, a direct conversation, with Mr. Lewis, and  
14 that conversation occurred.

15 At any time, Mr. Chairman, you or your  
16 counselor or any member of this body, I suspect, can  
17 pick up the phone and call Mr. Lewis. He was incredibly  
18 accommodating. And what was absolutely abundantly clear  
19 in that communication was after 90 days, we are able to  
20 proceed unencumbered, after 90 days. He gave no other  
21 indications of why or any -- you know, Stay away from  
22 this witness or Don't seek this document, which is  
23 somewhat typical when you have, again, parallel  
24 tribunals working. But he was clear. After 90 days,  
25 proceed as you wish with the subpoenaed witnesses, take

1 testimony as your body deems applicable. The gentleman  
2 to my right and the lady behind me had that  
3 conversation.

4 And -- And, Mr. Chairman, you are certainly  
5 capable of calling a timeout right now and making that  
6 call. Heck, we've had a 90-minute delay.

7 And I'm a little surprised no one has picked  
8 up the phone because Mr. Lewis was incredibly  
9 accommodating and listened and then obviously  
10 articulated his concerns about us proceeding with  
11 testimony, which we're not going to do. But he said  
12 after 90 days go to it, clearly, unambiguously, no  
13 restrictions.

14 I think Co-Chairman Barickman's motion is in  
15 the spirit, if not directly responsive, to that oral  
16 communication.

17 And as a reminder, Mr. Chairman, you had oral  
18 communications previously too. So there's no  
19 prohibition or bar in that regard. And lest anyone here  
20 has a concern, I suggest we take another time-out and  
21 you make a phone call. Thank you, sir.

22 REPRESENTATIVE MAUTINO: As far as the -- Well, we  
23 have questions of Representative Brauer.

24 REPRESENTATIVE BRAUER: Well, I'd just like to make  
25 a comment.

1           You know, it's -- I think we've heard the  
2 whole time this is not an investigation, this is an  
3 audit. It's been a long and frustrating procedure.  
4 Auditor Holland has done a wonderful job. We've got to  
5 where we are today. And I think if the -- Mr. Lewis  
6 comes back and says in nine- -- ninety days that he  
7 needs ten more days, he needs twenty more days, then  
8 let's deal with that then. But I think that I'm  
9 comfortable today that if we say it's going to be  
10 90 days, let's put that in writing, and then we know how  
11 to proceed. It's not open-ended. And I think that's  
12 really what we need to do, is to have this etched in  
13 stone.

14           REPRESENTATIVE MAUTINO: Representative Reis.

15           REPRESENTATIVE REIS: Thank you, Mr. Chairman.

16           And, you know, we've been drowned in legal  
17 jargon today. And I think Members and colleagues and  
18 attorneys representing everyone in this room today has  
19 referenced the letters that have come from the U.S.  
20 Justice Department. The one dated July 10th, 2014,  
21 asked us to refrain from conducting interviews or  
22 receiving testimony for a period of 90 days. The letter  
23 that came yesterday at 4:45 p.m. from James Lewis asked  
24 us, the Commission, to refrain for a period of 90 days  
25 from conducting interviews. If we're going to reference

1 this letter, let's follow the letter. They didn't say  
2 until we give you the green light. They said for  
3 90 days. So I think we should honor the -- honor the  
4 language in the letter and have a date certain for when  
5 we can proceed forward and ask questions, I'm sure, that  
6 we all have about the -- the very good audit report that  
7 Mr. Holland put out.

8 REPRESENTATIVE MAUTINO: Senator Mulroe.

9 SENATOR MULROE: Well, I have a couple things that  
10 I just want to comment on the motion.

11 I think the third item of the motion, didn't  
12 we just -- I think we just dealt with that in the motion  
13 we just took up prior to this one.

14 REPRESENTATIVE MAUTINO: Got it.

15 SENATOR MULROE: Didn't we? So I'd ask that that  
16 be stricken from this motion.

17 Regarding the second part of the motion  
18 compelling each person's attendance, I think it would be  
19 better to just phrase it as extending or continuing the  
20 subpoenas or something to that effect because they  
21 haven't done anything to require us to compel them at  
22 this time.

23 The last thing is -- and this sort of goes  
24 with Representative Brauer, Sandack, and Reis -- we can  
25 put a date certain in there and if it's so easy to

1 contact Lewis, let's put the date certain in there  
2 provided he's okay with us going forward at that time.

3 And there may become a time where Lewis says:  
4 Hey, well, you guys can go earlier. You know, we  
5 finished our investigation. We have found nothing, you  
6 know, criminal. Go ahead. Do your investigation to  
7 make sure that we -- make sure what we've been -- as  
8 part of this Commission, to make sure the mistakes that  
9 occurred during this audit don't happen again. But  
10 there might be a -- he might ask us to go longer. So  
11 he -- Why don't we put a date certain or sooner or later  
12 provided the U.S. Attorney says it's okay to go forward.

13 I mean, all I'm hearing is he's an easy guy to  
14 get ahold of. Let's put the date 90 days -- that's what  
15 he says -- and provided he says it's okay to go forward,  
16 that we're not -- And it seems like we're u- -- you  
17 know, unanimous about -- none of us want to interfere  
18 with a criminal -- active criminal investigation. So  
19 put the 90 days or whatever date and unless he says we  
20 can proceed sooner or later, but in any event, we need  
21 to contact him.

22 And so I think the essential term that needs  
23 to be in there, provided he -- I don't know if we want  
24 to call it the green light or whatever -- gives us  
25 permission or provided he says it's not going to

1 interfere with his investigation.

2 REPRESENTATIVE MAUTINO: Senator Brady.

3 SENATOR BRADY: If I am -- Senator Mulroe, in  
4 regard to your third item, I -- to me it seems relevant  
5 that it clarifies that we want the documents before the  
6 date certain for the testimony. So I -- you may think  
7 of it as duplicative, but I think it clarifies. So I'd  
8 argue to keep it in. It doesn't do anything wrong. I  
9 agree with you on the date certain.

10 And I guess one of the questions I asked  
11 several people -- Because my recollection is you never  
12 hear from the U.S. Attorney's Office when they drop a  
13 case. They don't -- Very seldom, if ever, have they  
14 gone out and said, You know what, We're done with this,  
15 Everything is over, but they are very capable of telling  
16 us when they don't want us, as they have indicated here.  
17 The communication is open.

18 I think by Senator Barickman's motion with a  
19 date certain, we know that the U.S. Attorney can contact  
20 us. We'll have a meeting convened based on that  
21 discussion. We'll continue it over if they do. But I  
22 think the problem we have is that the U.S. Attorney's  
23 Office doesn't officially tell you to go ahead with  
24 something, they only ask you not to. And that's why  
25 we're addressing that in this way.

1           SENATOR MULROE: Okay. My only response to that,  
2 Senator, is that -- I mean, in your own words, we'll  
3 continue it over if he wants us to continue it over. So  
4 we're going to put a date certain that we've got to be  
5 there but we're not reflecting what you just said in the  
6 motion.

7           SENATOR BRADY: No.

8           SENATOR MULROE: So let's just put what you said --

9           SENATOR BRADY: Just as we put a date certain for  
10 this meeting and the subpoenas, we put a date certain  
11 for that, and then we deal with it appropriately, given  
12 the circumstances.

13          SENATOR MULROE: Yeah. But see --

14          SENATOR BRADY: But -- But you're a lawyer and I'm  
15 not. Is it common practice that a U.S. Attorney would  
16 indicate publicly that we've closed this case?

17          SENATOR MULROE: Well, I'm not even saying -- Well,  
18 according to Representative Sandack, he's an easy guy,  
19 he picks the phone up, and we can find out.

20          SENATOR BRADY: Common practice --

21          SENATOR MULROE: But I -- I don't practice in  
22 Federal Court.

23          SENATOR BRADY: I -- It's my understanding from  
24 people who do that the U.S. Attorney doesn't do that.

25          SENATOR MULROE: Oh, so, I mean, this is a very

1 unusual situation, but he freely picks up the phone when  
2 someone calls him. So why -- I don't understand the  
3 concern --

4 SENATOR BRADY: As Senator Barickman indicated  
5 earlier, there are still things going on in state  
6 government that we need to address quickly and we can't  
7 just leave this open-ended. There are -- Our challenge  
8 is to find ways in which we can improve the operations  
9 of state government.

10 The U.S. Attorney has made it very clear that  
11 he won't need any more time than this. This gives us a  
12 calendar and a charge to meet in accordance with his  
13 stipulations. So I -- I think the motion is absolutely  
14 appropriate and in order.

15 SENATOR MULROE: I have to disagree on a few  
16 aspects. I mean, this is highly unusual. We've had an  
17 audit done. We have everyone -- You know, Auditor  
18 Holland did a great job. He formed an opinion from the  
19 facts that he received, chose not to subpoena additional  
20 items, and we are now going beyond our scope. He had  
21 the subpoena power, chose not to do it, formed an  
22 opinion.

23 Now we are going forward. From the very  
24 beginning, I was concerned about the scope that we were  
25 taking -- undertaking and also the -- with the

1 interfering with the federal investigation. Now, that  
2 said, we're beyond that. The door has already been  
3 opened. We've authorized the subpoenas. We've issued  
4 them.

5 I don't understand why we can't put something  
6 in there, rather than calling everybody back and wasting  
7 everybody's time again, to deal with the same thing  
8 we're dealing with right now. This could have been done  
9 had the two chairs got together and said, Guys, the  
10 federal -- U.S. Attor- -- or U.S. Attorney from Central  
11 District doesn't want us to proceed.

12 Why was it so hard for the two of you to get  
13 together just to say, Hey, let's postpone this as  
14 requested? I mean, that could have been. To my  
15 understanding, that didn't occur. We didn't need to  
16 meet today.

17 SENATOR BRADY: I -- I beg to differ. I think we  
18 do. Our challenge continues to be to move this forward  
19 and particularly when it comes to documentation. Even  
20 if we would have received that communication earlier  
21 than close of business yesterday, we still need to get  
22 together, as we need to do tomorrow, to continue the  
23 documentation phase of this audit.

24 So I -- I don't -- I don't think our job is as  
25 simple as that. We've got to continue moving down to do

1 our -- to complete the charge that we are tasked with.  
2 And part of that, I think, is -- You know, as we all  
3 know, we only deal with deadlines in the legislature.  
4 This gives us a deadline.

5           The U.S. Attorney did not tell us -- And I --  
6 I think Representative Sandack's idea that  
7 Representative Mautino should take a pause, give the  
8 U.S. Attorney a call, and confirm what he told our  
9 counsel, that I will be done by then and you should then  
10 proceed as expeditiously as possible after that 90-day  
11 period -- So, Representative Mautino, I -- I would  
12 suggest, if we want to save time, that you do that  
13 and -- and make sure that he gives you -- He said he  
14 would also -- I believe he told our counsel he would  
15 commit that to writing.

16           REPRESENTATIVE MAUTINO: No. As -- As a matter of  
17 fact, when we started the discussions, I said that  
18 Barickman -- Senator Barickman and I should do that.

19           As a matter of fact, I didn't know until  
20 before we walked out in the room here that there had  
21 been conversations between part of the staff. And it is  
22 a bi-chamber, bipartisan Commission. So I've -- I've  
23 worked at those -- And most of you know, I'm -- I -- my  
24 word is good. So --

25           SENATOR BRADY: I'm not questioning your word. I

1 just --

2 REPRESENTATIVE MAUTINO: No, no. And, Bill, I  
3 mean, we -- we took care of the documentation questions  
4 with the motion from Senator Sandack. Everything we  
5 have will be public and available. So the motions on  
6 documentation are taken care of.

7 To your statement, could this have been done?  
8 Yes. By simple agreement between the two chairmen, we  
9 could have had a conference-call meeting and come to the  
10 same motions that we have before us today.

11 And there is not much difference other than  
12 one thing. I am just saying green light from the --  
13 from the person who brought us all together on a day  
14 that we could have done this beforehand. And I'm very  
15 willing, and I --

16 SENATOR BRADY: But I think he --

17 REPRESENTATIVE MAUTINO: When -- In talking to  
18 Jason, I said, he and I ought to go see him --

19 SENATOR BRADY: In that conversation, I think  
20 you'll -- you'll find that the U.S. Attorney will tell  
21 you that this is a specific date but I will not give you  
22 documentation to tell you to proceed.

23 REPRESENTATIVE MAUTINO: That's not what he said.

24 And -- And actually on the conference calls  
25 with the Department of Justice, to there, they said --

1 they said we will go on depending on what the  
2 investigation finds. That is what the gentleman who has  
3 been portrayed by some of the newspapers as a  
4 lobbyist -- Incidentally, he is the Chief Counsel,  
5 Ethics person, for -- for the -- for the government.  
6 They portrayed him -- They portrayed him in that, but  
7 his statement was, We want the 90 days, We may not need  
8 it but we may.

9 So all I'm saying is provided the Commission  
10 receives communications from a representative of the  
11 Office of the United States Attorney permitting such  
12 testimony. That will be in the next motion. And I'm  
13 out of order actually by bringing that up. But I'm  
14 willing to talk to him --

15 SENATOR BRADY: But why don't you call --

16 REPRESENTATIVE MAUTINO: I just want the green  
17 light --

18 SENATOR MULROE: If I --

19 REPRESENTATIVE MAUTINO: -- from the people who  
20 brought us here today.

21 SENATOR MULROE: Representative Mautino, if I could  
22 just have a follow-up.

23 It would be highly unusual for a U.S. Attorney  
24 today to say: Oh, don't worry. In 90 days, it will be  
25 done. There -- There could be so many different courses

1 of action that might occur.

2 So why don't we just put --

3 SENATOR BRADY: It might be unusual, but that is  
4 what he told our counsel and told them that they could  
5 make it public.

6 SENATOR MULROE: Because he needs more time to  
7 investigate and bring people in.

8 So I -- We're hung up on really minor detail.  
9 Let's agree to a certain date and call Lewis at that  
10 time and say: Are you done? Are we going to interfere  
11 with your investigation if we go forward or not? He's  
12 going to say yes or no. And at that time we proceed  
13 accordingly. Why is that a problem?

14 REPRESENTATIVE MAUTINO: Why don't we -- For a  
15 closing statement from Senator Barickman. Okay.

16 SENATOR OBERWEIS: Hey, what about me?

17 REPRESENTATIVE MAUTINO: He's the representative  
18 guy who does the ice cream.

19 REPRESENTATIVE REIS: Just one point of  
20 clarification. I think everyone here that was on that  
21 call with the U.S. Department of Justice will verify  
22 that they asked for 90 days. The letter dated July 10th  
23 asks for 90 days. The letter dated July 15 asks for  
24 90 days. I think some of the people arguing about this  
25 one minor piece of the motion probably argued today

1 that -- what's wrong with waiting 90 days.

2 So we have a motion before us. We're going to  
3 stop asking for testimony for 90 days. I think  
4 everybody in the room and -- and those who are watching  
5 think that's an agreeable thing to move forward with.

6 Thank you.

7 REPRESENTATIVE MAUTINO: Just to be clear -- and I  
8 was on that call along with all of the counsels and  
9 Senator Barickman -- his statement was 90 days, it could  
10 be more, it could be less, verbatim.

11 REPRESENTATIVE REIS: They also sent out a  
12 follow-up letter --

13 REPRESENTATIVE MAUTINO: With the understanding  
14 of --

15 REPRESENTATIVE REIS: -- confirming our request --

16 REPRESENTATIVE MAUTINO: That I requested --

17 REPRESENTATIVE REIS: -- having a phone  
18 conversation.

19 REPRESENTATIVE MAUTINO: But I'm the one who  
20 requested that he put it in writing since it had already  
21 been in the papers.

22 REPRESENTATIVE REIS: But it does say for a period  
23 of 90 days, doesn't it --

24 REPRESENTATIVE MAUTINO: But --

25 REPRESENTATIVE REIS: -- Mr. Chairman?

1 REPRESENTATIVE MAUTINO: -- the conversation was it  
2 could be more, it could be less directly to a question  
3 that I asked.

4 REPRESENTATIVE REIS: To -- To borrow a legal term,  
5 I think that might be called hearsay.

6 REPRESENTATIVE MAUTINO: No, I don't think so. All  
7 four of our counsels were sitting on the same phone, and  
8 the counsels have ethics standards they have to adhere  
9 to. So that answer is incorrect.

10 Further dis- -- Oh, yes, Senator Oberweis.

11 SENATOR OBERWEIS: Am I that easy to forget?

12 Seriously --

13 REPRESENTATIVE MAUTINO: Very memorable.

14 SENATOR OBERWEIS: -- guys, come one.

15 REPRESENTATIVE MAUTINO: I love your ice cream.

16 SENATOR OBERWEIS: Let's -- Let's get past this,  
17 for heaven's sake.

18 These witnesses have busy schedules. They  
19 have things to do. Let them get it on the books.  
20 They've got 90 days' warning. All of us have busy  
21 schedules. We have things to do. Let's get it on the  
22 books 90 days from now, whatever that is, October 7th  
23 and 8th or whatever it is. Let's get it done.

24 They've asked for 90 days. We're giving them  
25 90 days. And when you give somebody 90 days to get

1 something done, guess what, they'll get it done in  
2 90 days. If they don't have a 90-day time limit, maybe  
3 they'll want to take a hundred and eighty days or a  
4 hundred and twenty days. Let's get it done. Let's put  
5 it in there. We'll agree by that. We're -- We're  
6 giving them what they want, 90 days. Let's give them  
7 it, and let's get a vote on this and be done with it.  
8 Hopefully it's unanimous that we'll all agree.

9 REPRESENTATIVE MAUTINO: Questions on the motion?

10 Fred, Representative Crespo.

11 REPRESENTATIVE CRESPO: Thank you, Chairman.

12 It seems to me that the motion is being made  
13 acknowledging that the United States Department of  
14 Justice made a request. So we're acknowledging that  
15 through the motion. And we're acknowledging that now.  
16 I think we need to acknowledge that again in 90 days.  
17 My concern is that if we don't insert language that --  
18 that gives -- that pretty much states that they come  
19 back again and ask for 10, 12, whatever amount of days,  
20 we're going to go back to having this debate in 90 days.  
21 I think inserting the language takes that away again,  
22 you know.

23 I think we all agree 90 days is 90 days. I  
24 think we all agree. And I think Senator Barickman said  
25 that, you know, we know what their intentions are, but I

1 think there's nothing wrong with putting that in  
2 writing. And in the absence of having that language in  
3 the motion, it will bring us back to where -- square  
4 one, where we are today.

5 REPRESENTATIVE MAUTINO: We still have some of the  
6 same concerns.

7 So Senator Barickman to close on his motion.  
8 Oh, Representative Sandack.

9 REPRESENTATIVE SANDACK: A lot of this is just  
10 plain silly. Okay? We're getting to the point where  
11 this is plainly silly.

12 Either my friends on the other side of the  
13 aisle of our bipartisan, bicameral Commission don't  
14 believe the conversation occurred yesterday or they do.  
15 I'm going to suggest that you should assume that our  
16 attorneys, Ms. Johnson and Mr. Freiheit, made a phone  
17 call because for the first time in this really  
18 interesting endeavor, we got a communication directly  
19 from the prosecutor involved in the grand jury process.  
20 That gentleman made himself known. Yes. Weeks -- a  
21 week before someone from DOJ, the Department of Justice,  
22 said, Hey, please stand down for 90 days.

23 The propriety of that request we can talk  
24 about another time. It was unusual. Some folks say you  
25 should have stood down right then and there. Okay,

1 fine. Nothing happened in the interim, by the way. No  
2 testimony was adduced. No one was -- No inquiries were  
3 undertaken. We're here because this was the date we set  
4 the meeting.

5 But yesterday at 4:26 we heard from the  
6 gentleman himself, the U.S. Attorney for the Central  
7 District of Illinois, and he said: Stop. Take no  
8 testimony. Take documents if you want. Conclude --  
9 Continue down that process should you wish, but take no  
10 testimony not only from the subpoenaed witnesses but  
11 from no one.

12 So everyone here agrees we're not going to do  
13 that. But because we got the call -- or the letter at  
14 4:26, some of us thought a conversation ought to occur.  
15 So we asked our attorneys to do so.

16 There's nothing partisan about that, by the  
17 way, because anyone could have done that. And I still  
18 suggest anyone can right now should they trouble  
19 themselves to do so.

20 The bottom line is the gentleman said he  
21 needed no more than 90 days, no more than 90 days.  
22 Again, you either believe that or you don't. And if you  
23 don't, maybe that is a problem and maybe that -- this  
24 process has gotten a little emotional. But that's what  
25 was conveyed yesterday, the first day the gentleman

1 prosecutor made himself known that he wished us to stand  
2 down. I'm going to suggest that Co-Chairman Bar- --  
3 Barickman's motion is exactly consistent with that  
4 sentiment.

5 I offered to Co-Chairman Mautino a little  
6 amendment which was summarily dismissed by his counsel  
7 and co-counsel. I suggested we leave the language be  
8 and we put in a little comment that says "unless  
9 otherwise advised in writing not to proceed by the U.S.  
10 Attorney." Gosh, that's darn onerous, isn't it,  
11 considering we got a letter yesterday for the first time  
12 at 4:26, our counsel made a call a half hour, 45 minutes  
13 thereafter, and we were told 90 days, no more, no extra,  
14 proceed ahead?

15 So my slight amendment, I think, is an  
16 ultimate compromise that addresses concerns of  
17 Senator Mulroe and others particularly, and I think it's  
18 a good amendment. And I offer it as a -- as a means of  
19 trying to get past some of this partisan divide and  
20 trying to accomplish something like we used to do in  
21 this Audit Commission, which was always bicameral and  
22 bipartisan. So I'll offer that amendment as a way to  
23 try and bridge some of this, I think -- I hope it's not  
24 credibility -- just emotional gap. Thank you.

25 REPRESENTATIVE MAUTINO: Senator Barickman, to

1 close.

2 SENATOR BARICKMAN: Chairman, thanks.

3 I want to go back to the July -- the July 9th  
4 phone call. That July 9th phone call involved  
5 Representative Mautino and myself, a number of our  
6 counsel. That is a phone call we cooperated on.  
7 There's been suggestions about what was relayed. I  
8 think it's -- we need to remind ourselves -- There were  
9 suggestions about -- We asked what happens if the  
10 90 days isn't true, and they responded. It wasn't just  
11 a question. There was a response. And the response  
12 was: We believe 90 days will allow us to complete the  
13 piece of our investigation that we're in.

14 The communication from them to us was that  
15 in -- I said: What's significant about 90 days, you  
16 know? Are we going to get a -- Are we going to get a  
17 green light? Are we going to get a memo from you that  
18 says go ahead.

19 He said: No. In 90 days, we think we'll --  
20 we will be at a different point, a different place. I  
21 wrote the quote down in my notes. We believe we will be  
22 in a different place. You could interpret that for what  
23 it might mean. Who knows?

24 I asked: Could your -- Could it be sooner  
25 than 90 days? Could it be longer?

1           He said: Well, we really believe it's  
2 90 days. We communicated the 90 days to you because  
3 that is the time frame in which we believe; however, we  
4 might take a less amount of time, we might need more.  
5 We may uncover something tomorrow that suggests we need  
6 more time. And they followed that with: In either  
7 scenario, more time or less, we will let you know.

8           They -- They've told us how they will  
9 communicate with us. They've told us how to treat the  
10 90 days. It's in writing. Words mean something. It's  
11 written by the U.S. Attorney. It says 90 days. It  
12 doesn't say, 90 days and then I'll tell you whether or  
13 not to go. It says, Stop for 90 days, period. Words  
14 matter here, and we do not have the luxury of trying to  
15 interpret that which is not contained in this letter.  
16 He didn't say, 90 days and then ask me whether you  
17 proceed with doing your job. He didn't say, 90 days and  
18 then I'll send you a letter that says where we're at on  
19 an investigation we can't tell you about. He said  
20 90 days, Stop for 90 days.

21           Here's the frustration I think many of us here  
22 have. For all the suggestions of politics, we are  
23 trying to treat this request fairly in light of those  
24 competing -- the balance that exists between doing our  
25 job and letting the Feds do theirs.

1           And what I believe is that our motion clearly  
2 allows us to proceed in a manner that does not impede  
3 that federal investigation, but our -- our motion is  
4 going to take your votes. And without your votes, this  
5 Commission is left with no choice but to proceed with  
6 the investigation -- with the hearings that we're about  
7 to embark upon. That's the choice that we've got before  
8 us here.

9           Now, Representative Sandack has offered what I  
10 think is a good suggestion. That was unilaterally  
11 dismissed without even considering it by the members.  
12 There's been suggestion after suggestion that we need to  
13 talk to the U.S. Attorney. I -- I -- I welcome that  
14 opportunity. Let's go make a call. We're here today to  
15 make this decision on how to proceed, but let's not put  
16 false barriers up that suggest we need to just get out  
17 of here. Let's do our job.

18           I think the -- the communication here is  
19 clear. I think our phone call the other day was clear.  
20 That was one in which you participated in. And I think  
21 for us to -- we've -- we've got dates; we press pause;  
22 and we reconvene on these dates with the witnesses that  
23 we expect to appear before us. Why -- Why we would not  
24 proceed in this fashion suggests that there is a motive  
25 here that is different than the motives we ought to have

1 in trying to perform our review of this audit.

2 So I -- I ask for an "aye" vote on this  
3 motion. I'm concerned about the intentions of those who  
4 vote "no" because they're putting us in a box as to how  
5 we proceed. I ask for an "aye" vote.

6 REPRESENTATIVE MAUTINO: And the motion has been  
7 made by Senator Barickman. It has been moved, and it  
8 has been seconded. And we will now go to a roll call.

9 Ms. Stricklin.

10 SENATOR BARICKMAN: What's your ruling,  
11 Mr. Chairman, in regards to --

12 REPRESENTATIVE MAUTINO: This requires nine votes  
13 as it's -- we are setting a meeting date, and under our  
14 statute, either motion, yours or mine, will require nine  
15 votes.

16 SENATOR BARICKMAN: And so the -- the -- the motion  
17 to set a hearing date is a higher vote total than it is  
18 to subpoena witnesses?

19 REPRESENTATIVE MAUTINO: Yes. Under the -- Under  
20 the Legislative Commission Reorganization Act, that's  
21 actually what the numbers are.

22 Ms. Stricklin.

23 MS. STRICKLIN: Senator Barickman.

24 SENATOR BARICKMAN: Yes.

25 MS. STRICKLIN: Senator Brady.

1 SENATOR BRADY: Yes.

2 MS. STRICKLIN: Senator Manar.

3 SENATOR MANAR: Present.

4 MS. STRICKLIN: Senator Mulroe.

5 SENATOR MULROE: Present.

6 MS. STRICKLIN: Senator Oberweis?

7 SENATOR OBERWEIS: Yes.

8 MS. STRICKLIN: Representative Brauer.

9 REPRESENTATIVE BRAUER: Yes.

10 MS. STRICKLIN: Representative Crespo.

11 REPRESENTATIVE CRESPO: Present.

12 MS. STRICKLIN: Representative Mautino.

13 REPRESENTATIVE MAUTINO: Present. Present.

14 MS. STRICKLIN: Representative Reis.

15 REPRESENTATIVE REIS: Yes.

16 MS. STRICKLIN: Representative Rita.

17 REPRESENTATIVE RITA: Present.

18 MS. STRICKLIN: Representative Sandack.

19 REPRESENTATIVE SANDACK: Yes.

20 REPRESENTATIVE MAUTINO: Would you read the tally,  
21 Executive Director.

22 MS. STRICKLIN: Six, yes, and five, present.

23 REPRESENTATIVE MAUTINO: Six voting yes, five  
24 voting present, the motion does not prevail.

25 Representative -- Senator Mulroe for a motion.

1           SENATOR MULROE: Okay. This is the way we can keep  
2 the 90 days. And according, you know, to  
3 Representative -- Representative Sandack and Senator  
4 Barickman -- You're certain it's going to be done in  
5 90 days, right? So we pick the 90-day date and call  
6 Lewis -- Senator Barickman and Representative Mautino  
7 call Lewis 10 days before and say: Are you guys okay?  
8 Are we -- Is it okay to proceed at this point? And we  
9 don't want to continue with your -- or interfere with  
10 the investigation. If he says, I'm okay, we're done,  
11 boom, the "90 days" date is there. If he then, however,  
12 states that, We're not quite done, We need a little more  
13 time, we don't waste anybody's time coming back here --  
14 we've already talked about it -- and then we just set  
15 another date.

16                       So my motion is to defer and continue the  
17 subpoenas for the purpose of receiving testimony of  
18 witnesses on the Neighborhood Recovery Initiative until  
19 October 10th, 2014, at 10:00 a.m., provided the  
20 Commission receives communication from a representative  
21 of the Office of the U.S. Attorney permitting such  
22 testimony.

23                       There's no reason to vote "no" on this if  
24 you're sure the investigation will be done in 90 days.  
25 You've got your 90 days. There it is. I'd ask you for

1 a "yes" vote.

2 REPRESENTATIVE MAUTINO: We have a motion. Do we  
3 have a second?

4 It's seconded by Representative Rita. So the  
5 motion has been made and seconded.

6 Discussion on the gentleman's motion?

7 Representative Sandack.

8 REPRESENTATIVE SANDACK: Senator Mulroe, John,  
9 we're friends. That seemed personal. And I've got to  
10 tell you I'm disappointed by the sentiment here. I'm  
11 not going to vote "present." I'm not going to duck my  
12 responsibilities and vote "present" to your motion. I  
13 think the "present" concept was -- was frankly  
14 disrespectful.

15 Yes, I think 90 days, this whole thing goes  
16 away. And I welcome -- I'll -- We can take a time-out  
17 right now; you and I will make the phone call to  
18 Mr. Lewis. Would you -- Would you be willing to do  
19 that, hold your motion in abeyance while you and I go  
20 make a phone call? And if -- if Mr. Lewis says what he  
21 said yesterday to my attorney and the Senate  
22 Republicans' attorney, I would expect, as a gentleman,  
23 you would withdraw your motion and resurrect  
24 Senator Barickman's. Is that something you would  
25 entertain, sir?

1           SENATOR MULROE: Here's the problem I have with  
2 that, Ron. And --

3           REPRESENTATIVE SANDACK: It's kind of a yes or no,  
4 John.

5           SENATOR MULROE: It's not -- It's not personal.  
6 Let -- Let me tell you why.

7                    You're an attorney. You go to court. You ask  
8 for a continuance. You hope things are ready. You  
9 don't know until you get there that day. And then you  
10 have to ask for another continuance.

11                   I'm just -- If you're so certain that this  
12 90 days is going to -- you know, and the -- their  
13 investigation will be over and --

14           REPRESENTATIVE SANDACK: I'm working off --

15           SENATOR MULROE: -- we won't be interfering with  
16 it --

17           REPRESENTATIVE SANDACK: -- the gentleman's  
18 concept, what he said. Either -- John, either you  
19 believe that or you don't.

20           SENATOR MULROE: Ron --

21           REPRESENTATIVE SANDACK: If you don't, just say it.

22           SENATOR MULROE: -- I've heard something  
23 inconsistent. I've also heard some other things that  
24 make me a little leery of what's going on.

25           REPRESENTATIVE SANDACK: Okay.

1 SENATOR MULROE: So -- All right. So I'm a little  
2 suspicious of, you know --

3 REPRESENTATIVE SANDACK: Thank you for saying that.  
4 I appreciate that. Because then why wouldn't you take  
5 my amendment which basically took Senator Barickman's  
6 motion and said, comma, "unless advised not to proceed  
7 by the U.S. Attorney"? That would, frankly, permit some  
8 level of good -- good bipartisan --

9 SENATOR MULROE: Ron --

10 REPRESENTATIVE SANDACK: -- spirit.

11 SENATOR MULROE: Ron, you just mentioned it was  
12 nitpicking before. What's the difference if we put  
13 that -- "provided he says it's okay to proceed"?

14 REPRESENTATIVE SANDACK: Because he's already told  
15 us it's okay to proceed. And you, frankly, don't  
16 believe that. And I'm offering you an opportunity --

17 SENATOR MULROE: Ron, I'm not -- He doesn't have --

18 REPRESENTATIVE SANDACK: Then accept it --

19 SENATOR MULROE: -- a crystal ball.

20 REPRESENTATIVE SANDACK: -- as a colleague is --

21 SENATOR MULROE: Ron --

22 REPRESENTATIVE SANDACK: -- telling you it is --

23 SENATOR MULROE: Ron --

24 REPRESENTATIVE SANDACK: -- and we can go from  
25 there.

1           SENATOR MULROE: Ron, they're -- I mean, it's  
2 90 days. Why is that 90 days -- It's not a -- You know,  
3 they don't know when their investigation is going to  
4 continue. They may need more time. That's all I'm  
5 saying, is just call, pick up the phone. You've got --

6           REPRESENTATIVE SANDACK: Let's go. I -- I've made  
7 that absolutely --

8           SENATOR MULROE: Ron, right now --

9           REPRESENTATIVE SANDACK: -- available to you.

10          SENATOR MULROE: -- is not -- is not the right time  
11 to do it. You've set the date. Ten days before, I'll  
12 be happy to call him with you and say, ten days before  
13 this date: Mr. Lewis, is your investigation contin- --  
14 done?

15          REPRESENTATIVE SANDACK: Mr. Chairman --

16          SENATOR MULROE: Will we -- Will we be  
17 interfering --

18          REPRESENTATIVE SANDACK: -- I -- I apologize for  
19 the colloquy.

20                   And I apologize for going back and forth,  
21 John. I'm -- I'm just disappointed that something so  
22 simple and so easily accomplished is taking on a whole  
23 new life. And I think it's exemplified by the "present"  
24 vote. I -- I -- I just think that was a really  
25 disingenuous, somewhat --

1 SENATOR MULROE: Ron, I don't want --

2 REPRESENTATIVE SANDACK: Excuse me. I --

3 SENATOR MULROE: Well, you interrupted me. So if  
4 we're going to -- Just why don't we respect each other  
5 and be civil.

6 REPRESENTATIVE SANDACK: I am.

7 SENATOR MULROE: I'll let you finish, and --

8 REPRESENTATIVE SANDACK: Thank you.

9 SENATOR MULROE: -- then I'll finish.

10 REPRESENTATIVE SANDACK: I appreciate that, John,  
11 and I'm -- I'm happy to hear whatever you have to say.

12 I just think the "present" vote was really an  
13 unpleasant, unnecessary political type of thing. Let's  
14 get beyond that.

15 I offered an amendment to Senator Barickman's  
16 motion. I think it's a -- it accomplishes what you say  
17 you want to have accomplished and it's consistent with  
18 what the gentleman told our lawyers. And either you  
19 believe that or you don't. And if you don't, okay. And  
20 I'm offering a reprieve. Let's go make the call and  
21 satisfy yourself. So I don't know how else to address  
22 this other than in a really fair, open way.

23 SENATOR MULROE: I'll tell you how to address it:  
24 The way this motion does. Set the 90 days. Instead of  
25 a negative, we're saying a positive. Just get

1 clearance. That's it, very simple, very simple. That's  
2 the amendment we're offering obviously and you are  
3 meeting with resistance. You're not happy with that,  
4 and that's okay. That's part of the process. You can  
5 vote "no." You can vote "present." But --

6 REPRESENTATIVE SANDACK: I won't vote "present."

7 SENATOR MULROE: -- this is -- this is the  
8 alternative that will get us to 90 days provided they  
9 say we're not interfering with their investigation. I  
10 just don't -- Why is it so complicated?

11 REPRESENTATIVE SANDACK: You're making it  
12 complicated.

13 SENATOR MULROE: It's not, really.

14 REPRESENTATIVE MAUTINO: Further questions from  
15 members.

16 (No verbal response.)

17 REPRESENTATIVE MAUTINO: I'd like to then speak to  
18 your motion and also to the other statement about the  
19 amendment.

20 The amendment, I had no problem with on the  
21 previous motion. My word and the word which you did not  
22 address is the word "compel," which means if in that  
23 motion, which is not in this, if the Feds tell us --  
24 they don't give us the green light, we don't go. Under  
25 your language, yes, you want something in writing here,

1 but the objections that I had from our members were on  
2 the "compel" side, so we could tell the Feds to go jump  
3 in the lake. Under -- Under that -- Under the concern  
4 from your language -- It's Section 2. The part you  
5 amended doesn't matter.

6 REPRESENTATIVE SANDACK: Okay.

7 REPRESENTATIVE MAUTINO: But we're on to the next  
8 motion --

9 REPRESENTATIVE SANDACK: We weren't talking about  
10 that. The part that doesn't matter, we're talking  
11 about?

12 REPRESENTATIVE MAUTINO: He and I could have made  
13 this agreement before today even started.

14 REPRESENTATIVE SANDACK: Okay. And I'm happy to  
15 listen to whatever language you think should be  
16 replacing "compel."

17 REPRESENTATIVE MAUTINO: Okay. And -- And let  
18 me -- let me bring -- Okay. The language that I think  
19 should be in there is: The motion to defer and continue  
20 subpoenas for the purposes of receiving testimony of  
21 witnesses on the Neighborhood Recovery Initiative until  
22 October 10th, 2014, at 10:00 a.m. -- and this is my --  
23 these are my comments to his motion -- provided that the  
24 Commission receives communication from a representative  
25 of the Office of the United States Attorney permitting

1 such testimony.

2 That was his. It does a couple of things. If  
3 they tell us at any point in time we need more time --  
4 I'm actually commenting on the motion now. I'll go  
5 to -- Okay. Can I finish my statement first?

6 SENATOR BRADY: The only thing I would recommend,  
7 Frank, is we put that in writing so we can see what  
8 you're talking about.

9 REPRESENTATIVE MAUTINO: We gave it to your staff.  
10 It says the same thing other than the word "compel," so  
11 if the Feds say we need more time, we can't say, No,  
12 guys, you don't get more time, I want the witnesses up  
13 here regardless of the status of your investigation.  
14 That is the difference between the two motions.

15 This one says I will be here at 10:00 o'clock  
16 in the morning on October 10th barring any changes from  
17 the Feds. If they say that they're done, guess what,  
18 we're here. That's what this says.

19 The other motion says if they're not done, we  
20 can say: We're coming anyway, and we'll bring them in  
21 regardless of the status of your investigations.

22 That is the difference between the two. That  
23 is what is unacceptable to me now and should be in- --  
24 unacceptable to everyone on this panel. This is pretty  
25 simple. This isn't rocket science guys. On the 10th,

1 if nobody calls us, we're here. If they call -- If they  
2 call and say, We need more time, then, guess what, we  
3 can't tell them we don't. I'm comfortable with that.  
4 So I do support your motion.

5 Senator Brady.

6 SENATOR BRADY: You said something that I didn't  
7 think was consistent, and I -- but I think what you said  
8 is what maybe does make sense and that is you said that  
9 provided we don't hear from them, we're here. And would  
10 you be open to saying provided we don't get notice from  
11 them 10 days prior that they don't want us, then we'll  
12 convene?

13 REPRESENTATIVE MAUTINO: On -- On our phone call,  
14 Bill, they told us they will contact us. So, I mean,  
15 I'm -- I'm --

16 SENATOR BRADY: We know --

17 REPRESENTATIVE MAUTINO: I have confidence --

18 SENATOR BRADY: We know --

19 REPRESENTATIVE MAUTINO: -- in the Feds --

20 SENATOR BRADY: We know they'll --

21 REPRESENTATIVE MAUTINO: We were on the same phone  
22 call.

23 SENATOR BRADY: No, no. We know they'll contact us  
24 when they don't want us to convene. All I'm saying is  
25 put it in there that we will meet provided they have not

1 asked us not to convene.

2 REPRESENTATIVE MAUTINO: I think that's what it  
3 says, doesn't it?

4 SENATOR BRADY: No. It requires an affirmative  
5 from them as opposed to -- I think we're saying the same  
6 thing.

7 REPRESENTATIVE MAUTINO: We're saying the same  
8 thing, Bill. If we receive some kind of  
9 communication --

10 MR. BRADY: You said it --

11 REPRESENTATIVE MAUTINO: That's the language.

12 SENATOR BRADY: But this says here provided the  
13 Commission --

14 REPRESENTATIVE MAUTINO: So if I get a call from  
15 the -- the U.S. --

16 SENATOR BRADY: It says provided the Commission  
17 receives communication from the representative  
18 permitting such testimony.

19 REPRESENTATIVE MAUTINO: Provided that they tell us  
20 it's okay to go forward.

21 SENATOR BRADY: Right. Why don't we just reverse  
22 it and say we will meet -- we will only meet provided  
23 they don't tell us not to meet?

24 REPRESENTATIVE MAUTINO: But that's -- that's the  
25 same argument. It's -- It's not them -- We want to know

1 that it's okay to go forward with them, and that's the  
2 reasoning of the --

3 SENATOR BRADY: And they'll be the first to tell us  
4 that they -- that they --

5 REPRESENTATIVE MAUTINO: Which they told us on the  
6 phone call they will do. And I take them at their word.  
7 I have no problem with this. I have no problem with the  
8 Feds. I do not want to impede. I told that to the Feds  
9 on day one, when I asked that they put it in writing and  
10 tell us what to do with the e-mails.

11 So I am -- I am fine. I will be here on  
12 October 10th at 10:00 a.m. barring the Feds do not say,  
13 We're not done. I will not have a choice then to -- to  
14 tell them, Well, we're not going to listen, We're going  
15 to start this all over again. I want to know their  
16 criminal investigation is not impaired.

17 I've been through these. I've been through  
18 the MSI. I sat and presided over the Blagojevich -- the  
19 audit which ended the governorship with the help of the  
20 Auditor General. So I understand these things. I am  
21 comfortable with the Feds. I've had this conversation  
22 with them in the -- in the past.

23 And I think these members have all said they  
24 want to do this. Now, it's time to do what we said we  
25 are going to do. If the Feds say they're not done, we

1 wait. Otherwise, everybody comes back here. That's  
2 what this says, very, very simple. I support the  
3 motion.

4 SENATOR BRADY: But that's not what it says.

5 SENATOR BARICKMAN: Yeah. Do you want me to ...

6 SENATOR BRADY: Go ahead.

7 SENATOR BARICKMAN: Mr. Chairman, I -- I want to  
8 make sure we understand. What you're saying is not --  
9 does not mesh with what you've put in writing here.  
10 What you've said is that we will -- that provided we  
11 have not received communication requesting a further  
12 deferral, that we would proceed. And I -- And to that  
13 point, I think there's a lot of agreement here with  
14 that. What's in writing does not say that. So your  
15 argument verbally is different from what's in writing  
16 before us.

17 REPRESENTATIVE MAUTINO: So the clarification would  
18 be that prior to that date, we, you and I, will have a  
19 conversation with the federal government and if they  
20 tell us that we are ready -- we are free to go, then we  
21 are free to go and we can meet on that date. That is my  
22 understanding. We're arguing about the word "provided."  
23 Both -- This could be a telephone call; it could be a  
24 conference; but it should be shared between the two  
25 chairmen. And I'm -- I'm fine with that.

1           This language does exactly what everyone says  
2 they want to do. I have just assured you that you and I  
3 together will call Mr. Lewis. I offered earlier for us  
4 to go down and see him as opposed to five minutes into a  
5 committee getting on the phone and trying to do that.  
6 I'm willing to do that. This language should be  
7 acceptable to you and everyone in this room given those  
8 guarantees.

9           SENATOR BARICKMAN: The question is if that -- if  
10 that conversation occurs and the U.S. Attorney -- Look,  
11 when we had the conversation with the -- with the U.S.  
12 Attorney's Office previously, they're vague, they're  
13 ambiguous about what they're doing. They're not giving  
14 us a lot of details. But they're specific about when  
15 they want you to stand down. And they were specific --

16           REPRESENTATIVE MAUTINO: They were very --

17           SENATOR BARICKMAN: -- with us on the phone.

18           REPRESENTATIVE MAUTINO: -- specific. They were  
19 clear.

20           SENATOR BARICKMAN: Our con- --

21           REPRESENTATIVE MAUTINO: No doubt who it came from.

22           SENATOR BARICKMAN: Our concern is -- We can pick  
23 up the phone today, by the way, which we are more than  
24 willing to accommodate, or 10 days prior or 24 hours  
25 prior to any subsequent hearing. The concern is that

1 during those conversations, we don't expect that the  
2 person on the other end of the phone is going to say the  
3 case is closed, we've made decisions, we know how we're  
4 going to proceed.

5 What we think we're going to receive from  
6 them, if anything, is a communication on whether or not  
7 they need -- or -- or the communication that we -- we  
8 would receive from them is whether they intend us to  
9 extend the 90-day period.

10 REPRESENTATIVE MAUTINO: He told you that on the  
11 conversation with us both. I agree. They have said, We  
12 may need less, We made need more. If they need more, I  
13 mean, that's -- then they get more. It's a criminal  
14 investigation on their side, and we're not  
15 investigators.

16 SENATOR BARICKMAN: Certainly.

17 REPRESENTATIVE MAUTINO: We are very good at what  
18 we do to the extent that we do do that and review these  
19 things. And I have respect for this body. I have  
20 respect for the Auditor General and have sat on here for  
21 close to two decades, so I've seen a lot of these  
22 things. My word is good. I will take you at your word.  
23 Your word has been good with me. So between the two --

24 SENATOR BARICKMAN: I think --

25 REPRESENTATIVE MAUTINO: -- of us, we can settle

1 this like we always could have.

2 SENATOR BARICKMAN: So why don't we recess for a  
3 few moments simply for the attorneys to put in  
4 writing --

5 REPRESENTATIVE MAUTINO: The committee --

6 SENATOR BARICKMAN: -- what we think we're agreeing  
7 to.

8 REPRESENTATIVE MAUTINO: -- will stand at ease  
9 for --

10 MR. OCASIO: Can I leave?

11 REPRESENTATIVE MAUTINO: -- for ten.

12 (Discussion off the record.)

13 REPRESENTATIVE MAUTINO: Okay. Members, we are in  
14 the middle of the motion, and so understand that I have  
15 to complete the motion. Representative -- or  
16 Senator Mulroe requests a roll call vote.

17 So with that, this requires nine votes as it  
18 does change dates, and the Senator is due his -- his  
19 vote on his motion. So I will ask Jane to take the  
20 roll.

21 SENATOR BARICKMAN: So we need to read the motion.  
22 I mean, there's been a lot of discussion about what --  
23 And I think there has --

24 REPRESENTATIVE MAUTINO: The motion --

25 SENATOR BARICKMAN: -- been suggestions of an

1 agreement that may not be reflected in the -- in the  
2 motion.

3 REPRESENTATIVE MAUTINO: Well, the gentleman would  
4 like a vote on his motion, which is actually his right.  
5 So let me read the motion and then my apologies to the  
6 Senator for ...

7 The motion is to defer and continue subpoenas  
8 for the purpose of receiving testimony of witnesses on  
9 the Neighborhood Recovery Initiative until October 10th,  
10 2014, at 10:00 a.m., provided the Commission receives  
11 communication from a representative of the Office of the  
12 United States Attorney permitting such testimony.

13 It has been moved and seconded, and the  
14 gentleman is due his roll call. Please call the roll.

15 SENATOR BARICKMAN: You know, Mr. Chairman, again,  
16 we want to know -- we're trying to put the words that  
17 you're saying to paper. Out of respect --

18 REPRESENTATIVE MAUTINO: Okay. We --

19 SENATOR BARICKMAN: Can we -- Can we process --

20 REPRESENTATIVE MAUTINO: Wait until the --

21 SENATOR BARICKMAN: -- what we think we're hearing.

22 REPRESENTATIVE MAUTINO: The gentleman is actually  
23 entitled to his -- his roll call. So I'll give him that  
24 and then we will proceed because the motion has been  
25 made and seconded.

1           For Mulroe's, yes. Yes. So it's -- So please  
2 continue with the roll.

3                           (Discussion off the record.)

4           SENATOR BRADY: Would the gentleman agree to a  
5 temporary recess?

6           REPRESENTATIVE MAUTINO: Call the roll.

7           MS. STRICKLIN: Senator Barickman.

8           SENATOR BARICKMAN: No.

9           MS. STRICKLIN: Senator Brady.

10          SENATOR BRADY: No.

11          MS. STRICKLIN: Senator Manar.

12          SENATOR MANAR: Yes.

13          MS. STRICKLIN: Senator Mulroe.

14          SENATOR MULROE: Yes.

15          MS. STRICKLIN: Senator Oberweis.

16          SENATOR OBERWEIS: No.

17          MS. STRICKLIN: Representative Brauer.

18          REPRESENTATIVE BRAUER: No.

19          MS. STRICKLIN: Representative Crespo.

20          REPRESENTATIVE CRESPO: Yes.

21          MS. STRICKLIN: Representative Mautino.

22          REPRESENTATIVE MAUTINO: Yes.

23          MS. STRICKLIN: Representative Reis.

24          REPRESENTATIVE REIS: No.

25          MS. STRICKLIN: Representative Rita.

1 REPRESENTATIVE RITA: Yes.

2 MS. STRICKLIN: Representative Sandack.

3 REPRESENTATIVE SANDACK: No.

4 REPRESENTATIVE MAUTINO: On a vote of?

5 MS. STRICKLIN: I'm sorry. I didn't hear

6 REPRESENTATIVE SANDACK.

7 REPRESENTATIVE MAUTINO: She didn't hear your vote,

8 Ron.

9 REPRESENTATIVE SANDACK: No.

10 REPRESENTATIVE MAUTINO: He gave you a "no."

11 MS. STRICKLIN: Five "aye" and six "nay."

12 REPRESENTATIVE MAUTINO: On a vote of five voting

13 "yes," six voting "no," that motion is defeated.

14 We will stand at ease for a few moments so  
15 that we can take a look at Round 3 and hopefully come up  
16 with an agreement. Because I do not think we are far  
17 away. And we will recess to the call of the chair.

18 (A short break was had.)

19 REPRESENTATIVE MAUTINO: If I can call the Audit

20 Commission back to order.

21 We've gain some ground on the area of  
22 documents today. We're -- And we've been working for  
23 the past hour, hour and a half on language because it is  
24 apparent that all members want to grant the 90 days'  
25 deference. We have not gotten to an agreement at this

1 point on how to get there and -- and get that done. So  
2 we have a logjam right now. The witnesses and folks  
3 have been sitting here for -- all day, so.

4 I would ask Senator Barickman to -- to make  
5 some comments on where we stand, getting ready to  
6 continue to work on this, whether it would have to be  
7 tomorrow or -- How do you wish to proceed?

8 SENATOR BARICKMAN: Thank you, Mr. Chairman.

9 It's extremely unfortunate that the members  
10 here could not find common ground on this. And I must  
11 say that the -- I think that from the perspective of the  
12 Republicans, we've approached this hearing with an  
13 attitude that suggested we do not want to impede this  
14 federal investigation. We put forward a motion that I  
15 think was reasonable, and that motion preserved the  
16 status quo that exists today.

17 Even in the course of these -- the private  
18 deliberations that just occurred, it's disheartening to  
19 know that even in the last offer made by those objecting  
20 to our motion, that last offer did not include a date  
21 certain for which we will reconvene. And I hope and I  
22 trust that tomorrow reasonable heads will prevail; that  
23 this body will conduct itself in accordance with that  
24 which has been requested by the U.S. Attorney and no  
25 further; that we will preserve the status quo of where

1 we are today; and that we will -- that we will  
2 acknowledge and accept that which has been asked of us  
3 by the U.S. Attorney's Office.

4 So I'm extremely disappointed. I think  
5 there's members here that are likely extremely  
6 frustrated with the unwillingness to strike reasonable  
7 ground on how we preserve the status quo today. So I  
8 look forward to tomorrow, and I hope that tomorrow is  
9 much more productive than it is today.

10 REPRESENTATIVE MAUTINO: And from the Democratic  
11 perspective, I'm glad that we had the opportunity to  
12 deal with the issue of documents, that we are all headed  
13 in the same direction of not hearing testimony and  
14 giving the 90-day deference to the federal government.  
15 I think that is appropriate. I think that when they  
16 are -- when they are concluded, hopefully within that  
17 90 days, they will give us the green light so we are not  
18 impeding criminal investigations, which this body has  
19 always, always given deference to the federal  
20 government.

21 And the Democrats stand ready to -- to work on  
22 that tomorrow. We became -- came very close in the  
23 course of this. We are down to two short issues.  
24 Hopefully we can work through those tomorrow. And I am  
25 always in favor of compromise. So we will continue

1 those tomorrow.

2 Any closing comments from any of the members  
3 for today? And I also appreciate all of you who have  
4 joined with us and -- and spent the day.

5 Representative Crespo.

6 REPRESENTATIVE CRESPO: I just want -- Two  
7 questions actually. Some clarification on what the  
8 agenda is going to be tomorrow. And I'm not sure if we  
9 know what the agenda is going to be, first.

10 And then, secondly, this committee comes  
11 before my Appropri- -- my Appropriations Committee. Do  
12 we know how much this is costing us, by the way?

13 REPRESENTATIVE MAUTINO: The -- Could you restate  
14 the question. I was --

15 REPRESENTATIVE CRESPO: It was a two-part question.  
16 Number one, do we have any idea what's on the agenda for  
17 tomorrow?

18 REPRESENTATIVE MAUTINO: We have items remaining on  
19 the agenda, consent calendar, financial statements, just  
20 the standard operating procedures. I do not -- Well,  
21 we'll see what happens tomorrow when we -- when we get  
22 back, as far as the witnesses.

23 Senator Barickman, should the witnesses return  
24 tomorrow?

25 SENATOR BARICKMAN: Again, the -- the frustration

1 of not coming to a reasonable agreement here is that we  
2 have issued subpoenas which this body must respect.  
3 The -- You know, the institution has issued subpoenas.  
4 We have not reached an agreement on how we would defer  
5 any testimony. So the only logical conclusion for the  
6 body to assume is that the subpoenas are in order and  
7 that the witnesses are expected to appear and comply  
8 with the -- with the subpoena.

9 REPRESENTATIVE CRESPO: Thank you.

10 And my final question, Chairman, is: How much  
11 is this costing this committee? They come before my  
12 Appropriations Committee. I'm trying to get a sense. I  
13 don't think I allotted enough funding for something like  
14 this. Do we know?

15 REPRESENTATIVE MAUTINO: Yes, I do, but you may  
16 want to direct that question to -- If I can answer it,  
17 the -- the two-day hearing is \$3,985 of our \$4,000  
18 travel budget. That leaves \$1,000 remaining in the  
19 commodities budget and \$1500 remaining in the -- the  
20 data processing and telephone lines. Everything else  
21 out- -- outside of that is -- are the salaries of Mary,  
22 Mary, and Jane.

23 REPRESENTATIVE CRESPO: Thank you.

24 REPRESENTATIVE MAUTINO: And we had a -- a question  
25 from one of the members?

1 (No verbal response.)

2 REPRESENTATIVE MAUTINO: Oh, I thought you were  
3 seeking recognition.

4 Okay. So it is the -- it is the intent that  
5 rather than -- that we would come back tomorrow, and you  
6 had requested that the witnesses all be here for  
7 tomorrow. We can continue to work on the issue of  
8 resolution in our -- our group to -- or the members here  
9 to reach some kind of accommodation with the federal  
10 government. We can do that, or we can adjourn and  
11 between the chairmen try and work out an agreement  
12 between us as opposed to the shuttled diplomacy.

13 So it sounds like -- Well, there -- the -- the  
14 two offers -- the offer would be that Chairman Barickman  
15 and I can try and work out some agreement between  
16 ourselves if we did not want to spend the money or incur  
17 cost tomorrow, which is -- I think is where  
18 Representative Crespo was going. So we could do that,  
19 either way. We can meet here, or we can adjourn and  
20 Chairman Barickman and I can try to work out an  
21 agreement for -- I throw that out as an option that's  
22 there. So seeing --

23 Representative Brauer.

24 REPRESENTATIVE BRAUER: Thank you, Mr. Chairman.

25 We still have this issue of the subpoenas

1 that's hanging over us. I mean, what -- what are we  
2 going to do with that? Is that something that -- you  
3 know, that we're just going to treat lightly and ignore,  
4 or is it something that we're going to address?

5 REPRESENTATIVE MAUTINO: No. I -- I think that  
6 they need to be addressed. That's what we've been doing  
7 all afternoon today on the documents, and we resolved  
8 one piece of it.

9 REPRESENTATIVE BRAUER: Okay.

10 REPRESENTATIVE MAUTINO: We resolved the  
11 documentation, which Jane will put everything out there  
12 that we received and that we have received on the LAC  
13 website. The --

14 REPRESENTATIVE BRAUER: So everybody is instructed  
15 to show up tomorrow then that's subpoenaed?

16 REPRESENTATIVE MAUTINO: Yeah. That's -- That was  
17 my question, is barring -- If we had reached an  
18 agreement tonight on that language, we could potentially  
19 have not met tomorrow just because the -- we would have  
20 agreed not to take testimony. So I think we still will  
21 have work to do on that tomorrow. And the heads nodding  
22 in agreement tell me that's so.

23 So the -- So how should we proceed?

24 (No verbal response.)

25 REPRESENTATIVE MAUTINO: Can someone make a -- make

1 a motion?

2 Representative Brady.

3 SENATOR BRADY: Well, it's my belief that we should  
4 let staff try to work out a resolution over the night.  
5 We convene tomorrow. We receive the documents that we  
6 were told we were going to receive or an explanation why  
7 we didn't. We then determine how we're going to -- the  
8 next steps we take for those people who didn't comply  
9 with the documents and the subpoenas with the hope for a  
10 resolution, that we can come to an agreement on the  
11 testimony subpoenas tomorrow. And -- But it doesn't  
12 seem like we're going to resolve anything tonight.

13 And it's unfortunate that resources are  
14 expended, but this is a responsibility we can't ignore.  
15 And to think that we would do so just because of that, I  
16 think, is wrong.

17 REPRESENTATIVE MAUTINO: Senator -- Well, just -- I  
18 mean, if we're not going to take testimony, in addition  
19 to the things that we had mentioned there, we also have  
20 to pay mileage and per diem, which is not figured into  
21 those monies, for anyone that we've compelled to set up  
22 here. So, I mean, we've got to take the financial  
23 wherewithal into consideration as chairmen.

24 Senator Oberweis.

25 SENATOR OBERWEIS: Mr. Chairman, let me say that

1 I'm personally very disappointed that you have not  
2 reached an agreement.

3 To try to prod things along, as you know, I  
4 called the U.S. Attorney's Office. They said that  
5 Mr. Sandack's proposal was absolutely -- and that's the  
6 word they used -- absolutely fine with them, to postpone  
7 the testimony for 90 days, and that they would be  
8 willing to give us a written notification at least  
9 10 days prior to the end of the 90 days. And they were  
10 perfectly happy and satisfied with that.

11 The fact that you're unwilling to accept that  
12 is -- is incredibly disappointing to me. You're going  
13 to be wasting --

14 REPRESENTATIVE MAUTINO: Senator Oberweis --

15 SENATOR OBERWEIS: Now, let me finish --

16 REPRESENTATIVE MAUTINO: -- that was our motion.

17 SENATOR OBERWEIS: -- please. Let me finish.

18 REPRESENTATIVE MAUTINO: It was your language.

19 SENATOR OBERWEIS: It's very disappointing that you  
20 have been unwilling to put that into writing and to  
21 complete that. And I believe that the process that  
22 we're going through to come back here and have everybody  
23 come back here tomorrow wastes time if you resolve it,  
24 and if you don't resolve it, that we're going to begin  
25 taking testimony tomorrow in opposition to what has been

1 requested by the U.S. Attorney. And I think that's very  
2 disappointing.

3 I would suggest as a possible solution that  
4 you and Senator Barickman work for the next two hours to  
5 try to resolve it and get it in writing and then notify  
6 us that we don't need to come tomorrow if you can  
7 resolve it in the next two hours. Otherwise, I believe  
8 the witnesses should be prepared to begin to present  
9 testimony tomorrow.

10 REPRESENTATIVE MAUTINO: Senator, that is the exact  
11 motion that we voted on. Actually I took your language  
12 into that, and I placed it.

13 Let me just read it again: Motion to defer  
14 and continue the subpoenas for the purpose of receiving  
15 testimony of witnesses on the Neighborhood Recovery  
16 Initiative until -- Excuse me.

17 Sure, they gave me the wrong paper. Hang on.

18 Right here. Here we go. Here it is.

19 This is your language that you and I talked  
20 about in the corner, at your chair: Motion to defer and  
21 continue the subpoenas for the purpose of receiving  
22 testimony of witnesses on Neighborhood Recovery  
23 Initiative until October 10th, 2014, at 10:00 a.m.,  
24 provided the Commission receives communication from a  
25 representative of the Office of the Attorney General

1 permitting such testimony.

2 And everybody is --

3 SENATOR OBERWEIS: On the contrary, that's not at  
4 all what I asked the U.S. Attorney. I had made it very  
5 clear in talking to the U.S. Attorney -- -

6 REPRESENTATIVE MAUTINO: No, no. It's --

7 SENATOR OBERWEIS: -- and they were perfectly --

8 REPRESENTATIVE MAUTINO: -- what you and I just  
9 talked --

10 SENATOR OBERWEIS: -- happy with our suggestion,  
11 our request that they would notify us if they wished us  
12 to further delay. It's the difference between a  
13 negative and a positive response. They were perfectly  
14 happy without a response. I don't understand why you  
15 keep trying to badger it and beat it back in the other  
16 direction. This could be resolved right now if you  
17 accept the U.S. Attorney's recommendation.

18 REPRESENTATIVE MAUTINO: I just read it. That's --  
19 That's what it does.

20 SENATOR OBERWEIS: That is not what it does. Let  
21 me -- Let me say it one more time. I don't know if you  
22 just don't want to understand, but I said it to you six  
23 times. What we have requested is we will agree to delay  
24 testimony for 90 days and there will be no testimony if  
25 and only if the U.S. Attorney's Office 10 days prior to

1 the end of that 90 days notifies us in writing that they  
2 want us to delay further. If they don't notify us by  
3 that time, there will be testimony had. That's what  
4 they suggested, agreed to, and said, absolutely, that is  
5 perfectly fine with them.

6 REPRESENTATIVE MAUTINO: And he said he would  
7 notify us if it is fine to proceed, which is what I've  
8 been asking --

9 SENATOR OBERWEIS: No, they did not --

10 REPRESENTATIVE MAUTINO: -- all long.

11 SENATOR OBERWEIS: -- say they would notify us if  
12 it's fine to proceed. They said they were willing to  
13 notify us if they wished us to delay. There is a  
14 difference. What's wrong with accepting their agreement  
15 to notify us if they wish to further delay the -- the  
16 testimony? We can resolve it right now if you just go  
17 along with what the U.S. Attorney has suggested.

18 REPRESENTATIVE MAUTINO: I have. I've made that  
19 motion and --

20 SENATOR OBERWEIS: You have not --

21 REPRESENTATIVE MAUTINO: -- wrote it down.

22 SENATOR OBERWEIS: Frank, you're a smart guy. I  
23 don't believe that you're not getting the distinction  
24 here because it's pretty obvious.

25 REPRESENTATIVE MAUTINO: Under --

1           SENATOR OBERWEIS: Do you want us to write it so  
2 that it's clear?

3           REPRESENTATIVE MAUTINO: Actually we've each  
4 written five drafts of the same language, including --  
5 and it's gone back and forth between those members.

6                   My only point is -- And it has never changed.  
7 And it has not varied the last two weeks, when I tried  
8 to get this discussion of our members done prior to  
9 getting to this point, because it never needed to get  
10 here. We delay, as we were asked, for 90 days. At that  
11 point, we get the green light from him to say that's --  
12 yeah, we're not going to -- we're not interfering.  
13 That's pretty simple, and everyone agrees to it. And  
14 you just mentioned he just said the same thing.

15           SENATOR OBERWEIS: That is not what he said. Are  
16 you -- Please tell me you're just playing politics, that  
17 you're -- you're not missing this point.

18           REPRESENTATIVE MAUTINO: I'm probably --

19           SENATOR OBERWEIS: Because the point --

20           REPRESENTATIVE MAUTINO: -- the least --

21           SENATOR OBERWEIS: -- is significant.

22           REPRESENTATIVE MAUTINO: -- political person in  
23 this room.

24           SENATOR OBERWEIS: The point again is whether or  
25 not they give us notice of whether they wish us to not

1 proceed. That would be the normal thing, the normal  
2 procedure if they don't want you to proceed, to give you  
3 notice that they don't want you to go forward. It would  
4 not be normal for them to issue directions that it's  
5 okay to go ahead and proceed, which is what you're  
6 asking for, which is quite different than what we  
7 proposed and quite different from what the U.S. Attorney  
8 has suggested.

9 REPRESENTATIVE MAUTINO: I appreciate that you and  
10 I will disagree on that point because if he comes back  
11 and says, I'm not done with my investigation, we can  
12 compel those people and the witnesses, which was not the  
13 expressed wish of any one of these members.

14 Senator Mulroe.

15 SENATOR OBERWEIS: So you are unwilling to accept  
16 the recommendation of the U.S. Attorney?

17 REPRESENTATIVE MAUTINO: I am always willing to --

18 SENATOR OBERWEIS: For political purposes, you want  
19 to object to the suggestion of the U.S. Attorney?

20 REPRESENTATIVE MAUTINO: I haven't talked to the  
21 State's Attorney --

22 SENATOR OBERWEIS: I tried to put -- No. U.S.  
23 Attorney.

24 And I tried --

25 REPRESENTATIVE MAUTINO: U.S. Attorney.

1 SENATOR OBERWEIS: -- to put him on the phone with  
2 you. I also offered it --

3 REPRESENTATIVE MAUTINO: And it should be --

4 SENATOR OBERWEIS: -- to Senator Manar, to hear  
5 him. I had him on the phone this afternoon, an hour  
6 ago.

7 REPRESENTATIVE MAUTINO: With all due respect, we  
8 are the co-chairmen. I offered in the beginning, this  
9 morning, to have that conversation. I think it  
10 should -- Because granted he only sent his letter  
11 12 hours ago or 15 hours ago, but the Democrat --  
12 24 hours? Sorry. It's been -- It's been a long  
13 hearing. However -- It's been a full day.

14 SENATOR OBERWEIS: Would you like to have --

15 REPRESENTATIVE MAUTINO: However, he spoke --

16 SENATOR OBERWEIS: -- that conversation right now?

17 REPRESENTATIVE MAUTINO: He spoke with -- with the  
18 members, the Republican members --

19 SENATOR OBERWEIS: Would you like to have the  
20 conversation right now?

21 REPRESENTATIVE MAUTINO: We have -- We'll move on  
22 with these. We will work on it tomorrow.

23 SENATOR OBERWEIS: Is that a no, you do not want to  
24 talk to him, you don't want to hear the recommendation  
25 of the U.S. Attorney?

1 REPRESENTATIVE MAUTINO: I have no problem -- I've  
2 been the one who has been pushing that we should listen  
3 to him and to --

4 SENATOR OBERWEIS: Then let's listen to him --

5 REPRESENTATIVE MAUTINO: -- get the green light.

6 SENATOR OBERWEIS: -- right now.

7 REPRESENTATIVE MAUTINO: Senator Mulroe.

8 SENATOR MULROE: I guess my -- what I actually  
9 would prefer, that the co-chairs figure this out and we  
10 don't waste any more time on it tomorrow; we delay  
11 15 days for the production of the documents, give people  
12 a reasonable opportunity to provide those documents; and  
13 then we reconvene when the co-chairs have figured this  
14 out because we've been batting this thing around for  
15 two hours.

16 In the alternative, I'd move to reconvene  
17 until tomorrow. But I -- I'm not sure that a lot is  
18 going to get done tomorrow either.

19 REPRESENTATIVE MAUTINO: Representative Reis.

20 REPRESENTATIVE REIS: Thank you, Mr. Chairman.

21 This is embarrassing, absolutely embarrassing.  
22 I'm not sure if anybody is left even watching. But, you  
23 know, we've been here for seven hours and haven't asked  
24 one question.

25 There's a couple agencies in here that owe the

1 State of Illinois hundreds of thousands of dollars. It  
2 could pay for our hearings, but we can't ask about it.

3 We've dithered around here all day with legal  
4 words, procedures. We argued that we've needed 90 days.  
5 We gave 90 days. Now, you want a "green light" letter.  
6 We should ignore these letters from the U.S. Department  
7 of Justice and only follow a letter that might come  
8 in -- in October. This is just -- just craziness. The  
9 people of Illinois, regardless of what they feel about  
10 this audit, are embarrassed.

11 I would make a motion, Mr. Chairman, that you  
12 and Co-Chairman Barickman get on the phone with the  
13 Department of Justice and figure out -- or eliminate all  
14 this "he said, she said" stuff tonight --

15 REPRESENTATIVE MAUTINO: Both of us --

16 REPRESENTATIVE REIS: -- or tomorrow morning, both  
17 of you on the phone. And it might help give us some  
18 resolution to this issue so that we can get this figured  
19 out. So I would make that a formal motion.

20 REPRESENTATIVE MAUTINO: You actually don't need a  
21 formal motion. We can do that.

22 SENATOR BARICKMAN: I would like --

23 REPRESENTATIVE MAUTINO: Are you okay?

24 SENATOR BARICKMAN: I offered that all day.

25 REPRESENTATIVE MAUTINO: We've -- Yeah. So have I.

1 REPRESENTATIVE SANDACK: I think I've said that  
2 about 15 times today.

3 REPRESENTATIVE MAUTINO: And so have I.

4 REPRESENTATIVE REIS: Just to clarify,  
5 Mr. Chairman, the U.S. Attorney, so that we can get some  
6 clarification of this.

7 REPRESENTATIVE MAUTINO: Fine.

8 SENATOR BARICKMAN: I think the reason for the  
9 gentleman's motion is because we have made this request  
10 of you, Mr. Chairman, repeatedly throughout the day and  
11 there -- and it's been made with your counsel present.  
12 And there's a continued denial of that request of ours.  
13 You have refused thus far to pick up the phone with us  
14 to have that conversation. Representative Reis's  
15 motion --

16 REPRESENTATIVE MAUTINO: I have never --

17 SENATOR BARICKMAN: -- is only necessary --

18 REPRESENTATIVE MAUTINO: -- refused.

19 SENATOR BARICKMAN: -- because of the refusal that  
20 has occurred throughout the afternoon. I think  
21 Mr. Reis's motion, unfortunately, is in order. And  
22 whether it's tonight or first thing tomorrow morning, I  
23 think we need to make that call so that we can answer  
24 the direction that apparently is needed by a number of  
25 members of your party, by the Democrats, for how we

1 proceed.

2 REPRESENTATIVE MAUTINO: I have actually been  
3 asking that we have the conversation, you and I, with  
4 the -- with the U.S. Attorney all week on here. I asked  
5 for a meeting of this entire body so that we did not  
6 have to go through seven hours of this. I've always  
7 been willing and am willing to talk to and actually  
8 think we should talk to --

9 SENATOR BARICKMAN: When do we do it?

10 REPRESENTATIVE MAUTINO: -- the -- the attorney.

11 REPRESENTATIVE SANDACK: Tomorrow.

12 REPRESENTATIVE MAUTINO: Tomorrow? I am fine with  
13 that. I think -- And I have always been.

14 I think we resolved some of the issues that we  
15 needed to on the documents today. I do not think this  
16 is insurmountable. I do not think we should hear from  
17 any witnesses. We should comply with the Feds, and we  
18 should get a green light. And we will -- that would be  
19 where I stand today.

20 So --

21 SENATOR OBERWEIS: Mr. Reis had a motion.

22 REPRESENTATIVE MAUTINO: -- David, is that good  
23 with you? I'll talk to them at 9:02, to the Feds?

24 He said 9:02, so. We're going to be here  
25 anyway.

1 And do you want to withdraw the motion, David?

2 (Discussion off the record.)

3 SENATOR OBERWEIS: Can I make a motion instead?  
4 Can you withdraw the motion and let me make a motion?

5 REPRESENTATIVE REIS: Yes, Mr. Chairman. You've  
6 always been a member of your word, and -- and I trust  
7 that that will happen. Thank you. I withdraw my  
8 motion.

9 REPRESENTATIVE MAUTINO: That will occur. Okay.  
10 Thank you.

11 Motion has been withdrawn.

12 SENATOR OBERWEIS: Mr. Chairman, I have a motion I  
13 would like to make.

14 REPRESENTATIVE MAUTINO: Okay.

15 SENATOR OBERWEIS: In accordance with the  
16 communication requesting the Legislative Audit  
17 Commission refrain from conducting interviews or  
18 receiving testimony for a period of 90 days that was  
19 received from the U.S. Department of Justice on  
20 July 9th, 2014, and confirmed by U.S. Attorney James A.  
21 Lewis, I move the following: One, that the Legislative  
22 Audit Commission reconvene on October 7th and 8th, 2014,  
23 unless the U.S. Attorney for the Central District of  
24 Illinois requests a further delay and that the subpoenas  
25 issued to Barbara Shaw, Malcolm Weems, Jack Lavin, Toni

1 Irving, Billy Ocasio, Warren Ribley, and Andrew Ross for  
2 appearance and testimony be continued until October 7th  
3 at 10:00 a.m. and October 8th, 2014, at 9:00 a.m.; and,  
4 two, that pursuant to the previously issued subpoenas as  
5 they pertain to relevant documents, Barbara Shaw,  
6 Malcolm Weems, Jack Lavin, Toni Irving, and Billy Ocasio  
7 submit such documents to the Commission by July 17th,  
8 2014.

9 REPRESENTATIVE MAUTINO: Can you give our staff a  
10 copy of that? Or is that the same motion that was voted  
11 down and defeated?

12 SENATOR BARICKMAN: My understanding -- And,  
13 Representative Sandack, Senator Mulroe, this language  
14 was an attempt to document -- document the verbal  
15 agreement that the two of you struck in the hall there.  
16 We put it in writing. I think Senator Oberweis has  
17 presented that agreement, and I second it.

18 REPRESENTATIVE MAUTINO: And this is the first that  
19 I've seen of that, so please me allow me some time.

20 So in this motion you're removing Warren  
21 Ribley and Andrew Ross from documents? Okay. As this  
22 is a -- a new -- this would be version Number 7, 8, or 9  
23 of our proposal in trying to reach a very simple  
24 agreement on a very complicated issue.

25 REPRESENTATIVE SANDACK.

1 REPRESENTATIVE SANDACK: Thank you, Mr. Chairman.

2 While your learned counsel look over the  
3 language, the concept was what John Mulroe and I  
4 discussed and is consistent with what Senator Oberweis  
5 mentioned. I think it was what I gave you about  
6 two hours ago in the back -- a little bit of backhanded,  
7 back-of-the-envelope stuff, but it basically says we  
8 continue in 90 days, we abide by what the U.S. Attorney  
9 has asked us to abide by, and in the absence of an  
10 affirmative, Don't go there, Stop what you're doing, we  
11 can proceed.

12 That is consistent with what he told our  
13 counsel. It is consistent with what his first U.S.  
14 Assistant told Senator Oberweis, and it is consistent  
15 with the spirit in which John and I, I think, struck a  
16 concept and a fair deal. It's reasonable. It's  
17 bipartisan. Darn it, it ought to be bicameral too here  
18 right now. It is an easy path for us to proceed.  
19 Please take it in that spirit. No one wins, or everyone  
20 wins. Certainly no one loses.

21 Thank you, Mr. Chairman.

22 REPRESENTATIVE MAUTINO: It sounds like we are --  
23 we're getting closer. I -- What I would like to do on  
24 this, very simply, is that I want to have the  
25 conversation tomorrow morning at 9:02 --

1 REPRESENTATIVE SANDACK: And that's fine.

2 REPRESENTATIVE MAUTINO: -- on this -- on his word,  
3 as to what he's going to do. If you'll take me on my  
4 word on that, then tomorrow we can come back with your  
5 motion. I will make that decision once I hear from the  
6 U.S. Attorney, that --

7 REPRESENTATIVE SANDACK: Yes.

8 REPRESENTATIVE MAUTINO: -- that that's what he  
9 said. Are you fine with that?

10 REPRESENTATIVE SANDACK: Yes.

11 REPRESENTATIVE MAUTINO: So until --

12 REPRESENTATIVE SANDACK: Sounds great.

13 REPRESENTATIVE MAUTINO: -- tomorrow, will you  
14 withdraw your motion?

15 SENATOR OBERWEIS: Will you vote in favor of the  
16 motion if the attorney tells you that that is his --

17 REPRESENTATIVE MAUTINO: This is the motion that  
18 you --

19 SENATOR OBERWEIS: I'll take your word --

20 REPRESENTATIVE MAUTINO: -- just handed --

21 SENATOR OBERWEIS: -- for it. You don't have to  
22 put it in writing.

23 REPRESENTATIVE MAUTINO: No, no. But let me --  
24 before you hand me a legal document and say, Oh, will  
25 you buy into this, let me talk to the U.S. Attorney.

1           SENATOR OBERWEIS: And all I'm saying is if the  
2 U.S. Attorney says that's what he said, will you support  
3 this?

4           REPRESENTATIVE MAUTINO: Then let's see what the  
5 language says. I'm not going to give you a blanket  
6 before I talk to him. I've never been that naive.

7           SENATOR OBERWEIS: You can see what the language  
8 says. You've got it right in front of you.

9           REPRESENTATIVE MAUTINO: One of the questions  
10 that -- Well, there may be questions from our members on  
11 some of the individual pieces of that that we'll have to  
12 negotiate, that we can get through. And I've always  
13 been reasonable and have worked with you on these, and I  
14 continue to do so.

15                   Tomorrow I will speak to -- Along with -- My  
16 suggestion is Senator Barickman and all four legal  
17 counsels will meet. We'll have that conversation, and  
18 then we're all on the same page. From that point ...

19                                   (Discussion off the record.)

20           REPRESENTATIVE MAUTINO: Questions? The staff said  
21 it's good and valid.

22                   What about the -- the witnesses? Do we  
23 dismiss the witnesses tomorrow to deal with this issue  
24 or have them come back?

25           SENATOR BRADY: Come back.

1           SENATOR OBERWEIS: Come back. Unless you deal with  
2 it tonight.

3           REPRESENTATIVE MAUTINO: Well, you know, you've had  
4 the advantage of talking with the U.S. Attorney. I  
5 would like that as chairman of the committee, to do  
6 that.

7           SENATOR OBERWEIS: I've tried to get you to get on  
8 the phone, for God's sake. Andy Manar --

9           REPRESENTATIVE MAUTINO: I was meeting with your  
10 people on your proposal at that time, so.

11           And -- Regardless, tomorrow that conversation  
12 will take place, and then we will go from there.

13           Mr. Brauer.

14           REPRESENTATIVE BRAUER: You know, I certainly hope  
15 we can come to a resolution tomorrow on this. Assuming  
16 that we don't, do we make plans here for another night?

17           REPRESENTATIVE MAUTINO: No. Our agenda is for  
18 tomorrow.

19           REPRESENTATIVE BRAUER: But if we don't agree to  
20 adjourn, then we're still here.

21           SENATOR OBERWEIS: We still have testimony.

22           REPRESENTATIVE MAUTINO: That -- That will be the  
23 discussion for tomorrow. As I said, I'll look forward  
24 to talking to the U.S. Attorney first thing in the  
25 morning.

1 REPRESENTATIVE BRAUER: So that's a possibility,  
2 that we could still be in --

3 REPRESENTATIVE MAUTINO: Oh, further days? No. We  
4 are scheduled for tomorrow. Today and tomorrow were the  
5 two days for this meeting, which was agreed upon in the  
6 subcommittee. And so let us hope that we can resolve  
7 these things tomorrow.

8 REPRESENTATIVE BRAUER: Well, I certainly --

9 REPRESENTATIVE MAUTINO: Otherwise --

10 REPRESENTATIVE BRAUER: -- hope we can.

11 REPRESENTATIVE MAUTINO: -- a new date would have  
12 to be set. But let's keep going with the positives  
13 here.

14 I will speak with the U.S. Attorney tomorrow  
15 along with Senator Barickman and all four legal  
16 counsels, first thing in morning, and see if we can come  
17 to an agreement where we are not interfering or taking  
18 testimony. That would be our wishes.

19 (Discussion off the record.)

20 REPRESENTATIVE MAUTINO: Yes. Oh, okay. We're --  
21 Right now, at this time, I would entertain a motion that  
22 the Legislative Audit Commission stand adjourned until  
23 the hour of 9:00 a.m. tomorrow. And actually I can't  
24 make that motion from in the chair.

25 Would you make that motion?

1 REPRESENTATIVE SANDACK: Mr. Chairman, I move that  
2 we recess to the call of the chair tomorrow, 9:00 a.m.,  
3 July 17, same place, same station.

4 REPRESENTATIVE MAUTINO: Okay. We have a motion  
5 that we recess to the call of the chair and seconded by  
6 Representative Rita. All in favor say "aye."

7 (Discussion off the record.)

8 REPRESENTATIVE MAUTINO: We have a substitute  
9 motion from Representative Sandack.

10 REPRESENTATIVE SANDACK: Thank you for the second  
11 bite at the apple.

12 Motion to adjourn until tomorrow at 9:00 a.m.,  
13 Thursday, July 17.

14 Thank you, Mr. Chairman.

15 REPRESENTATIVE MAUTINO: Motion has been made and  
16 seconded by Representative Rita. All in favor, signify  
17 by "aye."

18 (Chorus of ayes.)

19 REPRESENTATIVE MAUTINO: Opposed, same sign.

20 And we are adjourned.

21 (The meeting of the above-entitled  
22 cause was adjourned at 5:42 p.m.,  
23 July 16, 2014, until 9:00 a.m.,  
24 July 17, 2014.)

25

1 STATE OF ILLINOIS )  
 ) SS.

2 COUNTY OF COOK )

3

4 Cheryl A. Goetsch, being first duly sworn, on  
5 oath says that she is a Certified Shorthand Reporter and  
6 Registered Professional Reporter, doing business in the  
7 City of Chicago, County of Cook and the State of  
8 Illinois;

9 That she reported in shorthand the proceedings  
10 had at the foregoing Meeting;

11 And that the foregoing is a true and correct  
12 transcript of her shorthand notes so taken as aforesaid  
13 and contains all the proceedings had at the said  
14 Meeting.

15

16

17

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CHERYL A. GOETSCH, CSR, RPR

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19 CSR No. 084-003502

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<b>A</b>	123:19	51:15 54:1 75:3	<b>affirmatively</b>	203:15,21
<b>abeyance</b> 181:19	<b>accomplish</b>	120:18 204:6	65:19,19	204:18,22
<b>abide</b> 219:8,9	34:22 174:20	<b>addresses</b> 116:14	<b>afford</b> 70:6	205:10 206:2
<b>ability</b> 12:19	<b>accomplished</b>	116:19 120:2,9	<b>affront</b> 60:11	209:14 218:15
151:8	184:22 185:17	174:16	61:7	218:17,24
<b>able</b> 23:22 55:9	<b>accomplishes</b>	<b>addressing</b>	<b>aforsaid</b> 225:12	223:17
65:5 84:19	185:16	161:25	<b>afternoon</b> 84:22	<b>agrees</b> 173:12
89:13 92:23	<b>account</b> 98:11	<b>adduced</b> 173:2	84:23 128:14	210:13
100:10 121:2	<b>Accountability</b>	<b>adhere</b> 170:8	129:23 136:8	<b>Ah</b> 50:12
127:8 150:4	116:13	<b>adjourn</b> 129:23	147:22 204:7	<b>ahead</b> 2:6 30:14
156:19	<b>accountable</b> 71:5	203:10,19	212:5 215:20	41:25 65:20
<b>above-entitled</b>	<b>accurately</b> 81:24	222:20 224:12	<b>agencies</b> 110:3	103:7 104:16
224:21	137:2	<b>adjourned</b>	146:20 213:25	121:25 140:11
<b>absence</b> 172:2	<b>acknowledge</b>	223:22 224:20	<b>agency</b> 42:18	140:16 148:23
219:9	14:6 171:16	224:22	90:12 91:5,5	160:6 161:23
<b>absolutely</b> 18:15	200:2	<b>adjournment</b>	99:5 100:7	174:14 175:18
20:1 22:15	<b>acknowledging</b>	36:23	<b>agenda</b> 201:8,9	192:6 211:5
27:21 32:17	171:13,14,15	<b>administered</b>	201:16,19	<b>ahold</b> 160:14
43:9 47:24 49:1	<b>acquire</b> 127:8	112:4	222:17	<b>aisle</b> 33:4 172:13
57:24 61:18	<b>act</b> 12:12 51:5	<b>administration</b>	<b>ago</b> 65:12 75:5,6	<b>alarmed</b> 70:24
64:22 70:18	54:5 58:15	108:6 116:18	78:12 86:22	71:7
83:7,10 91:25	73:14 116:13	<b>administrative</b>	99:16 212:6,11	<b>alarming</b> 52:3
103:8 156:18	143:3 153:18	99:21	212:11 219:6	60:22
163:13 184:7	178:20	<b>admitted</b> 147:19	<b>agree</b> 29:24 30:4	<b>alderman</b> 124:18
206:5,6 209:4	<b>action</b> 15:14 86:1	<b>advance</b> 74:8,12	40:5 115:19	130:21
213:21	101:10 125:14	74:16,23 75:2	116:16 119:13	<b>allotted</b> 202:13
<b>abundantly</b>	168:1	101:4	138:24 145:24	<b>allow</b> 14:4 53:14
156:18	<b>actions</b> 69:6	<b>advantage</b>	151:8 161:9	53:16 65:16
<b>accept</b> 128:8	114:10	100:23 222:4	168:9 171:5,8	154:16 175:12
183:18 200:2	<b>active</b> 41:22 71:2	<b>adversarial</b>	171:23,24	218:19
206:11 208:17	91:3,5 160:18	114:22	194:11 197:4	<b>allowed</b> 11:4
211:15	<b>activity</b> 87:9	<b>advice</b> 43:1 57:9	208:23 222:19	56:5
<b>acceptable</b> 151:2	119:24	57:15,18 58:4,8	<b>agreeable</b> 137:11	<b>allowing</b> 33:17
153:14 154:24	<b>add</b> 109:1	59:6,11,20 69:7	138:25 169:5	91:7 118:5
154:24 193:7	<b>added</b> 101:8	86:21	<b>agreed</b> 8:6 10:18	<b>allows</b> 151:6
<b>accepted</b> 100:18	<b>addition</b> 3:23	<b>advise</b> 58:2 59:4	18:8 123:2	177:2
<b>accepting</b> 209:14	78:21 146:18	59:10 64:5	137:5 204:20	<b>alluded</b> 155:12
<b>access</b> 70:7	205:18	132:12	209:4 223:5	<b>alter</b> 27:1,5,6,9
<b>ACCION</b> 112:10	<b>additional</b> 28:8	<b>advised</b> 57:19,21	<b>agreeing</b> 195:6	<b>alternative</b> 186:8
<b>accommodate</b>	96:21 163:19	59:18 81:9 84:1	<b>agreement</b>	213:16
137:3 193:24	<b>address</b> 4:8 98:7	84:1 85:20	121:19,20	<b>Alvarez</b> 18:10
<b>accommodating</b>	98:8 113:7	105:12 174:9	137:6 142:7	<b>ambiguous</b>
51:19 52:2,12	119:21 138:1	183:6	148:10 150:4	193:13
156:18 157:9	163:6 185:21	<b>affiliated</b> 25:9	166:8 187:13	<b>amended</b> 187:5
<b>accommodation</b>	185:23 186:22	<b>affiliation</b> 41:13	192:13 196:1	<b>amendment</b>
51:4 203:9	204:4	<b>affirmative</b>	198:16,25	57:21,23 58:3
<b>accompany</b>	<b>addressed</b> 48:3	190:4 219:10	202:1,4 203:11	84:2,4 174:6,15

174:18,22 183:5 185:15 186:2,19,20 <b>America</b> 41:7,11 42:2 90:21 <b>amount</b> 100:6,14 100:22 136:7 171:19 176:4 <b>amounts</b> 100:20 <b>ample</b> 153:8 <b>amplification</b> 155:14 <b>Andrew</b> 45:8 103:18,23 149:12,19 218:1,21 <b>Andy</b> 1:15 222:8 <b>and/or</b> 123:4 <b>Anniversary</b> 144:5,5 <b>announcement</b> 122:1 <b>answer</b> 30:24 32:25 38:15 65:15,16 84:3 85:22 89:9,14 90:1 93:5 95:4 104:4 105:25 112:17 122:14 134:6,17 170:9 202:16 215:23 <b>answered</b> 94:10 <b>answering</b> 3:11 108:2 <b>answers</b> 31:7 77:11 105:22 <b>anticipate</b> 128:25 <b>anticipated</b> 126:15 <b>anybody</b> 20:8 21:15,19 41:13 74:15 86:25 213:22 <b>anybody's</b> 68:1 180:13 <b>anymore</b> 55:6 <b>anyway</b> 151:10	188:20 216:25 <b>apologies</b> 196:5 <b>apologize</b> 2:2 103:15 122:7 156:2 184:18 184:20 <b>apparent</b> 198:24 <b>apparently</b> 74:21 75:3 80:13 139:12 215:24 <b>appeal</b> 36:10,25 <b>appear</b> 3:25 5:12 44:4,9 47:18 54:6 56:19 57:1 57:4,10,20 58:8 59:5 70:5 78:2 83:3,8,23 85:21 90:16 91:23 102:7 105:17 107:2 111:11 125:12 177:23 202:7 <b>appearance</b> 149:12 218:2 <b>APPEARANC...</b> 1:9 <b>appeared</b> 46:3 82:18 138:3 <b>appearing</b> 44:23 102:8 128:15 128:15 <b>appears</b> 8:5 10:6 94:22 97:12 111:25 112:1 113:8 <b>apple</b> 224:11 <b>applicable</b> 157:1 <b>apply</b> 58:19 60:4 70:8 <b>appointed</b> 64:3 <b>appreciate</b> 9:13 11:22 15:15 43:21 83:25 88:20 150:3 183:4 185:10 201:3 211:9 <b>approach</b> 40:9	40:10 67:4 145:23 <b>approached</b> 199:12 <b>Appropri</b> 201:11 <b>appropriate</b> 51:11 53:2,13 61:8 66:20 74:11 75:7,20 78:8 93:3 96:17 99:22 102:22 105:11 111:12 153:5 163:14 200:15 <b>appropriated</b> 100:15 <b>appropriately</b> 162:11 <b>Appropriations</b> 115:1 201:11 202:12 <b>approval</b> 100:9 <b>area</b> 93:23 94:3 198:21 <b>areas</b> 78:25 <b>argue</b> 161:8 <b>argued</b> 168:25 214:4 <b>arguing</b> 168:24 192:22 <b>argument</b> 14:12 111:7 190:25 192:15 <b>arrange</b> 129:13 <b>arrest</b> 24:7 <b>arrested</b> 23:21 <b>arrived</b> 2:2 <b>articulated</b> 157:10 <b>aside</b> 15:6 19:25 20:3 22:14 42:11 87:16,17 <b>asked</b> 3:21,24 4:19 6:3,9 18:14,17,18 21:18,24 22:6,8 25:1,4,6 35:6	42:12 44:7 46:8 47:19 52:8 62:11,18,18,19 62:21 67:5 71:10 80:24 85:3 86:19 93:11 94:19 95:22 96:20 97:20 105:23 106:3 132:8 139:20 141:18 141:22 146:3,7 146:24 147:1 150:13 156:12 158:21,23 161:10 168:22 170:3,24 173:15 175:9 175:24 190:1 191:9 200:2 208:4 210:10 213:23 216:4 219:9 <b>asking</b> 23:15 27:14 28:14 29:3,9,14 32:15 34:7,9 39:4,6 57:6 70:13,25 77:8 79:5 95:12 95:23 99:25 135:18 139:17 169:3 209:8 211:6 216:3 <b>asks</b> 56:20 168:23,23 <b>aspect</b> 13:10 <b>aspects</b> 163:16 <b>Assembly</b> 13:1,6 17:7 18:4 19:10 22:7 23:19,24 24:2 39:18,23 <b>assert</b> 51:12 53:12,15,16 54:24 55:13,17 55:18 58:2 62:8 66:22 67:1 73:22 74:3,14	<b>asserted</b> 55:4 71:19 73:9 74:15 <b>asserting</b> 49:17 54:20 57:23 62:8 73:25 75:9 122:20 <b>assist</b> 101:7 <b>assistance</b> 108:7 <b>Assistant</b> 9:5,20 13:6 31:3 40:25 219:14 <b>associated</b> 74:10 <b>assume</b> 172:15 202:6 <b>assuming</b> 15:3 55:8 135:16 222:15 <b>assumption</b> 70:20 <b>assurances</b> 153:13 <b>assure</b> 153:2 <b>assured</b> 193:2 <b>astray</b> 33:7 <b>attached</b> 127:12 <b>attachments</b> 98:3 <b>attacked</b> 39:19 <b>attempt</b> 20:16 218:14 <b>attempted</b> 61:23 <b>attempts</b> 20:7 42:4 110:10 <b>attend</b> 4:11,14 45:23 121:3,5 <b>attendance</b> 4:9 58:21 93:14 149:14 159:18 <b>attended</b> 3:23 <b>attest</b> 20:10 <b>attitude</b> 199:13 <b>Attor</b> 164:10 <b>attorney</b> 3:18 4:19 5:20 6:7 6:12 9:5,20 11:2,13,25 12:6 12:8 13:6 14:6
---	---	---	--	---

<p>15:11 18:6,8,10 24:13 29:8 31:2 32:11 34:1 37:8 37:12 39:4 41:1 44:23 61:11 62:22 68:10 79:14 82:2,6 83:18 85:13,24 92:12 94:19 95:10 115:7,14 132:1 138:19 139:19 147:23 149:6 152:4 155:7 160:12 161:19 162:15 162:24 163:10 164:10 165:5,8 166:20 167:11 167:23 173:6 174:10 176:11 177:13 180:21 181:21,22 182:7 183:7 187:25 193:10 196:12 199:24 207:1,25 208:4 208:5 209:17 211:7,16,19,21 211:23,25 212:25 215:5 216:4,10 217:20,23 219:8 220:6,16 220:25 221:2 222:4,24 223:14 <b>attorneys</b> 9:22 26:23,23 43:10 45:24 73:13 83:6 95:25 106:18 114:4 121:16,23 122:5 130:7 145:18,20 150:12 158:18 172:16 173:15 195:3</p>	<p><b>Attorney's</b> 10:3 10:15 12:18 18:5,5,11 24:1 25:3 29:22 31:17 34:18 39:20,21 40:15 40:16,18 41:23 41:24 42:11,22 61:12 71:9 76:11,15 79:19 83:22 91:10 105:5,20 107:10 111:13 113:10,11,15 113:18,24 116:8 127:7 132:7 133:21 135:4,17 138:10 145:9 145:22 146:11 146:13 147:4 148:9 152:22 153:2,17 161:12,22 193:12 200:3 206:4 208:17 208:25 <b>attorney-client</b> 84:9 <b>audit</b> 1:1,4 2:3 11:16 25:10 28:24 33:8 56:13 58:15 72:18 78:7 79:1 80:20 81:13 87:10 94:21 95:5,16 105:10 107:23 110:18 111:19 112:2 112:19 114:20 114:25 120:22 131:11 137:14 141:11 142:12 142:13 143:3 145:1,11,23 147:3,6 148:6 149:2,9 152:1</p>	<p>152:23 158:3 159:6 160:9 163:17 164:23 174:21 178:1 191:19 198:19 214:10 217:16 217:22 223:22 <b>Auditor</b> 73:5 78:25 79:1 87:11 107:23 109:2 110:18 111:21 114:19 158:4 163:17 191:20 194:20 <b>auditors</b> 95:17 <b>audits</b> 60:16 117:17 152:2 <b>August</b> 97:12,16 99:12 <b>auspices</b> 39:12 <b>authorities</b> 78:23 <b>authority</b> 45:2,4 56:15,16 57:1 57:11 58:11,13 58:20 64:12,19 78:10 80:16,18 98:22,25 99:3 99:14,19 101:12 107:25 110:20 <b>authorization</b> 42:9 <b>authorized</b> 60:15 152:19 164:3 <b>available</b> 16:22 20:15 55:21 83:4 84:19 85:6 99:10 112:6 166:5 184:9 <b>avenues</b> 146:3 <b>averted</b> 154:9 <b>avoid</b> 6:1 57:12 <b>award</b> 100:1,6 <b>awards</b> 99:19 <b>aware</b> 3:16,17 48:14,16 59:12 72:23 78:20</p>	<p>81:12,14 126:4 131:25 132:5 132:15 146:20 <b>aye</b> 144:19,20 178:2,5 198:11 224:6,17 <b>ayes</b> 224:18 <b>A.D</b> 1:6 <b>a.m</b> 1:7 89:25 99:12,14 149:14,15,20 180:19 187:22 191:12 196:10 207:23 218:3,3 223:23 224:2 224:12,23</p> <hr/> <p style="text-align: center;"><b>B</b></p> <hr/> <p><b>back</b> 25:20 30:19 33:24 46:22 53:25 74:18 89:17 111:5 115:15 121:17 122:22 125:20 125:25 129:20 131:1,5 135:2 135:25 138:24 141:7 142:2 145:16 147:11 150:22,24 151:1,12 153:22 154:20 158:6 164:6 171:19,20 172:3 175:3 180:13 184:20 192:1 198:20 201:22 203:5 206:22,23 208:15 210:5 211:10 219:6 220:4 221:24 221:25 222:1 <b>background</b> 20:12 <b>backhanded</b> 219:6</p>	<p><b>backs</b> 32:11 <b>back-of-the-en...</b> 219:7 <b>badger</b> 208:15 <b>baffled</b> 90:16 <b>baffles</b> 117:20 <b>balance</b> 176:24 <b>ball</b> 183:19 <b>bar</b> 69:22 157:19 174:2 <b>Barb</b> 73:6 <b>Barbara</b> 44:23 78:2,16 87:13 92:3 149:10,17 217:25 218:5 <b>Barickman</b> 1:11 2:7,8 3:20,22 4:5,13,14,23 5:1,3,6,8,10 6:3 6:15,20,23 7:8 7:12,15,17,20 7:25 8:3,5,7,9 8:15,17,19,21 9:1,6,9 10:2,6,9 10:11,13,15,25 11:6,8,10 31:1 35:18,19,23 36:12,16,22 43:15 44:2,8 45:18 46:1 47:16,23 48:7 48:12 49:11 50:7,9,12,18 51:18 52:10 54:22 71:16,17 72:3,16,22 73:1 73:3,7 74:1 75:10,22 76:4 76:24 87:19,20 87:22 88:2,6,13 88:15,17,19,21 88:24 89:4,12 89:22,24 90:5 97:1,2,8 109:6 109:7,10,15,18 111:16 116:16 118:15 121:13</p>
---	--	--	--	--

121:15,25 122:2 129:7 132:22,25 134:4,7,20 136:1,13 141:22 142:6 143:9,10 145:5 145:6 148:24 149:1,23 151:7 152:7,9,10,12 153:12 156:8 163:4 165:18 165:18 168:15 169:9 171:24 172:7 174:25 175:2 178:7,10 178:16,23,24 180:4,6 192:5,7 193:9,17,20,22 194:16,24 195:2,6,21,25 196:15,19,21 197:7,8 199:4,8 201:23,25 203:14,20 207:4 214:12 214:22,24 215:8,17,19 216:9 218:12 221:16 223:15	219:7 <b>basis</b> 36:16 <b>batting</b> 213:14 <b>bears</b> 56:16 155:13 <b>beat</b> 208:15 <b>beautiful</b> 144:4 <b>beg</b> 108:20 123:22 164:17 <b>began</b> 78:12 <b>beget</b> 100:25 <b>beginning</b> 163:24 212:8 <b>behalf</b> 41:10 44:24 45:8,10 52:6 55:24 78:2 78:4 83:3,8 103:18,23 118:18 122:9 <b>belief</b> 12:23 47:4 66:6 205:3 <b>believe</b> 6:1 11:2 17:7,15,25 25:24 41:3 42:6 45:24 49:1,6 52:5 53:13 57:4 57:22 59:22 64:9,15 65:7 66:3 67:16 68:1 71:20 72:20 73:17,24 74:5 74:10 76:8 77:2 77:5 81:15 89:16,25 91:22 96:9 97:9,14 98:9,16 99:2 102:6 106:8 109:12 112:10 120:17 121:25 125:13 128:10 129:17 134:8 136:4 147:5,18 148:10 152:18 165:14 172:14 173:22 175:12 175:21 176:1,3 177:1 182:19	183:16 185:19 206:21 207:7 209:23 <b>believed</b> 53:1 <b>Bellock</b> 116:25 <b>benefit</b> 13:13 <b>best</b> 12:14 15:8 18:13 32:6,24 34:10 40:10 60:17 64:10 69:4 85:22 88:9 <b>better</b> 72:9 88:7 159:19 <b>beyond</b> 12:21 14:14 33:8 88:11 127:13 150:14 163:20 164:2 185:14 <b>bicameral</b> 142:10 172:13 174:21 219:17 <b>big</b> 31:21 34:5 <b>Bilandic</b> 1:4 <b>bill</b> 1:14 95:2 116:12,19,22 116:23 117:3,7 120:2,2,3,6,7,8 166:2 189:14 190:8 <b>bills</b> 95:3 <b>Billy</b> 45:11 149:11,18 218:1,6 <b>bipartisan</b> 90:10 120:4 165:22 172:13 174:22 183:8 219:17 <b>bipartisanship</b> 142:11 <b>bit</b> 114:3 154:11 155:14 219:6 <b>bite</b> 13:17 224:11 <b>bites</b> 15:1 <b>bizarre</b> 87:14 90:15 <b>bi-chamber</b> 165:22	<b>Blagojevich</b> 13:22 23:5 191:18 <b>blanket</b> 221:5 <b>blessing</b> 99:4 <b>Board</b> 99:14,19 99:23 100:9,15 100:24 101:5 <b>bodies</b> 18:4 23:22 78:22 151:25 <b>body</b> 5:12 7:21 8:15,22 14:16 17:11 27:15 31:16 32:24,24 34:18,21 38:13 39:4,13,20 44:6 46:5 47:17 51:19,21 52:7 52:16 56:12 57:1 59:24 60:15 68:8,9 71:23 72:1 73:23 74:3 76:7 76:16 79:4 85:25 90:2 92:24 110:9 121:16 122:12 125:21 126:3 148:8 152:24 156:16 157:1 194:19 199:23 200:18 202:2,6 216:5 <b>books</b> 58:22 170:19,22 <b>boom</b> 180:11 <b>bore</b> 105:6 <b>borrow</b> 170:4 <b>boss</b> 18:7 <b>bother</b> 112:23 <b>bothers</b> 42:23 <b>bottom</b> 86:17 87:12,18 90:11 91:4 115:19,25 118:2,9 173:20 <b>box</b> 178:4	<b>Brady</b> 1:14 2:9 2:10,11,12 56:10,11,22,24 57:6,17 58:2,7 59:4,8,10,15,17 59:22 60:8,24 61:9,19,25 62:4 62:10,13,15,17 63:2,10,13,16 64:5,11,24 65:2 65:8,13,24 66:1 66:14,18,24 67:11,14,18 68:4,6,19 69:2 69:6 71:20 77:1 77:10,11,17,20 77:24 81:23 82:16,17 83:5,8 83:13,15 84:6 84:21 85:1,9,15 85:17 87:4 106:15,16,24 107:1,14 108:18,21 117:5 122:24 122:25 123:1 123:10,19 124:1,5,12,14 125:3,16 126:8 126:10,13 127:15,20,22 128:1,3,6,17,19 130:12,14,17 130:19,21 131:1,4 142:21 142:22 143:11 143:12 161:2,3 162:7,9,14,20 162:23 163:4 164:17 165:25 166:16,19 167:15 168:3 178:25 179:1 188:6 189:5,6 189:16,18,20 189:23 190:4 190:10,12,16
--	---	--	---	---

190:21 191:3 192:4,6 197:4,9 197:10 205:2,3 221:25 <b>brakes</b> 12:9 <b>branches</b> 39:6 <b>Brauer</b> 1:18 2:21 2:22 117:2 143:21,22 157:23,24 159:24 179:8,9 197:17,18 203:23,24 204:9,14 222:13,14,19 223:1,8,10 <b>breached</b> 55:2 <b>break</b> 4:24 56:4 75:6 130:9 131:17 134:16 136:10,10 141:9 198:18 <b>breaking</b> 42:16 <b>bridge</b> 174:23 <b>brief</b> 78:3 <b>bring</b> 20:16 69:2 69:3 96:24 97:3 108:4 123:11 123:12,12 140:8 168:7 172:3 187:18 188:20 <b>bringing</b> 62:23 62:25 150:23 167:13 <b>broad</b> 57:10 <b>broke</b> 101:13 <b>brought</b> 13:20,24 14:21 24:7 32:22 41:1 117:16 136:3 166:13 167:20 <b>budget</b> 99:20,23 100:6,8,16 202:18,19 <b>building</b> 1:4 23:12	<b>Burton</b> 31:2 <b>business</b> 45:22 110:4 112:11 164:21 225:6 <b>busy</b> 170:18,20 <b>buy</b> 220:25 <hr/> <p style="text-align:center"><b>C</b></p> <hr/> <b>calendar</b> 163:12 201:19 <b>call</b> 2:3 3:13,23 3:24 4:10 5:5 6:18,22 9:10,16 44:10 85:7 102:11 130:8 133:8 138:24 141:5,8 142:7 142:20 143:6 145:19 146:3 147:13 153:25 154:3,14 156:17 157:6 157:21 160:24 165:8 167:15 168:9,21 169:8 172:17 173:13 174:12 175:4,4 175:6 177:14 177:19 178:8 180:5,7 181:17 181:20 184:5 184:12 185:20 189:1,2,13,22 190:14 191:6 192:23 193:3 195:16 196:14 196:14,23 197:6 198:17 198:19 215:23 224:2,5 <b>called</b> 42:5 83:2 83:12 84:16 170:5 206:4 <b>calling</b> 6:16 37:22 82:25 86:9 157:5 164:6	<b>calls</b> 150:11 151:19 163:2 166:24 189:1 <b>camera</b> 38:1 <b>cameras</b> 18:12 37:20 <b>capable</b> 40:19 157:5 161:15 <b>capacity</b> 55:3 <b>caption</b> 41:3 <b>captions</b> 41:2 <b>captivating</b> 130:13 <b>care</b> 32:21 117:23 154:14 166:3,6 <b>cared</b> 120:8 <b>career</b> 92:22 <b>carries</b> 57:7 144:22 <b>carry</b> 142:25 <b>case</b> 13:24 35:11 57:24 68:12 74:8,20 81:2,25 82:22 91:25 120:25 125:1,9 127:4 130:2 161:13 162:16 194:3 <b>cases</b> 41:2,4 <b>catching</b> 38:9 <b>caucus</b> 26:1,9 <b>caucuses</b> 30:25 66:5 156:11 <b>cause</b> 13:19,23 70:7,11 91:23 102:5 155:6 224:22 <b>cautious</b> 32:2,14 <b>central</b> 3:19 4:19 5:21 12:1 33:13 78:24 79:14 91:11 132:1 136:25 138:12 147:23 155:7 164:10 173:6 217:23	<b>ceremonious</b> 31:21 <b>certain</b> 4:12 72:17 74:5 76:7 82:25 102:3 145:10,23 146:4 150:18 150:22 151:13 159:4,25 160:1 160:11 161:6,9 161:19 162:4,9 162:10 168:9 180:4 182:11 199:21 <b>certainly</b> 4:6 44:5 46:18 55:22 75:25 76:7 80:21 82:14 84:3 90:1 92:13 93:21 103:25 108:11 111:20 124:17 129:1 148:16 152:15 157:4 194:16 219:20 222:14 223:8 <b>Certified</b> 225:5 <b>chain</b> 98:4 <b>chair</b> 4:15 36:9 36:10,19,25 37:1 127:20 130:9 133:9 136:3 141:6,8 198:17 207:20 223:24 224:2,5 <b>chairman</b> 3:20 4:5,23 6:15,24 7:17 8:7 9:24 10:4 11:20 31:11 33:20 35:17,19,22 36:13 44:2 45:18 56:11 78:1 85:19 87:19 104:12 104:15 114:1 118:13 120:21	136:9 141:22 142:9 145:6 148:18,18 151:7 152:9,13 155:2,22 156:8 156:15 157:4 157:17 158:15 169:25 171:11 175:2 178:11 184:15 192:7 196:15 199:8 202:10 203:14 203:20,24 205:25 213:20 214:11 215:5 215:10 217:5 217:12 219:1 219:21 222:5 224:1,14 <b>chairmen</b> 166:8 192:25 203:11 205:23 <b>chairs</b> 105:3 164:9 <b>chair's</b> 35:24 <b>challenge</b> 163:7 164:18 <b>chance</b> 70:1 128:23 <b>change</b> 95:3 107:10 195:18 <b>changed</b> 107:9 121:4 154:1 210:6 <b>changes</b> 93:21 128:22 151:9 188:16 <b>charge</b> 24:6 87:13 163:12 165:1 <b>charged</b> 42:5 <b>charges</b> 13:20,24 14:20 23:20 24:8 32:20 <b>check</b> 68:13 107:17 <b>checked</b> 82:1
---	--	---	---	---

<b>Cheryl</b> 225:4,17	82:7 83:16	<b>clients</b> 83:23 86:5	101:6 102:15	188:4
<b>Chicago</b> 1:5 13:7	84:10 97:23	90:16 114:5	117:18 118:8	<b>comments</b> 13:15
21:14 112:11	98:15 104:7	118:8 128:20	125:20 126:15	21:9 43:23
225:7	109:19 139:16	<b>client's</b> 48:12	128:4,24	45:13 76:6
<b>Chief</b> 167:4	145:7,8 147:5	49:22,23 50:25	129:20 131:1,5	86:16,21 90:7
<b>children</b> 117:20	148:4 152:16	56:20 71:24	135:2,24 137:6	90:15 92:19
<b>choice</b> 177:5,7	152:16 156:5	80:5 110:11	142:6 144:7	98:19 103:24
191:13	156:18,24	<b>close</b> 40:10	150:4,22	115:23 118:16
<b>choose</b> 52:13	163:10 169:7	164:21 172:7	154:20 158:19	150:3 187:23
<b>chooses</b> 14:3	177:19,19	175:1 194:21	166:9 170:14	199:5 201:2
<b>Chorus</b> 224:18	193:19 208:5	200:22	171:18 198:15	<b>Commerce</b> 111:2
<b>chose</b> 163:19,21	210:2	<b>closed</b> 162:16	202:11 203:5	<b>Commission</b> 1:1
<b>chosen</b> 112:18	<b>clearance</b> 186:1	194:3	205:10 206:22	1:4 2:3 4:4,20
<b>Circuit</b> 58:19	<b>clearly</b> 76:10	<b>closely</b> 17:1	206:23 207:6	6:4,5,8,11 7:1
60:4	109:12,24	116:24	214:7 220:4	9:1 11:17 12:8
<b>circumstances</b>	110:5,6 157:12	<b>closer</b> 46:14	221:24,25	12:12 14:2,4,9
53:14 61:3	177:1	219:23	222:1,15	14:12 15:3,10
107:10 162:12	<b>clerk</b> 88:22	<b>closing</b> 168:15	223:16	15:14,18 17:17
<b>circuistry</b> 91:18	141:19 148:21	201:2	<b>comes</b> 14:15	17:24 19:13
<b>cited</b> 102:1	<b>client</b> 48:25	<b>code</b> 99:21	75:23 84:18	20:5,25 21:22
<b>citizen</b> 17:6 40:8	49:18,25,25	<b>colleague</b> 9:25	101:7 125:25	22:24 25:10
42:1,3 80:15	51:22 55:20,25	11:21 106:2	151:9 158:6	26:4,19 28:6
<b>City</b> 225:7	56:19 57:1,10	144:3 183:20	164:19 192:1	31:5,9,25 32:2
<b>civil</b> 185:5	57:12,15,19,21	<b>colleagues</b> 16:15	201:10 211:10	32:8 33:8 39:1
<b>civilian</b> 41:20,20	57:22 58:2,7	93:12 115:18	<b>comfortable</b>	40:17 41:16
<b>CJIA</b> 99:1,5,5,8	59:4,8,9,10,12	116:21 158:17	152:4 158:9	42:17 43:5,9
99:14 100:2,17	59:18,19 60:10	<b>collect</b> 61:13 95:8	189:3 191:21	47:8,10,20
101:13,19	60:18 66:1	95:15	<b>coming</b> 9:13	48:13 49:24
<b>claim</b> 54:18	68:11 69:7,10	<b>collecting</b> 28:6	33:21 34:13	51:6 56:14
73:16 108:21	69:24 70:13,24	31:16	40:23 75:19	58:15,18,20
<b>claims</b> 122:14	71:21 73:10,15	<b>collection</b> 67:23	85:5 151:12	60:4 61:3,7
<b>clarification</b>	74:5 75:12	94:18 142:4	180:13 188:20	65:22 67:25
30:12 31:10	76:20,21 82:8	<b>collectively</b> 138:1	202:1	70:8 72:9,18,23
64:23 73:7	82:17 83:8,9	<b>colloquy</b> 184:19	<b>comma</b> 183:6	74:11,19 79:11
155:13 168:20	84:2,9 85:3,20	<b>com</b> 9:11	<b>commanded</b>	79:15,16,25
192:17 201:7	85:23,24 88:7	<b>comb</b> 64:5	108:4	82:24 83:19
215:6	89:1,5 91:23	<b>combat</b> 119:8	<b>commands</b> 57:4	84:15 87:23
<b>clarifies</b> 161:5,7	93:24 96:7,13	<b>come</b> 9:25 11:21	<b>commences</b>	89:2,7 92:5
<b>clarify</b> 47:16,23	97:20 98:17	11:23 12:5	147:17	94:18 104:9
48:7 63:20	101:24 102:2,7	17:23 18:15	<b>commencing</b> 1:6	105:10,18,20
125:11 215:4	102:7 106:6	19:9 20:21 21:6	<b>comment</b> 33:2	114:25 120:22
<b>clarity</b> 97:3	107:2,7,11,14	21:19 33:17	71:12 94:16	124:17 125:14
123:1 124:8	110:13,19,22	44:1 52:11	96:7 115:10	131:11 133:16
<b>clear</b> 10:25 29:17	111:5 122:12	60:21 61:1	143:25 150:3	137:5,14
44:3 47:9 55:21	122:14 126:2	70:18 81:18	157:25 159:10	141:11,16
69:8 73:12	127:1 128:12	92:24 93:2	174:8	142:12,13
76:15 81:23	129:4,22	97:11 99:17	<b>commenting</b>	143:4 145:1

146:18 147:1,6 147:25 148:6 149:3,9,20 152:2,23 153:9 156:12 158:24 160:8 165:22 167:9 172:13 174:21 177:5 178:20 180:20 187:24 190:13 190:16 196:10 198:20 207:24 217:17,22 218:7 223:22 <b>Commissioner</b> 43:22 <b>Commission's</b> 12:17 78:6,21 81:12 <b>commit</b> 154:15 165:15 <b>commitment</b> 25:2 121:1,4 <b>committed</b> 13:20 13:24 92:7 <b>committee</b> 4:8 11:24 12:8 36:8 49:3,4,19,24 50:5 52:20 93:4 96:11 99:20,23 100:6,8,16 101:1 104:3 111:11 113:8 113:11,22 114:6,18,23 115:1 116:6,22 117:1,18 118:3 118:8,17 120:6 127:16 142:25 154:19 155:11 193:5 195:5 201:10,11 202:11,12 222:5 <b>commodities</b> 202:19 <b>common</b> 34:22	83:5 114:3 162:15,20 199:10 <b>communicate</b> 50:7 56:2 176:9 <b>communicated</b> 66:12 79:4 147:11 176:2 <b>communication</b> 47:17 48:17,20 50:4 74:2,18 75:13,14 85:25 113:23 145:21 146:12 147:4 147:17 149:2 153:1 156:19 157:16 161:17 164:20 172:18 175:14 177:18 180:20 187:24 190:9,17 192:11 194:6,7 196:11 207:24 217:16 <b>communications</b> 47:13 48:4 75:23 76:2 108:8 145:9 153:17 157:18 167:10 <b>communities</b> 119:6,8 <b>Community</b> 112:11 <b>company</b> 54:13 <b>compel</b> 7:22 58:24 60:6 126:4 149:13 154:20 159:21 186:22 187:2 187:16 188:10 211:12 <b>compelled</b> 4:11 5:12 7:9 45:21 46:5 68:14 205:21 <b>compelling</b> 7:2	159:18 <b>competing</b> 39:11 90:24 176:24 <b>Compiled</b> 102:1 <b>complete</b> 95:17 130:1 165:1 175:12 195:15 206:21 <b>completed</b> 6:21 17:14 <b>Completely</b> 114:14 <b>completes</b> 104:1 <b>compliance</b> 46:2 48:22 75:15 127:18 139:19 <b>complicated</b> 186:10,12 218:24 <b>complicates</b> 146:17 <b>complied</b> 9:11 45:21 125:17 141:19 <b>comply</b> 48:22,25 50:2,19 62:21 75:11 86:19 97:20 98:13,18 99:20 125:21 202:7 205:8 216:17 <b>component</b> 148:9 <b>compound</b> 14:9 <b>compromise</b> 37:5 37:16 174:16 200:25 <b>compromised</b> 39:3 113:13 <b>compromising</b> 71:11 <b>con</b> 193:20 <b>conceivably</b> 55:9 <b>concept</b> 52:23 181:13 182:18 219:3,16 <b>conceptual</b> 97:17 <b>concern</b> 41:19	43:9 78:25 79:10 151:12 153:22 157:20 163:3 171:17 187:3 193:22 193:25 <b>concerned</b> 5:22 12:9 33:7 35:15 40:12 41:17 43:4 114:22 119:5 163:24 178:3 <b>concerning</b> 78:6 82:20 <b>concerns</b> 12:13 17:5 52:17 79:18,22,23 137:3 150:9,18 151:17 152:13 152:25 157:10 172:6 174:16 <b>Conclude</b> 173:8 <b>concluded</b> 79:8 200:16 <b>conclusion</b> 14:25 202:5 <b>conclusions</b> 34:13 <b>conclusive</b> 106:10 139:15 <b>concur</b> 137:23 <b>conduct</b> 14:2,13 199:23 <b>conducted</b> 13:11 38:19 96:1 102:16 111:23 147:6 <b>conducting</b> 12:1 147:16 148:2 149:3 158:21 158:25 217:17 <b>conference</b> 6:5 145:19 153:25 154:3 166:24 192:24 <b>conference-call</b> 166:9	<b>conferred</b> 145:16 <b>confess</b> 56:13 <b>confidence</b> 100:16 189:17 <b>confident</b> 105:22 <b>confines</b> 118:25 <b>confirm</b> 165:8 <b>confirmed</b> 121:3 149:6 217:20 <b>confirming</b> 169:15 <b>confirms</b> 120:24 <b>conflict</b> 123:15 <b>congratulate</b> 144:3 <b>connected</b> 91:13 <b>connection</b> 28:4 148:3 <b>consent</b> 201:19 <b>consequences</b> 6:11 17:19 120:13 <b>consider</b> 4:7 46:6 52:20 127:17 136:11 146:4 <b>considerable</b> 100:16 <b>consideration</b> 140:21 205:23 <b>considered</b> 8:17 8:23 <b>considering</b> 174:11 177:11 <b>consistent</b> 70:12 71:9 87:3 105:19 118:7 139:18 174:3 185:17 189:7 219:4,12,13,14 <b>constraints</b> 99:21 <b>consult</b> 43:9 <b>consultation</b> 140:22 <b>contact</b> 17:16 81:16 121:7 160:1,21 161:19 189:14
--	---	--	--	---

<p>189:23  <b>contacted</b> 53:19  53:20  <b>contacting</b>  120:20 154:2  <b>contacts</b> 154:21  <b>contained</b> 53:10  58:14 111:19  143:2 176:15  <b>containing</b> 53:8  <b>contains</b> 225:13  <b>contempt</b> 57:10  58:25 59:3 60:7  69:7  <b>contents</b> 16:18  <b>context</b> 110:7  146:22 148:17  <b>contin</b> 184:13  <b>continuance</b>  182:8,10  <b>continuation</b>  100:12  <b>continue</b> 5:17  11:12 28:21,23  29:17 37:6  42:13 47:15  48:5 77:7 82:5  90:14 95:24  101:9 105:19  118:24 134:16  161:21 162:3,3  164:22,25  173:9 180:9,16  184:4 187:19  196:7 197:2  199:6 200:25  203:7 207:14  207:21 219:8  221:14  <b>continued</b> 215:12  218:2  <b>continues</b> 30:1  164:18  <b>continuing</b> 71:8  85:12 109:10  150:24 159:19  <b>contrary</b> 208:3</p>	<p><b>control</b> 49:18  99:8 108:5  148:5  <b>convene</b> 6:4  76:19 89:24  134:9 137:6  189:12,24  190:1 205:5  <b>convened</b> 89:13  131:10,11  161:20  <b>convening</b> 77:12  123:2  <b>conversation</b>  24:16 27:2,19  80:13 82:20  86:7 93:18 94:6  98:17 120:24  141:23 145:17  146:1 147:14  154:10 156:13  156:13,14  157:3 166:19  169:18 170:1  172:14 173:14  191:21 192:19  193:10,11  194:11 212:9  212:16,20  215:14 216:3  219:25 221:17  222:11  <b>conversations</b>  23:25 24:10,13  75:25 81:11  84:9 108:12  165:21 194:1  <b>conveyed</b> 173:25  <b>Cook</b> 41:1 78:23  225:2,7  <b>cooperate</b> 105:10  113:22,22  <b>cooperated</b> 175:6  <b>cooperating</b>  37:25  <b>cooperative</b>  139:22</p>	<p><b>cooperatively</b>  23:8  <b>copies</b> 88:1 105:3  <b>copy</b> 77:19 87:25  88:21 98:11  218:10  <b>corner</b> 25:21  207:20  <b>correct</b> 23:23  26:1,5,11 41:5  55:6,8 63:15  67:17,21 69:19  69:20 76:3  102:18 103:13  114:3,6,8,13  132:9,11  225:11  <b>corrective</b> 118:23  <b>correctly</b> 54:16  66:13  <b>corruption</b> 12:24  13:8 14:16  39:19,25 86:18  <b>cost</b> 203:17  <b>costing</b> 201:12  202:11  <b>counsel</b> 5:7,9  31:5 44:1,8,20  45:1,19 47:1  49:3 50:5,13,15  50:17 54:7 56:3  56:14 64:11  66:4 67:20  75:15,24 97:25  103:25 106:18  111:6 137:25  138:4 139:6,7  156:10 165:9  165:14 167:4  168:4 174:6,12  175:6 215:11  219:2,13  <b>counselor</b> 51:18  53:19,20  156:16  <b>counsels</b> 7:5 46:9  66:4,5,8 77:8</p>	<p>106:23 141:24  155:18 156:12  169:8 170:7,8  221:17 223:16  <b>counterproduc...</b>  14:22  <b>County</b> 41:1  78:23 225:2,7  <b>couple</b> 16:3  22:22 86:14,22  87:5 90:7  116:11 159:9  188:2 213:25  <b>course</b> 31:19  38:22 49:2  51:20,24 81:11  120:6 129:22  154:1 199:17  200:23  <b>courses</b> 167:25  <b>court</b> 34:16  45:14 46:15  58:19,19,24,24  60:4,5 61:17  70:8 124:20  125:6,9,13,22  162:22 182:7  <b>Cous</b> 25:17  <b>Cousineau</b> 18:19  18:21,24 25:7,8  <b>covered</b> 89:20  107:21 129:17  137:7  <b>covering</b> 49:13  <b>co-chair</b> 1:11,12  127:20  <b>co-chaired</b> 36:8  <b>Co-Chairman</b>  6:3 157:14  174:2,5 214:12  <b>co-chairmen</b>  155:3 212:8  <b>co-chairs</b> 137:13  213:9,13  <b>co-counsel</b> 174:7  <b>craziness</b> 214:8  <b>cream</b> 168:18</p>	<p>170:15  <b>create</b> 100:13  <b>creates</b> 38:16  <b>creating</b> 90:12  <b>creation</b> 109:22  112:1  <b>credibility</b> 14:24  38:3 174:24  <b>Crespo</b> 1:19 2:23  2:24 33:19,20  35:4,12,16  113:25 114:1,9  114:16 119:11  119:13 143:23  143:24 144:10  171:10,11  179:10,11  197:19,20  201:5,6,15  202:9,23  203:18  <b>Crespo's</b> 118:16  <b>crime</b> 13:20,23  42:15  <b>criminal</b> 5:24  12:11,21 13:3,4  13:10 14:5,7  32:20 33:12  37:6,13,16,19  37:21,24 38:18  39:22 40:10,14  41:22 45:1,4  48:23 60:14  71:2,4,11 80:18  87:9 91:3,8  94:20 98:25  115:22 119:24  132:4 135:20  145:13 146:7  147:8,20  148:14 151:4  154:25 160:6  160:18,18  191:16 194:13  200:18  <b>criminally</b> 42:21  <b>critical</b> 78:13</p>
--	--	--	--	--

134:14	147:14,24	176:20,20	<b>decisions</b> 7:22	19:17,20,23
<b>cross-purposes</b>	158:20 168:22	180:2,5,7,11,24	51:20 71:19	50:17 200:10
38:7	168:23	180:25 181:15	114:10 194:3	<b>Democrats</b> 26:4
<b>crystal</b> 152:16	<b>dates</b> 151:18	182:12 184:2,2	<b>declaration</b>	26:14,16,19
183:19	154:17 177:21	184:11,12	36:13	41:12 200:21
<b>CSR</b> 225:17,19	177:22 195:18	185:24 186:8	<b>dedicated</b> 92:23	215:25
<b>culling</b> 51:8	<b>David</b> 1:20 144:4	189:11 193:24	<b>deems</b> 157:1	<b>denial</b> 215:12
<b>current</b> 46:8	216:22 217:1	198:24 200:17	<b>defeated</b> 198:13	<b>depart</b> 121:17
<b>customarily</b> 4:9	<b>day</b> 1:6 15:2	206:7,9,9	218:11	<b>Department</b> 3:17
<b>customary</b> 5:1	19:10 69:9 86:9	208:24,25	<b>defendant</b> 41:3,9	7:7 9:4,16 12:5
64:7 101:12	91:10 117:25	209:1 210:10	<b>defer</b> 30:18 71:9	17:8 30:16 31:3
<b>Cutrone</b> 44:7,9	126:18 129:19	213:11 214:4,5	119:10 146:15	31:4 34:7 41:4
45:3,3 46:21,22	129:23 131:6	217:18 219:8	149:7 180:16	47:6,11,13 48:4
46:23 98:24	138:22 142:25	223:3,5	187:19 196:7	48:11,20 61:4
99:11 102:11	166:13 173:25	<b>day's</b> 13:17	202:4 207:13	76:6 79:5,9
154:7	177:19 182:9	<b>DCEO</b> 110:1,5	207:20	85:13 104:1
<b>cuts</b> 101:1	191:9 199:3	110:13 112:4	<b>deference</b> 6:1	111:1 114:11
<b>cycle</b> 13:18	201:4 212:13	<b>DCEO's</b> 112:8	48:10 113:9,14	115:13 119:1
<b>C-600</b> 1:5	214:3,24	<b>DCFS</b> 117:19	127:15 198:25	141:25 145:19
	215:10	<b>deadline</b> 165:4	200:14,19	149:5 150:11
<b>D</b>	<b>days</b> 12:3 14:11	<b>deadlines</b> 165:3	<b>deferral</b> 192:12	153:24 154:8
<b>D</b> 103:14,23	15:12 30:18	<b>deal</b> 78:12 83:21	<b>deferring</b> 94:18	158:20 166:25
<b>damage</b> 14:23	71:10 76:14	139:7,9 151:16	138:7	168:21 171:13
61:5	77:7 92:14	158:8 162:11	<b>defiance</b> 10:21	172:21 214:6
<b>dangerous</b> 33:16	105:15 118:11	164:7 165:3	<b>defies</b> 6:11 41:23	214:13 217:19
<b>darn</b> 174:10	147:16 148:1	200:12 219:16	<b>definition</b> 72:11	<b>Department's</b>
219:17	149:4,8 150:12	221:23 222:1	81:18 108:24	79:17,22
<b>data</b> 61:13	150:14,16	<b>dealing</b> 117:24	<b>delay</b> 101:2	<b>departure</b> 48:15
202:20	156:19,20,24	164:8	157:6 208:12	100:4
<b>date</b> 14:3 61:14	157:12 158:6,7	<b>dealt</b> 159:12	208:23 209:2	<b>depending</b> 167:1
61:15,15 74:17	158:7,10,22,24	<b>Dear</b> 120:20	209:13,15	<b>Derrick</b> 24:5
105:19 108:13	159:3 160:14	<b>Dearborn</b> 23:12	210:10 213:10	<b>described</b> 14:2
112:4 137:4,11	160:19 167:7	<b>debate</b> 32:6 33:4	217:24	65:11
150:18,22	167:24 168:22	33:11 55:12	<b>deliberate</b> 125:5	<b>describes</b> 109:17
151:13 159:4	168:23,24	109:20 118:24	<b>deliberations</b>	<b>describing</b> 74:23
159:25 160:1	169:1,3,9,23	152:18 171:20	199:18	<b>designation</b>
160:11,14,19	170:20,22,24	<b>decades</b> 194:21	<b>deliver</b> 107:3,15	100:1
161:6,9,19	170:25,25	<b>decide</b> 16:21	121:17 122:11	<b>desire</b> 105:9
162:4,9,10	171:2,3,4,6,16	31:16 64:10	123:3,4	<b>detail</b> 37:5 168:8
166:21 168:9	171:19,20,23	84:21 152:23	<b>delivered</b> 69:9	<b>details</b> 13:25
173:3 178:13	171:23 172:22	153:7	121:20	193:14
178:17 180:5	173:21,21	<b>decision</b> 7:21,22	<b>demand</b> 15:13	<b>deter</b> 95:3
180:11,15	174:13 175:10	7:23 51:24	<b>demanding</b> 57:7	<b>determination</b>
184:11,13	175:12,15,19	79:20,24 96:10	<b>Democrat</b> 20:24	124:24 126:19
192:18,21	175:25 176:2,2	96:12,16	21:22 26:2	151:21
199:20 223:11	176:10,11,12	124:20 177:15	212:11	<b>determine</b> 43:10
<b>dated</b> 99:11	176:13,16,17	220:5	<b>Democratic</b>	50:23 51:12

60:17 68:20,23 68:25 69:11 74:13 90:2 98:17 125:21 134:10 205:7 <b>determined</b> 94:25 <b>determines</b> 96:22 <b>determining</b> 55:24 <b>deterred</b> 37:24 <b>development</b> 34:2 112:11 <b>dialogue</b> 76:9 136:6 <b>die</b> 117:22 <b>diem</b> 205:20 <b>differ</b> 164:17 <b>difference</b> 166:11 183:12 188:14,22 208:12 209:14 <b>different</b> 14:25 21:23 23:6,7 38:8 39:6 103:2 103:3 129:9 138:18 167:25 175:20,20,22 177:25 192:15 211:6,7 <b>differently</b> 69:5 129:4 <b>difficulties</b> 77:15 100:14 155:6 <b>diplomacy</b> 203:12 <b>direct</b> 58:12 144:23 156:13 202:16 <b>directing</b> 38:11 <b>direction</b> 81:24 142:1 145:8 200:13 208:16 215:24 <b>directions</b> 211:4 <b>directly</b> 49:2 52:15 66:12	157:15 170:2 172:18 <b>director</b> 1:24 2:5 45:3 78:9,15 120:19 142:19 179:21 <b>dis</b> 170:10 <b>disagree</b> 7:12,15 163:15 211:10 <b>disagreement</b> 79:16 127:1 <b>disagrees</b> 90:9 <b>disappointed</b> 181:10 184:21 200:4 206:1 <b>disappointing</b> 206:12,19 207:2 <b>disc</b> 72:20 77:17 108:15 <b>disclosed</b> 67:2 <b>disclosing</b> 49:3 <b>disclosures</b> 94:19 <b>discovery</b> 81:2 <b>discretion</b> 100:2 100:19 <b>discs</b> 53:8,10 54:17 77:18,19 <b>discuss</b> 5:16 6:5 8:12 10:19 16:14,18,24 20:4,16 43:6 61:14 84:8,11 86:1 92:8 110:25 136:2 <b>discussed</b> 5:15 6:25 7:5 16:16 16:23 18:19 19:12,19,23 93:16 97:9 99:17 117:10 133:1 134:12 141:12 152:13 219:4 <b>discussing</b> 4:2 19:2 83:17,18 115:11 116:15	<b>discussion</b> 17:17 35:20 36:3,6 44:18 53:21 72:25 100:8 103:20 131:7 133:7,25 134:8 134:10,15 135:11 145:2 149:25 150:1 152:6 153:23 155:14,18 161:21 181:6 195:12,22 197:3 210:8 217:2 221:19 222:23 223:19 224:7 <b>discussions</b> 20:17 69:4 83:20 97:15 138:13 150:20 165:17 <b>disheartening</b> 199:18 <b>disingenuous</b> 184:25 <b>dismiss</b> 106:22 134:23,25 135:23 137:4 137:10 140:14 221:23 <b>dismissed</b> 174:6 177:11 <b>disregards</b> 41:23 <b>disrespectful</b> 34:17 181:14 <b>disseminate</b> 10:19 151:22 <b>dissemination</b> 9:18 <b>dissolved</b> 42:18 91:6 95:2 <b>distinct</b> 24:8 <b>distinction</b> 209:23 <b>District</b> 3:19 4:19 5:21 12:1 33:13 78:24 79:14	91:11 132:1 147:23 155:7 164:11 173:7 217:23 <b>disturbing</b> 87:8 <b>dithered</b> 214:3 <b>divide</b> 174:19 <b>document</b> 44:4 69:1 81:3 98:5 98:5,8 107:19 107:19 112:20 123:16 124:2,4 156:22 218:14 218:14 220:24 <b>documentation</b> 28:6,8 29:18 83:24 112:19 125:18 126:16 138:8 142:4 144:24 164:19 164:23 166:3,6 166:22 204:11 <b>documents</b> 4:12 7:3 9:3 28:22 28:22,24 31:14 31:15,17,19,21 31:22 46:4 48:13,14,18,19 49:15,19,21,25 50:1,6 51:5 52:4,7,15,18,20 53:12,17 54:17 54:19 55:12,20 61:20,23,25 62:11,20,22 63:1,3,4,9,16 63:22,24 64:10 64:21,25 65:3,6 65:7,9,10,25 66:2,18,19 68:9 68:12,14 69:9 71:21,25,25 73:16,17,18,20 73:22 74:6 75:13 77:14 80:6,21 81:7,9 82:1,7,9 89:2,5	89:10 93:13,15 93:16 94:9,18 94:21 95:8,10 95:15 96:19,22 96:23,25 97:4 97:10,21 98:2 98:18 101:16 104:5 106:5,6 107:3,14 108:3 108:4,10,13,15 108:16,24 109:4,17 110:12,23 111:15,20,24 112:16 113:3 122:20,21 123:3,4,11,13 124:10,21 125:3,7 126:9 127:2,5,8,12,12 128:13,22,24 129:16 131:20 132:24 133:4 133:15,15,20 135:15 139:12 139:13 141:16 142:12 148:5 148:12 149:17 149:19 150:4 161:5 173:8 198:22 200:12 204:7 205:5,9 213:11,12 216:15 218:5,7 218:21 <b>doing</b> 18:14 32:3 33:9 38:10 40:19 51:9 67:25 83:15 94:24 138:13 146:11 176:17 176:24 193:13 204:6 219:10 225:6 <b>DOJ</b> 24:25 25:2 47:7 172:21 <b>dollar</b> 61:10
---	--	---	---	--

<b>dollars</b> 110:2,7 112:6,8 119:7 146:19 214:1	99:21 111:12 195:18 196:14 212:7	78:12 90:4,10 96:21	<b>endgame</b> 95:18 115:12	<b>exceptions</b> 102:5
<b>door</b> 76:14 164:2	<b>duly</b> 56:17 57:9	<b>efforts</b> 51:3 60:19 92:6	<b>enforce</b> 34:8 51:25 52:13	<b>excuse</b> 46:21 56:10,22 61:9 61:16 62:20
<b>doubt</b> 151:6 193:21	58:21 139:10 225:4	<b>eight</b> 139:16	<b>enforcement</b> 78:23	68:11 104:22 121:23 123:8 138:13 185:2 207:16
<b>Dr</b> 44:21 46:19 47:3,9 51:13 53:7 54:16 59:2 61:1 62:8 72:14 73:25 74:16,25 122:20	<b>duplications</b> 81:5	<b>either</b> 14:1 20:17 46:25 47:1 107:2,3 121:6 123:11 127:11 146:9 172:12 173:22 176:6 178:14 182:18 182:18 185:18 203:19 213:18	<b>entails</b> 155:9 <b>entered</b> 58:21 141:20	<b>excused</b> 130:7
<b>drafts</b> 17:13 210:4	<b>duplicative</b> 49:7 66:6 67:23 68:17,21,23 69:11 71:22 72:4 161:7	<b>elect</b> 17:6 56:17 57:9 120:22	<b>entertain</b> 4:16 181:25 223:21	<b>execute</b> 125:22
<b>drag</b> 31:20	<b>duplicativeness</b> 67:9	<b>electronic</b> 108:18 108:22,24	<b>entire</b> 53:8 100:14 216:5	<b>executive</b> 1:24 2:5 45:3 62:19 120:18 142:19 179:21
<b>draw</b> 71:23	<b>duplicity</b> 69:21	<b>elected</b> 17:6 56:17 57:9 120:22	<b>entirety</b> 63:25 138:3	<b>exemplary</b> 60:19
<b>drive</b> 118:3,3	<b>dust</b> 104:1	<b>eliminate</b> 17:6 56:17 57:9 120:22	<b>entitled</b> 196:23	<b>exemplified</b> 184:23
<b>drop</b> 161:12	<b>duties</b> 11:16	<b>eleven</b> 3:11 144:20	<b>entity</b> 35:6 115:4	<b>exercise</b> 55:23 78:8
<b>dropout</b> 115:7	<b>duty</b> 146:25	<b>eliminate</b> 214:13	<b>equipped</b> 15:8	<b>exercised</b> 55:9
<b>dropped</b> 158:16	<b>dying</b> 117:20,20	<b>eliminates</b> 66:15	<b>eradicating</b> 14:16	<b>exist</b> 82:13 122:11 126:5 148:5
<b>Drury</b> 6:9,13 8:16,22 9:9,12 9:23,24 11:19 11:20 16:5,9,12 16:16,25 17:4 18:18,21,24 19:3,5,14,17,20 20:1,6,18,23 21:3,6,16,24 22:15,21 23:2,9 23:14,18 24:14 24:18 25:1,6,12 25:15,17,20,24 26:2,6,11,13,17 26:20,25 27:3,8 27:13,18 28:1,9 28:18 29:1,5,10 29:13,20 30:1,6 30:11,14 31:11 31:12,13 34:11 35:8,13 37:9,17 41:6,9 42:3,24 43:19,22	<hr/> <b>E</b> <hr/> E 44:22 92:21 103:14,23	<b>eliminating</b> 67:22	<b>eradicating</b> 14:16	<b>existence</b> 79:2
<b>duck</b> 181:11	<b>earlier</b> 17:15 60:14 89:8 97:9 97:23 127:22 141:18 155:12 160:4 163:5 164:20 193:3	<b>else's</b> 86:25	<b>essential</b> 160:22	<b>exists</b> 71:6 98:23 112:19 176:24 199:16
<b>due</b> 6:15,23 8:21 52:16 57:20 76:13 81:21	<b>early</b> 97:12	<b>embark</b> 177:7	<b>etched</b> 158:12	<b>exit</b> 54:17 55:7
	<b>ease</b> 195:8 198:14	<b>embarrassed</b> 214:10	<b>ethics</b> 31:5 167:5 170:8	<b>expect</b> 107:7,8 127:8 128:3 150:16 177:23 181:22 194:1
	<b>easier</b> 45:17 46:11	<b>embarrassing</b> 39:24 213:21 213:21	<b>event</b> 160:20	<b>expectations</b> 122:4
	<b>easily</b> 14:10 184:22	<b>embarrassment</b> 38:2	<b>eventually</b> 154:6	<b>expected</b> 202:7
	<b>easy</b> 159:25 160:13 162:18 170:11 219:18	<b>emotional</b> 173:24 174:24	<b>everybody</b> 20:10 32:13 93:21 164:6 169:4 192:1 204:14 206:22 208:2	<b>expecting</b> 30:22
	<b>eat</b> 133:2	<b>emphatically</b> 32:25	<b>everybody's</b> 164:7	<b>expediency</b> 119:10
	<b>echo</b> 103:24	<b>employee</b> 55:3,6 55:7 73:19 98:5	<b>everyone's</b> 125:11	<b>expedite</b> 99:24 126:21
	<b>Economic</b> 111:2	<b>employment</b> 64:2	<b>evidence</b> 13:18	<b>expeditiously</b> 165:10
	<b>effect</b> 128:13 129:3,18 151:5 159:20	<b>encourage</b> 11:24 15:10 96:13	<b>evidenced</b> 114:20 153:10	<b>expended</b> 205:14
	<b>efficient</b> 119:7	<b>endeavor</b> 29:9 172:18	<b>exact</b> 19:8 207:10	<b>expense</b> 51:8 68:2 91:16
	<b>effort</b> 65:20	<b>ended</b> 191:19	<b>exactly</b> 9:21 24:3 54:15 137:22 141:7 174:3 193:1	<b>experience</b> 9:20 33:15 35:5 51:4
			<b>example</b> 23:5	
			<b>exceeded</b> 58:20	
			<b>Excellent</b> 56:7	

61:24 74:22 78:17,18 <b>expert</b> 11:17 29:7 <b>explain</b> 6:9 37:4 101:4 124:22 125:8 127:3,9 127:13 128:25 <b>explained</b> 127:22 <b>explaining</b> 9:17 <b>explanation</b> 205:6 <b>explore</b> 148:8 <b>expressed</b> 78:25 79:16,18 110:10 211:13 <b>extend</b> 194:9 <b>extended</b> 154:16 <b>extending</b> 159:19 <b>extent</b> 43:3 89:15 92:1,3 194:18 <b>extra</b> 105:3 141:12 174:13 <b>extras</b> 88:1 <b>extremely</b> 101:6 199:9 200:4,5 <b>e-mail</b> 54:17 72:12 73:4 94:2 98:4,6,7,8,10 99:9,10 101:19 123:16 126:1 129:9 <b>e-mailed</b> 129:8 <b>e-mails</b> 9:19 30:21,23 49:6,7 49:12,14,22 50:22,23 51:17 53:1,4,8 55:2 61:11 62:3 63:25 64:3 66:6 67:10,23 68:3 68:17 69:17 70:1,16,20,21 72:7,8,12,15,17 72:23 73:6 75:1 77:16 93:19,25 93:25 94:1 97:11,15,22,24	98:1,3 101:9 109:23 110:6 111:14 112:14 122:11 126:2 129:8 142:1 191:10 <hr/> <b>F</b> <hr/> <b>face</b> 57:2 <b>fact</b> 7:22 14:6 16:16 28:12 35:14 37:11 60:9 67:10 71:6 74:2,17 91:8 98:22 100:23 109:23 115:22 125:5 135:14 165:17,19 206:11 <b>facts</b> 163:19 <b>fail</b> 58:17 60:3 70:5 <b>failed</b> 11:11 48:24 99:5,6 101:10,11 118:20,21 147:9 <b>fails</b> 70:5 <b>failure</b> 12:9,18 <b>fair</b> 49:23 91:24 97:14 124:22 126:17 133:23 134:3,4,6 185:22 219:16 <b>fairly</b> 176:23 <b>Faith</b> 31:2 <b>fall</b> 97:11 <b>falls</b> 76:11 <b>false</b> 177:16 <b>familiar</b> 17:20 18:3 <b>far</b> 109:24 110:6 157:22 198:16 201:22 215:13 <b>farmer</b> 87:5 <b>fashion</b> 177:24 <b>faults</b> 90:11	<b>favor</b> 15:6 200:25 220:15 224:6,16 <b>federal</b> 4:2 5:17 6:8,10 7:18 8:12 9:3 10:1 10:18,22,23 11:1,23 12:11 12:13,19 13:3,4 13:12 14:5,15 14:19 15:8 18:2 20:11 22:8 24:5 24:7 33:6,10 34:3,4,25 37:20 41:4,14 48:23 70:25 78:22 90:21 91:1 102:15 103:6 110:2 112:6 133:17 141:23 145:13 146:7 147:8,20 148:14 150:20 151:18 152:17 153:6,6 154:13 154:21 162:22 164:1,10 177:3 192:19 199:14 200:14,19 203:9 <b>Feds</b> 33:24 117:12 150:11 152:3 154:2,5 154:17 176:25 186:23 187:2 188:11,17 189:19 191:8,8 191:12,21,25 216:17,23 <b>feel</b> 83:23 121:7 127:21 148:18 214:9 <b>feels</b> 95:25 96:7 <b>fellow</b> 39:5 <b>felt</b> 115:3 <b>Fifth</b> 47:20,25 57:21,23 58:3	84:2,4 <b>fight</b> 92:6 <b>figure</b> 9:10 83:22 213:9 214:13 <b>figured</b> 205:20 213:13 214:18 <b>filed</b> 148:21 <b>files</b> 80:17,17,19 111:21 <b>final</b> 75:10 77:1 105:8 202:10 <b>financial</b> 108:7 201:19 205:22 <b>find</b> 12:13 13:17 15:4,8 20:25 21:15 32:6,16 32:19,20,22 39:7 57:9 60:9 60:22 69:6 71:3 80:12 87:13 92:6 96:21 107:18 129:9 146:10 151:2 162:19 163:8 166:20 199:10 <b>finding</b> 36:17 <b>finds</b> 58:19 167:2 <b>fine</b> 28:17 33:5 88:17,17 123:6 123:7 127:25 173:1 191:11 192:25 206:6 209:5,7,12 215:7 216:12 220:1,9 <b>finish</b> 4:2 155:20 185:7,9 188:5 206:15,17 <b>finished</b> 6:17 160:5 <b>firm</b> 89:8 <b>first</b> 4:8,14 5:6,8 6:17 17:8 45:22 46:6 52:23,24 57:14 60:2 75:19 78:14 100:25 105:5	115:11 119:17 129:6 139:23 145:21 150:2 151:16 172:17 173:25 174:11 188:5 191:3 201:9 215:22 218:18 219:13 222:24 223:16 225:4 <b>firstly</b> 37:10 <b>Fitzgerald</b> 18:7 <b>five</b> 39:8 179:22 179:23 193:4 198:11,12 210:4 <b>fixed</b> 98:21 99:7 101:16 <b>flexibility</b> 151:7 <b>flip</b> 42:13 <b>flood</b> 112:7 <b>floor</b> 19:10 46:8 156:1 <b>Foley</b> 121:9 <b>folks</b> 46:9 116:2 116:3 118:6 130:10 154:15 172:24 199:2 <b>follow</b> 71:17 101:12 118:16 159:1 214:7 <b>followed</b> 5:18 9:17 176:6 <b>following</b> 17:1 58:16 149:7 217:21 <b>follow-up</b> 31:23 102:23 167:22 169:12 <b>force</b> 70:9 <b>forces</b> 35:10 151:1 <b>foregoing</b> 225:10 225:11 <b>forget</b> 170:11 <b>form</b> 110:3 <b>formal</b> 5:18
---	--	---	--	--

20:10 81:22,25 94:10,12 106:4 106:9 125:14 214:19,21 <b>formally</b> 82:8 104:6 <b>formed</b> 35:10 163:18,21 <b>former</b> 6:10 8:18 10:1,23 11:23 15:16 18:7 22:8 33:6 34:4 40:25 78:9 117:13 124:18 130:21 130:21 <b>forth</b> 184:20 210:5 <b>forthcoming</b> 52:21 86:20 94:13 <b>forums</b> 23:25 <b>forward</b> 11:18 12:15 14:10 17:11,20 31:16 32:9 37:6 40:4 43:11 44:1,11 54:8 60:18 79:9 87:15 118:7 126:15 146:12 148:8 152:5 159:5 160:2,12 160:15 163:23 164:18 168:11 169:5 190:20 191:1 199:14 200:8 211:3 222:23 <b>forwarding</b> 94:1 98:7 <b>found</b> 60:19 111:14 117:19 160:5 <b>four</b> 30:25 54:17 66:5 78:12 170:7 221:16 223:15 <b>fourth</b> 68:16	<b>frame</b> 97:13,16 97:23 137:2 176:3 <b>framework</b> 101:24 <b>Frank</b> 1:12 135:8 156:7 188:7 209:22 <b>frankly</b> 49:21 181:13 183:7 183:15 <b>fraud</b> 119:18 120:14 <b>Fred</b> 1:19 171:10 <b>free</b> 28:21 121:7 192:20,21 <b>freely</b> 13:14 163:1 <b>Freiheit</b> 172:16 <b>frequently</b> 111:22,25 <b>Friday</b> 99:10,14 111:25 <b>friend</b> 19:1 <b>friends</b> 172:12 181:9 <b>front</b> 57:3 92:24 221:8 <b>frustrated</b> 200:6 <b>frustrating</b> 158:3 <b>frustration</b> 176:21 201:25 <b>fulfilling</b> 146:25 <b>full</b> 57:7 99:14,23 100:9,24 130:1 212:13 <b>fully</b> 86:19 148:8 <b>function</b> 78:8 <b>fund</b> 112:7,11 <b>funding</b> 100:2,4 202:13 <b>funds</b> 112:9 119:18 146:20 <b>further</b> 10:2,4 22:17 27:15 30:8 37:2 40:21 43:13,17 56:9	69:14 76:24,25 86:20 96:2 106:14,17 110:1 130:4,4 140:21 143:5 148:4 170:10 186:14 192:11 199:25 208:12 209:2,15 217:24 223:3 <b>furtherance</b> 10:21 29:24 <b>future</b> 14:20 92:6 95:3 135:21 153:1 <hr/> <b>G</b> <b>G</b> 46:19 103:14 103:23 <b>gain</b> 198:21 <b>gap</b> 174:24 <b>gather</b> 141:6 <b>Gen</b> 79:1 <b>general</b> 12:25 13:5 17:6 18:4 18:6,8 19:10 22:7 23:19,24 24:2 31:8 39:18 39:23 45:1 56:3 67:20 73:5 87:11 107:23 109:2 110:19 111:21 114:19 115:1,5 154:7 191:20 194:20 207:25 <b>generalized</b> 100:1 <b>generally</b> 15:6 146:5 <b>General's</b> 79:1 <b>gentleman</b> 107:2 124:15 136:21 136:22 138:2 140:19 151:1 155:8 157:1 167:2 172:20	173:6,20,25 181:22 185:18 196:3,14,22 197:4 <b>gentleman's</b> 181:6 182:17 215:9 <b>gentlemen</b> 36:19 44:12 124:15 125:8,17 127:23 128:6 130:7 <b>gentlemen's</b> 124:9 <b>genuinely</b> 5:21 <b>getting</b> 11:17 34:3 104:24 172:10 193:5 199:5 209:23 210:9 219:23 <b>give</b> 42:19 60:11 82:5 93:19 100:2 105:17 112:3 124:1,17 124:24 125:16 125:18,19 126:17 127:23 141:19 146:1 154:17 159:2 165:7 166:21 170:25 171:6 186:24 196:23 200:17 206:8 210:25 211:2 213:11 214:17 218:9 221:5 <b>given</b> 6:7 55:2,10 57:15 61:8 92:25 93:17 102:3 105:13 105:14 112:9 125:19 135:1,4 162:11 193:7 200:19 <b>gives</b> 41:19 111:17 133:22 160:24 163:11	165:4,13 171:18 <b>giving</b> 106:4 170:24 171:6 193:13 200:14 <b>glad</b> 93:3 110:22 122:2 200:11 <b>gladly</b> 42:11 <b>go</b> 2:6 30:14 34:16 37:6 38:12 43:24 44:19 51:7 55:23 61:16 68:2 73:4 82:8 86:21 87:14,21 89:17 91:2 95:23 103:7 104:16 120:14 121:18,25 124:20 125:9 128:10 133:22 137:7 138:24 140:11,16 143:6 148:23 149:24 150:7 153:22 157:12 160:4,6,10,12 160:15 161:23 166:18 167:1 168:11 171:20 175:3,18 176:13 177:14 178:8 181:19 182:7 183:24 184:6 185:20 186:24 187:2 188:4 190:20 191:1 192:6,20 192:21 193:4 207:18 209:16 211:3,5 216:6 219:10 222:12 <b>goal</b> 15:3 34:22 34:24 35:1 154:24 <b>God's</b> 222:8 <b>goes</b> 35:6 99:15
--	---	---	---	--

117:8 159:23 181:15 <b>Goetsch</b> 225:4,17 <b>going</b> 4:16 5:16 16:11,13 17:13 21:12,15,17 24:25 32:8,10 35:2 37:13 40:5 42:20 51:12 52:12 55:11,23 56:13 57:14 58:17 59:7 61:16 62:15,17 66:16,19 69:21 71:18 74:14 76:19 81:10 83:21 86:8,11 87:10 90:25 91:3,17 92:13 95:6,7,8,19,23 102:11 119:19 121:24 124:19 124:20 125:4,4 125:21,22 126:4,12 127:3 132:3,18 133:5 133:6,12,14 134:22 139:11 139:24 140:22 141:19 152:4 154:20 157:11 158:9,25 160:2 160:25 162:4 163:5,20,23 168:10,12 169:2 171:20 172:15 173:12 174:2 175:16 175:16,17 177:4 180:4 181:11,11 182:12,24 184:3,20 185:4 191:14,14,25 194:2,4,5 201:8 201:9 203:18 204:2,3,4 205:6	205:7,12,18 206:12,22,24 210:12 213:18 216:24 220:3 221:5 223:12 <b>good</b> 15:1,13 22:19 27:20 38:23 44:16,22 44:25 45:5,7,9 77:24 80:4 91:2 92:10 99:16 159:6 165:24 174:18 177:10 183:8,8 194:17 194:22,23 216:22 221:21 <b>Gosh</b> 174:10 <b>gotten</b> 57:18 69:19 83:20 119:2 173:24 198:25 <b>government</b> 5:17 7:19 8:13 10:18 12:13 14:15 15:8,13 24:6 33:10 34:3 37:25 41:14 48:16 53:9 55:3 55:5,7 69:25 70:12,25 102:16 108:17 141:23 154:21 163:6,9 167:5 192:19 200:14 200:20 203:10 <b>government's</b> 12:19 31:5 38:4 48:23 105:16 <b>governor</b> 11:11 23:21 48:24 66:7 71:22 72:1 86:15,21,23,24 145:14 147:2,7 147:9 <b>Governors</b> 13:21 <b>governorship</b> 191:19	<b>Governor's</b> 30:21 49:9,11 49:13 51:2,10 52:4,16 53:11 53:14 54:23 56:3,6 62:7,10 62:23 66:21,22 66:25 67:5,8,12 68:13 72:5,8 73:11,11 74:4,9 74:13 75:8 93:25 97:8,10 99:11 100:3 101:8,17 109:24 111:24 122:18 <b>go-forward</b> 155:8 <b>grand</b> 13:12,16 23:16 32:3 39:12 61:6 70:17 78:22 172:19 <b>grant</b> 99:18 100:1,5,22 116:13,18 120:8 198:24 <b>granted</b> 212:10 <b>grantees</b> 100:20 100:21 <b>grants</b> 99:2,24 100:21 110:4 112:5 <b>grant-making</b> 101:14 <b>gravitas</b> 101:8 <b>gravity</b> 9:22 10:20 <b>great</b> 41:19 56:8 163:18 220:12 <b>greater</b> 86:25 <b>green</b> 133:22 135:2,4 150:19 151:24 152:3 154:17 159:2 160:24 166:12 167:16 175:17	186:24 200:17 210:11 213:5 214:5 216:18 <b>ground</b> 198:21 199:10 200:7 <b>grounds</b> 91:22 102:6 103:1 <b>group</b> 49:9 152:1 203:8 <b>guarantees</b> 193:8 <b>guess</b> 29:5,13 34:15 71:7 91:13,19 106:24 125:10 128:9 134:20 161:10 171:1 188:17 189:2 213:8 <b>guidance</b> 43:3 146:10,14 <b>guy</b> 133:12 160:13 162:18 168:18 209:22 <b>guys</b> 126:23 160:4 164:9 170:14 180:7 188:12,25	90:13,18 94:6 115:17 138:6 160:9 217:7 <b>happened</b> 12:16 15:4 19:1 26:18 32:20 59:2 80:14 92:9 116:1,11 117:10 173:1 <b>happening</b> 35:14 38:14,22 70:9 <b>happens</b> 18:9 42:1 86:13 87:18 118:11 150:13 175:9 201:21 <b>Happily</b> 46:23 <b>happy</b> 21:8 104:2 104:5 105:25 113:4 128:21 129:1 135:24 144:5 184:12 185:11 186:3 187:14 206:10 208:10,14 <b>hard</b> 144:1 164:12 <b>harder</b> 144:2 <b>harm</b> 14:9 61:5 <b>hat</b> 33:6 <b>head</b> 33:16 97:14 98:24 135:5 140:1 <b>headed</b> 200:12 <b>heads</b> 116:4,8 120:11 199:22 204:21 <b>hear</b> 7:8 9:2,9 10:11,23 27:3 45:19 46:25 49:1 52:14 98:23 107:9 123:25 131:13 140:3 147:1 148:22 153:14 153:15 161:12 185:11 189:9
<b>H</b>				
<b>H</b> 44:22 46:19 <b>hairs</b> 95:14 <b>half</b> 13:1 114:18 130:18 174:12 198:23 <b>hall</b> 218:15 <b>hand</b> 220:24 <b>handed</b> 55:10 220:20 <b>handle</b> 31:25 136:7 146:11 148:4,11 152:21 153:7 <b>Hang</b> 207:17 <b>hanging</b> 204:1 <b>happen</b> 13:21 17:19 35:11 74:17 77:23				

198:5,7 212:4 212:24 216:16 220:5 <b>heard</b> 14:12 42:9 49:17 54:16 89:7 105:24 115:10,18,23 117:12,14 129:6,7 139:23 154:5 158:1 173:5 182:22 182:23 <b>hearing</b> 5:6 11:1 14:10 16:22 18:12 27:20 37:20 40:4 54:5 54:6 69:23 74:23 75:2 78:6 78:18,21 99:1 114:4 121:3 147:12 152:22 160:13 178:17 193:25 196:21 199:12 200:13 202:17 212:13 <b>hearings</b> 11:12 12:10 14:3,13 14:19,21 15:1 17:11 95:19 120:23 146:5 177:6 214:2 <b>hearsay</b> 170:5 <b>Heather</b> 50:8,9 50:13,13 66:12 <b>heaven's</b> 170:17 <b>Heck</b> 157:6 <b>heed</b> 11:24 15:11 31:17 33:13 40:20 <b>held</b> 1:4 12:23 42:20 71:21 111:20 <b>help</b> 28:24 60:21 112:17 191:19 214:17 <b>helpful</b> 40:24 92:5 101:6	112:18 <b>hey</b> 69:23 103:7 160:4 164:13 168:16 172:22 <b>he'll</b> 93:3 107:15 <b>higher</b> 178:17 <b>highly</b> 163:16 167:23 <b>hinder</b> 39:9 <b>historically</b> 32:5 <b>history</b> 15:7 16:25 39:17 99:1 <b>hit</b> 14:25 <b>hold</b> 42:15,15 71:5 111:5 132:25 181:19 <b>holding</b> 131:9 <b>holds</b> 49:25 57:1 <b>Holland</b> 102:12 154:7 158:4 159:7 163:18 <b>Holland's</b> 25:11 <b>home</b> 117:23 <b>honestly</b> 13:14 <b>honor</b> 36:22 48:8 92:14 148:20 159:3,3 <b>honored</b> 113:18 <b>honoring</b> 37:7 <b>hope</b> 74:14 89:13 94:13 110:15 127:19 174:23 182:8 199:21 200:8 205:9 222:14 223:6 223:10 <b>hopeful</b> 82:4,11 <b>hopefully</b> 129:18 171:8 198:15 200:16,24 <b>hour</b> 1:7 2:1 130:18 174:12 198:23,23 212:5 223:23 <b>hours</b> 77:21 89:18 193:24	207:4,7 212:11 212:11,12 213:15,23 216:6 219:6 <b>House</b> 19:10 50:16 116:12 116:18,23 117:1 120:1 <b>hundred</b> 49:6 50:21 51:17 53:4 61:10,10 62:2 63:11,14 63:19 69:17 70:1,19 72:11 73:22 77:16 122:11,21 171:3,4 <b>hundreds</b> 86:7 146:21 214:1 <b>hung</b> 153:23 168:8 <b>hurt</b> 38:3,4 <b>hypothetically</b> 127:4	60:12,16,20 73:18,20 78:10 78:24 80:15,18 83:20 87:16 90:20 92:7 98:22,25 101:11 102:1 105:10 107:23 107:25 110:18 110:20 115:24 116:3 118:18 119:15,23 120:11 141:14 147:24 155:7 173:7 214:1,9 217:24 225:1,8 <b>Illinois's</b> 14:24 <b>immediately</b> 36:23 53:20 69:13 81:17 98:7 <b>impaired</b> 14:8 37:11 191:16 <b>impeachment</b> 23:11 24:9 <b>impede</b> 12:10 32:12 38:10 148:13 153:5 154:25 155:5 177:2 191:8 199:13 <b>impeded</b> 14:8 <b>impeding</b> 152:17 200:18 <b>implementation</b> 108:6 109:25 112:9 <b>implemented</b> 110:5 <b>implementing</b> 90:13 <b>important</b> 10:22 13:13 17:10 26:22 117:7 119:2,21 141:13 <b>importantly</b> 10:1	11:23 14:1 <b>impose</b> 155:5 <b>improve</b> 60:22 163:8 <b>inappropriate</b> 47:5 79:21 84:8 93:2 96:8,11,12 105:13 <b>inception</b> 78:15 <b>Incidentally</b> 167:4 <b>inclined</b> 17:24 <b>include</b> 4:9 199:20 <b>included</b> 97:24 98:2 111:20 146:22 <b>including</b> 74:16 78:22 79:6 82:23 139:8 210:4 <b>inconsistent</b> 182:23 <b>incorrect</b> 59:3 64:17 170:9 <b>incredibly</b> 156:17 157:8 206:12 <b>incur</b> 203:16 <b>indicate</b> 109:24 162:16 <b>indicated</b> 49:14 49:16 96:18 107:5 111:6 113:20 122:17 123:16 127:7 128:7 161:16 163:4 <b>indicates</b> 48:21 113:9 <b>indicating</b> 87:8 127:11 <b>indications</b> 156:21 <b>indicted</b> 23:21 <b>indictment</b> 24:7 <b>individual</b> 41:15
--	---	---	---	---

41:16 139:5 146:8 221:11 <b>individuals</b> 146:22 148:3 <b>inform</b> 120:21 <b>information</b> 9:19 31:8 45:1,4 55:8 59:13,17 61:2 80:18 90:3 92:4 95:15 98:25 115:16 126:3 128:4 144:24 146:6 <b>informed</b> 82:25 84:11 <b>initial</b> 113:19 <b>initially</b> 22:1 152:19 <b>Initiative</b> 4:22 15:5 40:14 78:7 108:1,9,15 110:21 145:14 180:18 187:21 196:9 207:16 207:23 <b>inquire</b> 108:11 110:22 111:14 <b>inquiries</b> 79:2,18 173:2 <b>inquiry</b> 53:5 70:22 72:10 93:14,23 94:3 109:13 110:24 111:9 <b>insert</b> 171:17 <b>inserting</b> 171:21 <b>insight</b> 78:11 146:1 <b>Inspector</b> 115:5 <b>instance</b> 23:5 24:4,5 <b>instances</b> 23:7 24:4 <b>institution</b> 7:20 202:3 <b>instructed</b> 10:3 204:14	<b>insurmountable</b> 216:16 <b>integrity</b> 7:17 145:12 <b>intend</b> 6:24 36:22 48:1,25 51:25 52:15 73:22 76:21 89:10 122:10 127:6,10 133:3 145:12 153:9 194:8 <b>intended</b> 61:7 118:22 <b>intends</b> 76:21 98:18 148:8 <b>intent</b> 11:12 47:13,17,18 48:1,8,9,12 70:18 79:21 134:18 148:19 203:4 <b>intention</b> 7:3 10:9,20 47:21 47:24 50:1,19 50:21 67:24 80:5 113:14 122:10,16 148:13 152:15 153:9 <b>intentions</b> 152:17 171:25 178:3 <b>intently</b> 155:3 <b>interagency</b> 108:7 <b>interest</b> 12:14 18:13 19:1 68:1 132:6 <b>interesting</b> 172:18 <b>interests</b> 90:24 <b>interfere</b> 12:19 14:19 42:4 91:9 94:20 133:17 151:4,18 154:20 160:17 161:1 168:10	180:9 <b>interference</b> 6:2 <b>interferes</b> 42:3 <b>interfering</b> 12:22 18:1 41:18 42:21 71:2 96:1 164:1 182:15 184:17 186:9 210:12 223:17 <b>interim</b> 173:1 <b>internal</b> 17:12 <b>interpret</b> 89:19 175:22 176:15 <b>interpretation</b> 75:14,23 110:12 <b>interpreted</b> 89:15 <b>interrupted</b> 185:3 <b>interruption</b> 100:13 <b>intervention</b> 70:8 125:13 <b>interview</b> 11:1 42:10 91:12 135:18 <b>interviewing</b> 41:21 91:9 <b>interviews</b> 4:20 5:22 11:2 12:2 12:10 15:12 105:14 111:23 147:5,16 148:2 149:3,8 158:21 158:25 217:17 <b>intimately</b> 109:22 112:1 <b>introduce</b> 44:5 44:14 <b>introduced</b> 116:12 <b>investigate</b> 12:20 42:15 94:23 168:7 <b>investigated</b> 13:8 <b>investigating</b>	78:24 87:9 95:11,11 <b>investigation</b> 5:24 6:2 11:10 12:11 13:11,16 13:19,25 14:7,8 14:20 18:2 28:23 31:19 32:12,15 37:6 37:13,16,21,24 38:8,11,19 39:9 39:22 40:11 41:19,22 42:22 47:6 48:24 53:5 60:14 70:17 71:2,11 79:20 81:13 91:3,8,10 94:20 102:16 104:2 105:16 113:12,13 132:4 133:17 135:20 145:13 146:7 147:8,20 148:14,16 151:4 152:17 153:6 154:13 154:25 155:8 158:2 160:5,6 160:18 161:1 164:1 167:2 168:11 175:13 176:19 177:3,6 180:10,24 182:13 184:3 184:13 186:9 188:13 191:16 194:14 199:14 211:11 <b>investigations</b> 13:3,5 38:7 40:8 61:6 79:8 79:13 151:19 152:3 188:21 200:18 <b>investigative</b> 151:24 <b>investigators</b>	14:5 90:22 94:23 194:15 <b>invited</b> 24:23 <b>involve</b> 49:21 <b>involved</b> 23:19 66:25 109:22 110:14 112:1 146:15 150:10 172:19 175:4 <b>involvement</b> 93:4 109:25 111:1 <b>involving</b> 72:13 <b>Irving</b> 44:21 46:19 47:3,9 53:7 54:16 59:2 61:1 62:8 72:14 73:19,25 74:16 74:25 99:12 122:9 149:11 149:18 218:1,6 <b>Irving's</b> 51:13 122:20 <b>issue</b> 11:18 22:12 48:6,19 51:15 52:25 53:2,25 61:22 67:8,9 74:20,22,25 75:1,2,20,24 81:16 86:4 109:20 117:16 122:19 129:19 150:18 200:12 203:7,25 211:4 214:18 218:24 221:23 <b>issued</b> 44:3 51:21 56:12,15 58:9 59:23 68:8,9 83:9 86:1,16 101:25 107:23 110:18 112:22 120:25 149:10 149:16 164:3 202:2,3 217:25 218:4 <b>issues</b> 3:15,23 33:4 48:3 74:15
--	---	--	--	--

82:22 94:25	163:18 164:24	116:4,9 118:2	65:16,25 66:9	123:16 125:2,3
101:4 116:14	176:17,25	119:23 120:11	66:11,17,19	125:11 126:14
116:20 120:3	177:17	141:25 145:20	67:7,13,16,20	126:25 129:13
141:13,13	<b>jobs</b> 14:5 99:18	149:5 150:12	68:5,16,25 69:3	136:8 137:22
143:1 150:8	<b>John</b> 1:16 44:17	153:24 154:8	69:20 70:15	138:18,23
200:23 216:14	44:20,22 46:18	158:20 166:25	71:14 72:2,5,20	139:22,23
<b>issuing</b> 33:22	56:2 67:13,14	168:21 171:14	72:24 73:9,24	140:1,4,4
116:10 151:8	69:16 139:4	172:21 214:7	74:7 75:17 76:2	141:16 144:1
<b>item</b> 6:17 159:11	181:8 182:4,18	214:13 217:19	76:9,17,23 77:5	145:7,8 152:12
161:4	184:21 185:10	<b>Justice's</b> 119:1	77:11,15,18,22	153:22 156:21
<b>items</b> 84:13	219:3,15		80:11 89:12	158:1,10,16
143:2 154:13	<b>Johnson</b> 53:20	<b>K</b>	105:24 114:8	160:4,6,17,23
163:20 201:18	172:16	<b>K</b> 46:19	122:9,16 123:7	161:14,19
<b>IVPA</b> 78:15	<b>join</b> 6:14 9:13	<b>keep</b> 95:22	129:25	163:17 165:2,3
<b>IVPA/NRI</b>	<b>joined</b> 145:18	133:12 161:8	<b>knew</b> 9:8 16:10	165:19,23
120:23	201:4	180:1 208:15	16:22 27:2 31:7	171:22,25,25
<b>J</b>	<b>joining</b> 13:5 16:1	223:12	33:24,25	175:16 176:7
<b>J</b> 1:12 46:19	43:20 96:5	<b>Kellner</b> 30:16	<b>knocking</b> 112:25	180:2 182:9,12
<b>Jack</b> 45:3,6	<b>jointly</b> 30:21	31:4	<b>know</b> 5:11 9:15	183:2 184:2,3
92:21,22 99:15	<b>July</b> 1:6 120:23	<b>Ken</b> 31:3	12:25 15:19	185:21 189:16
102:21 103:8	121:2,5 145:19	<b>kept</b> 40:5	18:9,22 19:5,5	189:18,20,23
149:11,18	147:14,18,24	<b>key</b> 13:10	19:6,7,9 21:12	190:25 191:15
217:25 218:6	148:1 149:6,20	<b>kids</b> 117:19,22	21:17 23:3	194:3 196:15
<b>James</b> 3:18 4:18	158:20 168:22	<b>kind</b> 29:16 39:24	24:12,15 25:10	196:16 199:19
5:20 149:6	168:23 175:3,3	86:20 90:18	26:8 27:7,21	201:9,12 202:3
158:23 217:20	175:4 217:20	92:24 114:2	28:1 31:15	202:14 204:3
<b>Jane</b> 1:24 2:5	218:7 224:3,13	123:1 124:16	32:10 33:25	206:3 208:21
102:10 124:10	224:23,24	130:22 182:3	34:5,11 35:9,10	213:23 222:3
129:11 142:19	<b>jump</b> 187:2	190:8 203:9	37:18,19 38:24	222:14
144:23 195:19	<b>June</b> 120:24	<b>King</b> 44:16,17,19	39:2,3,6 40:1	<b>knowing</b> 13:14
202:22 204:11	<b>juries</b> 78:22	44:20 45:17	40:25 41:12	101:5
<b>jargon</b> 158:17	<b>jury</b> 13:12,16	46:11,14,18,19	42:8,19,24 43:1	<b>known</b> 55:17
<b>Jason</b> 1:11	23:16 32:3	47:2,22,24 48:9	43:4 52:3 57:11	146:23 172:20
166:18	39:12 61:6	49:1 50:4,8,21	63:10 64:18	174:1
<b>jeopardize</b> 48:23	70:17 172:19	52:9,22 53:23	70:4 71:8,12	<b>knows</b> 20:9,10,11
115:22 119:25	<b>justice</b> 3:17 7:7	54:14,20,23	72:3 76:21	175:23
145:12 148:16	9:4,16 12:6,22	55:11 56:1,12	78:14 84:7,8	<b>kudos</b> 124:18
<b>jeopardizing</b>	17:8 18:14	56:20,23 57:2	86:24 87:6,7	
71:11	30:16 31:3,4	57:14,22,25	88:10 90:9	<b>L</b>
<b>Jim</b> 1:17 147:23	32:23 33:12	58:1,4,10 59:6	91:15 94:16	<b>L</b> 103:14,23
<b>job</b> 40:15,16,19	34:7 42:7 45:1	59:9,11,16,19	95:13,17,23	<b>LAC</b> 204:12
90:22 95:17	45:4 47:6,11	59:25 60:23,25	101:13,15,25	<b>lady</b> 44:13 157:2
114:20 115:1	48:5,11,21 61:4	61:18,21 62:2,7	102:2 108:13	<b>lake</b> 187:3
118:18 119:3	76:6 79:5,17,22	62:12,14,16,25	111:22,23	<b>landing</b> 98:6
119:14 146:12	80:18 85:13	63:5,7,18,22	112:4,7,20	<b>language</b> 159:4
148:14 158:4	98:25 104:1	64:7,14,16,18	114:17 115:25	171:17,21
	114:12 115:13	64:22 65:1,4,11	118:10,10,19	172:2 174:7

186:25 187:4 187:15,18 190:11 193:1,6 198:23 204:18 206:18 207:11 207:19 210:4 218:13 219:3 221:5,7 <b>Lardner</b> 121:9 <b>large</b> 100:22 <b>LaSalle</b> 1:5 <b>lastly</b> 76:4 <b>late</b> 2:2 14:23 99:2 <b>Lavin</b> 92:21 94:1 97:5,24 98:6,7 98:9 99:15 149:11,18 217:25 218:6 <b>Lavin's</b> 45:6 93:13 <b>law</b> 4:11 7:9 13:12 42:16 45:21 46:5 58:8 73:17 78:23 98:23 113:16 115:7 <b>lawful</b> 151:24 <b>lawfully</b> 55:25 <b>laws</b> 59:23 <b>lawyer</b> 6:7 56:13 68:9 87:5 91:20 162:14 <b>lawyers</b> 43:5 64:9 74:10 87:16 185:18 <b>lay</b> 125:24 <b>lead</b> 31:4 134:8 <b>leading</b> 24:6 <b>leaked</b> 38:25 <b>learn</b> 14:22 81:17 118:22 119:9 <b>learned</b> 93:11 219:2 <b>leave</b> 131:6 163:7 174:7 195:10 <b>leaves</b> 202:18	<b>leery</b> 182:24 <b>left</b> 51:19 53:9 64:1 80:15 108:16 177:5 213:22 <b>legal</b> 42:25 44:3 87:6 158:16 170:4 214:3 220:24 221:16 223:15 <b>legally</b> 91:19 <b>legis</b> 39:5 <b>legislative</b> 1:1,3 2:3 11:16 13:2 25:9 33:8 54:5 58:15 60:15 105:10 120:22 141:11 142:12 147:6 149:2,9 151:25 178:20 217:16,21 223:22 <b>legislator</b> 8:23 <b>legislature</b> 102:19 165:3 <b>lenders</b> 110:3 112:10,14,16 112:17 <b>lest</b> 157:19 <b>letter</b> 5:18,21 9:17 12:7 18:7 24:16,17,18,24 24:25 25:2,3 27:9,14,16 29:12 30:4,24 38:23,24,25 39:4,7 69:25 79:12 82:2 84:24 87:23,25 88:8,12 94:17 104:6 105:2,4 106:11 107:4,6 113:9 116:16 116:17 120:18 123:20 127:10 127:14 128:13 128:16 129:3	129:11,18 131:25 135:17 138:10 147:14 147:18,23,24 155:15 158:22 159:1,1,4 168:22,23 169:12 173:13 174:11 176:15 176:18 212:10 214:5,7 <b>letters</b> 9:16 12:5 93:1 95:12 102:13,14 117:11 127:6 158:19 214:6 <b>letting</b> 176:25 <b>let's</b> 9:6,9 35:9 73:1,7 126:21 126:21 132:25 132:25 133:1,2 133:2 134:12 134:15 138:21 140:3,23 158:8 158:10 159:1 160:1,14 162:8 164:13 168:9 170:16,16,21 170:23 171:4,4 171:6,7 177:14 177:15,17 184:6 185:13 185:20 213:4 221:4 223:12 <b>level</b> 117:21 153:3 183:8 <b>Lewis</b> 3:18 4:18 5:20 24:13,19 26:24 28:3 147:23 149:7 150:23 151:14 155:15,16 156:13,17 157:8 158:5,23 160:1,3 168:9 180:6,7 181:18 181:20 184:13	193:3 217:21 <b>Lewis's</b> 28:20 <b>lies</b> 151:10 <b>lieu</b> 54:12 <b>life</b> 184:23 <b>light</b> 47:5 100:4 102:24 127:6 133:22 135:2,4 135:14 150:19 151:24 152:3 154:17 159:2 160:24 166:12 167:17 175:17 176:23 186:24 200:17 210:11 213:5 214:5 216:18 <b>lightly</b> 204:3 <b>lights</b> 38:1 <b>likewise</b> 127:21 <b>limit</b> 110:11 171:2 <b>limited</b> 52:18 93:4 <b>line</b> 15:23 71:19 76:8,10 95:24 97:3 118:2 128:10 155:10 173:20 <b>lines</b> 202:20 <b>LIS</b> 154:3 <b>Lisa</b> 18:8 44:25 121:9 <b>listen</b> 33:12 39:7 187:15 191:14 213:2,4 <b>listened</b> 155:3 157:9 <b>listening</b> 115:6 <b>literally</b> 86:6 <b>little</b> 21:1 30:12 31:9 37:4 42:19 104:20 114:2 137:2 141:12 146:1 154:10 155:14 157:7 173:24 174:5,8	180:12 182:24 183:1 219:6 <b>lived</b> 125:23 <b>LLP</b> 121:10 <b>loans</b> 110:4 <b>lobbyist</b> 167:4 <b>logical</b> 202:5 <b>logjam</b> 199:2 <b>long</b> 55:15 113:17 119:19 119:19 120:5 150:7,22 151:23 158:3 209:10 212:12 <b>longer</b> 73:19 98:23 108:17 122:6 135:21 160:10 175:25 <b>long-standing</b> 142:23 <b>long-term</b> 78:9 <b>look</b> 28:21 29:18 39:17 73:4 118:7 120:2 193:10 198:15 200:8 219:2 222:23 <b>looked</b> 81:8 <b>looking</b> 32:9 33:24 34:1 39:21 77:12 91:20 139:1,2,3 139:4 <b>looks</b> 94:22 <b>loses</b> 219:20 <b>lost</b> 130:15 <b>lot</b> 34:24 38:16 38:17 42:23 109:4 114:19 116:14 120:3,9 144:2 154:5 172:9 192:13 193:14 194:21 195:22 213:17 <b>love</b> 92:8 170:15 <b>lunch</b> 133:2 138:6 141:7,9
--	--	---	---	---

LEGISLATIVE AUDIT COMMISSION MEETING 7/16/2014

<b>luxury</b> 176:14	4:25 5:2,4,7,9	130:15,17,18	194:10,17,25	166:3 175:23
<hr/>	5:14 6:19,21	130:20,25	195:5,8,11,13	176:10 184:1
<b>M</b>	7:4,10,13,16,18	131:2,8,16,21	195:24 196:3	189:14 194:13
<b>M</b> 92:21 121:9	7:24 8:1,4,6,8	133:5,8,11,13	196:18,20,22	195:22 204:1
<b>Madigan</b> 18:8	8:11,16,18,20	133:23 134:1	197:6,21,22	205:18,22
<b>magnitude</b> 51:6	8:25 9:2,6,8,12	134:13 135:9	198:4,7,10,12	<b>means</b> 7:19 10:24
119:20	10:5,8,10,12,14	135:22 136:12	198:19 200:10	22:10 174:18
<b>maintains</b> 98:10	10:17 11:4,7,9	136:15,17,20	201:13,18	186:22
<b>majority</b> 70:21	11:15 15:15,22	136:24 137:9	202:15,24	<b>measures</b> 118:23
142:24	22:2,4,6,12,17	137:13,16	203:2 204:5,10	<b>mechanical</b>
<b>making</b> 7:21 12:4	28:12,15 30:8	138:11,16	204:16,25	77:15
34:12 51:20	30:10,12,15	140:13,16,25	205:17 206:14	<b>meet</b> 21:8 61:19
157:5 186:11	31:12 33:19	141:2,10	206:16,18	102:25 125:6
<b>Malcolm</b> 120:25	35:18,21 36:1,7	142:14,17	207:10 208:6,8	163:12 164:16
149:11,17	36:15,18,24	143:1 144:7,11	208:18 209:6	189:25 190:22
217:25 218:6	40:21 43:13,15	144:12,20	209:10,18,21	190:22,23
<b>man</b> 137:7	43:17,20,23	145:3,15,17	209:25 210:3	192:21 203:19
<b>Manar</b> 1:15 2:13	44:12 45:12,24	148:23,25	210:18,20,22	221:17
2:14 117:6	46:7,13,15,21	149:22 150:2	211:9,17,20,25	<b>meeting</b> 1:1,4
143:13,14	46:24 47:15	152:8,11	212:3,7,15,17	3:13,13 5:16
179:2,3 197:11	50:15 53:18	153:11,20	212:21 213:1,5	6:4 7:6 8:12
197:12 212:4	54:3,11 56:9	155:17,21,23	213:7,19	30:16,20 35:9
222:8	63:6,8,11,15,17	155:25 156:2,4	214:15,20,23	42:10 52:24
<b>maneuver</b> 38:10	63:20 64:15,17	156:8 157:22	214:25 215:3,7	99:13,17,24
<b>manner</b> 74:12	64:19,23 66:3	158:14 159:8	215:16,18	100:25 101:4,6
94:10 145:11	66:10 69:14	159:14 161:2	216:2,10,12,22	101:18 129:22
177:2	71:15 76:25	165:7,11,16	217:9,14 218:9	141:8 154:9
<b>Maria</b> 144:4	77:6,25 78:5	166:2,17,23	218:18 219:22	161:20 162:10
<b>Martinez</b> 2:15	80:1 82:16	167:16,19,21	220:2,8,11,13	166:9 173:4
117:6 143:15	85:18 87:19,21	168:14,17	220:17,20,23	178:13 186:3
<b>Mary</b> 202:21,22	90:6 92:16,18	169:7,13,16,19	221:4,9,20	216:5 222:9
<b>materials</b> 101:3,3	93:6 94:14 96:2	169:24 170:1,6	222:3,9,17,22	223:5 224:21
<b>matter</b> 5:23	97:1 101:22	170:13,15	223:3,9,11,20	225:10,14
18:19 27:11	103:11,15,19	171:9 172:5	224:4,8,15,19	<b>meetings</b> 12:15
39:25 76:14	103:21 104:8	174:5,25 175:5	<b>ma'am</b> 44:13	<b>member</b> 8:21,24
79:3 84:11	104:11,13,16	178:6,12,19	<b>mean</b> 17:18	17:6 19:7 22:7
99:22 107:22	104:20,23	179:12,13,20	42:18 53:3 54:7	23:24 25:25
110:17 111:1	106:1,14,17,21	179:23 180:6	81:1 94:19,21	49:4 114:17
165:16,19	106:25 109:6	181:2 186:14	95:6,9,12,25	154:18 155:11
176:14 187:5	113:25 117:3	186:17 187:7	102:17 108:2	156:16 217:6
187:10	118:14 119:12	187:12,17	119:13 123:8,9	<b>members</b> 5:11,16
<b>matters</b> 13:8	120:16 121:22	188:9 189:13	124:15 125:25	7:14 9:21 10:19
14:15 27:13	122:25 123:21	189:17,19,21	126:23 128:20	10:23 15:4,17
146:17	123:23 124:6	190:2,7,11,14	139:23,24	17:16 19:13,13
<b>Mautino</b> 1:12 2:1	127:17 128:9	190:19,24	154:10 160:13	19:14,20,23
2:25 3:1,9,11	129:5,15,24	191:5 192:17	162:2,25	21:22 24:1 26:9
3:21 4:1,13,15	130:3,6,13,14	193:16,18,21	163:16 164:14	31:6,9 39:2

42:9 50:5 76:9 79:15 93:7 98:16 99:3,7,9 104:8 117:1 120:5,17 122:3 131:13,22 136:18 153:25 156:11 158:17 177:11 186:15 187:1 191:23 195:13 198:24 199:9 200:5 201:2 202:25 203:8 210:5,8 211:13 212:18 212:18 215:25 221:10 <b>memo</b> 175:17 <b>memorable</b> 170:13 <b>memorialized</b> 98:2 <b>memorializing</b> 147:14 <b>mentioned</b> 22:23 75:5 87:22 99:15 109:3,7 110:19 112:21 117:19 183:11 205:19 210:14 219:5 <b>merely</b> 59:25 87:10 <b>mesh</b> 192:9 <b>message</b> 53:25 <b>met</b> 7:7 99:15 204:19 <b>method</b> 74:12 122:22 <b>microphone</b> 73:2 <b>middle</b> 86:10 124:16 195:14 <b>mike</b> 44:13 45:15 46:14 103:19 104:21 123:23 <b>mileage</b> 205:20 <b>Miller</b> 20:11	<b>million</b> 21:13,14 112:5,5 <b>millions</b> 146:18 <b>mind</b> 6:25 124:16 <b>mine</b> 94:15 178:14 <b>minimum</b> 12:12 <b>minor</b> 168:8,25 <b>minute</b> 21:10 <b>minutes</b> 2:2 39:8 39:8 136:4 140:23 141:6 174:12 193:4 <b>mismanagement</b> 119:18 <b>missing</b> 210:17 <b>mistakes</b> 92:10 102:18 160:8 <b>misunderstood</b> 140:18 <b>moment</b> 10:7 64:1 65:12 75:5 75:6 116:21 122:6 144:3 <b>momentarily</b> 134:16 <b>moments</b> 195:3 198:14 <b>money</b> 100:22 112:6,15 203:16 <b>monies</b> 107:24 205:21 <b>month</b> 33:23 69:10 114:24 <b>Moore</b> 45:5,6 92:16,17,20,20 93:9,16 94:7 96:5 97:6,19 102:9 103:2,5,8 103:24 114:15 129:5,6 <b>morning</b> 22:19 26:10 44:16,22 44:25 45:5,7,9 47:4 51:16 67:25 79:3 80:4	83:2 105:3 123:9 127:13 128:16 129:21 130:1 148:7 151:2 154:23 155:13 188:16 212:9 214:16 215:22 219:25 222:25 223:16 <b>motion</b> 35:23 36:1,8,9,12,14 36:21,23 46:7,8 125:15 134:23 135:9,11,12,13 135:22 137:2,3 137:8,9,10,16 138:6,7,11 139:16,25 140:10,12,13 140:17,20,23 141:3,3 142:8 142:15,18 144:21 145:4,5 148:18,20,25 149:22,25 150:5,10,21,25 151:6,15,15,16 152:8 153:10 153:14 157:14 159:10,11,12 159:16,17 161:18 162:6 163:13 166:4 167:12 168:25 169:2 171:9,12 171:15 172:3,7 174:3 177:1,3 178:3,6,14,16 179:24,25 180:16 181:2,5 181:6,12,19,23 183:6 185:16 185:24 186:18 186:21,23 187:8,19,23 188:4,19 189:4 192:3 195:14	195:15,19,21 195:24 196:2,4 196:5,7,24 198:13 199:14 199:15,20 205:1 206:16 207:11,13,20 209:19 214:11 214:19,21 215:9,15,21 216:21 217:1,3 217:4,4,8,11,12 218:10,20 220:5,14,16,17 223:21,24,25 224:4,9,12,15 <b>motions</b> 139:16 166:5,10 188:14 <b>motive</b> 5:13 177:24 <b>motives</b> 91:15 177:25 <b>move</b> 4:3 11:18 17:11 31:16 32:8 39:14 41:25 60:17 87:14 111:8 142:11 148:8 149:7 164:18 169:5 212:21 213:16 217:21 224:1 <b>moved</b> 54:14 79:8 178:7 196:13 <b>moving</b> 12:14 14:9 17:19 43:10 146:12 164:25 <b>MSI</b> 191:18 <b>Mul</b> 124:6 <b>Mulroe</b> 1:16 2:17 2:18 40:22,23 41:8,10 42:8 43:12 65:15 69:15,16,21	70:23 90:6,7 92:15 101:22 101:23 102:23 103:3,6,10 117:6 124:7,8 124:13 125:2 125:10,24 126:9,11,21 131:22,23 132:10,12,15 132:17 133:10 133:13,14,19 134:2,6,19,20 135:1,12,14,24 136:16,19,22 137:1,12,15,21 138:15,16,17 138:22 139:21 140:3,8,11,21 143:17,18 159:8,9,15 161:3 162:1,8 162:13,17,21 162:25 163:15 167:18,21 168:6 174:17 179:4,5,25 180:1 181:8 182:1,5,15,20 182:22 183:1,9 183:11,17,19 183:21,23 184:1,8,10,16 185:1,3,7,9,23 186:7,13 195:16 197:13 197:14 211:14 213:7,8 218:13 219:3 <b>Mulroe's</b> 76:5 197:1 <b>multiple</b> 145:9 <b>mutual</b> 17:17 <b>mutually</b> 137:5 137:11 138:25
--	--	--	---	---

N

<p>N 46:19,19 103:14,23 <b>naive</b> 221:6 <b>name</b> 44:16,20 45:5,7,9,16 46:16,18 49:23 66:13 92:18,20 104:17 111:15 111:18,19,22 111:25 <b>names</b> 112:10 122:7 <b>narrow</b> 110:12 <b>narrowly</b> 111:4 <b>nature</b> 49:16 52:17 57:20 68:17 97:17 109:13 113:6 113:18 <b>nay</b> 198:11 <b>near</b> 63:24 <b>nearly</b> 78:12 <b>necessary</b> 6:1 12:20 27:25 75:16,18 121:18 135:21 138:23 140:5 215:17 <b>need</b> 4:12 33:1 45:22 52:13 59:5 71:18 76:10 83:23,24 89:8 98:14,16 109:20 115:3,3 118:22 124:13 125:5 130:23 130:24 131:5 134:22 138:1 138:25 139:7 142:18 150:17 154:22 158:12 160:20 163:6 163:11 164:15 164:21,22 167:7 171:16 175:8 176:4,5 177:12,16</p>	<p>180:12 184:4 188:3,11 189:2 194:7,12,12,12 195:21 204:6 207:6 214:20 215:23 <b>needed</b> 150:15 173:21 210:9 214:4 215:24 216:15 <b>needs</b> 7:16 32:13 51:6 158:7,7 160:22 168:6 <b>negative</b> 185:25 208:13 <b>neglect</b> 58:23 60:5 <b>negotiate</b> 221:12 <b>Neighbor</b> 108:1 <b>Neighborhood</b> 4:21 15:5 40:13 78:7 108:1,8,14 110:21 145:14 180:18 187:21 196:9 207:15 207:22 <b>neighborhoods</b> 78:14 <b>neither</b> 72:2 111:5 <b>never</b> 17:14 34:11 61:12 64:12 68:10,10 68:12 87:18 90:13 129:7 154:24 161:11 210:6,9 215:16 221:6 <b>new</b> 13:2,3,4,18 34:2 117:9,11 184:23 218:22 223:11 <b>news</b> 13:16 <b>newspapers</b> 167:3 <b>Nice</b> 22:19 <b>night</b> 99:10</p>	<p>147:22 205:4 222:16 <b>nightly</b> 13:15 <b>nine</b> 158:6 178:12,14 195:17 <b>ninety</b> 158:6 <b>nitpicking</b> 183:12 <b>nodding</b> 112:25 135:5 204:21 <b>Noller</b> 121:9 <b>nonpublic</b> 13:13 <b>normal</b> 18:2 31:19 37:18 38:22 61:24 74:21 100:5,10 211:1,1,4 <b>normally</b> 113:18 <b>North</b> 1:5 <b>note</b> 50:25 77:2 <b>noted</b> 65:21 <b>notes</b> 122:3 175:21 225:12 <b>notice</b> 66:2 189:10 210:25 211:3 <b>notification</b> 206:8 <b>notifies</b> 209:1 <b>notify</b> 130:23 131:5 207:5 208:11 209:2,7 209:11,13,15 <b>notion</b> 98:21 <b>notwithstanding</b> 42:13 <b>November</b> 100:13 102:20 <b>no-brainer</b> 90:23 <b>NRI</b> 11:11 48:24 63:17 79:1 91:13 97:13,18 98:1 99:3,16 100:1 101:10 110:7,14 112:9 144:25 146:15</p>	<p>146:23 147:9 148:3 <b>NRI-related</b> 63:9 63:16 <b>number</b> 52:18 82:22 84:16 95:19 119:13 145:18 146:2 175:5 201:16 215:24 218:22 <b>numbers</b> 178:21 <b>numerous</b> 78:20</p> <hr/> <p style="text-align: center;"><b>O</b></p> <hr/> <p><b>O</b> 46:19 92:21,21 <b>oath</b> 225:5 <b>obedience</b> 58:24 60:6 <b>Oberweis</b> 1:17 2:19,20 15:19 15:21,24,25 16:7,10,14,20 17:3 18:17,20 18:22,25 19:4 19:12,16,18,22 20:2,14,22,24 21:5,10,21,25 22:3,5,11,13,16 26:8 35:25 96:3 96:4 143:19,20 168:16 170:10 170:11,14,16 179:6,7 197:15 197:16 205:24 205:25 206:14 206:15,17,19 208:3,7,10,20 209:9,11,20,22 210:1,15,19,21 210:24 211:15 211:18,22 212:1,4,14,16 212:19,23 213:4,6 216:21 217:3,12,15 218:16 219:4 219:14 220:15</p>	<p>220:19,21 221:1,7 222:1,7 222:21 <b>Oberweis's</b> 24:21 <b>obey</b> 58:17,23 60:3 70:6 <b>object</b> 6:16 211:19 <b>objecting</b> 199:19 <b>objection</b> 151:13 <b>objections</b> 187:1 <b>objective</b> 4:6,7 125:15,16 <b>obligated</b> 60:16 <b>obligation</b> 66:15 <b>obligations</b> 61:20 125:7 <b>observations</b> 52:22 <b>observing</b> 11:13 <b>obstruct</b> 12:10 155:6 <b>obstructing</b> 41:18 154:13 <b>obstruction</b> 42:6 43:7 48:2 <b>obtain</b> 65:22 <b>obvious</b> 209:24 <b>obviously</b> 16:21 34:2 59:19 119:20 146:17 157:9 186:2 <b>Ocasio</b> 45:11,11 98:1 121:24 131:8,15,18,24 132:9,11,14,16 132:20 133:18 134:10 135:6 135:15 149:12 149:18 195:10 218:1,6 <b>occur</b> 81:6 91:8 136:2 164:15 168:1 173:14 217:9 <b>occurred</b> 12:21 90:12 97:16</p>
---	---	---	---	---

<p>156:14 160:9  172:14 199:18  215:20  <b>occurs</b> 193:10  <b>October</b> 97:12  149:9,14,15  154:15 170:22  180:19 187:22  188:16 191:12  196:9 207:23  214:8 217:22  218:2,3  <b>offer</b> 148:17  174:18,22  199:19,20  203:14  <b>offered</b> 55:9  83:19 174:5  177:9 185:15  193:3 212:2,8  214:24  <b>offering</b> 183:16  185:20 186:2  <b>offers</b> 203:14  <b>office</b> 10:3 11:16  18:5,5,11 23:4  24:1 25:11  29:22 30:22  34:18,19 39:21  39:21 40:15,16  40:18 41:23,25  42:12 49:9,11  49:14 51:2,10  52:4,16 53:11  53:15 54:23  56:6,14 61:12  62:7,10,23  66:22,22,25  67:5,8,12 68:13  71:10 72:6,8  73:11,11 74:4,9  74:13 75:8  76:12,15 83:22  91:11 94:1 97:8  97:10 99:11  100:3 101:8,17  105:21 107:10</p>	<p>109:24 111:24  113:10,11,18  113:24 116:8  122:18 127:7  132:8 133:21  135:4 145:10  145:20,22  146:11,13  147:5 148:9  152:22 153:2  153:17 155:9  161:12,23  167:11 180:21  187:25 193:12  196:11 200:3  206:4 207:25  208:25  <b>Office's</b> 111:13  113:15  <b>official</b> 19:6  33:12  <b>officially</b> 161:23  <b>off-site</b> 94:2  <b>Oh</b> 15:19 27:11  84:3 103:19  107:16 124:6  127:25 136:16  140:16 162:25  167:24 170:10  172:8 203:2  220:24 223:3  223:20  <b>okay</b> 3:11 9:6  26:3,12,25  28:10 29:24  30:2,5,10 35:12  41:8 44:12  63:10 64:23  70:23 75:10  76:4 77:6 86:14  87:1 88:13  89:11 103:7,10  104:11 106:9  113:6 114:16  127:25 130:8  130:10 131:8  131:17,21</p>	<p>140:9,17 141:2  141:3 153:20  160:2,12,15  162:1 168:15  172:10,25  180:1,7,8,10  182:25 183:13  183:15 185:19  186:4 187:6,14  187:17,18  188:5 190:20  191:1 195:13  196:18 203:4  204:9 211:5  214:23 217:9  217:14 218:21  223:20 224:4  <b>old</b> 23:12  <b>once</b> 109:3 135:3  153:23 220:5  <b>onerous</b> 174:10  <b>ones</b> 73:5 93:20  <b>ongoing</b> 5:24  61:6 105:16  132:4 135:20  147:8 153:6  <b>open</b> 89:1 136:6  150:8 152:22  154:3 161:17  185:22 189:10  <b>opened</b> 164:3  <b>opening</b> 57:19  <b>open-ended</b>  158:11 163:7  <b>open-meeting</b>  153:25  <b>operating</b> 99:2  201:20  <b>operations</b> 163:8  <b>opining</b> 54:25  <b>opinion</b> 28:11,18  29:4,11,14,17  31:15 86:25  101:5 102:25  109:21 110:9  163:18,22  <b>opportunity</b></p>	<p>11:22 47:9 56:2  61:1 75:19  111:2 119:9  127:24 148:7  177:14 183:16  200:11 213:12  <b>opposed</b> 151:15  190:5 193:4  203:12 224:19  <b>opposition</b>  206:25  <b>option</b> 34:8  36:24 203:21  <b>options</b> 34:10,14  <b>op-ed</b> 17:9  <b>oral</b> 157:15,17  <b>order</b> 2:4 3:14  7:6 10:2 36:9  36:12,14,20,21  43:25 45:22  49:5 58:21,23  58:24 60:4,5,6  61:17 65:23  74:13 75:2 83:3  98:13 99:20,24  124:21,24  125:6,9,22  163:14 167:13  198:20 202:6  215:21  <b>original</b> 113:19  129:10  <b>originally</b> 102:9  <b>ought</b> 136:7  139:15 166:18  173:14 177:25  219:17  <b>outlined</b> 88:8  118:25 147:19  148:9  <b>outside</b> 23:25  202:21  <b>oversight</b> 108:6  <b>owe</b> 90:17,19  213:25  <b>owed</b> 94:12  <b>owes</b> 14:13</p>	<p><b>o'clock</b> 83:1  84:13 123:3,5,9  123:11,18  129:21 188:15</p> <hr/> <p style="text-align: center;"><b>P</b></p> <hr/> <p><b>page</b> 87:10,10,10  221:18  <b>panel</b> 87:9 90:9  151:3 188:24  <b>paper</b> 82:4  108:25 196:17  207:17  <b>papers</b> 58:23  169:21  <b>paragraph</b> 105:9  <b>paragraphs</b>  105:6  <b>parallel</b> 23:6  24:8 79:18  156:23  <b>parameter</b> 55:19  <b>pardon</b> 108:20  123:22  <b>parenthetical</b>  108:7  <b>part</b> 4:6 41:16,22  42:8 48:15  58:18 88:4  159:17 160:8  165:2,21 186:4  187:4,10  <b>participate</b>  132:18  <b>participated</b>  177:20  <b>participating</b>  41:17 42:22  113:14 132:2,7  <b>particular</b> 47:6  47:11 100:6,7,7  100:20,20  <b>particularly</b> 51:5  83:10 125:1  164:19 174:17  <b>particulars</b> 100:3  <b>parties</b> 29:19</p>
---	---	---	--	--

<p>53:1,2  <b>partisan</b> 15:5  40:2 173:16  174:19  <b>party</b> 32:21  41:13 215:25  <b>pass</b> 31:7 93:24  <b>passed</b> 95:3  116:23,24  150:7  <b>passionately</b> 18:1  <b>Pat</b> 18:7 147:2,7  <b>path</b> 33:16 52:13  219:18  <b>Patti</b> 116:25  <b>pause</b> 111:17  165:7 177:21  <b>pay</b> 120:13  205:20 214:2  <b>paychecks</b> 19:9  <b>pending</b> 146:7  <b>people</b> 20:18,20  21:13,14,16  27:23 32:21  33:4 34:13  37:18 38:17  39:16 40:12  41:2,11 56:18  56:18 60:12,20  64:8 80:14 81:6  83:11 84:16  87:16 90:17,19  90:20 91:6,9,12  107:12 115:24  117:14,22  118:1,10,18,21  119:4,6,15,22  120:10,13  141:14 161:11  162:24 167:19  168:7,24 205:8  211:12 213:11  214:9 222:10  <b>people's</b> 122:7  <b>perfect</b> 23:5  <b>perfectly</b> 65:23  81:23 206:10</p>	<p>208:7,13 209:5  <b>perform</b> 148:15  178:1  <b>performance</b>  107:22 110:18  <b>period</b> 5:23  49:13 53:9 64:3  79:7 82:11  100:15 147:16  147:17 148:1  149:4 158:22  158:24 165:11  169:22 176:13  194:9 217:18  <b>permanently</b>  134:25  <b>permissible</b>  148:10  <b>permission</b> 29:17  29:17 160:25  <b>permit</b> 55:20  183:7  <b>permitted</b> 59:14  82:5 156:10  <b>permitting</b>  167:11 180:21  187:25 190:18  196:12 208:1  <b>person</b> 41:22  51:11 58:16  60:3 70:4,5  77:22 86:8,9  102:4 124:19  124:22 166:13  167:5 194:2  210:22  <b>personal</b> 94:2  98:8,12 132:6  181:9 182:5  <b>personally</b> 42:20  85:6 123:3,11  131:4 206:1  <b>persons</b> 13:19  <b>person's</b> 149:13  159:18  <b>perspective</b> 35:1  90:1 199:11</p>	<p>200:11  <b>pertain</b> 149:17  218:5  <b>pertaining</b> 49:25  107:24 108:5  <b>pertinent</b> 58:18  <b>phase</b> 23:16  164:23  <b>phenomenal</b>  114:20,25  <b>phone</b> 5:5 6:5  9:16 85:6 146:2  147:13 154:14  156:17 157:8  157:21 162:19  163:1 169:17  170:7 172:16  175:4,4,6  177:19 181:17  181:20 184:5  189:13,21  191:6 193:5,17  193:23 194:2  212:1,5 214:12  214:17 215:13  222:8  <b>phonetic</b> 31:1  <b>phrase</b> 159:19  <b>physical</b> 93:14  <b>physically</b> 85:5  <b>pick</b> 91:1 156:17  180:5 184:5  193:22 215:13  <b>picked</b> 157:7  <b>picks</b> 162:19  163:1  <b>piece</b> 168:25  175:13 204:8  <b>pieces</b> 82:4  221:11  <b>pill</b> 116:12  <b>place</b> 14:7,11  144:23 148:23  148:25 175:20  175:22 222:12  224:3  <b>placed</b> 30:18</p>	<p>207:12  <b>places</b> 78:10  <b>plain</b> 91:10  172:10  <b>plainly</b> 172:11  <b>plan</b> 101:10  107:6 128:15  129:3  <b>planning</b> 108:6  <b>plans</b> 222:16  <b>playing</b> 210:16  <b>plays</b> 39:14  <b>plead</b> 47:20  <b>pleading</b> 47:25  <b>please</b> 11:7 25:19  45:15 46:13,16  47:15 63:20  78:5 92:19  96:13 104:16  121:7 143:7  172:22 196:14  197:1 206:17  210:16 218:19  219:19  <b>plenty</b> 80:9  102:20  <b>point</b> 10:2 23:9  24:11,22 25:18  31:18 34:12  35:5 55:15  60:13 70:3  83:16,16 92:12  95:9 96:9 103:7  111:10 113:12  114:17 117:8  118:7 120:1  125:12 126:2  138:12 139:21  168:19 172:10  175:20 180:8  188:3 192:13  199:1 210:6,9  210:11,17,19  210:24 211:10  221:18  <b>pointed</b> 79:3  <b>points</b> 31:10 38:8</p>	<p>134:14  <b>polices</b> 115:4  <b>political</b> 15:1  33:2 91:17  118:24 119:10  185:13 210:22  211:18  <b>politics</b> 15:5,6  19:24 20:3  22:14 176:22  210:16  <b>portion</b> 29:12  30:4 70:19  <b>portrayed</b> 167:3  167:6,6  <b>pose</b> 5:23 11:6  79:12,19 132:3  135:19 147:7  <b>posed</b> 17:22  134:3 147:20  <b>position</b> 14:22  19:6 25:10  35:24 40:1 43:7  48:5 54:25 55:1  55:4 64:9 78:9  78:11 85:8,12  102:15 107:8  108:16 110:24  <b>positive</b> 185:25  208:13  <b>positives</b> 223:12  <b>possess</b> 106:6  <b>possessed</b> 49:5  <b>possesses</b> 48:14  49:18  <b>possession</b> 46:4  48:15,18 53:1  62:1,3 72:18  73:17,20 75:1  81:14 82:11  89:1,6 93:20  97:21 98:13  108:5 109:5  126:1,11  <b>possibility</b> 38:4,6  223:1  <b>possible</b> 37:10,16</p>
---	---	---	---	---

<p>165:10 207:3  <b>possibly</b> 42:15  48:17  <b>post</b> 142:11  <b>postpone</b> 42:17  47:8 48:1 79:5  164:13 206:6  <b>potential</b> 6:11  37:23 38:16  <b>potentially</b> 37:17  42:5 151:13  204:18  <b>power</b> 151:10  163:21  <b>powers</b> 83:19  125:23  <b>practice</b> 162:15  162:20,21  <b>practicing</b>  113:16  <b>pre</b> 100:11,11  <b>precedent</b> 99:25  <b>precludes</b> 38:14  <b>predict</b> 28:2  <b>prefer</b> 213:9  <b>preferably</b> 6:4  <b>preference</b> 91:1  <b>preferred</b> 51:9  <b>preliminary</b>  59:24  <b>Prender</b> 104:13  <b>Prendergast</b> 45:9  45:10 104:14  104:15,17,17  104:22 105:1  106:5,8,11  107:5,16  108:20,23  109:8,9,14,16  110:15 112:20  113:4,6 114:13  123:8,15,22,24  124:3 125:25  126:5,25  127:19,25  128:2,5 141:17  <b>prepare</b> 124:25</p>	<p><b>prepared</b> 111:11  140:4 153:16  153:18 207:8  <b>presen</b> 101:18  <b>present</b> 2:24 3:1  3:3,12 69:24  99:22 100:23  121:5 138:6  144:21 179:3,5  179:11,13,13  179:17,22,24  181:11,12,13  184:23 185:12  186:5,6 207:8  215:11  <b>presentation</b>  16:8 101:19  <b>presented</b> 151:1  218:17  <b>presenting</b>  100:18,25  101:7  <b>Presently</b> 14:4  <b>preserve</b> 199:25  200:7  <b>preserved</b> 199:15  <b>presided</b> 191:18  <b>press</b> 38:25 39:8  86:15,15  112:21 177:21  <b>presumably</b> 51:2  51:23 146:21  <b>presume</b> 121:16  <b>pretending</b> 115:8  <b>pretty</b> 20:14 51:4  69:8 90:23  116:14 128:10  171:18 188:24  209:24 210:13  <b>prevail</b> 179:24  199:22  <b>prevent</b> 14:20  100:11  <b>prevention</b> 78:10  78:17 80:16  98:22 101:11  107:25 110:20</p>	<p><b>previous</b> 42:14  186:21  <b>previously</b>  137:25 149:16  157:18 193:12  218:4  <b>primarily</b> 97:12  <b>prior</b> 26:4 97:16  121:1 147:25  159:13 189:11  192:18 193:24  193:25 206:9  208:25 210:8  <b>private</b> 80:14  199:17  <b>privately</b> 39:1  152:14  <b>privilege</b> 49:16  50:25 51:1,1,13  53:12,15,16  54:15,16,18,21  54:24 55:1,9,13  55:17 61:22  62:8,9,19 66:23  67:1 73:10,12  73:15,21,25  74:4,6,14,15  75:9 122:13,19  <b>privileged</b> 49:15  50:24 59:13,17  62:4 70:22  <b>privileges</b> 51:12  69:22  <b>privy</b> 155:21  <b>pro</b> 79:18  <b>proactively</b> 67:3  <b>probable</b> 13:19  13:23  <b>probably</b> 23:4  27:23 33:9 86:6  102:10,12  114:23 134:14  136:24 168:25  210:18  <b>problem</b> 28:6  78:13 99:7  103:17 116:17</p>	<p>142:5 150:23  161:22 168:13  173:23 182:1  186:20 191:7,7  213:1  <b>problematic</b>  43:11  <b>problems</b> 151:11  <b>procedure</b> 82:21  100:5,10 158:3  211:2  <b>procedures</b>  201:20 214:4  <b>proceed</b> 4:16 7:1  51:21 64:8  65:18 66:21  75:7 76:12,22  84:21 120:22  133:1 136:11  136:20 139:18  140:17,19  145:10 146:4,9  146:9,25  147:21 148:19  152:24 153:9  156:20,25  158:11 159:5  160:20 164:11  165:10 166:22  168:12 174:9  174:14 176:17  177:2,5,15,24  178:5 180:8  183:6,13,15  192:12 194:4  196:24 199:7  204:23 209:7  209:12 211:1,2  211:5 216:1  219:11,18  <b>proceeded</b>  101:20  <b>proceeding</b> 17:1  74:9 83:2  140:15 157:10  <b>proceedings</b> 1:3  13:13 32:3</p>	<p>58:25 60:6  84:14 107:21  225:9,13  <b>process</b> 13:2,21  18:3 23:11  34:17 41:18  42:23 59:1  60:12 61:24  65:11 66:20  67:22 70:19  71:8 74:21  78:19 82:5  90:12 92:9  101:1,12  118:25 132:7  152:16 172:19  173:9,24 186:4  196:19 206:21  <b>processes</b> 24:9  <b>processing</b>  202:20  <b>prod</b> 206:3  <b>produce</b> 4:12  31:22 48:13  50:21 51:14  64:10,20,24  69:4 70:16  75:12 77:19  80:5 89:10  124:10 127:6  128:23,24  139:11  <b>produced</b> 72:13  <b>producing</b> 51:5  65:2 68:2 70:19  77:16  <b>production</b> 7:2  53:17 58:22  74:12 82:6  122:23 130:1  148:4 213:11  <b>productions</b> 81:3  <b>productive</b> 200:9  <b>Professional</b>  225:6  <b>program</b> 11:11  48:24 78:11</p>
---	--	--	---	---

80:19 87:13 95:1,1 97:13 98:20,21 99:6 99:18 100:7 101:11 109:4 109:23,25 110:8 112:2,8 113:7 114:21 118:20,21 119:5,17 146:16,19,23 147:9 148:3 <b>programs</b> 95:4 100:12 110:4 <b>progress</b> 12:11 <b>prohibition</b> 157:19 <b>promptly</b> 142:2 <b>pronouncing</b> 66:13 <b>pronunciation</b> 103:16 <b>proper</b> 60:18 <b>properly</b> 12:20 86:4 <b>proposal</b> 52:14 52:19 206:5 218:23 222:10 <b>propose</b> 150:21 <b>proposed</b> 211:7 <b>propriety</b> 138:1 172:23 <b>prosecute</b> 12:20 <b>prosecuted</b> 13:8 <b>prosecuting</b> 38:5 <b>prosecution</b> 23:12 115:23 <b>prosecutor</b> 6:8 6:10 8:18 9:3 10:1,23 11:24 15:16 20:11 22:8 26:22 33:7 41:15 172:19 174:1 <b>prosecutors</b> 22:25 34:4 90:22 91:2	103:6 116:7 117:13 150:20 <b>prosecutor's</b> 23:4 <b>protect</b> 67:2 <b>protocol</b> 5:3 <b>proven</b> 82:21 <b>proves</b> 81:6 <b>provide</b> 21:8 43:3 47:10 48:9 56:21 59:16,20 61:2,13,15,20 62:11,13,20,22 63:3,4 64:6,12 65:8,23 66:2,7 66:16 68:14 69:12 77:13 78:11 90:3 91:17 92:4 105:13 106:11 107:6 124:21 125:4 127:3 128:1,4 130:2 135:15 146:13 153:13 213:12 <b>provided</b> 21:9 30:1 49:12 53:7 58:14 60:1 65:9 68:22 72:6,8,17 72:24 73:6 94:21 104:19 105:2,4 107:24 110:3,19 146:6 154:17 160:2 160:12,15,23 160:25 167:9 180:19 183:13 186:8 187:23 189:9,10,25 190:12,16,19 190:22 192:10 192:22 196:10 207:24 <b>provider</b> 98:10 <b>provides</b> 58:16 70:4 <b>providing</b> 16:1	61:10,14 95:18 105:11 124:23 124:23 132:2,2 <b>provision</b> 60:1 65:21 102:1 <b>provisions</b> 43:2 60:2 <b>provoked</b> 62:19 <b>prudent</b> 4:8 22:24 <b>public</b> 6:4 12:23 12:24 13:8,11 13:21,25 14:6 14:13,14,16 15:13 18:12,14 23:20,25 27:20 31:8,20 33:11 34:21 37:19 38:1 39:15,17 39:19,25 79:10 92:23 166:5 168:5 <b>publicly</b> 37:12 38:21,25 39:13 40:17 142:11 151:21 154:19 162:16 <b>public's</b> 12:14 35:1 <b>public-accessible</b> 144:25 <b>purpose</b> 13:16 145:3 180:17 196:8 207:14 207:21 <b>purposes</b> 104:24 187:20 211:18 <b>pursuant</b> 138:9 149:16 218:4 <b>purview</b> 68:6,7 68:20,25 <b>push</b> 139:25 <b>pushing</b> 14:21 213:2 <b>put</b> 12:9 15:6 19:25 22:14 35:24 37:15	39:7 54:8,8 101:23 104:6 111:8 112:15 121:11 128:7 158:10 159:7 159:25 160:1 160:11,14,19 162:4,8,9,10 164:5 168:2 169:20 171:4 174:8 177:15 183:12 188:7 189:25 191:9 192:9 195:3 196:16 199:14 204:11 206:20 211:22 212:1 218:16 220:22 <b>putting</b> 20:3 95:20 172:1 178:4 <b>p.m</b> 158:23 224:22	133:24 134:2,3 134:4,5,7,17,21 136:25 137:18 137:20 141:21 142:21,22 150:13 152:25 170:2 175:11 193:9 201:14 201:15 202:10 202:16,24 204:17 213:24 <b>questionable</b> 73:14 <b>questioning</b> 71:20 76:8,10 102:24 133:6 165:25 <b>questions</b> 4:17 15:17 16:3 22:17 28:14 30:8 31:14 36:19 37:2 40:21 43:13,17 46:6 47:19 56:9 69:14 70:13 76:24 80:2 86:20 89:14 93:5,7 95:23,24 96:2 97:4 104:8 105:23,25 106:14,18 121:8 130:4 131:21 143:5 147:3 157:23 159:5 161:10 166:3 171:9 186:14 201:7 221:9,10,20 <b>quick</b> 16:3 52:22 131:18 <b>quickly</b> 30:19 31:6 163:6 <b>Quinn</b> 147:2,7 <b>Quinn's</b> 11:11 48:24 145:14 147:9 <b>quite</b> 40:3 49:21
--	--	---	--	--

**Q**

**quarrel** 52:23  
75:17  
**quarterly** 99:13  
100:24 101:18  
**quelled** 32:16  
**question** 14:14  
17:22 23:15  
29:6 32:24 33:1  
45:20 46:1,2  
52:11 54:15  
55:19 58:6,11  
65:15,17 71:15  
73:21 77:1 81:8  
82:19 83:11  
84:3 85:4 86:4  
88:25 89:4 90:8  
93:11 94:16  
104:4 106:5  
108:2 112:2,17  
115:12,21  
122:18 130:12  
131:24 133:3

80:24 81:23 154:22 180:12 211:6,7 <b>quo</b> 199:16,25 200:7 <b>quorum</b> 3:12 <b>quote</b> 27:16 79:11 175:21	111:2,3 <b>ready</b> 92:23 133:18,19 135:6,6,16 182:8 192:20 199:5 200:21 <b>real</b> 131:18 <b>really</b> 32:13 55:16 60:11 96:10 97:13 119:22 120:8 144:8 158:12 168:8 172:17 176:1 184:24 185:12,22 186:13 <b>reams</b> 139:13 <b>reappear</b> 76:20 <b>reason</b> 5:10 23:15 32:4 33:11 60:11 75:11 77:13 88:7 123:4,12 124:9,14 129:25 151:14 151:17 180:23 215:8 <b>reasonable</b> 9:7 52:14 55:19 59:21 70:7,11 79:7 91:22,22 92:13 98:9 102:5,6 103:1 122:22 134:12 136:5 199:15 199:22 200:6 202:1 213:12 219:16 221:13 <b>reasonably</b> 111:4 <b>reasoning</b> 191:2 <b>reasons</b> 68:21 122:13 125:19 130:2 <b>recalled</b> 137:4 <b>recap</b> 122:4 <b>receipt</b> 49:20 <b>receive</b> 120:3	141:16 144:24 190:8 194:5,8 205:5,6 <b>received</b> 5:19 9:15 49:7,9 51:22 52:25 53:22 54:17 72:6,21 74:18 77:3 107:22 142:13 145:8 146:20 147:13 147:22 149:5 163:19 164:20 192:11 204:12 204:12 217:19 <b>receives</b> 167:10 180:20 187:24 190:17 196:10 207:24 <b>receiving</b> 132:3 148:2 149:4 158:22 180:17 187:20 196:8 207:14,21 217:18 <b>recess</b> 130:9 133:1,8 136:4 141:5 195:2 197:5 198:17 224:2,5 <b>recessing</b> 130:8 <b>recipient</b> 110:2 <b>reciting</b> 59:25 <b>recognition</b> 203:3 <b>recollection</b> 67:16,21 161:11 <b>recommend</b> 69:12 188:6 <b>recommendation</b> 208:17 211:16 212:24 <b>recommendati...</b> 30:23 87:11 100:17 <b>reconcile</b> 115:9	115:21 <b>reconvene</b> 76:14 129:1 131:11 133:3 136:11 141:8,10 149:9 177:22 199:21 213:13,16 217:22 <b>record</b> 33:22 35:20 36:6 44:18 53:18 54:9 67:18 72:25 73:4 77:8 88:4 92:19 103:20 105:8 116:23 120:17 121:12 131:7 131:19 133:7 133:25 141:20 145:2 147:19 150:1 153:8,15 195:12 197:3 217:2 221:19 223:19 224:7 <b>records</b> 98:11,12 141:21 <b>Recovery</b> 4:21 15:5 40:13 78:7 108:1,9,14 110:21 145:14 180:18 187:21 196:9 207:15 207:22 <b>reduced</b> 100:4 <b>reference</b> 158:25 <b>referenced</b> 158:19 <b>reflected</b> 196:1 <b>reflecting</b> 162:5 <b>reflection</b> 42:20 <b>refrain</b> 4:20 12:1 41:21 42:12 70:13,25 132:8 147:15,25 149:3 158:21 158:24 217:17 <b>refusal</b> 58:23	60:5 215:19 <b>refuse</b> 70:6 <b>refused</b> 6:6 215:13,18 <b>refusing</b> 114:5 <b>regard</b> 47:12 64:8 85:8 100:19 129:20 157:19 161:4 <b>regarding</b> 4:21 30:23 97:4 98:20 102:25 109:4 114:21 159:17 <b>regardless</b> 151:8 188:13,21 214:9 222:11 <b>regards</b> 7:1 99:18 178:11 <b>Registered</b> 225:6 <b>regular</b> 42:1 <b>regularly</b> 100:24 <b>reinforce</b> 12:22 <b>Reis</b> 1:20 3:2,3 35:21,22 85:18 85:19 86:3,14 87:1,4 92:2 117:4 144:4,13 144:14 158:14 158:15 159:24 168:19 169:11 169:15,17,22 169:25 170:4 179:14,15 197:23,24 213:19,20 214:16 215:4 216:21 217:5 <b>reissued</b> 149:13 <b>Reis's</b> 215:14,21 <b>related</b> 10:17 11:15 85:5 143:1 <b>relating</b> 66:4 80:19 108:8 <b>relative</b> 111:1 <b>relay</b> 152:14
<b>R</b>				
<b>R</b> 92:21 103:14 103:23 <b>raise</b> 53:2 67:24 73:10 74:6 75:20 129:10 <b>raised</b> 47:12 48:3 52:17,25 73:11 73:12 74:4,25 75:1 79:23 134:8 147:3 <b>ramification</b> 139:17 <b>ramifications</b> 137:24 <b>reach</b> 21:14,18 26:7,13,15 51:3 56:5 66:21 74:9 75:7 122:18 203:9 218:23 <b>reached</b> 20:8,19 20:20,25 21:7 21:11,17,22 26:20 64:8 65:19,19 202:4 204:17 206:2 <b>react</b> 9:18 <b>read</b> 12:4 16:4,6 41:2 43:8 60:2 78:3 88:9,11,12 88:14 99:9 101:9 111:4,4 116:16 120:17 122:3 148:21 179:20 195:21 196:5 207:13 208:18 <b>reading</b> 110:16				

LEGISLATIVE AUDIT COMMISSION MEETING 7/16/2014

<b>relayed</b> 152:14 175:7	<b>reporter</b> 45:14 46:16 225:5,6	27:13,17,18,22 28:1,3,9,10,12	113:25,25 114:1,9,16	156:10 157:22 157:23,24
<b>release</b> 112:22 142:4	<b>Represen</b> 133:10	28:13,15,17,18	117:2,3,4,4	158:14,14,15
<b>released</b> 97:10	<b>represent</b> 46:19	28:20 29:1,3,5	118:14 119:11	159:8,14,24
<b>releases</b> 86:15	56:18 59:8,9	29:7,10,11,13	119:12,13	161:2 162:18
<b>relevant</b> 47:10	85:2 92:21	29:16,20,23	120:16 121:22	165:6,7,11,16
50:24 53:5	104:18 105:1	30:1,3,6,7,10	122:17,25	166:2,17,23
58:22 62:25	119:16	30:11,12,14,15	123:21,23	167:10,16,19
63:3 65:6,8,9	<b>representation</b>	31:1,11,12,13	124:6,6 127:17	167:21 168:14
69:8,18 72:10	95:22 105:14	33:19,20 34:11	128:9 129:5,15	168:17,17,19
96:19,22,23	<b>representative</b>	35:4,8,12,13,16	129:24 130:3,6	169:7,11,13,15
108:4,14	1:12,18,19,20	35:18,21,21,22	130:13,14,15	169:16,17,19
139:14 149:17	1:21,22 2:1,21	36:1,7,7,15,18	130:17,18,20	169:22,24,25
161:4 218:5	2:22,23,24,25	36:24 37:3,9,15	130:25 131:2,8	170:1,4,6,13,15
<b>relief</b> 112:7	3:1,2,3,4,5,6,7	37:17 40:21	131:16,21	171:9,10,11
<b>relies</b> 7:20	3:9,11,21 4:1	41:6,9 42:3,24	132:24 133:5,8	172:5,8,9
<b>relying</b> 91:20	4:13,15,25 5:2	43:13,15,17,19	133:10,13,23	174:25 175:5
119:6	5:4,7,9,14 6:9	43:20,22,23	134:1,13,25	177:9 178:6,12
<b>remain</b> 15:17	6:13,19,21 7:4	44:12 45:12,24	135:8,9,10,22	178:19 179:8,9
132:6	7:10,13,16,18	46:7,13,15,21	136:12,15,17	179:10,11,12
<b>remaining</b> 53:17	7:24 8:1,4,6,8	46:24 47:15	136:20,24	179:13,14,15
201:18 202:18	8:11,16,16,18	50:15 53:18	137:9,13,16,17	179:16,17,18
202:19	8:20,22,25 9:2	54:3,3,10,11,12	137:19,20	179:19,20,23
<b>remains</b> 88:25	9:8,12,12,23,24	55:5,14 56:7,9	138:11,16,17	179:25 180:3,3
<b>remarks</b> 57:19	10:5,5,8,10,12	56:10 63:6,8,11	138:19,21	180:6,20 181:2
<b>remember</b>	10:14,17 11:4,7	63:15,17,20	139:2 140:2,6,9	181:4,7,8 182:3
118:19 119:2	11:9,15,19,20	64:15,17,19,23	140:13,15,16	182:14,17,21
155:15	15:15,19,22,25	66:3,10 69:14	140:25 141:2	182:25 183:3
<b>remind</b> 118:17	16:5,9,12,16,25	71:15 76:25	141:10 142:8,9	183:10,14,18
175:8	17:4 18:18,21	77:6,25 78:5	142:14,16,17	183:20,22,24
<b>reminder</b> 157:17	18:24 19:3,5,14	80:1,3,4,9,23	142:17,21	184:6,9,15,18
<b>removal</b> 24:9	19:17,20 20:1,6	81:1,5,21 82:15	143:1,21,22,23	185:2,6,8,10
<b>removes</b> 101:2	20:9,14,18,23	82:16 85:18,18	143:24 144:7	186:6,11,14,17
<b>removing</b> 218:20	21:3,6,16,24	86:3,14 87:1,4	144:10,11,12	187:6,7,9,12,14
<b>Reorganization</b>	22:2,4,6,12,15	87:19,21 90:6	144:13,14,15	187:17,24
178:20	22:17,18,19,21	92:2,16,18 93:6	144:16,17,18	188:9 189:13
<b>repeat</b> 60:25	22:22 23:2,3,9	93:8,9,23 94:8	144:20 145:3,4	189:17,19,21
135:13	23:10,14,17,18	94:14,14,15	145:15,17	190:2,7,11,14
<b>repeatedly</b> 98:20	24:3,14,17,18	96:2 97:1	148:23,25	190:17,19,24
215:10	24:20 25:1,4,6	101:22 103:11	149:21,22,24	191:5 192:17
<b>replacing</b> 187:16	25:8,12,13,15	103:15,19,21	150:2,6,7,10	193:16,18,21
<b>reply</b> 81:25	25:16,17,18,20	104:8,11,13,16	152:8,11	194:10,17,25
<b>report</b> 1:3 87:8	25:22,24,25	104:20,23	153:11,20	195:5,8,11,13
109:2 129:21	26:2,3,6,7,11	106:1,1,2,9,13	155:1,2,17,20	195:15,24
159:6	26:12,13,15,17	106:14,17,21	155:21,22,23	196:3,11,18,20
<b>reported</b> 225:9	26:18,20,21,25	106:25 109:6	155:24,25	196:22 197:6
	27:1,3,5,8,11	112:25 113:2,5	156:1,2,3,4,6,8	197:17,18,19

197:20,21,22 197:23,24,25 198:1,2,3,4,6,7 198:9,10,12,19 200:10 201:5,6 201:13,15,18 202:9,15,23,24 203:2,18,23,24 204:5,9,10,14 204:16,25 205:2,17 206:14,16,18 207:10,25 208:6,8,18 209:6,10,18,21 209:25 210:3 210:18,20,22 211:9,17,20,25 212:3,7,15,17 212:21 213:1,5 213:7,19,19,20 214:15,16,20 214:23,25 215:1,3,4,7,14 215:16,18 216:2,10,11,12 216:22 217:5,9 217:14 218:9 218:13,18,25 219:1,22 220:1 220:2,7,8,10,11 220:12,13,17 220:20,23 221:4,9,20 222:3,9,14,17 222:19,22 223:1,3,8,9,10 223:11,20 224:1,4,6,8,9 224:10,15,16 224:19 <b>representatives</b> 19:11 50:16 57:9 <b>represented</b> 97:25 107:12 138:19 139:6	<b>representing</b> 45:16 46:9 106:23 141:17 158:18 <b>represents</b> 85:24 <b>reprieve</b> 185:20 <b>Republican</b> 116:25 155:18 156:11 212:18 <b>Republicans</b> 41:12 56:15 181:22 199:12 <b>request</b> 4:2,7 5:2 5:17,19,19 6:6 6:6,10,12,24,25 8:12,17 9:4,11 9:15,17,22 10:7 10:16,18,22,24 11:25 12:4,18 15:11 17:9 28:5 28:20 29:21 30:17 31:17 33:9,14 34:3,12 37:7 38:20 39:7 40:20 44:3 48:10,22 49:2 50:3 61:21 63:8 66:4 75:16 76:19 79:4,13 79:22 81:22 82:9 83:17 92:12 97:21 98:18 100:19 100:23 101:7 110:11 111:13 113:9,15,17 114:11 119:1 121:14 127:16 127:18 131:12 136:9 142:3 145:11,24 146:15 147:12 148:19 153:19 169:15 171:14 172:23 176:23 208:11 215:9 215:12	<b>requested</b> 11:14 30:21 46:10 72:8 74:6 76:16 89:2 108:3,10 109:17 121:18 142:1 149:8 151:20,21 164:14 169:16 169:20 199:24 203:6 207:1 208:23 <b>requesting</b> 123:10 145:23 147:15 149:2 192:11 217:16 <b>requests</b> 17:18 17:21 30:17,23 30:25 47:7 53:21 76:7 105:5,18,20 152:21 153:3,4 195:16 217:24 <b>require</b> 36:3 56:19,24 58:21 124:21 125:6 142:18 143:2 159:21 178:14 <b>required</b> 64:6 84:20 87:15 156:12 <b>requirement</b> 57:13 59:24 <b>requires</b> 48:19 57:2 61:3 142:23 178:12 190:4 195:17 <b>requiring</b> 65:22 75:12 <b>reread</b> 94:17 <b>resistance</b> 186:3 <b>resolution</b> 203:8 205:4,10 214:18 222:15 <b>resolve</b> 65:20 205:12 206:23 206:24 207:5,7 209:16 223:6	<b>resolved</b> 48:6 79:24 204:7,10 208:16 216:14 <b>resounding</b> 155:4 <b>resource</b> 78:18 <b>resources</b> 34:21 34:25 205:13 <b>resource-chall...</b> 34:19 <b>respect</b> 6:16,23 8:22 12:18 24:9 26:9 28:24 29:21 43:1 47:11 52:17 54:15 58:1,6,11 61:23 76:13 79:21 81:22 83:18 92:14 94:12 106:4 111:12 114:19 117:15 122:19 122:21 124:17 138:7 142:13 185:4 194:19 194:20 196:17 202:2 212:7 <b>respected</b> 82:17 <b>respectfully</b> 55:11 58:5 105:18 <b>respecting</b> 85:8 85:12 124:18 <b>respects</b> 31:18 <b>respond</b> 28:16 45:25 55:25 59:7 61:8 76:5 82:9 83:24 90:2 93:22 113:3 119:11 138:15 152:7 <b>responded</b> 31:6 175:10 <b>respondent</b> 82:2 <b>responding</b> 104:6 <b>response</b> 2:16	22:9 43:14,16 47:19 80:8 89:16 94:9,12 104:10 106:4 106:10,20 109:11 110:11 114:10 121:21 122:17 126:14 130:5 134:21 135:17 141:1 143:16 146:5 147:2 153:11 153:21 162:1 175:11,11 186:16 203:1 204:24 208:13 208:14 <b>responses</b> 115:14 <b>responsibilities</b> 181:12 <b>responsibility</b> 205:14 <b>responsible</b> 42:16,21 71:5 <b>responsibly</b> 12:12 <b>responsive</b> 50:24 55:24 69:1 80:6 81:9,19 82:1,3 92:2 94:4,4 104:5 106:6 107:19 127:2,5 128:13 157:15 <b>rest</b> 60:10 124:25 125:19 126:18 127:23 128:6 <b>restate</b> 132:21 201:13 <b>restated</b> 137:10 <b>restrictions</b> 157:13 <b>result</b> 12:22 86:2 134:9 <b>resume</b> 130:10 <b>resurrect</b> 181:23 <b>retired</b> 80:16 <b>retirement</b> 78:16
--	---	--	---	--

<b>return</b> 131:16 201:23	164:8 172:25 173:18 180:5	165:20 169:4 193:7 210:23	28:20 29:3,7,11 29:16,23 30:3,7	25:2 117:7
<b>returning</b> 131:2	181:17 183:1	<b>Ross</b> 45:8 103:18	54:3,10,12 55:5	<b>saying</b> 20:24
<b>reveals</b> 13:18	184:8,10	103:23 149:12	55:14 56:7 80:3	21:21,25 32:12
<b>reverse</b> 190:21	190:21 196:4	149:19 218:1	80:4,9,23 81:1	39:22 40:5,9
<b>review</b> 28:23,25	199:2 207:18	218:21	81:5,21 82:15	43:7 57:19
51:10 53:16	208:16 209:16	<b>roughly</b> 49:12	93:8,9,23 94:8	70:14 82:3
60:16 97:22	212:16,20	112:5	106:1,2,9,13	117:14 126:1
101:15 111:23	213:6 219:18	<b>Round</b> 198:15	112:25 113:2,5	154:8 155:4
112:18 152:2	221:8 223:21	<b>routine</b> 84:14	117:4 132:24	162:17 166:12
178:1 194:18	<b>rights</b> 74:5	85:23	134:25 137:19	167:9 183:3
<b>reviewed</b> 31:23	<b>rise</b> 117:21	<b>RPR</b> 225:17	137:20 138:17	184:5 185:25
71:24,25	<b>risk</b> 48:2 61:5	<b>rules</b> 101:14	138:21 139:2	189:10,24
109:23 110:6	79:12 105:15	<b>ruling</b> 36:9,10,18	140:2,6,9,15	190:5,7 192:8
<b>revisit</b> 81:16	135:19 147:7	36:25,25	142:8,9 144:17	196:17 221:1
140:24	154:12	142:22 178:10	144:18 145:4	<b>says</b> 9:3 10:23
<b>re-ask</b> 129:10	<b>risks</b> 5:24 11:8	<b>run</b> 95:4	149:21,24	11:2 69:8 70:5
<b>re-confer</b> 128:20	47:12 79:19	<b>rush</b> 132:23	150:6 155:1,2	70:7 94:9 99:13
<b>Ribley</b> 45:10	132:4 135:20	136:14	155:20,22,24	102:2 110:17
104:18 105:1	147:20	<b>Ryan</b> 13:21	156:1,3,6,10	154:21 158:6
105:17 109:2	<b>Rita</b> 1:21 3:4,5		159:24 162:18	160:3,12,15,15
109:21 110:1	37:3,4,15 94:14	<b>S</b>	166:4 172:8,9	160:19,25
111:7 112:15	94:15 135:8,10	<b>S</b> 44:22 45:5	177:9 179:18	174:8 175:18
113:7 126:7	137:17 142:16	92:20 103:14	179:19 180:3	176:11,13,18
141:18 149:12	142:17 144:15	103:23	181:7,8 182:3	180:10 181:20
149:19 218:1	144:16 150:7	<b>sacrifice</b> 144:2	182:14,17,21	183:13 188:10
218:21	179:16,17	<b>saint</b> 92:21	182:25 183:3	188:15,18,19
<b>Ribley's</b> 105:9	181:4 197:25	<b>sake</b> 73:14	183:10,14,18	190:3,12,16
111:18,25	198:1 224:6,16	119:10 121:16	183:20,22,24	192:2,4 193:1
<b>Rich</b> 1:18 20:11	<b>road</b> 124:16	122:24 170:17	184:6,9,15,18	211:11 219:7
<b>Richard</b> 45:7,9	<b>ROBERT</b> 1:21	222:8	185:2,6,8,10	221:2,5,8 225:5
103:11,22	<b>rocket</b> 188:25	<b>salaries</b> 202:21	186:6,11 187:6	<b>scenario</b> 12:17
104:17 141:17	<b>roll</b> 2:6 3:12,24	<b>Saldinger</b> 45:7,8	187:9,14 198:2	14:1 176:7
<b>right</b> 23:13,14	4:9 6:18,21	103:11,12,13	198:3,6,9 215:1	<b>schedule</b> 43:25
24:4,10 25:14	44:14 116:5,8	103:13,17,22	216:11 218:13	<b>scheduled</b> 83:2
25:23 27:25	120:12 142:20	103:22 104:12	218:25 219:1	100:24 102:25
28:8 29:10	143:6,8 178:8	128:12,18,21	220:1,7,10,12	223:4
41:10 54:7	195:16,20	<b>Sandack</b> 1:22 3:6	224:1,9,10	<b>schedules</b> 170:18
55:16 64:20	196:14,14,23	3:7 20:9 22:18	<b>Sandack's</b> 104:4	170:21
77:5,18 80:10	197:2,6	22:19,22 23:3	122:17 165:6	<b>Schomberg</b> 56:2
80:25 81:4	<b>Ron</b> 1:22 182:2	23:10,17 24:3	206:5	67:13,14,22
82:13 91:2	182:20 183:9	24:17,20 25:4,8	<b>sat</b> 191:18 194:20	75:8
93:12 106:3	183:11,17,21	25:13,16,18,22	<b>satisfied</b> 206:10	<b>school</b> 115:7
109:18 119:15	183:23 184:1,8	25:25 26:3,7,12	<b>satisfy</b> 185:21	<b>science</b> 188:25
125:8 126:24	185:1 198:8	26:15,18,21	<b>save</b> 38:2 165:12	<b>scope</b> 53:6 55:22
128:12 139:21	<b>room</b> 1:5 73:13	27:1,5,11,17,22	<b>saved</b> 154:4	70:22 72:10
140:11 157:2,5	85:5 158:18	28:3,10,13,17	<b>saw</b> 13:21 17:7	76:11 107:20
				108:3,10

LEGISLATIVE AUDIT COMMISSION MEETING 7/16/2014

109:12,17	203:22	54:22 56:10,11	124:13,14	170:11,14,16
110:25 163:20	<b>seek</b> 28:22	56:22,24 57:6	125:2,3,10,16	171:24 172:7
163:24	156:22	57:17,25 58:2,7	125:24 126:8,9	174:17,25
<b>Scott</b> 6:9 22:19	<b>seeking</b> 28:7	59:4,8,10,15,17	126:10,11,13	175:2 178:7,10
24:4 25:5 33:21	146:10 203:3	59:22 60:8,24	126:21,25	178:16,23,24
35:16 37:4	<b>seen</b> 34:12 47:7	61:9,19,25 62:4	127:15,20,22	178:25 179:1,2
40:23	111:22 112:22	62:10,13,15,17	128:1,3,6,17,19	179:3,4,5,6,7
<b>search</b> 15:7	112:23 113:1	63:2,10,13,16	128:21 129:7	179:25 180:1,3
19:25 20:3	194:21 218:19	64:5,11,24 65:2	130:12,14,17	180:6 181:8,24
22:14 34:24	<b>seldom</b> 161:13	65:8,13,15,24	130:19,21	182:1,5,15,20
93:17	<b>selected</b> 112:14	66:1,14,18,24	131:1,4,22,23	182:22 183:1,5
<b>second</b> 35:25	<b>Senate</b> 26:23	67:11,14,18	132:10,11,12	183:9,11,17,19
36:2,5 53:3	116:24 117:5	68:4,6,19 69:2	132:14,15,17	183:21,23
54:14 57:16,17	156:11 181:21	69:6,15,16,21	132:22,25	184:1,8,10,16
58:10 60:3	<b>Senator</b> 1:11,14	70:23 71:16,17	133:4,10,13,14	185:1,3,7,9,15
88:24 135:8	1:15,16,17 2:7	71:20 72:3,16	133:19 134:2,4	185:23 186:7
142:14,16	2:8,9,10,11,12	72:22 73:1,3,7	134:6,7,19,20	186:13 188:6
149:21 150:6	2:13,14,15,17	74:1 75:10,22	134:20 135:1	189:5,6,16,18
159:17 181:3	2:18,19,20 3:20	76:4,5,24 77:1	135:12,14,24	189:20,23
218:17 224:10	3:22 4:5,14,23	77:10,11,17,20	136:1,1,13,16	190:4,12,16,21
<b>seconded</b> 135:10	5:1,3,6,8,10	77:24 81:23	136:19,22	191:3 192:4,5,6
137:17 138:12	6:15,20,23 7:8	82:16,17 83:5,8	137:1,12,15,21	192:7 193:9,17
140:20 149:23	7:12,15,17,20	83:13,15 84:6	137:22 138:15	193:20,22
150:6 178:8	7:25 8:3,5,7,9	84:21 85:1,9,15	138:16,17,22	194:16,24
181:4,5 196:13	8:15,17,19,21	85:17 87:4,20	139:21 140:3,8	195:2,6,16,18
196:25 224:5	9:1,6,9 10:2,6,9	87:21,22 88:2,6	140:11,21	195:21,25
224:16	10:11,13,15,25	88:13,15,17,19	142:6,22 143:9	196:6,15,19,21
<b>secondly</b> 96:18	11:6,8,10 15:21	88:21,24 89:4	143:10,11,12	197:4,7,8,9,10
201:10	15:21,24,25	89:12,22,24	143:13,14,15	197:11,12,13
<b>secret</b> 13:12	16:7,10,14,20	90:5,6,7 92:15	143:17,18,19	197:14,15,16
20:12 32:4,4,5	17:3 18:17,20	96:3,4 97:1,2,8	143:20 145:4,6	199:4,8 201:23
32:11 39:12	18:22,25 19:4	101:22,23	148:24 149:1	201:25 205:3
<b>Section</b> 43:2 54:5	19:12,16,18,22	102:23 103:3,6	149:23 152:7	205:17,24,25
58:15 65:22	20:2,14,22,24	103:10 106:15	152:10,12	206:14,15,17
70:3 143:3	21:5,10,21,25	106:16,24,25	153:12 159:8,9	206:19 207:4
187:4	22:2,3,4,5,11	107:1,11,14	159:15 161:2,3	207:10 208:3,7
<b>see</b> 15:22 22:20	22:13,16 24:21	108:18,21	161:3,18 162:1	208:10,20
25:13 75:8	26:8 35:18,19	109:6,7,10,15	162:2,7,8,9,13	209:9,11,20,22
77:23 98:4	35:23,25 36:12	109:18 110:22	162:14,17,20	210:1,15,19,21
101:9 124:8	36:16,22 40:22	111:16 116:16	162:21,23,25	210:24 211:14
142:1 150:19	40:23 41:8,10	116:25 117:5,6	163:4,4,15	211:15,18,22
162:13 166:18	42:8 43:12,15	117:6,6 118:15	164:17 165:18	212:1,4,4,14,16
188:7 193:4	44:2,8 45:18	119:14 120:1,7	165:25 166:4	212:19,23
201:21 221:4,7	46:1 47:16,23	121:15 122:2	166:16,19	213:4,6,7,8
223:16	48:7,12 49:11	122:24,25	167:15,18,21	214:22,24
<b>seeing</b> 39:14	50:7,9,12,18	123:1,9,10,19	168:3,6,15,16	215:8,17,19
130:6 143:5	51:18 52:10	124:1,5,7,8,12	169:9 170:10	216:9,21 217:3

217:12,15 218:12,13,16 219:4,14 220:15,19,21 221:1,7,16,25 222:1,7,21 223:15 <b>send</b> 112:24,24 113:4 127:10 128:13 176:18 <b>sending</b> 101:3 129:3 <b>seniors</b> 117:23 <b>sense</b> 16:12 21:13 34:5 189:8 202:12 <b>sent</b> 38:24 39:1 169:11 212:10 <b>sentiment</b> 137:23 155:10 174:4 181:10 <b>separate</b> 99:23 <b>serious</b> 12:24 13:10 38:18 61:5 78:12 <b>seriously</b> 33:2 40:12 145:11 145:25 170:12 <b>seriousness</b> 153:3 <b>servant</b> 92:23 <b>serve</b> 115:1 118:22 119:22 120:10 <b>served</b> 55:25 66:1 80:6 82:10 94:5,11 106:7 116:4,9 118:2 119:24 120:11 139:10 <b>service</b> 53:9,9 54:18 55:7 98:10 <b>Services</b> 115:2 <b>session</b> 102:19 <b>set</b> 89:24 173:3 178:17 180:14	184:11 185:24 205:21 223:12 <b>setting</b> 178:13 <b>settle</b> 194:25 <b>settled</b> 104:1 <b>seven</b> 13:7 36:4 49:6 50:22 51:17 53:4 62:2 63:11,14,22 70:20 72:11 73:23 77:16 122:21 139:16 142:19,23 143:2 213:23 216:6 <b>share</b> 16:7 17:23 28:11 93:3 <b>shared</b> 192:24 <b>Shaw</b> 44:23 73:6 78:2,14,16,20 79:6 92:3 103:25 149:11 149:17 217:25 218:5 <b>Shaw's</b> 78:9 79:20 <b>she'd</b> 85:3,15 <b>she'll</b> 84:19 <b>short</b> 38:15 77:15 127:10 198:18 200:23 <b>shorthand</b> 225:5 225:9,12 <b>shortly</b> 76:20 94:13 121:17 133:4 <b>show</b> 13:15 85:9 85:15 86:12 94:1 101:17 102:4 124:19 204:15 <b>showed</b> 86:5 <b>showing</b> 17:4 68:11 <b>shown</b> 15:7 <b>shut</b> 76:13 <b>shuttled</b> 203:12	<b>sic</b> 67:9 91:18 <b>side</b> 20:4,5,7,25 26:22 85:25 86:8 117:1,5 172:12 187:2 194:14 <b>sides</b> 33:3 <b>sign</b> 104:24 150:23 224:19 <b>significance</b> 91:7 <b>significant</b> 98:24 134:8 136:6 175:15 210:21 <b>significantly</b> 79:9 <b>signify</b> 224:16 <b>silly</b> 21:11 172:10,11 <b>similar</b> 79:13 <b>simple</b> 154:9 164:25 166:8 184:22 186:1,1 188:25 192:2 210:13 218:23 <b>simplify</b> 114:2 <b>simply</b> 47:19,20 62:23 76:13 83:18 88:9 100:9 101:13 111:16 118:16 118:17 119:10 121:15 195:3 219:24 <b>singling</b> 41:12 <b>sir</b> 29:4 45:13,16 47:15 55:15 56:8 58:10 59:25 60:22 66:3 68:7,16 69:6 89:4 92:17 94:13 108:23 122:5 123:23 123:25 129:15 129:24 131:12 157:21 181:25 <b>sit</b> 45:15 46:11 55:15 130:22 156:9	<b>sitting</b> 19:14,16 19:21 22:7 23:21 27:23 34:13 136:23 170:7 199:3 <b>situation</b> 163:1 <b>six</b> 179:22,23 198:11,13 208:22 <b>skepticism</b> 79:17 <b>skip</b> 58:17 <b>slight</b> 174:15 <b>small</b> 110:4 <b>smart</b> 209:22 <b>smarter</b> 41:24 <b>Smith</b> 24:5 <b>smooth</b> 100:11 <b>solely</b> 138:3 <b>solution</b> 207:3 <b>somebody</b> 38:5 71:5 170:25 <b>somewhat</b> 24:14 37:11 156:23 184:25 <b>soon</b> 94:6 118:11 <b>sooner</b> 160:11,20 175:24 <b>sorry</b> 18:20 28:19 62:16 89:3 198:5 212:12 <b>sort</b> 92:2 134:21 159:23 <b>sound</b> 13:17 15:1 20:2 <b>sounds</b> 70:10 133:16 203:13 219:22 220:12 <b>sources</b> 78:21 <b>speak</b> 11:22 22:24 26:18 52:1 73:2 76:18 86:23 93:13 104:20 118:5 123:21 128:18 154:6 186:17 221:15 223:14	<b>speaker</b> 25:23 50:14,16 113:19 <b>Speaker's</b> 19:7 26:1 56:14 75:15,24 <b>speaking</b> 40:7 141:24 142:6 <b>speaks</b> 84:24 <b>special</b> 31:2 96:21 <b>specific</b> 6:25 81:10 112:3 134:22 146:10 166:21 193:14 193:15,18 <b>specifically</b> 3:18 4:18 9:4,19 11:17 46:25 94:4 117:19 145:22 146:24 <b>specificity</b> 73:12 <b>speculation</b> 79:3 <b>spell</b> 45:15 46:16 92:18 <b>spend</b> 203:16 <b>spending</b> 100:14 <b>spent</b> 110:7 112:8 201:4 <b>spirit</b> 113:23 138:9 142:10 157:15 183:10 219:15,19 <b>splitting</b> 95:14 <b>spoke</b> 26:3 64:11 67:21 212:15 212:17 <b>spoken</b> 34:4 59:19 <b>spouses</b> 144:2 <b>square</b> 172:3 <b>SS</b> 225:1 <b>staff</b> 17:12 19:8 25:11 81:17 84:11 100:2,17 141:24 151:20 153:23 165:21
--	--	--	---	--

188:9 205:4 218:9 221:20 <b>staffs</b> 53:21 <b>stand</b> 15:11 33:10 39:23 113:11 152:20 172:22 174:1 193:15 195:8 198:14 199:5 200:21 216:19 223:22 <b>standard</b> 201:20 <b>standards</b> 170:8 <b>standing</b> 25:20 65:21 95:14 <b>stands</b> 153:16 <b>start</b> 3:16 42:22 44:14 45:12 191:15 <b>started</b> 17:9,12 19:2 57:18 151:2 165:17 187:13 <b>starting</b> 47:3 131:22 <b>state</b> 14:16,18 18:4 24:8 34:20 34:25 37:12 39:24 40:18 41:2 46:16 48:14,16 51:2 51:10 54:18 56:17,25 57:8 59:23 60:16,18 64:2,4 73:17,18 73:19 78:22 83:19 90:19 92:7 98:4,6 107:24 108:17 110:2 115:24 116:3,18 118:1 118:10,20 119:4,15,22 121:2 124:3 141:14 146:20 163:5,9 214:1 225:1,7	<b>stated</b> 79:9 135:15 <b>statement</b> 28:21 40:2 42:25 46:10 64:17 66:7 71:23 78:3 91:24 96:24 97:6 124:1 126:1 152:5 154:19 166:7 167:7 168:15 169:9 186:18 188:5 <b>statements</b> 42:14 201:19 <b>states</b> 3:18 4:18 5:21 11:25 12:6 12:7 41:6,11 42:1 48:4,10 79:5,14,19 85:13 90:20 92:12 108:3 113:17,23 114:11 147:25 155:6 167:11 171:13,18 180:12 187:25 196:12 <b>stateside</b> 18:10 <b>State's</b> 18:10 34:1 40:25 115:13 116:8 211:21 <b>station</b> 224:3 <b>status</b> 188:13,21 199:16,25 200:7 <b>statute</b> 68:14 70:4 91:20 99:20 178:14 <b>statutes</b> 56:16,25 57:8 101:15 102:1 <b>statutorily</b> 87:15 <b>statutory</b> 57:12 59:25 78:8 <b>stay</b> 122:5 130:23	156:21 <b>staying</b> 138:7 <b>stenographer</b> 104:24 <b>step</b> 42:11 44:11 44:13 46:22 56:5 59:24 101:1 <b>Stephens</b> 44:25 44:25 <b>steps</b> 205:8 <b>stipulations</b> 163:13 <b>stone</b> 158:13 <b>stood</b> 23:17 152:20 172:25 <b>stop</b> 34:16,21 35:6,8 38:21 169:3 173:7 176:13,20 219:10 <b>strain</b> 57:11 <b>Street</b> 1:5 <b>stricken</b> 159:16 <b>Stricklin</b> 1:24 2:5,7,9,11,13 2:15,17,19,21 2:23,25 3:2,4,6 3:8,10 49:5 72:7,17,21,22 73:3,8 82:20 83:1 84:12 85:2 93:19 102:10 105:2 106:12 107:6 120:19 120:20 123:17 124:11 127:11 128:14 129:11 129:18 142:19 143:7,9,11,13 143:15,17,19 143:21,23 144:11,13,15 144:17,19,23 178:9,22,23,25 179:2,4,6,8,10 179:12,14,16	179:18,22 197:7,9,11,13 197:15,17,19 197:21,23,25 198:2,5,11 <b>strike</b> 200:6 <b>strong</b> 111:7 <b>strongly</b> 11:24 <b>struck</b> 218:15 219:15 <b>stuff</b> 214:14 219:7 <b>subcommittee</b> 223:6 <b>subject</b> 3:12 58:8 80:20 100:8 112:21 <b>submit</b> 149:19 218:7 <b>submitted</b> 72:1 87:23 <b>subpoena</b> 44:4 45:6,21 46:2 48:8,18,25 50:2 50:20 51:25 52:14,25 53:6 55:22,25 56:12 56:15,19,20 57:2,3,4 58:8 58:14 59:22 60:2,21 61:20 62:21 63:4,5,7 65:10 66:15 68:8,9 69:8 75:12 77:2 80:6 81:19 82:9,18 83:9,19 85:21 86:1,5 89:20 93:12 94:5 98:14 101:25 102:3 104:7 105:19 106:6 107:21 109:12 110:17,17 111:3 120:25 125:7,23 127:2 127:5 129:17	139:10 163:19 163:21 178:18 202:8 <b>subpoenaed</b> 4:11 28:4,7,22 29:18 44:10 61:13 62:5 85:23 89:6 94:11 96:14 97:20 139:8 156:25 173:10 204:15 <b>subpoenas</b> 33:23 42:9 51:21,22 81:2 86:17 87:17 115:11 116:11 117:10 117:17 143:2 149:10,16 150:24 151:8 152:19 154:16 159:20 162:10 164:3 180:17 187:20 196:7 202:2,3,6 203:25 205:9 205:11 207:14 207:21 217:24 218:4 <b>subsequent</b> 147:13 193:25 <b>subset</b> 49:8,20 52:4 <b>substance</b> 59:20 <b>substantial</b> 5:24 11:6 79:12,19 132:4 135:19 135:20 147:7 147:19 <b>substantially</b> 105:15 <b>substitute</b> 151:15 224:8 <b>successfully</b> 38:4 <b>sudden</b> 136:14 <b>sufficient</b> 152:18 <b>suggest</b> 53:3 157:20 165:12
---	---	--	--	--

172:15 173:18 174:2 177:16 207:3 <b>suggested</b> 60:14 61:12 72:19 74:3 97:22 98:16 99:6 136:10 174:7 199:13 209:4 209:17 211:8 <b>suggesting</b> 70:16 99:1 110:15 126:10,13 136:3 <b>suggestion</b> 53:13 56:4 59:2 73:9 92:3 111:18 136:5 177:10 177:12,12 208:10 211:19 221:16 <b>suggestions</b> 175:7,9 176:22 195:25 <b>suggests</b> 176:5 177:24 <b>summarily</b> 174:6 <b>summer</b> 17:2 99:18 <b>summoned</b> 46:10 54:6 <b>summons</b> 58:17 60:3 70:6 <b>Sun-Times</b> 17:5 <b>support</b> 33:22 116:10 120:4,7 151:25 189:4 192:2 221:2 <b>supported</b> 117:3 120:6 <b>supporting</b> 117:2 <b>suppose</b> 86:25 <b>sure</b> 22:3,13 30:6 35:19 45:17 69:16 84:7 87:18 90:11,18 94:7 96:18	109:7 115:2,16 115:17 116:9 118:1 119:23 121:19 128:5 131:24 134:21 135:3,24 140:25 152:9 159:5 160:7,7,8 165:13 180:24 192:8 201:8 207:17 213:17 213:22 <b>surprise</b> 24:12 <b>surprised</b> 40:3 80:20 157:7 <b>surprising</b> 24:15 109:3 <b>surrender</b> 70:6 <b>suspect</b> 156:16 <b>suspend</b> 90:25 <b>suspicious</b> 183:2 <b>switch</b> 98:19 <b>sworn</b> 96:24 225:4 <b>system</b> 64:1 72:12 154:3 <hr/> <b>T</b> <b>T</b> 44:22 <b>table</b> 56:5 <b>tackling</b> 12:24 <b>take</b> 2:6 6:24 7:6 10:4 14:10 15:14 27:15 28:5 33:1 34:19 41:20 42:17 57:21 67:3 74:19 76:18 80:17 84:2 86:1 91:12 101:10 108:15 109:21 116:21 118:23 120:2 124:9 133:1 134:12 134:16 136:6 136:10 138:21 140:23 141:5	142:3 143:7,7 144:3 145:11 147:12 150:16 154:12 156:25 157:20 165:7 171:3 173:7,8,9 176:4 177:4 181:16 183:4 191:6 194:22 195:19 198:15 204:20 205:8 205:18,22 219:19 220:3 220:19 222:12 <b>taken</b> 14:7,24 33:3 48:15 54:25 55:1 73:16 82:23 84:13 114:23 141:11 154:14 166:6 225:12 <b>takes</b> 36:10 150:14 171:21 <b>talk</b> 12:12 13:14 20:7,8,19 26:22 26:23 67:11 89:17 154:6 167:14 172:23 177:13 212:24 216:7,8,23 220:25 221:6 <b>talked</b> 27:24 32:19 67:4,7 117:13 180:14 207:19 208:9 211:20 <b>talking</b> 29:8 41:15 58:4 59:6 59:11 71:1 80:11 102:10 117:9,17 120:9 154:5 166:17 187:9,10 188:8 208:5 222:4,24 <b>talks</b> 94:17 <b>tally</b> 179:20 <b>target</b> 111:9	<b>task</b> 35:10 <b>tasked</b> 165:1 <b>taxpayer</b> 119:7 146:19 <b>taxpayers</b> 118:20 119:5 <b>technical</b> 77:22 <b>telephone</b> 192:23 202:20 <b>tell</b> 9:21 16:20 52:2 57:12 60:9 65:13 67:14 107:3,4 108:12 112:14 114:6 116:2 118:12 122:10 125:20 154:1 161:23 165:5 166:20 166:22 176:12 176:19 181:10 182:6 185:23 186:23 187:2 188:3 189:3 190:19,23 191:3,10,14 192:20 204:22 210:16 <b>telling</b> 22:9 34:9 70:10,12 126:6 161:15 183:22 <b>tells</b> 41:15 129:4 220:16 <b>temporary</b> 197:5 <b>ten</b> 158:7 184:11 184:12 195:11 <b>tens</b> 146:18 <b>term</b> 72:9 75:17 160:22 170:4 <b>terms</b> 87:6 124:16 <b>testified</b> 25:7 82:18,24 <b>testify</b> 11:5,9 16:17,24 18:15 20:21 21:1,5,7 21:12,15,17,23 24:23 37:23	40:4 42:5 47:14 47:18 61:2 79:24 85:3,15 85:16 104:3 111:13 113:8 114:5 132:19 133:18,19,20 133:21 135:2,3 135:16,18 <b>testifying</b> 16:18 26:4 85:14 <b>testimony</b> 4:21 5:22 8:23 10:4 10:7,10,11,14 11:3,12,18 12:2 15:12 16:2,4,5 16:7,14 19:24 20:4 21:2,4 22:23 26:10 27:2,6,9,15,24 28:5 29:20 47:8 47:10 48:2,9 56:21,23 73:15 79:6,10 82:23 84:18 91:12 95:14 96:8 98:24 105:11 105:13,14,17 117:12 130:15 131:13 132:2 138:2,8,8 141:18 142:3 148:2 149:4,7 149:13,14 157:1,11 158:22 161:6 167:12 169:3 173:2,8,10 180:17,22 187:20 188:1 190:18 196:8 196:12 200:13 202:5 204:20 205:11,18 206:7,25 207:9 207:15,22 208:1,24,24
--	---	---	--	---

LEGISLATIVE AUDIT COMMISSION MEETING 7/16/2014

209:3,16	<b>Theis</b> 44:22,22	7:13 10:20,22	158:8,11,17	126:18 128:2
217:18 218:2	77:25 78:1,6	24:3,10 27:19	159:3,11,12,18	128:17,19
222:21 223:18	80:4,7,11,25	30:4 32:1,13	160:22 161:6,7	139:3 154:2
<b>thank</b> 9:13,24	81:4,10 82:13	33:14,15,23	161:18,22	173:14 203:2
11:20 15:14,15	82:19 83:7,10	34:17 35:1	163:13 164:17	<b>thousand</b> 49:6
15:25 22:16	83:14 84:3,7,24	38:20 39:22	164:24 165:2,6	50:22 51:17
30:7,9 31:12	85:4,11,16,20	40:15,18,19	166:16,19	53:4 61:10,11
33:17,20 35:16	85:22 86:6,23	41:24 43:1,5	168:20,24	62:2 63:12,14
35:17 40:23	87:2,22,25 88:4	44:3 45:19	169:3,5 170:5,6	63:22 69:17
43:12,18,19,22	88:11,14,16,18	49:17 52:1,10	171:16,21,23	70:1,20 72:11
44:16 46:11	88:20,23 89:3	52:17 54:10,12	171:24,24	73:23 77:16
47:2 50:18	89:11,15,23	56:7 57:12 65:1	172:1 174:15	122:11,21
53:23 56:8,11	90:4 91:21,25	65:4 66:14,15	174:17,23	<b>thousands</b>
60:24 63:20	114:14 123:6	66:24 72:19	175:8,19	146:21 214:1
66:10 71:14	129:16	73:1,5,13 74:2	176:21 177:10	<b>three</b> 74:8 82:4
77:24 78:1 80:1	<b>theme</b> 114:3	74:7 75:6,11	177:18,19,20	86:22 105:6
82:15 85:17,19	<b>they'd</b> 42:11	76:5 77:20	181:13,15	112:10,13,16
85:19 87:20	126:18	80:12 81:20	184:23,24	150:20
90:5 92:15 93:6	<b>thing</b> 34:5 90:14	82:19 83:16	185:12,16	<b>three-fifth</b> 36:11
93:9 96:4,5,25	90:18 99:4	84:24 85:1,22	187:15,18	<b>throw</b> 203:21
97:2 101:21	115:5 120:15	87:23 88:2,2,6	189:7,7 190:2,5	<b>Thursday</b> 17:7
104:12,25	128:11 155:12	88:8,18 89:7,7	191:23 192:13	224:13
106:13 113:5	159:23 164:7	89:8,25 90:17	194:5,24 195:6	<b>time</b> 4:3 5:23
114:1 116:21	166:12 169:5	92:11 93:20	195:23 196:21	6:13 13:7,20
117:1,5 118:5,6	181:15 185:13	94:12 96:20	198:16 199:11	15:16 23:4,11
118:13 120:20	188:6,10 190:6	97:14 99:16	199:15 200:4	24:23 42:17
124:5 130:3	190:8 210:14	107:11,16,17	200:15,15	43:23,24 47:14
131:8,15,18	211:1 213:14	109:19 112:18	202:13 203:17	51:7 54:1 64:1
132:16,20	215:22 222:24	114:19,25	204:5,20	64:3,6 65:20
142:9 152:10	223:16	115:9,19 116:2	205:15,16	68:2,16 70:11
155:2 156:3	<b>things</b> 13:9 18:9	117:25 118:6	207:1 212:9	72:13 79:7,20
157:21 158:15	22:22 39:10,11	119:16 120:7	215:1,8,20,23	80:10 81:15
169:6 171:11	69:22 71:24	120:15 121:15	216:8,13,14,15	82:11 83:14
174:24 183:3	84:15 86:14	122:14 124:14	216:16 218:16	84:16,18 86:13
185:8 199:8	87:2 92:9,10	124:21 126:6	219:5,15	86:13 93:2,3
202:9,23	93:1 97:16	126:17 132:22	<b>thinking</b> 32:18	97:13,16,23
203:24 213:20	102:3 116:11	133:1,4,23	80:7 139:24	99:2,6,7,21
217:7,10 219:1	119:7 120:9	134:3,4,12,13	<b>third</b> 60:5 149:15	102:15,20,22
219:21 224:10	122:10 132:23	136:8 137:23	159:11 161:4	105:11,13,18
224:14	148:11 155:4	137:25 138:12	<b>third-party</b> 6:16	106:22 107:18
<b>thanked</b> 120:5	159:9 163:5	139:7,15,22	8:10 108:8	108:11 111:12
<b>thanks</b> 33:21	170:19,21	145:24 148:7	<b>Thomas</b> 45:5	111:13 113:17
35:19 103:10	182:8,23 188:2	150:25 151:3,6	92:20	117:16 118:11
103:21 145:6	191:20 194:19	153:7,15	<b>thought</b> 17:10	119:17,19
175:2	194:22 205:19	154:18 155:9	22:23 77:17	120:5,17
<b>theater</b> 91:17	206:3 223:7	155:12,24	99:22 123:2	121:22 122:22
<b>theirs</b> 176:25	<b>think</b> 3:22 4:7,12	157:14 158:1,5	125:5,17	124:9 125:11

126:24 129:2,6 129:22 130:10 130:10,16 132:22 133:6 134:24 136:7 139:23 140:23 141:5,12,15 142:7 150:15 154:21,22 156:15 158:2 159:22 160:2,3 163:11 164:7 165:12 168:6 168:10,12 171:2 172:17 172:24 174:11 176:3,4,6,7 180:13,13 184:4,10 188:3 188:3,11,12 189:2 191:24 206:23 208:21 209:3 213:10 218:19 222:10 223:21 <b>timeout</b> 157:5 <b>times</b> 13:22 20:15 23:9 61:4 65:4 73:24 74:8 86:7 208:23 215:2 <b>timetable</b> 129:13 <b>time-out</b> 138:21 138:23 157:20 181:16 <b>title</b> 19:8 67:19 <b>today</b> 4:7,11 9:25 11:21,23 14:21 16:1,21 19:15 19:18,21 22:9 24:24 25:13 26:4 27:24 33:21 40:6,24 45:14 46:5 50:2 50:22 51:20,24 62:6 68:15 69:23 71:19	73:15 74:20 75:19 77:12 86:12 91:21,23 96:6,8,14 97:9 97:22,25 98:14 98:20,23 101:13,24 102:8,11,21 103:4 111:8,17 111:20 112:13 113:19 114:3 114:10,20 115:17 117:14 117:24 120:21 121:3 122:15 124:25 125:15 125:18,20 126:16,19 130:23 135:1,7 135:16,21 138:13 144:5 145:8 146:25 153:8 154:4,4 158:5,9,17,18 164:16 166:10 167:20,24 168:25 172:4 177:14 187:13 193:23 198:22 199:16 200:1,7 200:9 201:3 204:7 215:2 216:15,19 223:4 <b>today's</b> 3:13 98:13 147:12 154:8 <b>token</b> 105:12 <b>told</b> 30:20 41:21 51:14 63:1 64:20 65:18 68:10,12 85:1,2 121:1 139:12 141:25 165:8 165:14 168:4,4 174:13 176:8,9 183:14 185:18	189:14 191:5,8 194:10 205:6 219:12,14 <b>tolerance</b> 86:18 <b>Tom</b> 101:23 <b>tomorrow</b> 27:21 51:20,24 77:13 77:14 89:25 96:14,15,15,23 102:13,25 103:2,3 107:2,4 107:7,8,15 122:15 123:5,9 123:12,13 124:10,19 125:20 126:14 126:20 127:13 128:8,15 129:20 130:1,2 131:1,5 139:12 164:22 176:5 199:7,22 200:8 200:8,22,24 201:1,8,17,21 201:24 203:5,7 203:17 204:15 204:19,21 205:5,11 206:23,25 207:6,9 212:22 213:10,17,18 214:16 215:22 216:11,12 219:25 220:4 220:13 221:15 221:23 222:11 222:15,18,23 223:4,4,7,14,23 224:2,12 <b>tone</b> 114:22 <b>Toni</b> 44:21 46:19 47:3 99:12 149:11,18 217:25 218:6 <b>tonight</b> 124:11 204:18 205:12 214:14 215:22	222:2 <b>top</b> 33:12 <b>topic</b> 17:25 129:10,10 <b>topics</b> 146:4 <b>total</b> 52:5 100:21 178:17 <b>track</b> 130:16 <b>tradition</b> 142:24 <b>trailing</b> 38:9 <b>transcribing</b> 104:23 <b>transcript</b> 225:12 <b>transition</b> 100:12 <b>transparency</b> 116:13 120:8 <b>transparent</b> 150:8 152:22 <b>travel</b> 202:18 <b>treat</b> 134:10 153:1,3,4 176:9 176:23 204:3 <b>tribunals</b> 23:6 156:24 <b>Tribune</b> 17:5 <b>tried</b> 210:7 211:22,24 222:7 <b>tripping</b> 38:17 <b>trouble</b> 51:8 68:2 91:14 173:18 <b>troubling</b> 97:19 98:4 <b>true</b> 38:3 59:24 72:1 76:7 98:9 175:10 225:11 <b>trust</b> 14:15 15:13 199:22 217:6 <b>truth</b> 13:17 15:7 15:9 19:25 20:3 22:14 32:6 126:6 <b>try</b> 34:16,16,25 91:17 126:21 129:12,12 174:23 203:11	203:15,20 205:4 206:3 207:5 <b>trying</b> 8:9,11 34:21 39:11,13 42:14 67:1 71:3 83:22 94:22 110:16 111:5 115:9 118:17 119:2 132:23 137:22 174:19 174:20 176:14 176:23 178:1 193:5 196:16 202:12 208:15 218:23 <b>turn</b> 31:20 46:5 48:19 50:2,6 52:15 55:20 73:23 97:21 98:14 153:20 <b>turned</b> 49:15 52:4,18 54:19 71:23 80:17 111:24 <b>turning</b> 112:23 <b>turns</b> 13:22 14:18 <b>TV</b> 42:11 <b>twenty</b> 39:8 158:7 171:4 <b>two</b> 12:4 18:4 30:17 31:10 46:3,6 47:7,12 48:3 52:22 61:4 71:24,25 75:10 90:24 95:12 98:2 122:10 131:19 149:8 164:9,12 166:8 188:14,22 192:24 194:21 194:23 200:23 201:6 203:14 207:4,7 210:7 213:15 218:4 218:15 219:6
---	---	---	---	---

223:5 <b>two-day</b> 202:17 <b>two-part</b> 46:2 201:15 <b>type</b> 13:1 90:18 155:10 185:13 <b>types</b> 17:20 <b>typical</b> 51:4 53:14 74:21 156:23 <b>typically</b> 81:24	53:7,23,24 59:1 61:22 63:23,24 66:11 72:5,15 74:18 75:18,22 82:21 84:12 91:14 95:2,21 107:20 108:9 129:2 162:23 164:15 169:13 192:22 218:12 <b>undertaken</b> 173:3 <b>undertaking</b> 163:25 <b>undertones</b> 91:16 <b>unencumbered</b> 156:20 <b>unequivocally</b> 79:10 82:7 <b>unfortunate</b> 199:9 205:13 <b>unfortunately</b> 51:19 215:21 <b>unilaterally</b> 177:10 <b>United</b> 3:18 4:18 11:25 12:6,7 41:6,11 42:1 48:4,10 79:5,14 79:19 85:13 90:20 92:12 113:17,23 114:11 155:6 167:11 171:13 187:25 196:12 <b>unnecessary</b> 185:13 <b>unpleasant</b> 185:13 <b>unprecedented</b> 33:15 <b>unreasonablen...</b> 136:9 <b>unusual</b> 100:18 163:1,16 167:23 168:3	172:24 <b>unwilling</b> 206:11 206:20 211:15 <b>unwillingness</b> 200:6 <b>upcoming</b> 141:12 141:13 <b>upfront</b> 52:22 <b>urge</b> 86:19 <b>use</b> 34:20 100:10 119:7 <b>usually</b> 35:5,6 100:17 <b>utilize</b> 8:10 <b>U.S</b> 3:17 5:20 6:12 7:7 9:4,5 9:20 10:3,15 11:2,13 12:5,18 13:6 14:6 15:11 18:5,5,10 24:1 24:13 25:3 29:8 29:21 31:3,4,17 32:11 34:18 37:7,12 39:3,20 39:21 40:15,16 40:18 41:4,14 41:23,24 42:11 42:21 47:5 61:12 62:22 68:10 69:25 70:12 71:9 76:11,15 82:6 83:17,22 91:10 94:19 95:10 105:5,20 107:9 111:12 113:10 113:11,15 127:7 131:25 132:7 133:21 135:4,17 138:10 139:19 145:9,22 146:11,13 147:4,23 148:9 149:5,6 152:4 152:21 153:2 153:17 158:19	160:12 161:12 161:19,22 162:15,24 163:10 164:10 164:10 165:5,8 166:20 167:23 168:21 173:6 174:9 176:11 177:13 180:21 183:7 190:15 193:10,11 199:24 200:3 206:4 207:1 208:4,5,17,25 209:17 211:7 211:16,19,22 211:25 212:25 214:6 215:5 216:4 217:19 217:20,23 219:8,13 220:6 220:25 221:2 222:4,24 223:14 <b>U.S.C</b> 42:6,7	<b>verify</b> 168:21 <b>version</b> 218:22 <b>versus</b> 41:3,9 <b>view</b> 15:16 51:9 59:3 64:7 108:23 <b>viewed</b> 42:25 <b>violated</b> 101:14 <b>violation</b> 10:7,13 <b>violence</b> 78:10,13 78:17 80:15 92:6 98:22 101:11 107:25 110:20 119:9 <b>voluntary</b> 83:17 <b>volunteered</b> 106:3 <b>vote</b> 109:21 140:6 144:9 171:7 178:2,4,5 178:17 180:23 181:1,11,12 184:24 185:12 186:5,5,6 195:16,19 196:4 198:4,7 198:12 220:15 <b>voted</b> 116:22 207:11 218:10 <b>votes</b> 33:3 36:4 142:19,23 143:3 177:4,4 178:12,15 195:17 <b>voting</b> 142:24 144:19,20,21 144:21 179:23 179:24 198:12 198:13	
<hr/> <b>U</b> <hr/>					
<b>u</b> 160:16 <b>Uh</b> 119:12 <b>ultimate</b> 174:16 <b>ultimately</b> 81:2 <b>unacceptable</b> 188:23,24 <b>unambiguously</b> 157:12 <b>unanimous</b> 160:17 171:8 <b>unanimously</b> 7:25 <b>uncomfortable</b> 132:6 <b>uncover</b> 176:5 <b>understand</b> 4:6 7:16 19:22 25:9 39:16 47:17 56:3 58:12,13 60:8 62:15,17 62:20 69:17 71:18 72:16 76:10 82:19 88:7 91:6,7,15 102:17 107:1 107:12 133:11 154:7 163:2 164:5 191:20 192:8 195:14 208:14,22 <b>understanding</b> 12:15 20:6 23:18,23 29:14 49:8 51:15 53:6					
<hr/> <b>V</b> <hr/>					
			<b>vague</b> 193:12 <b>valid</b> 221:21 <b>valuable</b> 78:18 <b>varied</b> 210:7 <b>various</b> 17:13 125:19 145:20 <b>vast</b> 70:21 <b>Vaught</b> 53:19 <b>vehicle</b> 34:8 <b>Ventures</b> 112:12 <b>venue</b> 67:3 <b>verbal</b> 2:16 5:18 43:14,16 104:10 106:20 121:21 130:5 141:1 143:16 186:16 203:1 204:24 218:14 <b>verbally</b> 192:15 <b>verbatim</b> 169:10		
<hr/> <b>W</b> <hr/>					
				<b>wait</b> 21:10 55:15 57:17 63:2,2 192:1 196:20 <b>waiting</b> 169:1 <b>walk</b> 16:21 <b>walked</b> 165:20	

LEGISLATIVE AUDIT COMMISSION MEETING 7/16/2014

want 5:11 7:8 22:3,13 27:7,16 28:11 32:1,5,19 33:4 34:14 39:16 40:1 42:13,24 43:6,8 46:25 47:8 52:1 57:11 60:9,13 66:25 68:21 69:16 70:3 71:4 72:9 76:5,14 84:22 87:12,16 87:17 88:6 90:10 91:4 92:4 93:24 94:3 97:3 98:15,19 99:9 109:15,19 112:24 113:2 113:21,21,22 115:15,16,18 115:20,24,25 116:3,21,25 117:5 118:1,9,9 118:10,15,15 119:14,22,23 119:25 120:10 120:11,13,13 120:14,15 121:25 125:10 125:13 127:23 132:5,17,18 133:16,20 138:23 139:18 140:9 143:24 144:3 145:7,16 148:15 151:4 153:15 155:5,5 159:10 160:17 160:23 161:5 161:16 164:11 165:12 167:7 167:16 171:3,6 173:8 175:3 180:9 185:1,17 186:25 188:12 189:11,24 190:25 191:8	191:15,24 192:5,7 193:2 193:15 196:16 198:24 199:13 201:6 202:16 203:16 208:22 209:2 210:1 211:2,3,18 212:23,24 214:5 217:1 219:24 wanted 9:19 15:22 21:18,19 31:6 32:17 38:12 54:8 77:2 92:25 121:11 131:19,24 153:24 156:4,5 wants 41:25 53:11,15 54:24 55:12 86:17 102:18 140:17 162:3 warning 170:20 Warren 45:10 104:18 105:1 141:17 149:12 149:18 218:1 218:20 wasn't 23:24 35:14 95:16 175:10 waste 125:11 180:13 213:10 wastes 206:23 wasting 164:6 206:13 watching 169:4 213:22 way 20:17 31:21 32:6,7,9 35:14 38:11,18 39:2 40:14 48:23 49:16 50:5 51:9 53:3 54:25 60:18 64:8,10 66:20 69:4 75:7	75:20 84:15 85:22 90:21 92:11 101:17 125:17 129:13 137:7 138:24 145:12,23 148:15 150:8 153:4 161:25 173:1,17 174:22 180:1 185:22,24 193:23 201:12 203:19 ways 23:6 37:10 92:6 163:8 wearing 33:6 website 142:12 144:25 204:13 week 17:15 79:4 172:21 216:4 weeks 86:22 172:20 210:7 Weems 120:25 121:5 125:1 139:8 149:11 149:18 217:25 218:6 weigh 55:11 weight 56:16 57:8 welcome 131:12 177:13 181:16 welcomes 47:9 61:1 went 40:4 155:9 weren't 63:2 155:19 187:9 we'll 4:16 9:10 77:7 88:24 90:4 91:1 102:15 122:14 128:3,8 128:8 130:25 131:2,5 143:5 161:20,21 162:2 171:5,8 175:19 188:20 189:11 201:21	212:21 221:11 221:17 we're 22:5 34:2 34:23,23,24 39:13 40:6 42:14 51:19 61:16 62:23 71:3,8,18 77:12 83:13,15,18,21 83:22 84:10,10 86:10,11 87:8 87:24 89:13 90:10,25,25 91:16,20 94:22 94:24 95:20,20 95:25 102:24 104:24 113:21 113:21 115:9 119:2 120:9 121:19,20 123:2,10 124:19,20 132:22,23 133:12,15 135:1 138:13 139:4 146:20 154:22 157:11 158:25 160:16 160:16 161:14 161:25 162:4,5 164:2,8 168:8 169:2 170:24 171:5,5,14,15 171:20 172:10 173:3,12 175:13 176:18 177:6,14 180:10,12 181:9 185:4,25 186:2,9 187:7 187:10 188:18 188:20 189:1,9 190:5,7 191:13 191:14,14 192:22 194:3,5 194:14 195:6 196:16,21	198:22 204:3,4 205:7,12,18 206:22,24 210:12,12 216:24 219:23 221:18 222:20 223:20 we've 42:18 47:7 74:6 82:1 95:12 95:18,22 109:23 110:6 116:15,15 117:17 119:17 119:17,18 120:4 124:14 130:11 142:6 147:10 150:20 157:6 158:1,4 158:16 160:7 162:4,16 163:16 164:3,3 164:25 177:7 177:21,21 180:14 194:3 198:21,22 199:12 204:6 205:21,22 210:3 213:14 213:23 214:3,4 214:25 wherewithal 205:23 widely 12:23 Wier 50:8,9,11 50:13,13 66:12 66:12 74:19 wife 16:12 144:4 willing 16:17,24 17:23 18:15 20:19 65:5,23 92:23 104:2 128:24 135:3 136:2 153:14 166:15 167:14 181:18 193:6 193:24 206:8 209:12 211:17
--	--	---	---	---

<p>216:7,7  <b>wins</b> 219:19,20  <b>wish</b> 46:6 51:18                      52:2 71:12                      136:17 145:10                      156:25 173:9                      199:7 209:15                      210:25 211:13  <b>wished</b> 174:1                      208:11 209:13  <b>wishes</b> 62:7                      66:22 140:19                      223:18  <b>withdraw</b> 138:5                      140:4,5,22                      181:23 217:1,4                      217:7 220:14  <b>withdrawn</b>                      140:14 141:3,4                      217:11  <b>withheld</b> 52:6,24                      97:4  <b>witness</b> 6:17 8:10                      12:9 15:12 29:8                      36:20,23 37:2                      38:13 41:21                      42:4 44:9 46:3                      46:4 54:6 82:23                      86:10,11,11                      134:23 137:4                      137:10 139:5                      156:22  <b>witnesses</b> 3:24                      4:10 5:12 7:2,9                      7:11,22 8:2                      9:10 12:2 13:14                      28:4,7,22 29:18                      31:20 37:22,23                      37:24,25 43:24                      44:1,4,5,10                      45:19,20 47:1                      49:13 52:5,6                      58:22 79:6                      82:25 137:24                      138:3 139:8,10                      146:8 156:25                      170:18 173:10</p>	<p>177:22 178:18                      180:18 187:21                      188:12 196:8                      199:2 201:22                      201:23 202:7                      203:6 207:8,15                      207:22 211:12                      216:17 221:22                      221:23  <b>Women's</b> 112:11  <b>wondered</b> 59:18  <b>wonderful</b> 92:9                      99:4 158:4  <b>wondering</b> 35:2  <b>word</b> 165:24,25                      186:21,21,22                      188:10 191:6                      192:22 194:22                      194:22,23                      206:6 217:6                      220:2,4,19  <b>wording</b> 150:25  <b>words</b> 57:11                      111:3,17 162:2                      176:10,13                      196:16 214:4  <b>work</b> 13:5 18:9                      18:11,12 22:25                      23:22 54:16                      60:20 70:18                      74:11,22 90:14                      100:3 111:21                      121:1,4 144:1,2                      199:6 200:21                      200:24 203:7                      203:11,15,20                      204:21 205:4                      207:4 212:22  <b>worked</b> 13:22                      24:2 35:3,13                      40:8 66:20                      74:16 75:3                      116:24 165:23                      221:13  <b>working</b> 17:12                      23:6,7 38:6                      100:2 120:4</p>	<p>151:11 156:24                      182:14 198:22  <b>works</b> 25:22                      139:4  <b>world</b> 37:18                      154:1  <b>worry</b> 167:24  <b>worst-case</b> 12:17  <b>worth</b> 109:1  <b>wouldn't</b> 27:8,8                      27:23,24 37:18                      37:19,19 62:13                      84:6 102:12                      126:16 183:4  <b>wrapped</b> 87:6  <b>write</b> 32:17 210:1  <b>writes</b> 39:4  <b>writing</b> 17:9,25                      30:18 32:18                      151:20 158:10                      165:15 169:20                      172:2 174:9                      176:10 186:25                      188:7 191:9                      192:9,14,15                      195:4 206:20                      207:5 209:1                      218:16 220:22  <b>writings</b> 18:6  <b>written</b> 24:16                      131:25 176:11                      206:8 210:4  <b>wrong</b> 23:23                      27:10 34:15                      40:6,13 43:1                      114:3,6,7                      119:19 122:8                      161:8 169:1                      172:1 205:16                      207:17 209:14  <b>wrongdoing</b>                      12:21 32:16                      71:4,4  <b>wrote</b> 5:25 18:8                      29:2 175:21                      209:21</p>	<p><b>Y</b>  <b>yeah</b> 24:20 25:16                      25:18,22 57:6                      64:16 65:16                      88:21 89:22                      93:16 107:16                      107:16 136:22                      137:20 153:21                      162:13 192:5                      204:16 210:12                      214:25  <b>year</b> 13:1 114:18  <b>years</b> 13:7 78:12                      78:17  <b>yesterday</b> 5:19                      24:19,21 79:13                      138:10 147:22                      155:15,16                      158:23 164:21                      172:14 173:5                      173:25 174:11                      181:21  <b>yield</b> 15:1  <b>yielded</b> 156:1  <b>young</b> 137:7  <b>Youth</b> 99:18</p>	<p>189:11 193:24                      206:9 208:25  <b>10th</b> 147:14                      154:15 158:20                      168:22 180:19                      187:22 188:16                      188:25 191:12                      196:9 207:23  <b>10:00</b> 83:1 84:13                      99:12 149:14                      180:19 187:22                      188:15 191:12                      196:10 207:23                      218:3  <b>10:15</b> 1:7 2:1  <b>100,000</b> 49:19                      50:1 52:7  <b>11</b> 3:9,10 144:19  <b>11:40</b> 130:11  <b>12</b> 171:19 212:11  <b>12-month</b> 100:15  <b>12:40</b> 130:11  <b>148-page</b> 109:2  <b>15</b> 168:23 212:11                      213:11 215:2  <b>15th</b> 147:24  <b>15-day</b> 101:2  <b>150-page</b> 111:19  <b>150/4</b> 102:2  <b>1503</b> 42:7 43:2  <b>1512</b> 42:6 43:2  <b>16</b> 224:23  <b>16th</b> 1:6 120:23                      121:2,5  <b>160</b> 1:5  <b>17</b> 149:20 224:3                      224:13,24  <b>17th</b> 120:23                      121:2,5 218:7  <b>18</b> 42:6,7 77:7  <b>1997</b> 78:15</p>
			<p><b>Z</b>  <b>zero</b> 144:21,21</p>	
			<p><b>\$</b>  <b>\$1,000</b> 202:18  <b>\$1500</b> 202:19  <b>\$3,985</b> 202:17  <b>\$4,000</b> 202:17  <b>\$5</b> 112:5,5</p>	
			<p><b>0</b>  <b>084-003502</b>                      225:19</p>	
			<p><b>1</b>  <b>1st</b> 100:13  <b>1:10</b> 131:3  <b>1:20</b> 130:20                      141:7  <b>10</b> 171:19 180:7</p>	
			<p><b>2</b>  <b>2</b> 21:13,14 187:4  <b>2,000</b> 49:12,20,24                      52:5 93:25                      97:10</p>	

<p><b>2-year</b> 49:13  <b>2010</b> 97:11  <b>2012</b> 78:16 80:16  99:2,3,12  <b>2014</b> 1:6 145:19  147:18 148:1  149:6,10,15,20  158:20 180:19  187:22 196:10  207:23 217:20  217:22 218:3,8  224:23,24  <b>24</b> 77:21 193:24  212:12  <b>242</b> 146:20  <b>25</b> 54:5 102:2  <b>25th</b> 120:24  144:4  <b>27th</b> 77:3  <b>2747</b> 116:12,19  120:2</p> <hr/> <p style="text-align: center;"><b>3</b></p> <p><b>3</b> 54:5 198:15  <b>30</b> 77:21 78:17  130:9 134:12  136:4 140:23  141:6  <b>30-minute</b> 130:9  <b>31</b> 99:12</p> <hr/> <p style="text-align: center;"><b>4</b></p> <p><b>4</b> 58:15 65:22  70:3 143:3  <b>4:26</b> 173:5,14  174:12  <b>4:30</b> 24:20,24  27:14 155:16  <b>4:45</b> 158:23  <b>45</b> 116:24 174:12  <b>48</b> 89:18</p> <hr/> <p style="text-align: center;"><b>5</b></p> <p><b>5:42</b> 224:22</p> <hr/> <p style="text-align: center;"><b>6</b></p> <p><b>6</b> 49:12 52:5  116:23,24</p>	<hr/> <p style="text-align: center;"><b>7</b></p> <p><b>7</b> 218:22  <b>7th</b> 149:9,14  170:22 217:22  218:2</p> <hr/> <p style="text-align: center;"><b>8</b></p> <p><b>8</b> 218:22  <b>8th</b> 149:10,15  170:23 217:22  218:3  <b>85</b> 54:5</p> <hr/> <p style="text-align: center;"><b>9</b></p> <p><b>9</b> 218:22  <b>9th</b> 145:19  147:18 148:1  149:6 175:3,4  217:20  <b>9:02</b> 216:23,24  219:25  <b>9:00</b> 89:25 99:14  123:3,5,9,11,18  129:21 149:15  149:20 218:3  223:23 224:2  224:12,23  <b>90</b> 12:3 14:11  15:12 30:18  71:10 76:14  92:14 105:15  118:11 147:16  148:1 149:4,8  150:12,14,16  156:19,20,24  157:12 158:10  158:22,24  159:3 160:14  160:19 167:7  167:24 168:22  168:23,24  169:1,3,9,23  170:20,22,24  170:25,25  171:2,6,16,20  171:23,23  172:22 173:21</p>	<p>173:21 174:13  175:10,12,15  175:19,25  176:2,2,10,11  176:12,13,16  176:17,20,20  180:2,5,11,24  180:25 181:15  182:12 184:2,2  185:24 186:8  198:24 200:17  206:7,9 208:24  209:1 210:10  214:4,5 217:18  219:8  <b>90-day</b> 5:23  147:17 165:10  171:2 180:5  194:9 200:14  <b>90-minute</b> 157:6  <b>96</b> 116:23</p>		
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