

# The State of New Hampshire

## MERRIMACK COUNTY SUPERIOR COURT

**Grand Jury Hearing  
February 19, 2010**

Grand Jury hearing held at the Merrimack County Superior Court,  
163 North Main Street, Concord, New Hampshire 03301

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## **LEGAL DEPOSITION SERVICE**

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**APPEARANCES**

**FOR THE STATE:**

**ATTORNEY GENERAL'S OFFICE**

**BY:** Jane Young, Esq.  
33 Capitol Street  
Concord, New Hampshire 03301  
603-271-3671

MARK BODI

having been duly sworn by Attorney Young  
was examined and testified as follows:

INTERROGATORIES BY ATTORNEY YOUNG:

Q Could you please state your name for the record and spell your last name?

A Mark Bodi, B-O-D-I.

Q Mr. Bodi, I have to inform you of your rights. As you know, you're here today before the Grand Jury. You were subpoenaed to come here today. The matter that the Grand Jurors are investigating is the execution of two search warrants by Liquor Enforcement Officers that occurred at the Railroad Tavern in Keene, New Hampshire. The date of those search warrants was December 14<sup>th</sup> and 15<sup>th</sup> of 2009. They're also investigating the return of property seized pursuant to those warrants without a court order. So the matters that we are looking at include, but are not limited to, obstruction of governmental operations or abuse of office. That's the matter that these Grand Jurors are investigating. You're here to testify today, as I indicated, under subpoena. You have the right to refuse to answer a question but only if the answer might incriminate you. And by incriminate you what I mean is the answer could subject you to criminal liability. Do

1           you understand that?

2     A     I do.

3     Q     If I ask you a question and the answer to that question  
4           would incriminate you then you don't have to answer the  
5           question. Do you understand that?

6     A     I do.

7     Q     If I ask you a question and the answer would not  
8           incriminate you or would not subject you to criminal  
9           penalty you have to answer it. Do you understand that?

10    A     I do.

11    Q     That means if I ask you a question just because you don't  
12           like the question or you may not want to answer it, so  
13           long as it doesn't tend to lead you to criminal liability,  
14           you have to answer that question. Do you understand?

15    A     I do understand.

16    Q     If you've hired a lawyer to be here with you today, the  
17           lawyer can be with you in the courthouse however the  
18           lawyer is not allowed here in the Grand Jury because this  
19           is a secret proceeding. Do you understand that?

20    A     I do and I have not.

21    Q     At any point, Mr. Bodi, if you want to step out of the  
22           room, if you want to call a lawyer, if you want to consult  
23           with a lawyer you'll have an opportunity to do that. Do  
24           you understand that?

1 A I do.

2 Q The answers that you give here today must be truthful. Do  
3 you understand that?

4 A Absolutely.

5 Q That any answer you give here today may be used against  
6 you in a future court proceeding. Do you understand that?

7 A I do.

8 Q Therefore it is your obligation before this Grand Jury to  
9 testify truthfully at all times which means you cannot  
10 provide false information at any time. Do you understand  
11 that?

12 A I do.

13 Q Do you understand that if you testify falsely or lie to  
14 this Grand Jury that's a crime here in New Hampshire?

15 A I do.

16 Q And that crime is called perjury. Perjury is a Class B  
17 felony and that means if you are charged with perjury and  
18 if you are found guilty and convicted you could face up to  
19 three and a half to seven years at the State Prison and/or  
20 a fine up to \$4,000. Do you understand that?

21 A I do understand that.

22 Q Do you have any questions about what we've just discussed  
23 before we start this inquiry?

24 A I do not. Thank you.

1 Q Just so you know, Mr. Bodi, I will ask you a series of  
2 questions. This Grand Jury being an Investigative Grand  
3 Jury is also able to ask you questions. The same rules  
4 apply if the Grand Jurors ask you questions. If the  
5 answer would tend to incriminate you, you do not have to  
6 answer it. Do you understand that?

7 A I do.

8 Q And again, any time we're going through this if you have  
9 any questions, don't hesitate to ask me.

10 A Thank you.

11 Q I can't give you legal advice but we can at least have a  
12 discussion about what your question is.

13 A Thank you.

14 Q Could you explain for the Grand Jurors what your current  
15 position is Mr. Bodi?

16 A I'm a member of the State Liquor Commission and I'm  
17 responsible, together with my two colleagues, for the  
18 operation of the State's 78 liquor stores and activities  
19 attendant to that including our warehouse as well as our  
20 Enforcement Bureau.

21 Q What do your duties include as a Liquor Commissioner?  
22 What are your day to day duties?

23 A My day to day duties generally include the operation of  
24 the business functions. I spend most of my personal time

1 on the business functions. But they do also include  
2 matters associated with licensees, meaning individuals who  
3 have a license to sell products at a restaurant, hotel or  
4 so forth and interacting with our Enforcement Bureau which  
5 is the enforcement arm of the Liquor Commission.

6 Q So in layman terms is it fair to say that the Enforcement  
7 Bureau is like the Liquor Commission's police department?

8 A It is.

9 Q And there is a Chief of the Enforcement Bureau?

10 A Yes.

11 Q Who is that chief?

12 A Mr. Eddie Edwards.

13 Q Does Mr. Eddie Edwards report to you as a Commissioner?  
14 Are you his direct supervisor?

15 A By law he reports to all of us, but he previously had  
16 reported to a former Commissioner, Commissioner Russell -  
17 upon her retirement because I had the most seniority I was  
18 working most closely with him. Although by law he reports  
19 to all of us.

20 Q Is there anything that distinguishes the three Liquor  
21 Commissioners?

22 A I am the Chairman of the Commission.

23 Q So do you have special duties or special authority as the  
24 Chairman of the Liquor Commission?

1 A I have special duties but not special authority.

2 Q So do you trump either of the other Commissioners in  
3 disputes?

4 A No, I do not.

5 Q Do you have an equal vote or an equal say on any matters  
6 that come before you?

7 A Yes, we do.

8 Q Let's discuss an individual by the name of Daniel Eaton.  
9 Do you know Daniel Eaton?

10 A I do.

11 Q What is your relationship with this individual?

12 A I don't have a relationship with him. I know him as a  
13 member of the General Court.

14 Q And that is the Legislature?

15 A Yes.

16 Q So he is a Representative?

17 A Correct.

18 Q Do you ever interact with him in your personal capacity as  
19 the Chairman of the Liquor Commission?

20 A In my professional capacities, I do.

21 Q So you have a professional relationship?

22 A Correct.

23 Q Describe for the Grand Jurors what that relationship is.

24 A Representative Eaton is a member of the House Finance

1 Committee and the House Finance Committee is the committee  
2 that decides, among other things, the allocation of  
3 budgets and monies to be distributed for agencies - their  
4 operating budgets.

5 Q So is it fair to say that the better your relationship is  
6 with the head of the Finance Committee the more favorable  
7 your financial situation may be?

8 A Yes.

9 Q So it behooves you to have a better relationship with him  
10 than an antagonistic relationship?

11 A Unfortunately, yes.

12 Q How long has he been Chairman of the Finance Committee, to  
13 the best of your knowledge?

14 A He's Vice Chair to my knowledge and I do not know the  
15 answer to that question. But I believe it's quite some  
16 time.

17 Q Are you aware of an establishment called the Railroad  
18 Tavern in Keene, New Hampshire?

19 A I am.

20 Q When were you first aware of that establishment?

21 A I became aware of it generally when there was a matter  
22 before the Commission related to it. I would like to say  
23 a year ago, but my memory is not clear in that regard.

24 Q So why don't you tell us when the name Railroad Tavern

1 first comes to light. And again, we're talking about your  
2 professional capacity when we talk about these instances.

3 Correct?

4 A Yes.

5 Q You don't have any personal relationship with  
6 Representative Eaton?

7 A I do not.

8 Q And you don't have a personal relationship with anybody  
9 involved with the Railroad Tavern?

10 A No, I do not.

11 Q So when we're discussing this, your role is as the  
12 Chairman of the Liquor Commission?

13 A I'm sorry, I'm not quite sure I understood that question.

14 Q When we're talking about the Railroad Tavern and its  
15 activities we're talking about that in your professional  
16 capacity as Chairman?

17 A Absolutely. Yes.

18 Q So tell us about the matter that first comes to light that  
19 brings the Railroad Tavern to your radar screen.

20 A There was an administrative action against the Railroad  
21 Tavern, as I recall. And the only reason I recall it is  
22 one of the former Commissioners was from Keene and she had  
23 mentioned something about the owner of this Tavern and I  
24 don't want to draw too much from my memory but that's what

1 I recall.

2 Q Do you remember anything about sort of the incident beyond  
3 that? That there was an administrative incident involving  
4 the Railroad Tavern?

5 A I do not.

6 Q Do you know who the owner was - the owner's name?

7 A No, I do not.

8 Q Are you aware of an incident at the Railroad Tavern that  
9 happened in December of 2009?

10 A I am.

11 Q How does that incident come to light? And when I say  
12 incident what I mean is that there is information that  
13 there is a woman, a patron, who was overserved alcohol.  
14 How does that come to your --

15 A I received a phone call.

16 Q From who?

17 A Representative Eaton.

18 Q When was that?

19 A I cannot recall precisely but my recollection is it was  
20 the day following - well, it was in early December, in or  
21 about the time at which the search warrants were served on  
22 the establishment.

23 Q If I represent to you that the woman being overserved is  
24 December 12<sup>th</sup>, a Saturday. December 14<sup>th</sup>, which is a Monday

1           there is a search warrant executed and there's a second  
2           search warrant executed on Tuesday the 15<sup>th</sup> of December.

3           When would Representative Eaton have called you?

4    A       Would you repeat that for me again please?

5    Q       The overservice would have been on Saturday the 12<sup>th</sup>.

6    A       Yes. Okay.

7    Q       The first search warrant executed Monday the 14<sup>th</sup>. Second  
8           search warrant executed Tuesday the 15<sup>th</sup>.

9    A       To the best of my recollection I believe it was Monday.  
10           On or about that.

11   Q       What does Representative Eaton say to you when he calls  
12           you?

13   A       He called me and complained.

14   Q       In what respect?

15   A       He called - during the course of our conversation he  
16           indicated to me that he felt that this establishment was  
17           being targeted by the Liquor Commission Enforcement  
18           Division in retaliation for a piece of legislation that he  
19           had been attempting to marshal through the Legislature  
20           which would separate the Enforcement Division away from  
21           the Liquor Commission. And he further complained about  
22           the officers that were present that evening and their  
23           conduct.

24   Q       Did he indicate to you what the officers' names were?

1 A He did. I think he did.

2 Q Do you recall their names?

3 A I do not. I would recall them if you mentioned them  
4 perhaps but --.

5 Q Officers or Investigators Fossell (ph) and Elliott? Do  
6 those ring any bells to you?

7 A Fossell does.

8 Q Fossell does, okay. If I represent to you that after the  
9 first search warrant was executed on Monday, that Chief  
10 Edwards called you to say that Representative Eaton had  
11 arrived at the search warrant, does that sound familiar to  
12 you?

13 A Yes.

14 Q So Chief Edwards - you do remember Chief Edwards calling  
15 you and saying Representative Eaton appeared at the search  
16 warrant?

17 A I do.

18 Q Did you find that unusual?

19 A Yes.

20 Q Now recalling that Chief Edwards had called you, do you  
21 have your conversation with Representative Eaton before or  
22 after that telephone call you had with Chief Edwards?

23 A After.

24 Q So you learn of the first search warrant. What's your

1 response to that? Do you ask Chief Edwards why they're  
2 doing the search warrant there at the Railroad Tavern? Do  
3 you ask any questions about --

4 A I did.

5 Q What questions do you ask?

6 A Why he was there in Keene. What was the nature of this.

7 Q Why are you asking those questions?

8 A Because I knew that Keene was the residence was the  
9 general area of this Representative - Representative  
10 Eaton. I immediately, instinctively knew that this was  
11 going to be a big problem.

12 Q Is it typical when Enforcement goes out on cases when they  
13 do search warrants and they issue citations, are you  
14 notified of that as a Commissioner?

15 A No, I am not.

16 Q So was this unusual that you got a call about what would  
17 be a routine search warrant?

18 A Yes.

19 Q Okay. When you have your conversation --

20 A Can I elaborate on that?

21 Q Sure.

22 A The Chief's purpose in calling me was to give me the heads  
23 up, to say "I want you to know."

24 Q Do you give the Chief any directive?

1 A No. I said, oh no.

2 Q Do you say, "Stand down. Don't go back to that bar, just  
3 move on"? Do you say anything like that to him?

4 A I said to the Chief, I said, "I'm sure I'll be hearing  
5 from him."

6 Q But do you give him any directive about what to do further  
7 with this establishment?

8 A No, I did not.

9 Q In the past have you ever given direction about how a case  
10 should be handled? How a search warrant should be  
11 executed?

12 A No.

13 Q Is that part of your duties?

14 A No.

15 Q Do you get sort of down into the weeds with the  
16 investigators?

17 A No. No, I do not.

18 Q Are you aware that there's a second search warrant that's  
19 executed at the bar? That being the following day on  
20 Tuesday the 15<sup>th</sup> of December.

21 A I am.

22 Q How were you made aware of that?

23 A I received a second call.

24 Q From whom?

1 A From Representative Eaton.

2 Q So you believe you got a call from Representative Eaton  
3 after the first search warrant complaining?

4 A Correct.

5 Q You get a call the next day on Tuesday. Were you aware  
6 that they were going back - that the agents were going  
7 back to the bar the next day?

8 A No, I was not.

9 Q So you get a second call from Representative Eaton?

10 A Yes.

11 Q What does he say during that call?

12 A If I might go back a step? After the first call,  
13 Representative Eaton made claims and accusations against  
14 our Chief, that he was directing this investigation and he  
15 was leading his men to do this. And I said to him, as I  
16 recall, I said, "I didn't know anything about it. I  
17 didn't know they were going to be going there." And I  
18 said, "I will look into it and get back to you." Now as  
19 my memory serves me I did call him back. I don't know  
20 when, but I said to him - and I had asked the Chief, "Were  
21 you aware that this was taking place? That they were  
22 going out there?" He conveyed to me, no.

23 Q Who conveyed no?

24 A The Chief.

1 Q Eddie Edwards told you that he was not aware that his  
2 officers were going to execute the search warrant?

3 A I don't know if it was the search warrant so much as the  
4 surveillance. I had the impression that there was this  
5 secretive - from the nature of the phone call and what he  
6 was trying to represent.

7 Q Just so we're clear with the hes and the hims.

8 A Oh, I'm sorry.

9 Q You have to say names so we're clear.

10 A I had, based on my phone discussion with Eaton, he was  
11 representing that this was the kind of a nefarious plot  
12 that the Chief had told his people to go out there and  
13 surveil this establishment.

14 Q To sort of try and get the dirt or the goods on the  
15 establishment?

16 A Yes. And inconsistent with his charge that this was a  
17 retaliatory action.

18 Q Let's back up to Monday. There's a search warrant that's  
19 executed. You're not told that there's going to be a  
20 search warrant at the Railroad Tavern?

21 A Right.

22 Q But that's not unusual because you're not told when they  
23 are going to be search warrants executed. Is that  
24 correct?

1 A That's correct.

2 Q That's Enforcement's job?

3 A Yes.

4 Q You get a call from Chief Edwards telling you that  
5 Representative Eaton showed up. You also believe you get  
6 a call from Representative Eaton on Monday complaining  
7 about the activities of the Enforcement?

8 A Yes. Oh yes. I'm certain of that.

9 Q Do you ever ask Chief Edwards "What's your basis for going  
10 there? What are you looking for and why are you looking  
11 for it?"

12 A Yes.

13 Q What information do you get?

14 A He conveyed to me --

15 Q 'He' is Chief Edwards?

16 A I'm sorry. Chief Edwards conveyed to me that he had  
17 received complaints and they were following up in the  
18 normal course of business on complaints.

19 Q Does Chief Edwards also represent to you that they had  
20 seen a patron - 'they' being members of the enforcement  
21 agency, they had seen a patron coming out of the bar who  
22 appeared to be overserved?

23 A Oh yes.

24 Q That they had actually stopped the car and gotten

1 information confirming their observations?

2 A I didn't get into the details of it.

3 Q Wouldn't it be important though to know the details that  
4 your inspectors are properly following their job so you  
5 can have an intelligent conversation with Representative  
6 Eaton?

7 A Yes. Yes, it would be but these cases are always he said  
8 she said, this one was drunk, this one wasn't drunk. What  
9 I was principally concerned about at that particular time  
10 was was this a legitimate investigation. I wanted to be  
11 sure for myself. So he said he had done it based on --

12 Q 'He' again is who?

13 A Excuse me, Chief Edwards said he had initiated this based  
14 upon a complaint and he did go on about somebody stumbling  
15 out and you know, I always get the gory details but  
16 they're all very similar. They're all very similar. So  
17 I don't want to convey that I was lackadaisical and not  
18 paying attention to them but - I don't want to say I've  
19 heard them all but --.

20 Q Did you get enough detail from Chief Edwards to make a  
21 determination on your own that the Bureau of Liquor  
22 Enforcement had ample evidence to do what they were doing?  
23 Had ample probable cause to follow the route that they  
24 were following.

1 A Yes. Chief Edwards told me that they were a bad operator.  
2 That they had a long history; that there was numerous  
3 violations. And that's what he had said to me so I had  
4 felt at that particular time that although the timing was  
5 not good as far as I was concerned with respect to  
6 Representative Eaton and the legislative actions that at  
7 least for that moment I believed that he was acting  
8 consistently with his responsibilities.

9 Q And those are his responsibilities.

10 A They are.

11 Q Chief Edwards' responsibilities?

12 A Yes, they are.

13 Q Let me ask you this, Mr. Bodi. Had you known about this  
14 prior, had Chief Edwards come to you and said, "We have  
15 this information about this bar, it's the Railroad Tavern,  
16 the owner is friendly with Representative Eaton" would you  
17 have told him to hold off on the search warrant?

18 A No.

19 Q No?

20 A No.

21 Q Okay.

22 A You know, I would sincerely hope that I would not.

23 Q But those facts weren't presented to you?

24 A No, they were not.

1 Q You were not given the opportunity to either give the  
2 green light or the red light to that search warrant?

3 A I can tell you that I certainly would have vetted it much  
4 more carefully had I had the advance benefit of knowing.  
5 But I didn't and I would like to believe that I still,  
6 even under more careful scrutiny, assuming that he was  
7 doing the right thing, I would have approved it.

8 Q So you get the calls on Monday. Do you have a subsequent  
9 conversation with Representative Eaton where you discuss  
10 with him the information that you got from Chief Edwards?

11 A Yes.

12 Q Tell us about that conversation.

13 A Well, I conveyed to --

14 Q I'm sorry. I don't mean to confuse you but when we're  
15 talking about this conversation I still want to talk about  
16 any conversation prior to the second search warrant being  
17 executed on Tuesday. So what's the sort of Monday  
18 conversation after first search warrant has been done?

19 A My first conversation with him was I was listening to --

20 Q Who is the 'him'?

21 A My first conversation with Representative Eaton, I was  
22 listening. And he was rambling on and basically telling  
23 me everything that was wrong with the Enforcement Division  
24 and how they were targeting him. How Officer Fossell was

1 no good and how great this operator is. And that he's a  
2 former marine and that he is a City Councilor. And I can  
3 assure you Mark that this is wrong and that was the nature  
4 of the conversation.

5 Q So would you characterize it as a general complaint?

6 A I would characterize it as a very vociferous strong  
7 complaint by Representative Eaton.

8 Q Had you previously had conversations with Representative  
9 Eaton where you invited such complaints or criticism if he  
10 knew of anything to bring it to your attention? Perhaps  
11 when the legislation was pending when there was questions  
12 --

13 A Yes, I had. Certainly I had endeavored to determine the  
14 source of his very strong and open dislike for the Chief  
15 and members of the Enforcement Division.

16 Q Did you ever determine what that source was?

17 A I did not.

18 Q Do you now know?

19 A I believe it is connected to the Railroad Tavern.

20 Q How so?

21 A Based upon my conversations with the Chief.

22 Q And what is that?

23 A That Dan Eaton was friendly and had a relationship with  
24 this individual - his name of which is - from the Railroad

1 Tavern Randy Filieau (ph). And that I connected the dots  
2 if you will. Randy Filieau and the Railroad Tavern was an  
3 establishment that had problems in the past and that Randy  
4 Filieau was known by and somehow connected to a former  
5 Commissioner in Keene so I filled in the blanks. With the  
6 assistance of - I asked Eddie directly. I believe.

7 Q During your first few conversations with Representative  
8 Eaton before the second search warrant is indicated does  
9 he say anything to you that "This is Eddie's vendetta.  
10 It's like sticking a needle in my eye. Why are you  
11 letting him do this?" Does any of that sound familiar to  
12 you?

13 A Representative Eaton did not use that terminology but that  
14 certainly was the implication. He had imparted to me on  
15 another occasion when I had asked him, following a very  
16 lengthy hearing in which I disagreed with Representative  
17 Eaton over how the Enforcement Division should be handled  
18 and I didn't think it was in the public interest to  
19 separate it from the Licensing Division and that he was  
20 the only visible person, of everybody who testified, that  
21 supported this initiative and that he had marshaled this  
22 effort largely behind closed doors. Introduced a bill in  
23 the middle of the night at the close of the session. And  
24 I had spent an entire summer working all over the state,

1 meeting with restaurant owners, meeting with the  
2 Hospitality Association, meeting with involved community  
3 groups in an effort to bring broader understanding to our  
4 mission and recruit them to an understanding of the  
5 seriousness of this effort. Following that hearing I  
6 approached him in the lobby and I asked him, "Why are you  
7 doing this? What can we do to resolve this?"

8 Q And his answer was?

9 A Get rid of Eddie Edwards.

10 Q This is prior to those December 14<sup>th</sup>, 15<sup>th</sup> search warrants?

11 A Yes, it is.

12 Q So your conversations with Representative Eaton, prior to  
13 any of the Railroad Tavern matter coming up, was get rid  
14 of Eddie Edwards? That was his statement to you?

15 A Yes. As well as to others.

16 Q He wanted you to get rid of two others or he said it to  
17 two others?

18 A No, no. He had - Representative Eaton had mentioned those  
19 same sentiments to others.

20 Q Who are those others?

21 A Senator Maggie Hassan from Exeter who is a State Senator.  
22 Who was a member of the Conference Committee on the  
23 budget. And in the waning hours of the budget it was upon  
24 his insistence that a provision be included in the budget

1           that would strip the powers and therefore strip the  
2           Enforcement Division away from the Liquor Commission. And  
3           I was brought up into the third floor of the LOB and I  
4           insisted that that was an item that was non negotiable for  
5           me. That we couldn't live with that. She said to me, she  
6           said, "I don't know what Chief Edwards has done but he has  
7           an enemy in Dan Eaton" or something to that effect.

8           Q     Who was the other individual?

9           A     Senator Lou D'Allesandro.

10          Q     What is your response to Representative Eaton when he says  
11          to you get rid of Eddie Edwards?

12          A     I told him I couldn't do it.

13          Q     Would you have if you could have?

14          A     No. I told him that I could do a lot of different things  
15          but I would not do that.

16          Q     Is it fair to say that Chief Edwards is a diligent  
17          employee? Did you have issues with his enforcement?

18          A     Eddie Edwards is an honorable man in my view. Honest as  
19          the day is long and I think he's a very sincere hard  
20          worker. He's high energy and he's determined and I think  
21          in some ways he has some of my own personality  
22          characteristics bad and good. But I consider him a very  
23          hard worker. Somebody who wants to do the right thing.

24          Q     Which isn't a bad thing, is it?

1 A I don't think so.

2 Q So you can't point to an instance where he turned a blind  
3 eye or he didn't go to an establishment because he knew  
4 the individuals there?

5 A No.

6 Q Is some of the greatest criticism against Chief Edwards is  
7 that he's so by the book?

8 A Absolutely.

9 Q So that's sort of his biggest fault, is that fair to say?

10 A Absolutely. The Chief is a very rigid man and there are  
11 times I would say he makes an arrow look crooked.

12 Q Isn't that law enforcement's job that everybody is treated  
13 equally across the board?

14 A Yes. Absolutely.

15 Q So there is a second search warrant on the 15<sup>th</sup> of December  
16 and I may have asked you this question. I apologize if  
17 I'm asking it again. Were you given notice that Liquor  
18 Enforcement was going back to do the second search warrant  
19 at the Railroad Tavern?

20 A No, I was not.

21 Q How do you learn that they go back to the Railroad Tavern?

22 A I received an additional phone call from Representative  
23 Eaton.

24 Q What's he talking to you about on that phone call?

1 A He is - his tone is more harsh, he is repeating his  
2 earlier statements about the Chief and he continues to use  
3 the word "This is now personal" with me.

4 Q This is now personal with me, meaning it's personal with  
5 me, Representative Eaton?

6 A Yes. And he complains about the extrication of the  
7 equipment, video surveillance equipment. And I apologize  
8 if my recollection is not specific because in the fury of  
9 all this I was trying to deal and grasp with the emotion  
10 and not so much what was taken out but he was like, "They  
11 came in and they seized all his equipment." He made it  
12 sound as if it was a barnstorming, you know, it was like  
13 they broke through the doors and that was the  
14 characterization in his voice and how he was portraying it  
15 to me.

16 Q What's your reaction to this?

17 A I was - I had a lot of emotions. I was angry.

18 Q At who?

19 A I was angry at the system. I was angry at Dan Eaton. I  
20 was angry at Eddie Edwards. I was angry - I felt very -  
21 I felt as though I was placed in an enormously difficult  
22 position.

23 Q Do you listen to Representative Eaton's complaints?  
24 What's your next step? Do you call Eddie Edwards?

1 A I asked Representative Eaton - he goes on again about the  
2 owner of the Railroad Tavern.

3 Q Excuse me, are you saying honor or owner?

4 A Owner. And he's going on about the owner of the Railroad  
5 Tavern and how nice of a man he is and this is ruining his  
6 whole life. He and his wife can't sleep at night. On and  
7 on and on. I said, "What do you want me to do? What do  
8 you expect me to do?"

9 Q Does he reply?

10 A He does.

11 Q What does he say?

12 A He said, "I want you to call the owner."

13 Q Did you?

14 A I did.

15 Q Before you do any of that, and it's fair to say that you  
16 have a high management job in state government. You must  
17 get a lot of complaints?

18 A I do.

19 Q Every day. Probably an awful lot.

20 A I do.

21 Q Isn't it part of your duty to sort of weed through what's  
22 accurate and what's not accurate? You know the old story,  
23 truth lies somewhere in the middle?

24 A Yes, I do.

1 Q So if you're getting all this information from  
2 Representative Eaton do you say okay, thank you and then  
3 try to find out what's going on from Eddie? Again, to  
4 intelligently resolve or move forward, don't you need to  
5 know the facts so you can present them to Representative  
6 Eaton?

7 A Yes.

8 Q So Representative Eaton tells you he wants you to call the  
9 bar owner. Does he ask you to do anything else?

10 A No.

11 Q So what do you do after that call? Do you call Eddie?

12 A I think about it.

13 Q What are you thinking about?

14 A I'm thinking about the situation that I'm in.

15 Q But what is the situation? I mean, you have a licensee,  
16 a bar owner who is unhappy with enforcement. Isn't that  
17 sort of part of the business? You get the complaints all  
18 the time and you deal with them. Why is this so  
19 different?

20 A It is different because I received a telephone call from  
21 someone who is arguably the third or fourth most powerful  
22 person in State government. An individual whom I have  
23 opposed for over a year. An individual who I have raised  
24 concerns about his activities for over a year, and his

1           conduct for over a year. An individual whom I spoke to  
2           Senator Maggie Hassan and conveyed what I believed to me  
3           inappropriate activity regarding the conduct of that State  
4           Representative as it related to the filing of that bill  
5           and how that was architected and his vendetta against  
6           Eddie Edwards. I conveyed my concerns to the Governor's  
7           Office with respect to my concerns about the  
8           inappropriateness and what I thought was an abuse of power  
9           and abusive influence regarding this individual.  
10          Unfortunately, there was a lot of agreement but not much  
11          sympathy. At that moment I felt that if I was to call the  
12          licensee --

13        Q     That being Randy Filieau?

14        A     Randy Filieau. I would appease Representative Eaton and  
15          attempt to control what was becoming - it felt like an out  
16          of body experience.

17        Q     So the only thing that Representative Eaton asks you to do  
18          is number one, sort of check in on your guys because he  
19          thinks that they are rogue. Is that fair to say?

20        A     Yes.

21        Q     And number two, can you call the bar owner? Can you call  
22          Randy Filieau?

23        A     Yes.

24        Q     Why does he want you to call Randy Filieau? To get the

1 facts? To say you're sorry? What's - or does he just  
2 say, "Call Randy to get the story"?

3 A I can't remember specifically but I think it was - in my  
4 own personal view was that Representative Eaton - what did  
5 he want? That is a good question. I don't know why.

6 Q Did he say more than simply can you call the bar owner?

7 A I certainly think he said more than that. It's more in  
8 the line of "He can tell you more" or "he can explain to  
9 you what happened" and things like that.

10 Q But does he say it in a tone or in words that convey to  
11 you, call the bar owner or else when you come before the  
12 Finance Committee you'll pay the price? Is that the way  
13 that it's conveyed to you or is it as you just said call  
14 the bar owner he can give you more details? Because  
15 there's two - do you see that those are --

16 A I understand the nature of your question. He did not  
17 explicitly suggest in any way that my failure to do so  
18 would result in any retribution from his committee but at  
19 the same time it was pretty clear to me that he made his  
20 point. He let me know what he wanted me to do.

21 Q It wasn't explicit. Was it implicit? Did you take it  
22 that if you didn't make this call you were going to pay  
23 the price down the road?

24 A Counselor, I took it that if I didn't fix this one way or

1 another, if I couldn't find a remedy for this there was  
2 going to be problems, big problems.

3 Q What is the remedy? What is there to fix? Two search  
4 warrants had been executed. How are you going to put the  
5 cat back in the bag now?

6 A Well the - I didn't know the facts of the case and  
7 oftentimes there are settlements. Settlements are made.  
8 It happens quite routinely. I was trying to think fast.  
9 So you could still execute a search warrant, there would  
10 be evidence, they would obtain the evidence. The  
11 Enforcement Bureau would issue an administrative order and  
12 then the licensee would come in - normally what would  
13 happen is they would come in and they'd negotiate. They  
14 would acknowledge they made a mistake and it would be  
15 resolved. The Commissioners would never hear about it  
16 again.

17 Q But aren't you jumping way ahead? All they're doing is  
18 executing search warrants. Do you even know what those  
19 search warrants had yielded at that point?

20 A I did not know. I did not know.

21 Q So again, isn't it prudent to figure out what the search  
22 warrants were for, what they yielded and then what, if  
23 any, complaints would be issued? Don't you need all those  
24 facts before you come to any type of resolution?

1 A Normally, you would. Normally I would do that.

2 Q But this isn't your normal type of case given the players  
3 that are involved?

4 A That's correct.

5 Q So after Representative Eaton tells you you need to call  
6 the bar owner, get those facts from him, because you think  
7 he said that to you. Right?

8 A Yes.

9 Q And you need to now think about this situation in light of  
10 everything you've explained. What's your next step?

11 A I called him.

12 Q Who?

13 A The bar owner.

14 Q So do you call the bar owner, Commissioner, before you  
15 call Eddie to find out what the Enforcement side of this  
16 is?

17 A Yes ma'am.

18 Q Tell us about that conversation with the bar owner.

19 A I called him up --

20 Q And again, when we say bar owner, that's Randy Filieau?

21 A I called Randy Filieau and I said "Representative Eaton  
22 asked me to call you."

23 Q Can I ask you, before you go on, have you ever called a  
24 bar owner before in the middle of an investigation?

1 A No, I have not.

2 Q So you called Randy Filieau?

3 A Yes, I did.

4 Q Tell us what that conversation is.

5 A Randy Filieau went on for it seemed like an eternity but  
6 probably 15 minutes and it was similar thematically to the  
7 charges that were leveled by Representative Eaton that he  
8 was being targeted by the Chief. That he's done nothing  
9 wrong. That they came in here and they took out his  
10 equipment and "Now I don't have any surveillance equipment  
11 and I'm concerned, this is the middle of the holidays and  
12 they're going to set me up and I won't have - because they  
13 took out the equipment they're setting me up and I won't  
14 have my video to prove that I'm innocent. And this has  
15 been going on for a long time and I'm a respectable  
16 citizen in the community and I shouldn't be treated in  
17 this fashion. My wife is very upset." Things of that  
18 nature.

19 Q What is your response to that?

20 A I endeavored to be empathetic. I listened. I said that -  
21 I conveyed to him, not to worry, that we'd get to the  
22 bottom of it and the facts would come out.

23 Q Does he ever ask you for the recording equipment back?

24 Does he ever say, and we use the term, Commissioner,

1 recording equipment, surveillance equipment, it's all sort  
2 of one unit. Does he ever say to you, "I need that back  
3 to run my business"?

4 A Well, that was the implication. I mean, I don't know if  
5 he literally said those words.

6 Q Does he ask you for it to be returned? "Can you get me my  
7 equipment back?"

8 A No.

9 Q Does he ask you, "When can I get my equipment back?"

10 A I don't think that he asked me that specific question.

11 Q Does he ask you a similar question?

12 A I interpreted the conversation with Randy Filieau as a -  
13 that one of his goals was to get the equipment back.

14 Q How long does that call last?

15 A Twenty minutes.

16 Q As this is going on, on the Monday and the Tuesday and  
17 you're having these conversations and you're concerned  
18 about future implications. Is that fair to say?

19 A Yes.

20 Q Do you take contemporaneous notes to document what's going  
21 on and who is saying what to who?

22 A No, I do not.

23 Q Is it your practice to take notes contemporaneously?

24 A No.

1 Q So you're just not a note guy?

2 A Not at all.

3 Q So you don't have any notes about this?

4 A I have no notes.

5 Q Even though your concern was this could blow up and have  
6 implications down the road, you don't document it so you  
7 can go back and know who you talked to when and what was  
8 said?

9 A No. I'm a business person. This - I haven't been doing  
10 this that long. I'm not used to that. I don't do that.

11 Q So there are no notes that would help this Grand Jury?

12 A There are no notes.

13 Q So after you have your conversation with Randy and he's  
14 expressing to you his concern and his need for the  
15 equipment, what do you do?

16 A I had - I had - I believe that I had assured him that they  
17 weren't going to pull his license and I believe I conveyed  
18 to him - he felt as though this was the grassy knoll and  
19 that there was somebody around every corner. And Liquor  
20 Enforcement does not go in and rip a license off the wall.  
21 There's due process. Because he kept conveying to me,  
22 "This is the holiday season, this is when I do all my  
23 business. They're going to come in and I don't have my  
24 equipment. They're going to get me again and I can barely

1 pay the bills." So I said, "Don't worry. No one is going  
2 to go in and pull your license. You have due process and  
3 that will take place."

4 Q Can't the Liquor Enforcement Agents though pull licenses  
5 on an emergency basis?

6 A Yes, but only in very rare occasions and I certainly  
7 didn't feel that this was one of them.

8 Q But did you know the facts?

9 A I did not know the facts. I did not know the facts as  
10 fully as I should have.

11 Q Do you know how drunk that young woman was that left the  
12 bar?

13 A No, I did not.

14 Q Do you know she required medical attention?

15 A I found out afterward she did.

16 Q But as you're assuring Randy don't worry, you have due  
17 process, you didn't know the whole facts at that point?

18 A Notwithstanding the fact that you can pull a license, you  
19 still have due process.

20 Q Correct.

21 A So I certainly think I was fairly representing the fact  
22 that you have due process. If I was to - if that was the  
23 case we'd pull it. You don't just go in like a cowboy and  
24 pull the license off.

1 Q But aren't there emergency procedures that you can -  
2 instead of pulling - the correct terminology is - you can  
3 suspend a license and then have a subsequent hearing  
4 depending on the facts?

5 A That's true but they still have due process.

6 Q Correct. But you didn't get into that sort of deep  
7 explanation with him?

8 A No, no.

9 Q You just assured him he was going to have - he could keep  
10 his license until he had his --

11 A I assured him he was going to get his day in court. I was  
12 not, and I want to make perfectly clear to the Grand Jury,  
13 conveying - and my intent was not to convey that he was  
14 receiving any special forbearance from me as a result of  
15 his relationship with Representative Eaton. That wasn't  
16 my intent.

17 Q You were explaining the process to him that he would have  
18 his day in court and there are procedures to go through  
19 before someone loses a license?

20 A Yes, and I was trying - I admit I was trying to do that in  
21 a calming fashion in an effort to bring greater sanity to  
22 the situation. But it certainly wasn't, "Don't worry,  
23 you're not going to lose your license." That was not the  
24 nature of my discussion with him.

1 Q Can you just explain for us, Commissioner, what is the  
2 process if there is an establishment who receives a  
3 citation or a write up for a violation? Who brings that  
4 complaint and then what's the process from there on out?

5 A Typically there's an administrative notice issued.

6 Q By whom?

7 A The Chief. Chief Edwards.

8 Q Who does he have to confer with before he issues that  
9 administrative notice?

10 A I believe that he can issue them.

11 Q So if Chief Edwards wants to cite a bar for overservice or  
12 for some violation of the liquor laws does he have to go  
13 to either you as the Chairman or any of the other  
14 Commissioners to get approval?

15 A No.

16 Q So the Chief makes the decision to write up an  
17 establishment for a violation. What happens from there?  
18 Do you know about it after the fact? Does Chief Edwards  
19 tell you, "I wrote up this bar yesterday and here are the  
20 reasons"?

21 A No.

22 Q So what happens?

23 A We have regular meetings and there will be for 98 percent  
24 of the cases they will have been resolved. Negotiated.

1 Like a plea and it's a perfunctory approval by the  
2 Commission. So there will be a list of them, bar a,b,c,  
3 cited for service to intoxicated person. Fined \$250.

4 Q Who makes that determination, what the sanction will be or  
5 the penalty?

6 A The Chief recommends it and we approve it.

7 Q Do you have to approve it? You being the Commissioner  
8 have to approve it?

9 A Yes.

10 Q Unanimous? 2-1?

11 A We've never had a disagreement on them as far as I can  
12 recall. But I certainly would believe that it would have  
13 to be a majority.

14 Q So not unanimous?

15 A I don't believe so.

16 Q Do you ask any questions about the underlying facts to  
17 make sure that the sanction or the penalty is appropriate  
18 for the offense?

19 A I do in cases where I believe they warrant it.

20 Q But not in every case?

21 A In the vast majority of them I do not.

22 Q So you leave that pretty much up to the discretion of the  
23 Chief?

24 A I do.

1 Q If you have a hearing, how does the hearing - what's the  
2 process for the hearing, in the two percent of the cases  
3 that go to hearing?

4 A The licensee, meaning the bar owner, would appear before  
5 one or more of the Commissioners and they would present  
6 their case and the Chief would present his case. It's an  
7 administrative hearing. It's not a court proceeding. But  
8 they have an opportunity to articulate their case.

9 Q So as sort of the fact finder, the judge in this matter,  
10 isn't it best that the less you know about the case the  
11 better so you can be an impartial and rule on the facts?

12 A Absolutely.

13 Q So in the case of the Railroad Tavern where you have now  
14 spoken to the bar owner and heard his side of the story  
15 prior to talking to Eddie Edwards, how is that going to  
16 work out if this came to a hearing?

17 A I had conveyed to the Chief and I had conveyed to Dan  
18 Eaton that the depth of my conversations would likely  
19 result in my having to recuse myself.

20 Q What conversations? First night? Second night?

21 A All of them. Well, I don't know if I said it on the first  
22 night but I said it subsequently and I said that to the  
23 Chief. And I felt that that emancipated me to speak more  
24 freely.

1 Q With whom?

2 A Anybody.

3 Q So I'm going to take you back to that Tuesday night, the  
4 14<sup>th</sup> of December. After you have your conversation with  
5 the bar owner and the bar owner has told you his side of  
6 the story, what do you do?

7 A Call the Chief.

8 Q What do you say to the Chief?

9 A I say, "What's going on?" I wasn't aware of the second  
10 subpoena. I was confused certainly.

11 Q Did he explain to you why they had to go back the second  
12 time? That they didn't get the evidence the first time so  
13 they had to go back a second time?

14 A In general terms.

15 Q What's your tone like at that point?

16 A I was upset.

17 Q So you ask him what's going on. What other questions?

18 A They were very much along those lines. I felt that this  
19 was out of control. It was now out of control. I had a  
20 Chief on one hand who was taking actions, as he should.  
21 But I had a politician on the other hand who I felt was  
22 acting in a very intimidating fashion; that there were  
23 going to be very bad ramifications and consequences to it.  
24 I didn't think there was anywhere to turn or anything to

1 do at that point. I talked to the Chief about how bad  
2 this was.

3 Q As the Chairman, do you ever just take a deep breath and  
4 say okay, I need to - here's the Chief's version, here's  
5 the bar owner's version, let me see where the truth lies  
6 to try to defuse this situation. I mean, do you ask the  
7 Chief probing questions, "Let me see the search warrant,  
8 what did you get, why are you doing this?" to understand  
9 the serious nature of their investigation?

10 A I do. The night of the first call, the first call that I  
11 made was to Chief Edwards and I was very upset. I said,  
12 "This is a mess, an absolutely mess." I said, "We worked  
13 hard, we had received a favorable recommendation from the  
14 Committee." I had felt that we had fought the good fight  
15 and I was upset at Eddie. I was battle fatigued.

16 Q He has a job to do.

17 A I understand that.

18 Q His job is to enforce the liquor laws.

19 A I understand that.

20 Q And if there is information that a patron is so overserved  
21 that she's stumbling out of a bar and can't even speak to  
22 the officer, that's a problem.

23 A It is and that's what we discussed. So we discussed it  
24 and we spent all of an hour, all of my ride home,

1 discussing this.

2 Q That's the first night?

3 A I believe. And we went back and forth, back and forth.  
4 And we were both kind of commiserating with each other,  
5 that this is horrible, we shouldn't be put in this  
6 position. And Eddie is saying this isn't right and so  
7 forth and so on and I agreed with him. I agreed with him.  
8 Notwithstanding that fact, I still had to deal with the  
9 realities of the situation and the realities of the  
10 situation as I saw them, Counselor and members of the  
11 Grand Jury, was that there was no one in State government,  
12 at least that I knew of, that would stand up to this  
13 individual. No one. Certainly individuals with much  
14 greater authority than I had. And this was a situation  
15 that unfortunately was on my shoulders and I didn't know  
16 what to do. And we agreed that we would think about it  
17 and continue to talk about it.

18 Q And then there's the second warrant.

19 A Then there's the second call.

20 Q So you're less than pleased with Chief Edwards at that  
21 point. Is that fair to say?

22 A Less what?

23 Q Less than pleased with him that there's a second search  
24 warrant?

1 A You know what? I don't want to say that --

2 Q Were you frustrated?

3 A I was frustrated. I was frustrated. You know, I knew he  
4 was trying to do the right thing and I was trying to do  
5 the right thing.

6 Q So the second day after you have the conversation with the  
7 bar owner you call Chief Edwards and say, "What's going  
8 on?"

9 A Yes.

10 Q Do you tell him that there was an allegation that the  
11 recording device was ripped off the wall?

12 A Yes, I did.

13 Q Do you say to him that this recording equipment needs to  
14 be returned?

15 A No, not at that point.

16 Q If I represent to you that we have been told that during  
17 that conversation you said that the stuff has to be  
18 returned?

19 A Well, I did at some point but not at that particular  
20 point.

21 Q So you don't remember it during that conversation?

22 A Well, no, no, I did. First we talked about it. I asked  
23 him - I asked him, "What are you going back in there for?  
24 I thought they already had the search warrant."

1 Q Did he explain to you the reason they had to go back in  
2 was they only got nine minutes --

3 A Yes, he did.

4 Q So that's reasonable?

5 A Very reasonable. Very reasonable.

6 Q So he explained why they needed to go back and they needed  
7 the recording equipment to get the evidence of the  
8 intoxicated patron.

9 A He did.

10 Q So what conversation do you have about the return of the  
11 equipment?

12 A I said to him, "If you have the evidence, return the  
13 recording equipment. You don't need the cameras." That's  
14 what I thought at the moment.

15 Q Do you know what the recording equipment was,  
16 Commissioner?

17 A It was conveyed to me as equipment. I said to him  
18 specifically --

19 Q Who is 'he'?

20 A Chief Edwards. As I recall, Counselor, my directive, my  
21 intent was not to push, pressure the Chief to return  
22 evidence. My intent was - notwithstanding the fact that  
23 I was in an emotionally weakened state, and thinking that  
24 if we had the evidence, that if the equipment could be

1 returned that it would provide an opportunity for a  
2 cooling off period so that the licensee didn't feel - this  
3 individual was paranoid. Off the top and so wasn't Dan  
4 Eaton. And a significant source of that paranoia was, in  
5 my view, the execution of the second search warrant and  
6 the confiscation of the equipment which he felt was vital  
7 to protect himself. So it was in that spirit - and it was  
8 my understanding that - my directive was to return the  
9 equipment that was not necessary in the scope of the  
10 investigation.

11 Q But how do you know it wasn't necessary?

12 A I had to make a judgment at that moment in that instance,  
13 considering what I thought was in the best interest of the  
14 people of the State of New Hampshire. I had to consider  
15 all the facts. I had to think about the greater good for  
16 the greater number. I wasn't given the opportunity to  
17 take a time out.

18 Q But what's the greater good for the State if it's not to  
19 prosecute a bar who is overserving patrons?

20 A The greater good for the State is this, this State  
21 Representative was working to emasculate all liquor law  
22 enforcement in the State of New Hampshire. It would have  
23 resulted, in my view and that of many professionals, in  
24 significantly adding to the number of drunk drivers on the

1 road by virtue of the fact that it would be much more  
2 liberal standards in bars with respect to violations.  
3 That bar owners would be further beyond the grasp of  
4 enforcement personnel. And that it would bring greater  
5 political influence to a process that I already felt was  
6 politicized.

7 Q So you're able to make that determination in your hour  
8 call with Eddie Edwards when you don't know what the video  
9 is; you don't know what's on the equipment and you're  
10 telling him to return the equipment within hours of it  
11 being seized?

12 A My understanding, based on my conversations with the  
13 Chief, in the time that I had to make this decision was  
14 that they had sufficient evidence that they needed and  
15 that I was being pressured and placed in an untenable  
16 position to act in a way that in retrospect I probably  
17 should have done differently. But I acted in what I  
18 believed was in the best interest of the people of the  
19 State.

20 Q Just so we're clear, the pressure that you're getting is  
21 Representative Eaton asking you to call the bar owner.  
22 The bar owner railing about liquor enforcement and his  
23 wife not sleeping and I need this equipment back?

24 A No. The pressure is the combined activities, growing and

1 building activities of Dan Eaton over a long period of  
2 time who has exerted his influence beginning at a point  
3 when he had the Chairman of the House Finance Committee  
4 appear before a budgetary session to offer an amendment  
5 without a public hearing, without our opportunity to  
6 speak, that would eliminate the Enforcement Division. The  
7 pressure emanated from his further action as a member of  
8 the Conference Committee that despite the fact that this  
9 bill had died, that he pursued its inclusion in the  
10 eleventh hour, beyond public view. The pressure came from  
11 his acknowledging to me that he wanted the Chief fired.  
12 The pressure came from the tone of his voice and the tone  
13 of the bar owner's voice who spoke in a manner in which I  
14 felt conveyed both of their authority, that there would be  
15 hell to pay if this matter wasn't resolved to their  
16 satisfaction. And it was on the basis of all those  
17 combined forces and elements that I made a determination  
18 that rightly or wrongly to do that.

19 Q And to do that is to return the equipment?

20 A I requested that the Chief return it, yes. With the  
21 assumption that it was no longer needed.

22 Q But is it fair to say that you're having that conversation  
23 on Tuesday night after the second search warrant? Do you  
24 ever ask Chief Edwards, "Do they have the evidence off the

1 equipment?"

2 A Yes. I do.

3 Q When do you ask him that?

4 A Well, I told him, I said, "You don't need the equipment,  
5 the recording equipment."

6 Q Do you know that for a fact?

7 A It's obvious.

8 Q What if I tell you that the evidence, that the videos were  
9 contained on that recording equipment. The video  
10 depicting the woman in the bar and leaving the bar was in  
11 that equipment. It wasn't just simply a VCR that they  
12 took. That the evidence that they needed was stored  
13 within that equipment that you ordered returned.

14 A I was relying on the Chief and I don't think he would have  
15 permitted that equipment to be returned in a manner in  
16 which evidence was suppressed.

17 Q What if I represent to you that the Chief has indicated  
18 that he told you, "I can't return that equipment" and you  
19 repeatedly told him, "I want it returned."

20 A Certainly the Chief and I had a frank discussion about it  
21 and I wasn't aware of the fact.

22 Q Did you ask?

23 A I did. We talked about it.

24 Q Did you ask him when you gave the order to return it that

1           they had the evidence secured? That they had recorded the  
2           information off that when you gave that order? Did you  
3           know that? What did you know?

4    A       What did I know?

5    Q       Did you even both to ask the Chief, "Hey, can we give this  
6           back? Do you need it as evidence?" Does that question  
7           ever come from you?

8    A       From me?

9    Q       Yes.

10   A       I believe that I had asked him when he said he couldn't  
11           return it I said, "Why not?" and he said, "It's evidence."

12   Q       So he did tell you he couldn't return it. The Chief did  
13           tell you that?

14   A       Yes, I believe that he did.

15   Q       And he told you it was evidence? And you were aware that  
16           it was taken by authorization of the court. Correct?  
17           Because you knew that they had a search warrant for it.

18   A       But --

19   Q       Just answer that question. Did you know that they took it  
20           pursuant to a search warrant?

21   A       Yes, I did.

22   Q       So they had that equipment by authorization of a court?

23   A       Yes.

24   Q       And now you, a Commissioner, are telling your Chief to

1 return that equipment. It's your olive branch to Dan  
2 Eaton? Yes or no.

3 A Counselor, I'd like to explain, if I could.

4 Q I need a yes or a no and then you can explain.

5 A No.

6 Q No?

7 A No.

8 Q So explain.

9 A I believed that following the Chief's explanation to me  
10 that it was evidence. That he could secure the evidence  
11 and the other recording device was ancillary to that, not  
12 necessary, and in so doing it could be released.

13 Q Do you tell Chief Edwards that Dan Eaton told you that he  
14 wanted the stuff returned?

15 A Did I tell him that I --?

16 Q Did you tell Eddie Edwards, "You have to return that stuff  
17 because Dan Eaton said he wants it returned"?

18 A No. I don't believe I said that. No, I did not. I  
19 conveyed to him that I was being pressured to do this and  
20 I conveyed to him the implications of that pressure, to  
21 him, to me to the system, to everything we're trying to  
22 do.

23 Q As you sit here today, to the best of your memory, does  
24 Representative Eaton on the 14<sup>th</sup> or the 15<sup>th</sup> of December of

1 last year, ever say to you, "I want that equipment  
2 returned"? Or, "Return that equipment" or words very  
3 similar? Does he ever explicitly direct you to get that  
4 equipment returned to Randy Filieau?

5 A No. He indirectly conveyed to me that. At least that's  
6 what I thought.

7 Q That's your belief.

8 A Yes. That was my belief.

9 Q But he never uttered those words?

10 A No.

11 Q Or words similar to that?

12 A No.

13 Q We're coming upon 4:25. We're not going to be done  
14 anywhere close to 4:30. So we can go off the record

15 **OFF THE RECORD**

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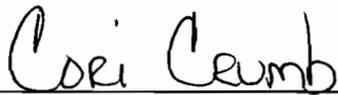
**STATE OF NEW HAMPSHIRE**

**MERRIMACK, SS.**

I, Cori Crumb, a Notary Public in the State of New Hampshire, do hereby certify that I transcribed from a tape recording the foregoing **fifty-one (51)** pages and that the same is a true, full and correct transcript of all of the testimony, to the best of my knowledge and belief.

I further certify that I am neither attorney nor counsel for, nor related to, or employed by any of the parties to this action, and further that I am not a relative or employee of any attorney or counsel employed in this case, nor am I financially interested in this action.

**IN WITNESS WHEREOF**, I hereunto set my hand this 23<sup>rd</sup> day of February 2010.



Cori Crumb, Audio Transcriber

My Commission Expires August 9, 2011