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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

Before the Atomic Safety and Licensing Board

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In the Matter of )  
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LONG ISLAND LIGHTING COMPANY )  
 )  
(Shoreham Nuclear Power Station, )  
Unit 1) )  
\_\_\_\_\_ )

Docket No. 50-322-OL-3  
(Emergency Planning)

GOVERNMENTS' RESPONSE TO "SUPPLEMENT TO LILCO'S RESPONSE  
TO GOVERNMENTS' APRIL 13 OBJECTION AND MOTION  
IN THE ALTERNATIVE TO COMPEL DISCOVERY"

On May 2, 1988, LILCO served a Supplement to LILCO's Response to Governments' April 13 Objection and Motion in the Alternative to Compel Discovery ("LILCO Supplement"). In accordance with the Board's oral order at the Prehearing Conference on May 10, 1988 (Tr. 19,382), as amended by the Board's Memorandum and Order issued May 11, 1988, the Governments (Suffolk County, the State of New York, and the Town of Southampton) hereby respond to the LILCO Supplement.

LILCO's Supplement raises two issues. First, LILCO urges that the legal authority contentions (Contentions 1-2, 4-8, and 10) should be dismissed due to the Governments' alleged failure

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to present a "positive" case regarding their "best efforts" response to a Shoreham emergency, as allegedly required by this Board's Orders of February 29 and April 8, 1988. Second, LILCO moves to compel additional discovery, seeking to require the Governments to respond to certain interrogatories and to make certain persons available for further depositions.

The first issue -- the dismissal of contentions -- has been dealt with extensively in prior filings. LILCO's Supplement presents few new arguments. We accordingly discuss that matter only briefly in Section I below. The second matter -- the need for more discovery -- represents the main issue raised in the LILCO Supplement. We deal with that in detail in Section II.

I. LILCO's Motion to Dismiss the Legal Authority Contentions Must be Denied

The Governments have already filed two legal memoranda responding to LILCO and NRC Staff arguments that the legal authority contentions should be dismissed.<sup>1/</sup> The Governments' May 2 and May 6 filings set forth in detail why it would be unlawful for this Board to dismiss the legal authority contentions. Those two filings, together with the Governments' April 13, 1988, Objection to Portions of February 29 and April 8 Orders in the Realism Remand and Offer of Proof, establish that

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<sup>1/</sup> See Governments' Response to LILCO's April 22 Request for Dismissal of the Legal Authority Contentions, dated May 2, 1988 ("Governments' May 2 Response"); Governments' Reply to NRC Staff's April 28 Request that the Governments be Held in Default, dated May 6, 1988 ("Governments' May 6 Reply").



the proffered testimony of County Executive Halpin and State of New York Commissioner of Health Axelrod is admissible and that dismissal of the legal authority contentions would be improper.

The Governments will not belabor the arguments which already have been made; we rely instead on the above-referenced filings. However, we do wish to underscore one matter.<sup>2/</sup>

LILCO's "best efforts" Testimony submitted on May 6, 1988, constitutes LILCO's "prima facie case" on the legal authority contentions. In accordance with the April 8 Order (see page 28), this Board must conduct a hearing to determine whether LILCO has borne its burden on the legal authority contentions. Put another way, the Board stated that the burden of going forward would shift to the Governments only if it was determined that LILCO had submitted a prima facie case and had made a sufficient presentation to have "answered questions previously raised by the Board or Commission in its remand decision." See April 8 Order at 28.

Even if the Board were to deny admission of the Governments' proffered testimony (an action which the Governments submit would

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<sup>2/</sup> LILCO also urges dismissal of the contentions due to the Governments' alleged "obstruction" of discovery. LILCO Supp. at 36-37. First, as documented in Section II below, there has been no obstruction. Second, in the event the Board were to decide that some relevant discovery has not yet occurred, the less severe "sanction" of allowing the discovery to proceed is clearly what the Board is required to order. LILCO has made no showing at all that the sanction of contention dismissal would be appropriate.

constitute clear legal error), there would be no basis to dismiss the legal authority contentions. In the absence of admissible County and State testimony, LILCO would be entitled to a judgment on those contentions only if it is demonstrated that LILCO has met its initial burden as described in the February 29 and April 8 Orders. As the Board stated, LILCO must first establish an "evidentiary foundation" for its claim that it satisfies regulatory requirements. April 8 Order at 27. Until there has been a hearing to test the adequacy and sufficiency of LILCO's prima facie case, there can be no such evidentiary foundation or basis to find that LILCO has established a prima facie case. See Governments' May 2 Response at 12-13, 17-18; Governments' May 6 Reply at 7-8, 9-10.

## II. LILCO's Discovery Motion

The main subject of the LILCO Supplement is LILCO's motion to compel additional discovery. Given the Board's oral orders on May 10 regarding further Axelrod and Halpin depositions (Tr. 19,381) and the Board's determination that emergency plans for other facilities and for other kinds of disasters are relevant (Tr. 19,382),<sup>3/</sup> only a portion of the LILCO motion remains

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<sup>3/</sup> The Governments object to the Board's procedure of having ruled on these discovery matters on May 10 without giving the Governments any opportunity to contest LILCO's motion to compel and without providing bases for its rulings. Once the Board's bases are made available (Tr. 19,386-87), the Governments will exercise their right to respond to LILCO's motion by seeking reconsideration.

to be resolved.<sup>4/</sup> We address the remaining interrogatory and deposition matters in Sections II.A and II.B below. That discussion makes clear that there have been no improper limits placed on LILCO's ability to obtain relevant discovery and, accordingly, that LILCO's discovery motion must be denied. In short, there has been ample discovery on these contentions. It is time now to get on to the hearing.

Before addressing the specific items, however, two comments are required. First, LILCO itself has demonstrated that it believes no additional discovery is needed. LILCO filed its prima facie case on May 6 in the form of pre-filed testimony on the legal authority contentions. LILCO has not taken the position that it was unable to file its case; to the contrary, it has made clear its view that its "case" -- the LILCO Testimony -- satisfies all requirements and justifies a ruling favorable to LILCO on the merits. See Letter from LILCO counsel to James P. Gleason, May 6, 1988, at 1 ("LILCO's prima facie case satisfies NRC requirements"). Thus, LILCO's own words undercut its alleged "need" for discovery. Absent a particularized showing of need for additional discovery -- a showing which LILCO has not even attempted to make -- the Governments submit that no further discovery at all is appropriate.

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<sup>4/</sup> The effect of the Board's May 10 rulings is to require no response by the Governments to the following portions of the LILCO Supplement: pages 7-11 (through line 7); 14-26 (through ¶ 1); and 40-42 (until § B).

Second, LILCO raises a "non-issue" when it argues that "the details of Intervenor's response to a Shoreham emergency and the resources available for such a response are relevant." LILCO Supp. at 42-43. The Governments do not deny such relevance and to the extent such details are available, the Governments have provided them. However, the Governments reiterate that they cannot create "details" and listings of "the resources available for such a response." See Governments' May 2 Response at 3-5. These "facts" or "details" are not known, and LILCO makes no showing -- nor could it make any showing -- that the answers which have been provided in the previous discovery are anything but truthful. The Board cannot compel production of information which does not exist. Indeed, it is clear that a "do not know" answer is an adequate response under the NRC rules. See Duke Power Co. (Catawba Nuclear Power Station, Units 1 and 2), LBP-82-116, 16 NRC 1937, 1945 (1982) ("Assuming truthfulness of the statement, lack of knowledge is always an adequate response."). See also Pennsylvania Power & Light Co. (Susquehanna Steam Elec. Station, Units 1 and 2), LBP-80-18, 11 NRC 906, 911 (1980) (an answer that a party does not have the requested information fulfills obligation to respond to interrogatories).

A. Interrogatories

In view of the Board's May 10 rulings, there now is little -- if anything -- left to be ruled upon with respect to the

outstanding interrogatories. To the extent that there arguably is something left to be ruled upon, LILCO has failed to comply with the NRC rules and precedents. Thus, the motion must be denied.<sup>5/</sup>

First, the Board on May 10 ruled that LILCO had sought relevant data when it asked for information about plans for nuclear sites within and near New York State other than Shoreham and when it sought data relating to non-nuclear emergencies. This ruling has the effect of granting LILCO's motion to compel answers to the following interrogatories to the extent that the Governments possess the requested data or information: 50-64, 67-74, 76-83, 85, 87-105, 108, 112-13, 115-118, 120, 122-123. Accordingly, these interrogatories will not be addressed further in this filing.

Second, Interrogatories 18, 27, 34, 39, and 44 sought plans and procedures the State and County would use in performing certain functions. The Governments answered these interroga-

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<sup>5/</sup> LILCO's Supplement is misleading regarding the Governments' interrogatory responses. LILCO suggests that the Governments answered only 10 of LILCO's 116 interrogatories. LILCO Supp. at 4, 6. In fact, the Governments answered far more. For example, while they objected to Interrogatories 10 and 11, they still supplied complete answers, supplying all of the data known to them, including, where appropriate, truthful "I don't know" answers. Similarly, many other interrogatories are fully answered as well. See Answers to Interrogatories 9, 12-49, 65-66, 75, 84, 106-07, 109-11, 114, 119, 121. Finally, while LILCO noted that the Governments' answers initially were not verified (LILCO Supp. at 12), verifications have now been supplied by the County and are being supplied by the State.

tories fully by stating that no plans or procedures had been identified which would be used in responding to a Shoreham emergency. These answers are complete and truthful and consistent with the Halpin and Axelrod testimony. Thus, there is no answer to compel.

Third, LILCO states no complaint about the answers provided by the Governments to Interrogatories 11-12, 21-23, 32-33, and 43. LILCO Supp. at 11-12. Thus, those interrogatories require no briefing by the Governments.

Fourth, LILCO complains that the Governments' answers to Interrogatories 106, 110, 111, and 119 are "nonresponsive." LILCO Supp. at 12. However, beyond quoting the answer to Interrogatory 119 (see LILCO Supp. at 12), LILCO never explains why it believes the proffered answers are nonresponsive. The rules provide that LILCO must include "arguments in support of the motion." 10 CFR § 2.740(f)(1). Further, the case law makes clear that LILCO's motion is inadequate for failing to discuss each interrogatory individually and for failing to provide detailed bases for the motion. For example, in the Catawba proceeding, the Board stated:

Palmetto's motion to compel is required under the rule to set forth detailed bases for Board action, including 'arguments in support of the motion.' 10 CFR 2.740(f). This means that we will only grant relief against a party resisting further discovery when the movant gives particularized and persuasive reasons for it. Generalized claims that answers are

'evasive' or that objections are 'unsubstantial' will not suffice. Examples will not suffice. The movant must address each interrogatory, including consideration of the objection to it, point by tedious point.

Our insistence on this individualized approach is not merely or primarily for the Board's convenience. An objection to an interrogatory on relevance grounds requires the intervenor to explain in concrete terms why the question may lead to relevant evidence. This approach should eventually have the beneficial effect of clarifying what an intervenor means by broad or ambiguous parts of contentions.

Duke Power Co. (Catawba Nuclear Station, Units 1 and 2), LBP-82-116, 16 NRC 1937, 1950 (1982) (footnote deleted; emphasis supplied). Since LILCO has made no argument and clearly has failed to comply with the Catawba guidance construing Section 2.740(f)(1), its motion must be denied.

Fifth, LILCO does not even mention a number of interrogatories, except to list them in Attachment 14 to the Supplement. These are Interrogatories 8, 10, 24-26, 28-31, 47, 65, 75, and 84. One must assume, therefore, that in the absence of even a mention of these interrogatories, LILCO does not complain about these answers. Accordingly, no briefing is required.

Sixth, LILCO notes that Interrogatory 86 was never answered. LILCO Supp. at 6, n.7. This was an oversight. This Interrogatory will be addressed in further answers.



Finally, LILCO complains that the Governments responded to some interrogatories (Interrogatories 9, 13-17, 19-20, 35-38, 40-42, 45-46, 48-49, 66, 107, 109, 114, 121) with the following answer:

The Governments object to this Interrogatory on the ground that it calls for speculation by the Governments. Notwithstanding this objection, the Governments state that, for the reasons set forth in their April 13 Objection and Offer of Proof, they have not adopted any plan, or otherwise trained or planned for responding to a Shoreham emergency. Accordingly, they are in no position to provide further responsive information.

LILCO Supp. at 11. However, LILCO never argues why in the context of the particular interrogatories this answer was improper. Indeed, it is clear that despite an objection, these interrogatories were answered. Further, contrary to Catawba, LILCO does not address the interrogatories individually. Thus, one is left to guess what, if anything, LILCO complains about with respect to particular answers. This is another instance where LILCO has failed to comply with Section 2.740(f)(1) and Catawba and thus, its motion (assuming that it is moving to compel) must be denied.

#### B. Depositions

Aside from the Halpin and Axelrod depositions, LILCO also moves to compel: (a) further depositions of Messrs. Petrone, Roberts, and the New York State Radiological Emergency



Preparedness Group ("REPG") panel (Messrs. Papile, Czech, and Baranski); and (b) depositions of Messrs. Harris and Regan. We address in separate sections below each of these alleged deposition "needs."

LILCO's basic complaint is that it did not have sufficient time to depose various persons. We demonstrate below that in each instance, there was sufficient time to have covered all relevant matters, particularly if LILCO had not wasted time on irrelevant questions or on questions that had been covered in previous depositions. Indeed, the evidence is clear that the time limits were generally adequate, since LILCO was able to complete the depositions of Messrs. Guido, Minor, Sholly, Hartgen, and DeVito within the time limits. Thus, LILCO is actually complaining that in about one-half of the depositions of the Governments' personnel, it did not complete questioning and that the time limits were so abbreviated that it is entitled to a further deposition opportunity.

It must be emphasized that it was necessary and appropriate to establish deposition time limits. In any large scale litigation - and in this case for over 6 years -- it is necessary to establish limits for depositions. Thus, the times for depositions are set with respect to allowing time for reasonable preparation, allowing persons to meet other schedule requirements, and the like. There have been many instances over the

years when the parties knew that a witness had to leave by a particular time. In those instances, the interrogators proceeded with such depositions by emphasizing first what was most important, mindful that there may not be time to ask every conceivable question. That simply is a reality in litigation, including the Shoreham case.

Nonetheless, LILCO would have this Board believe that the time limits applicable to the legal authority contentions were somehow unique or arbitrary. That is not the case. The situation facing the parties was how to get all depositions completed within the finite deposition period specified by the Board (i.e., by April 29, the completion date specified by the Board in the April 18, 1988, conference call). The parties did well to get so many depositions completed. The schedule which was actually carried out was as follows:

April 19	Halpin
April 20	5 LILCO witnesses
April 21	Minor, Sholly
April 22	Hartgen, Axelrod
April 25	Guido, Petrone
April 26	Roberts, Boursy
April 27 <sup>6/</sup>	none
April 28 <sup>6/</sup>	none
April 29	DeVito, REPG panel

Thus, 18 persons were deposed in 12 separate depositions over seven business days. Only Messrs. Harris and Regan could not be scheduled. It was clear in the circumstances of such a compressed schedule that reasonable time limits had to be established.<sup>7/</sup>

It is the Governments' impression that LILCO made no serious effort to complete several of the depositions or even to ask its most important questions prior to the specified termination times. Rather, LILCO proceeded with depositions with the

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<sup>6/</sup> These open dates were caused by the need to prepare for and present the April 28 Appeal Board oral argument on LILCO's appeal of LBP-87-32.

<sup>7/</sup> For instance, to accomplish the Guido, Petrone, and Roberts depositions on April 25 and 26, counsel needed to prepare Commissioner Guido and Chief Roberts early on April 25, defend Commissioner Guido's deposition on April 25, prepare and then defend Mr. Petrone later on April 25, and then defend Chief Roberts on April 26. At the same time, other counsel were preparing Mr. DeVito and the REPG panel for depositions later in the week.

arrogant view that it could take as much time as it chose. That defies the customs of litigation practice. LILCO has only itself to blame for its present situation.

We also must stress at the outset that LILCO has made no showing to justify any depositions beyond the Halpin and Axelrod depositions (the Governments do not concede that those depositions should proceed). Messrs. Halpin and Axelrod are the Governments' witnesses. They are the persons most knowledgeable about the Governments' "best efforts" response. And they are going to be deposed further, unless the Board later grants reconsideration. In these circumstances, there are no bases at this time for the Board to order yet another round of depositions of non-witnesses before LILCO has even taken the depositions of Messrs. Halpin and Axelrod.

Finally, turning to the particular deposition requests, we demonstrate that LILCO has failed to present a case for further depositions even if Messrs. Halpin and Axelrod are not going to be deposed again.

1. REPG Deposition

LILCO moves to compel the REPG panel to appear for further deposition. That panel was available for deposition for over 4

hours on April 29, 1988.<sup>8/</sup> This deposition followed after almost 3 hours of deposition of Donald DeVito, the Director of the New York State Emergency Management Office ("SEMO"). During the DeVito deposition, LILCO had pursued questions on a wide range of topics, including such matters as SEMO's role in responding to radiological emergencies in New York State, the existence of SEMO facilities on Long Island, and similar matters. LILCO concluded the DeVito deposition in somewhat less than 3 hours.

LILCO states that it seeks further deposition of the REPG panel in order to pursue questioning on several matters: the February 1988 affidavit prepared by the REPG panel in opposition to LILCO's summary disposition motion; the details of the New York Radiological Emergency Preparedness Plan; plans for other plants in or affecting the State; information requested in LILCO's interrogatories about which LILCO believes the deponents are likely to have knowledge; and unspecified "other matters." See LILCO Supp. at 27, 38. For reasons discussed below, the request for further deposition should be denied.

LILCO has failed to provide any reasons (aside from bald assertions) why it needs the additional deposition. LILCO quotes extensively from portions of the REPG deposition. See LILCO

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<sup>8/</sup> One witness, General Papile, was required to leave after 3-1/2 hours of questions due to a medical appointment. The other two REPG witnesses stayed for the remainder of the deposition. LILCO identifies no alleged prejudice due to General Papile's departure.

Supp. at 28-32. That quotation, however, provides no support for the need for an additional deposition. The objections which were interposed at those pages were proper objections in each instance, as permitted under 10 CFR § 2.740a(d). LILCO does not argue that any objection failed to comply with that regulation. Indeed, LILCO does not even cite that regulation and thus does not even deal with the applicable legal standard. For this reason alone, LILCO's motion is without basis. Further, the objections in no instance led to an instruction that the witness not answer the question; to the best of the witnesses' ability, the witnesses did provide answers.

What becomes clear with respect to the REPG witnesses is that LILCO's real complaint is that the REPG witnesses did not have the answers that LILCO sought. But such a "complaint" provides no basis for a motion to compel. For instance, LILCO's counsel inquired about how these witnesses or other State personnel would respond in the event of a Shoreham emergency. E.g., REPG Tr. 27-28, 85-86, 87-88, 115-16, 119-22, 129-31, 146-47, 161.<sup>9/</sup> As these witnesses made clear, however, they do not know how the State would respond since the State has not prepared a plan for a site-specific Shoreham response. Absent such a plan, the witnesses simply -- and truthfully -- could not provide an answer to the LILCO questions. That is a proper answer. See Catawba, 16 NRC at 1945. It would be a pointless exercise for

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<sup>9/</sup> All cited REPG Transcript pages are contained in Attachment 1 hereto.

the Board to compel a further deposition so that witnesses could state again that they do not know the answers to LILCO's questions.

With respect to the specific areas which LILCO identifies as needing to probe further in depositions, the fact is that LILCO did probe these areas when it wanted to. For instance, LILCO questioned the REPG witnesses concerning the New York State Radiological Emergency Preparedness Plan on multiple occasions. See REPG Tr. 8-11, 36, 37, 49-64, 71-85, 88-89, and 114-115. If LILCO did not ask all of the questions it wanted to, that is simply a failure by LILCO's counsel.

Similarly, with respect to the REPG affidavit, LILCO's motion is again mistaken. The REPG affidavit was identified as an exhibit at page 19 of the REPG deposition. Except for some minor questioning at pages 20-25, 35-36, and 40, however, LILCO did not get around to asking questions on this allegedly critical document until page 155 -- that is, the last several minutes of the deposition, well after General Papile had left. There is only one conclusion that can be reached: LILCO's counsel made a conscious decision not to pursue questioning earlier, despite knowing that General Papile would leave at 4:30 p.m. and the deposition would end at 5 p.m. (in fact, the State's counsel permitted the deposition to proceed until 5:09 p.m.). That was a tactical decision by LILCO's counsel. It provides no basis for a

motion to compel. The fact that LILCO put off such questioning raises substantial question just how critical further questioning might be. Further, as in other instances, LILCO's Supplement does no more than make a broad allegation that LILCO needs to ask more questions about the REPG affidavit. However, LILCO's counsel already has asked many questions about that affidavit (see REPG Tr. 155-66) and identifies no other specific questions that it needs to ask. Absent particularized identification of the specific areas that need to be probed, this Board is left again with a naked LILCO allegation of the need for further discovery but LILCO has provided no particularized bases for this allegation. This does not comply with the regulations. See 10 CFR § 2.740(f)(1); Catawba.

LILCO also states that it needs an additional deposition to seek "information requested in LILCO's interrogatories about which the deponents are likely to have knowledge." LILCO Supp. at 28. However, LILCO never identifies which particular interrogatories it seeks to pursue, the nature of the information sought, and why that information allegedly is critical or important such that a further deposition is required. Once again, LILCO has made naked allegations but provided no support therefor.

Finally, LILCO's counsel clearly wasted substantial time during the deposition -- time that could have been devoted to



these other allegedly critical areas of inquiry. The best example of such a waste of time was the extensive questioning concerning the so-called Indian Point Rockland County Interim Compensating Plan. The REPG witnesses made clear that they had little to do with that Compensating Plan and that the degree of their present knowledge concerning that Plan was limited. REPG Tr. 23, 90, 91-92, 98-100. Nevertheless, LILCO's counsel pursued 25 pages of questioning -- almost 1/6 of the entire deposition -- concerning numerous matters related to the Rockland County Plan. See REPG Tr. 23, 89-114. This clearly constituted a waste of time by LILCO's counsel.<sup>10/</sup>

In sum, LILCO has made no showing that the more than 4 hours of time for the original REPG deposition was insufficient. Rather, LILCO has made broad allegations, unsupported by any detailed argument. And the record demonstrates that LILCO asked questions on the matters it now wants to pursue again and that LILCO devoted extensive time to irrelevant matters. The motion to compel must be denied.

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<sup>10/</sup> LILCO's counsel also pursued irrelevant questioning about a LILCO-prepared emergency plan for Suffolk County that was reviewed to some extent by the State Disaster Preparedness Commission in 1982. REPG Tr. 15-17, 133-41. There has been no suggestion in this proceeding that that "plan" would ever be relied upon by anyone in the event of a Shoreham emergency. LILCO's counsel also pursued irrelevant questions about the interpretation of regulations regarding the required frequency of ingestion pathway exercises (REPG Tr. 28-31, 68-70) and regarding the requirements of the New York Executive Law, Article II.B. REPG Tr. 37, 38-40, 40-41, 42-45.

2. Roberts Deposition

LILCO also moves to compel a further deposition of Richard C. Roberts, Assistant Chief Inspector of the Suffolk County Police Department. Chief Roberts was deposed for 4 hours on April 26, 1988. The Roberts deposition on April 26 followed a 2-hour deposition of Suffolk Police Commissioner Guido, which had occurred the previous day (and which had been completed within the prescribed time limit). Accordingly, LILCO has already deposed Suffolk County police officers for more than 6 hours. Nonetheless, LILCO urges that a new Roberts deposition (but not a Guido deposition) is necessary because the County "arbitrarily limited [the] time." LILCO Supp. at 26. LILCO's motion must be rejected.

LILCO purports to specify certain "reasons" that a continuation of Chief Roberts' deposition is necessary. Thus, LILCO states:

LILCO had more questions to ask of Mr. Roberts. In particular, LILCO wished to pursue detailed questions on Mr. Roberts' affidavits which were submitted with the intervenors' opposition to LILCO's summary disposition motions; the nature of a SCPD response, if the SCPD were directed by the County Executive to respond to an emergency at Shoreham and to use the LILCO plan; and the relationship between the SCPD and the State police.

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Mr. Roberts, Assistant Chief Inspector for the SCPD and a long time expert for Suffolk County

on Shoreham matters, is likely to have information concerning the availability of County resources, the SCPD's knowledge of the plan, LILCO's ability to communicate with responsible County officials in an emergency, issues concerning LILCO's traffic control plan, the adequacy of police resources and the flexibility of its response plans -- all areas recognized by the Board as germane.

LILCO Supp. at 27, 38. As demonstrated below, however, there is no basis for LILCO's alleged "need" to pursue further questioning of Chief Roberts.

First, a primary reason why further questioning is not called for is that LILCO has already deposed Chief Roberts for 4 hours and could have covered all of these matters had it not conducted extensive examination on irrelevant matters or matters which already had been covered. For example, at pages 7-32, 35-36, and 74-78 of the Roberts deposition, LILCO's counsel pursued a tedious examination of the organization of the Suffolk County Police Department, its bureaus, its number of officers, its jurisdictional relationship with various towns, and the number of precincts covered by the department. While some of this material may have been "new," in fact a great deal of this information had been covered in previous depositions of Chief Roberts. For instance, LILCO's December 17, 1986, deposition of Chief Roberts in the Exercise proceeding covered such matters as Chief Roberts' responsibilities as a Deputy Inspector and the make-up of precincts, his responsibilities as an Assistant Chief Inspector, the personnel bureau organization, the communications and record

bureau organization, Suffolk County geography and an explanation of the precincts. That prior deposition also covered such matters as the daily shifts of the Suffolk County Police Department, a matter which was covered in detail again in the present deposition. Pages 8-15 and 44 of the prior December 1986 deposition are Attachment 2 hereto. We also attach the pages from the present deposition.<sup>11/</sup> Finally, the County's February 27, 1988, testimony in the Exercise proceeding contained additional details on the Suffolk County Police Department. See Attachment 4 hereto. In short, LILCO's counsel pursued a line of questioning which took far too long and could have been largely avoided if LILCO's counsel had properly prepared by reviewing the prior deposition and testimony of Chief Roberts.

In addition to the fact that much of the questioning covered matters which already were known to LILCO, LILCO's counsel also pursued a host of questions that were clearly irrelevant or unanswerable. For instance, LILCO pursued the following questions regarding the Grucci fireworks factory explosion which occurred several years ago:

Q. In what location -- are you familiar with the Grucci --

A. G-r-u-c-c-i.

Q. You are obviously familiar with it. -- fireworks factory blowup of a few years ago?

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<sup>11/</sup> All pages cited herein from the April 26, 1988, Roberts' deposition are included in Attachment 3 to this Response.

A. That was in Bellport, New York, just south of what we call Montauk Highway.

Q. Was that within the jurisdiction of Suffolk County?

A. Yes, it was.

Q. Now, was it within the jurisdiction of the Suffolk County police district?

A. Yes, it was.

Q. Is that one of these towns or is that a village that has opted into the police district?

A. The Village of Bellport. The Grucci site was outside of the village limits but was in the hamlet of Bellport.

We really have a very difficult scenario here as far as identifying specific -- when you say Bellport, most people say Village of Bellport. That is not true. We have school district boundaries, we have municipality boundaries, there are postal zones, there are fire district zones, and a number of other things.

But to my recollection, the Grucci site for that experience is located outside of the Village of Bellport which is within the Town of Brookhaven.

Tr. 27-28. There is <sup>no</sup> possible relevance to this line of interrogation.

Similarly, at pages 91 and 92 of the Roberts deposition, LILCO's counsel asked as follows:

Q. You don't know whether anyone in Suffolk County, or do you know whether anyone in Suffolk County, in the Police Department, has been trained with respect to any evacuation which might have to take place in Suffolk

County by virtue of an accident at Indian Point or Millstone Point?

Mr. Miller: Excuse me, Ms. Stone. Your question goes to whether there has been training for the possibility of having to evacuate Suffolk County because of an accident at the Indian Point plant?

Ms. Stone: Yes.

The Witness: Or Millstone.

Q. You understand the question?

A. I do.

Q. What is your answer?

A. I'm not aware of any.

(emphasis supplied). The question is clearly not relevant or even plausible: no one has ever suggested in this proceeding that an Indian Point accident -- more than 50 miles from Suffolk County -- could require evacuation in Suffolk County.

Next, LILCO counsel asked:

Q. If Joe citizen realizes that an atomic bomb just went off near him and he saw a mushroom cloud and he wants to find out what the County Executive is doing about it, how would he go about doing that if his first impression was to call 911?

Tr. 135-36. Again, this is not a serious question. LILCO's counsel was wasting time with irrelevant questions. LILCO has nothing but its own counsel to blame for the fact that 4 hours was "insufficient" for the questioning.

Turning now to the specific areas which LILCO states it must pursue in further examination, the Board will find that in fact there is no basis for LILCO's "need" for such additional examination. First, LILCO states that it "wished to pursue detailed questions on Mr. Roberts' affidavits that were submitted with intervenors' opposition to LILCO's summary disposition motion." LILCO Supp. at 27. LILCO never particularizes its bases, as required by Section 2.740(f)(1). Further, if this was such an important area to be examined, then why didn't LILCO pursue such questions? LILCO did mark the Roberts' affidavit as an exhibit (Roberts Tr. 81) and did pursue some questions thereon. Roberts Tr. 81-82, 92-96. However, LILCO's counsel then left that exhibit and pursued lines of irrelevant questions. There was no reason that LILCO could not have pursued these matters if it wanted during the deposition -- and if there were really a "need" for such questions. In the instant motion, LILCO never explains why these "detailed questions" are necessary for it to present its case on the realism issues. In short, LILCO has asserted a "need" but has not demonstrated either why it did not pursue those questions when it had Mr. Roberts available or why those questions are now necessary.

Second, LILCO next seeks to ask Chief Roberts about "the nature of a SCPD response, if the SCPD were directed by the County Executive to respond to an emergency at Shoreham and to use the LILCO plan." LILCO Supp. at 27. The short answer to

this "complaint" is that LILCO has already asked those questions. Indeed, LILCO asked questions relating to such a "direction" at pages 101-09 of the Roberts deposition. Chief Roberts answered those questions and made clear that he believed that no adequate response pursuant to that plan could take place but that if he were "ordered" to do so, he would attempt to carry out that order. If there were other questions that LILCO wanted to pursue at that time, it should have asked. However, from all appearances, LILCO has already pursued that line of questioning in its entirety.

Third, LILCO states that it wishes to ask about "the relationship between the SCPD and the State police." LILCO Supp. at 27. This is no more than a bald assertion of a "need" to pursue that "relationship." LILCO never sets forth why it needs to pursue that "relationship" or what probative, reliable, relevant evidence LILCO hopes to identify by pursuing that line of questioning. In short, LILCO again has made an allegation of a need to pursue questioning but has not attempted to inform the Board in any detail why such questioning is necessary. This does not comply with Section 2.740(f)(1).

Fourth, LILCO seeks to pursue questions about "the SCPD's knowledge of the [LERO] plan." LILCO Supp. at 38. LILCO has already done this. Roberts Tr. 61-64, 79-80. LILCO never explains why more questions must be asked.



Fifth, LILCO states that it seeks "information concerning the availability of County resources" and the "issues concerning LILCO's traffic control plan." LILCO Supp. at 38. Again, however, LILCO has pursued such questions already. Roberts Tr. 35-39, 41-56, 69-74, 87-89, 91, 96-97, 98-101, 145-50, 156-58.

Sixth, LILCO seeks data regarding "LILCO's ability to communicate with responsible County officials in an emergency." LILCO Supp. at 38. LILCO pursued such questions. Roberts Tr. 59-60, 117-26, 130-33, 134, 135, 136-44.

LILCO has presented no argument or other bases to demonstrate that it has not obtained full discovery of Chief Roberts. Further, the record demonstrates that LILCO wasted substantial time during the deposition. Therefore, for the foregoing reasons, Chief Roberts should not be required to appear for further deposition.

### 3. Petrone Deposition

LILCO seeks to compel Suffolk County to produce Mr. Petrone for further deposition. The entirety of LILCO's "reasons" or "argument" for requiring further deposition of Mr. Petrone is as follows:

Mr. Petrone, as the County Executive Assistant and as the former Director of FEMA Region II,

is likely to have information about the same matters, especially State and County's ability to respond to an emergency at Shoreham, plans for other nuclear facilities in Region II, and the training, drills and exercises that have taken place.

Tr. 38. Beyond LILCO's assertion of what it thinks is "likely," LILCO's motion never sets forth why LILCO believes it needs further questioning of Mr. Petrone. LILCO presents no argument beyond bald assertions on why it "needs" further questioning of Mr. Petrone. Thus, LILCO sets forth no bases to believe that the Governments in any way interfered with LILCO's questioning of Mr. Petrone on April 25. In short, what this Board is faced with is naked speculation, supported by no analysis, argument, or bases, that Mr. Petrone must be produced for further deposition.

As described earlier in this Response, LILCO has the burden in a motion to compel situation to present argument on why it requires the grant of an order compelling further discovery. To assert only that questioning was "arbitrarily" concluded (LILCO Supp. at 26) without presenting detailed argument regarding what questioning LILCO believes it was precluded from pursuing and why such questioning is important to LILCO's already-filed prima facie case makes a travesty of the requirement that the proponent of a motion support its motion with adequate bases. LILCO has plainly failed to do so with respect to Mr. Petrone. See Catawba. Given that fact, no further discussion is even necessary.

Nonetheless, in the interest of finally resolving this matter, the Governments offer additional reasons why LILCO's motion must be denied. First, according to LILCO (LILCO Supp. at 38), LILCO hopes to explore Mr. Petrone's memory of planning at other nuclear sites. That is no basis for a further deposition. Mr. Petrone was forced to resign from FEMA over two years ago. His testimony on such matters would therefore be of questionable value, particularly since as the Regional FEMA Director, he did not have intimate knowledge of planning at each site. If LILCO really had been interested in such discovery, it should have deposed current FEMA Region II personnel.

Second, during the deposition, LILCO's counsel in fact did cover many of the areas that it now wants to pursue again. Thus, LILCO's counsel covered a wide variety of matters, including: the County's planning for hazardous wastes; the County's planning for making food available in emergencies; the existence and location of various County departments; the nature and existence of a County civil defense plan; the nature of a County response to a Shoreham emergency; training of County workers; Mr. Petrone's familiarity with Indian Point and other plans for other nuclear facilities; Mr. Petrone's familiarity with the LERO emergency plan; planning for Brookhaven National Laboratory; planning in general; the LERO siren system; the use of an EBS system; coordination with the Department of Energy; the existence of various resources at the County's disposal; emergency plans

for various towns on Long Island; and planning for hurricanes. In short, LILCO's counsel pursued an almost unlimited list of questions. No showing is made why the questions already pursued were not sufficient to cover any legitimate discovery matters.

Third, Mr. Petrone does not have relevant data concerning a "best efforts" Suffolk County response. He testified: "I'm not charged with the responsibility for a response for an emergency in this County." Petrone Tr. 74. Thus, there is no basis to believe that Mr. Petrone possesses data important to this "best efforts" proceeding.<sup>12/</sup>

In sum, LILCO provides no reason why it could not have completed the full questioning of Mr. Petrone during the deposition which was conducted or why further questioning would result in important new data. Thus, LILCO has totally failed to provide any bases for resumption of the Petrone deposition.

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<sup>12/</sup> Mr. Petrone stays current on Shoreham matters in his role working with the County's attorneys on litigation matters. Petrone Tr. 4-5. Thus, he stated:

My day-to-day activities basically are keeping in contact with counsel, keeping basically in contact with anyone in the County that is requested of -- either by our counsel or by counsel to LILCO -- for various pieces of information or, in fact, requested by LILCO themselves through their management, any information or any type of material, and I am the person who would coordinate any of those requests.

Tr. 6. This does not mean, however, that he has any available data which would justify further deposition.

4. Depositions of Messrs. Harris and Regan

The final aspect of LILCO's discovery motion is that LILCO seeks to compel the depositions of Suffolk County Health Director Dr. David Harris and Suffolk County Division of Emergency Preparedness Director William Regan. The motion should be denied.

On Monday, April 18, 1988, the Board directed the Governments to make people available for deposition by the close of discovery on April 29, 1988. This order was made during a non-transcribed conference call. During that conference call, the undersigned counsel for Suffolk County represented that the County would do its best to make the people available, but that he did not know whether individual schedules would so permit.

Suffolk County made all of its personnel available, except Messrs. Harris and Regan. LILCO was advised on April 21, 1988, via telecopy, that these individuals were not available during the discovery period. LILCO did not seek an extension of the discovery period, even though it was within LILCO's power to do so. Instead, LILCO waited until after the discovery period had ended and then moved to compel the appearance of these persons. LILCO's motion must be denied.

First, as noted above, LILCO knew on April 21 that these persons were not available during the discovery period. LILCO knew that the discovery period was brief. Yet, for reasons known only to LILCO, it did not pursue the obvious remedy -- a timely application to the Board for an extension of the discovery period. Having slept on its rights, LILCO should not now be heard to complain.

Second, LILCO asserts that the Governments somehow defied the Board's order by not making these individuals available for discovery. LILCO Supp. at 3. That is untrue. Suffolk County made clear during the referenced April 18 conference call that it would make the individuals available by April 29 if they in fact were available. It turned out that both Dr. Harris and Mr. Regan were not available. Mr. Harris was occupied on prior business obligations; Mr. Regan was occupied attending to the needs of one of his children who is handicapped. In no sense of the word, can Suffolk County be said to have "defied" any Board orders. LILCO's allegations are unseemly.

Finally, LILCO makes no detailed showing in its Supplement of why it needs the depositions of Messrs. Harris and Regan. With respect to Dr. Harris, LILCO states only that it needs the deposition because "[i]n other New York counties, the Health Commissioner typically has primary responsibility for making protective action recommendations to the County Executive and

LILCO knows of nothing that distinguishes Suffolk County on this score." LILCO Supp. at 38-39. LILCO's basis thus rests on speculation about Suffolk County. This is hardly a particularized showing as required for a motion to compel. With respect to Mr. Regan, LILCO merely states that he "has under his control the County EOC." Id. at 38. Again, this is no "argument" or particularized basis for compelling discovery.

LILCO has already had the depositions of many other Suffolk County personnel. It does not argue that its "realism" case is deficient for failure to have those particular depositions. Indeed, an explanation of why these persons are "crucial" (LILCO Supp. at 3) is nowhere to be found. LILCO again has baldly asserted a need but given no detailed reasons. Thus, this is yet another example of how LILCO in its Supplement has made naked allegations of "need" totally unsupported by facts. This does not comply with Section 2.740(f)(1) or Catawba. Accordingly, the motion should be denied.

Respectfully submitted,

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## Attachments

- Attachment 1: Excerpts from April 29, 1988, REPG Deposition
- Attachment 2: Excerpts from December 17, 1986, Deposition of Richard C. Roberts
- Attachment 3: Excerpts from April 26, 1988, Deposition of Richard C. Roberts
- Attachment 4: Excerpts from February 27, 1987, Direct Testimony of Assistant Chief Inspector Richard C. Roberts, Inspector Richard Dormer, Inspector Philip McGuire, and Deputy Inspector Edwin J. Michel Regarding Contention EX 40

Attachment 1

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reporter to mark as Exhibit 1 to this deposition a document entitled "Notice of Deposition" dated April 27, 1988. It is a notice of deposition issued by Long Island Lighting Company for this deposition.

(Document marked REPG Exhibit 1 for identification, as of this date.)

MR. SISK: Gentlemen, have any of you seen this document before?

MR. CZECH: Yes, I have.

MR. BARANSKI: I have.

MR. PAPILE: Very late yesterday. I would like that to be on the record, please.

MR. LANPHER: Off the record.

(Discussion off the record)

MR. SISK: On the record.

General Papile, what is your position?

MR. PAPILE: At the current time, I am the director of the Radiological Emergency Preparedness Group.

MR. SISK: Does the Radiological Emergency Preparedness Group, or do you, as

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director of the Radiological Emergency

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Preparedness Group, have a true copy of the

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current New York State radiological

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emergency preparedness plan? Do you have

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such a document?

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MR. LANPHER: I object to the

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question. What do you mean by true copy?

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MR. PAPILE: First of all, I was

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going to say, do I have a copy? Do I have

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a copy with me?

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MR. SISK: Do you have a copy in

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your office or does anyone in your office

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have a copy?

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MR. PAPILE: Yes, we do.

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MR. SISK: And do you have a copy of

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the current and effective version of that

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plan?

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MR. PAPILE: I have the latest

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update of that plan.

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MR. SISK: To the best of your

22

recollection, what is the latest update of

23

that plan?

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It is fine to consult.

25

(Discussion off the record between

2 between Mr. Czech and Mr. Papile)

3 MR. PAPILE: I would like to ask you  
4 a question, please. What do you mean by  
5 state plan, first?

6 MR. SISK: I am referring to the  
7 document referred to in item No. 1 of this  
8 deposition notice, the New York State  
9 radiological emergency preparedness plan.

10 MR. PAPILE: That is not correct in  
11 the statement, because the correct  
12 definition of the state plan would be a  
13 state portion with seven appendixes to it.

14 MR. SISK: And what are those seven  
15 appendixes?

16 MR. PAPILE: Seven county plans for  
17 the seven nuclear counties.

18 MR. SISK: When you say "seven  
19 nuclear counties," which counties are you  
20 referring to?

21 MR. PAPILE: The four counties and  
22 Indian Point, which would be Westchester,  
23 Putnam, Orange and Rockland, the twelve  
24 counties, Ginna, which would be Wayne and  
25 Monroe and the one county at Nine Mile,

2 which would be Oswego.

3 MR. SISK: Thank you.

4 General Papile, do you have -- do  
5 you or does anyone within your office have  
6 a copy of the current New York State  
7 disaster preparedness plan? And that's the  
8 document referred to specifically, just the  
9, New York State disaster preparedness plan,  
10 which is the first clause in item 2 of this  
11 deposition notice?

12 MR. PAPILE: I don't really know.

13 MR. SISK: Do you know whether there  
14 are any portions, appendices, attachments  
15 or exhibits that involve that New York  
16 State disaster preparedness plan that  
17 pertain to Suffolk County?

18 MR. PAPILE: I do not know.

19 MR. SISK: Mr. Czech, do you know  
20 whether such document exists?

21 MR. CZECH: New York State disaster  
22 preparedness plan?

23 MR. SISK: Any portion of that plan,  
24 attachment or appendix that involves or  
25 pertains to Suffolk County.

2 first, within REPG, has a copy of any of  
3 the documents referred to there, to your  
4 knowledge?

5 MR. PAPILE: I do not.

6 MR. BARANSKI: I do not.

7 MR. CZECH: I do not.

8 MR. SISK: Do you know of anyone  
9 within REPG who does have a copy?

10 MR. PAPILE: No, I do not.

11 MR. CZCH: No, I do not.

12 MR. BARANSKI: No, I do not.

13 MR. SISK: Have any of you reviewed  
14 any such documents referred to in item 5?

15 MR. CZECH: I have reviewed portions  
16 of documents referred to in question 5.

17 MR. BARANSKI: I have reviewed  
18 portions referred to in question No. 5.

19 MR. PAPILE: To the best of my  
20 knowledge, I did not review anything of  
21 question No. 5.

22 MR. SISK: Now Mr. Czech, what  
23 documents, to the best of your  
24 recollection, have you reviewed at some  
25 point which are encompassed within question

2 No. 5?

3 MR. LANPHER: I object to the  
4 question. This is entirely irrelevant.  
5 This is -- this pertains to matters of 1982  
6 or 1983 and a different plan completely  
7 than is presently in litigation. I think  
8 it is a waste of time.

9 MR. ZAHNLEUTER: I have the same  
10 objection.

11 MR. SISK: Can you answer the  
12 question?

13 MR. CZECH: I reviewed portions of a  
14 plan prepared, if I remember right, by  
15 LILCO for Suffolk County which would have  
16 been about in 1981, 1982 vintage. What  
17 specific portions I looked at, I don't  
18 remember at this time, but there were  
19 certain portions I looked at.

20 MR. SISK: Mr. Baranski.

21 MR. BARANSKI: My answer would be  
22 essentially the same as Mr. Czech's. I do  
23 not recall which sections I reviewed, but  
24 it was a very early portion of the LILCO  
25 plan that was being provided for Suffolk



2 County, '81, '82.

3 MR. SISK: To the best of your  
4 recollection, Mr. Baranski, did you and Mr.  
5 Czech work together in that review of some  
6 portion of the prior version of the LILCO  
7 plan?

8 (Discussion off the record among the  
9 witnesses)

10 MR. BARANSKI: We worked together in  
11 the same office, so if you are inferring  
12 that that is working together, that is  
13 true. On the review.

14 MR. SISK: Do you recall consulting  
15 with each other with respect to that  
16 review?

17 MR. BARANSKI: I don't remember.

18 MR. SISK: General Papile, did you  
19 review any documents in preparing for this  
20 deposition.

21 MR. PAPILE: Yes, I did.

22 MR. SISK: What documents were they?

23 MR. PAPILE: My affidavit, 1987, Dr.  
24 Axelrod's affidavit, and a paper written by  
25 Governor Cuomo, and also the deposition by

2 certain contentions. I don't know what the  
3 contentions were, but I looked at some  
4 interrogatories.

5 MR. PAPILE: I was there also, the  
6 same ones that Larry did.

7 MR. SISK: And Mr. Baranski?

8 MR. BARANSKI: Essentially my answer  
9 would be the same as these two gentlemen.

10 MR. SISK: Now, I hand the reporter  
11 and ask him to mark as Exhibit 2 to this  
12 deposition, a document entitled "Affidavit  
13 of James D. Papile, James C. Baranski and  
14 Lawrence B. Czech."

15 I will ask the reporter to mark that  
16 and hand it to you and see if you can  
17 identify it.

18 (Document marked REPG Exhibit 2 for  
19 identification, as of this date.)

20 MR. SISK: General Papile, do you  
21 recognize this document?

22 MR. PAPILE: I do.

23 MR. SISK: Is that the affidavit  
24 that you referred to previously?

25 MR. PAPILE: That is the affidavit I

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referred to as testimony, true.

MR. SISK: Is the information contained in that affidavit, to the best of your knowledge and belief, still true and accurate today?

MR. PAPILE: As far as I am concerned, yes.

MR. SISK: And is that the same answer for you, Mr. Czech?

MR. CZCH: Yes.

MR. SISK: And Mr. Baranski?

MR. BARANSKI: That is correct.

MR. SISK: Now, General Papile, how was this affidavit prepared?

MR. PAPILE: To the best of my recollection, again, this was prepared in -- with counsel for the state, and basically a question and answer period that we went through.

(Discussion off the record between Mr. Baranski and General Papile)

MR. SISK: I would simply note that Mr. Baranski and General Papile were consulting quickly.

2 Is there anything to add?

3 MR. BARANSKI: No, sir.

4 MR. PAPILE: No.

5 MR. SISK: General Papile, when was  
6 the Radiological Emergency Preparedness  
7 Group formed?

8 MR. PAPILE: February 22, 1980, to  
9 the best of my knowledge.

10 MR. SISK: And have you been  
11 involved with the REPG since that time?

12 MR. PAPILE: Since April 28, 1980.

13 MR. SISK: What was your position  
14 with them at that time?

15 MR. PAPILE: I was a planner, an  
16 associate planner.

17 MR. SISK: How long did you maintain  
18 that position?

19 MR. PAPILE: I was an associate  
20 planner from that date until sometime in  
21 the fall of 1985, I think November --  
22 October, November. Sometime in '85.

23 MR. SISK: General Papile, I will  
24 note that the first paragraph of this  
25 affidavit states in the last sentence, "In

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my seven years with REPG, I have helped write and/or review numerous radiological emergency response plans."

General Papile, what -- can you tell me specifically what radiological emergency response plans you have helped write?

MR. PAPILE: Westchester County. Monroe County. Wayne County. Oswego County. Mainly. Those are the main counties I had under my responsibility at one time or another.

MR. SISK: Can you describe for me your role in writing those plans?

MR. LANPHER: I would like to object to this whole line of questioning. This will be a standard objection as irrelevant.

MR. SISK: Very well.

MR. PAPILE: My role was more or less as the liaison between the REPG director in the county and the emergency manager in each county, in developing plans for the specific county, insuring that we kept compliance with the federal regulations.

2 MR. SISK: Can you tell me what you  
3 mean by REPG director within a county?

4 MR. PAPILE: I said a liaison  
5 between the REPG director.

6 MR. SISK: I see.

7 MR. PAPILE: At that time, the REPG  
8 director and the county emergency managers.

9 MR. SISK: And who was the REPG  
10 director at that time?

11 MR. PAPILE: Mr. Donald Davidoff.

12 MR. SISK: General Papile, did you  
13 have any -- let me ask you this.

14 Did you help write all or any  
15 portion of an interim compensating plan for  
16 Rockland County?

17 MR. PAPILE: I had nothing to do  
18 with the Rockland County plan.

19 MR. SISK: Would you describe for  
20 me, generally, how you went about helping  
21 to write a radiological plan for the  
22 counties you described? Just the process  
23 that was involved? General terms?

24 MR. PAPILE: Well, the process was  
25 that -- the questions would be asked for

interpretation of certain items or we would

go through the 0654 and check the

criterion -- or criteria, rather, of 0654,

Newreg 0654, and we would insure that those

criteria were adhered to in the plan.

MR. SISK: Did you become involved

in traveling to those counties and working

with the county personnel in preparing the

plan?

MR. PAPILE: Absolutely.

MR. SISK: Does REPG generally play

that type of role in a situation -- with

counties with preparing radiological

emergency response plans?

MR. PAPILE: I insist on it.

MR. SISK: And why do you insist on

it?

MR. PAPILE: The only way you can

work with the county is to get down there,

get in the trenches, as they say, and get

with the people who need the help.

MR. SISK: Now Mr. Baranski, on page

2 of this affidavit, it states that, among

other things, you currently are exercise

2 director for REPG and that you have held  
3 that position since January 1985.

4 Can you tell me what your duties and  
5 responsibilities are as exercise director?

6 MR. LANPHER: I object to the  
7 question. This has been gone through in  
8 previous depositions. I think we are  
9 wasting time.

10 MR. BARANSKI: As exercise director,  
11 I am responsible for coordinating with  
12 FEMA, the licensees and the local  
13 governments, the conduct of federally  
14 observed exercises and nonfederally  
15 observed exercises.

16 This includes scenario preparation,  
17 activities to be demonstrated and  
18 objectives to be demonstrated.

19 MR. GISK: Mr. Baranski, to your  
20 knowledge, has there ever been an exercise  
21 of any radiological emergency response plan  
22 involving any nuclear plant and also  
23 involving Suffolk County or any officials  
24 therein?

25 MR. BARANSKI: Please restate that



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let me ask you this: Are you aware of any exercises involving Suffolk County with respect to the Millstone plant?

MR. BARANSKI: No, sir, I am not.

MR. SISK: To your knowledge, has there been any training of any Suffolk County personnel with respect to the ingestion pathway response for the Millstone power plant?

MR. ZAHNLEUTER: I would like to object at this point because we are beyond qualifications and background and I think this is an irrelevant inquiry.

But you may answer.

MR. BARANSKI: I have no basis to answer that question.

MR. SISK: Do you know whether there has been any training of Suffolk County personnel?

MR. BARANSKI: I do not know.

MR. SISK: Has there been any training, to your knowledge, of state personnel with respect to any ingestion pathway response for the Millstone plant?

2 (Discussion off the record among the  
3 witnesses)

4 MR. BARANSKI: I am not aware of any  
5 training that was conducted for the  
6 specific response to the Millstone plant.

7 MR. SISK: Can you tell me what  
8 exercises have been conducted within the  
9 State of New York with respect to ingestion  
10 pathway responses for any nuclear power  
11 plant?

12 MR. ZAHNLEUTER: I would like a  
13 continuing objection to these matters about  
14 other power plants.

15 I won't mention it again.

16 MR. SISK: I understand.

17 MR. BARANSKI: Since I became  
18 exercise director in '85, we have conducted  
19 one federally evaluated ingestion pathway  
20 for the Regina facility.

21 MR. SISK: And when was that  
22 conducted?

23 MR. BARANSKI: October of '87.

24 MR. SISK: To your knowledge, in  
25 your capacity as exercise director for

1  
2 REPG, is such an ingestion pathway  
3 exercise required for other power plants  
4 located within the State of New York?

5 MR. ZAHNLEUTER: I object to the  
6 characterization of requirements.

7 Can you explain what requirements  
8 you are talking about?

9 MR. SISK: Can you answer the  
10 question?

11 MR. LANPHER: I have the same  
12 objection. I think it's vague unless you  
13 define the terms.

14 MR. BARANSKI: I think I need more  
15 definition. Maybe you can restate the  
16 question again.

17 MR. SISK: To your knowledge, in  
18 your capacity as exercise director for  
19 REPG, is there any federal requirement for  
20 an exercise of ingestion pathway responses  
21 for other nuclear power plants, other than  
22 Regina, in the State of New York?

23 MR. LANPHER: I object. It calls  
24 for a legal conclusion. The question is  
25 also vague. You have not given sufficient

2 details.

3 There has been a lot of litigation  
4 over this, Mr. Sisk, as you know.

5 Are you talking about NTDL plants or  
6 operating plants?

7 MR. ZAHNLEUTER: Same objection.

8 MR. SISK: Can you answer the  
9 question?

10 MR. BARANSKI: According to 0654,  
11 there is a state responsibility to conduct  
12 ingestion pathway exercises once every six  
13 years.

14 MR. SISK: Does that requirement  
15 apply to each operating nuclear power plant  
16 in the State of New York?

17 MR. LANPHER: Same object'jn.

18 MR. ZAHNLEUTER: Same objection.

19 MR. BARANSKI: I will go back to  
20 what I just said, that once every six  
21 years, the state is required to conduct an  
22 ingestion pathway exercise.

23 The logic and prudent exercise  
24 conduct would be to say you wouldn't do it  
25 at the same unit, each site.

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MR. SISK: By each site, what do you mean, each six years?

MR. BARANSKI: Each six-year period.

MR. SISK: To your knowledge, as exercise director for REPG, is the requirement for all plants in New York State, that you just referred to, met by an exercise at a single facility?

MR. BARANSKI: For the operating plants in New York State, according to Newreg 0654, a satisfactorily conducted ingestion pathway once every six years would satisfy that requirement.

MR. SISK: General Papile, could you describe for me -- I'm sorry, do you need to consult?

(Discussion off the record among the witnesses)

MR. SISK: General Papile, can you describe for me how the REPG fits organizationally with the New York State Disaster Preparedness Commission?

I would like for you to just tell me in your own words how the organizational

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would do that by telephone.

MR. SISK: Who is in charge of the command room in the --

MR. PAPILE: The governor, if he is there, or his representative.

MR. SISK: Is the chairman of the Disaster Preparedness Commission in charge in the absence of the governor?

MR. PAPILE: Absolutely.

MR. SISK: And in that event, I believe you stated you, General Papile, would report directly to the chairman of the DPC?

MR. PAPILE: I do. I would like to explain one thing there.

Militarily, that term is correct, but I do go through individuals to get to Dr. Axelrod sometimes because he does have deputies and so forth, but for military sake, we say directly.

MR. SISK: Mr. Czech, on page 2 of the affidavit which has been marked as Exhibit 2, there is a statement that you are responsible for, quote, "the

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preparation, maintenance, revision and oversight of the state portion of the New York State emergency response plan."

Let me ask you, to the best of your knowledge, what is the current and effective version of the state portion of the New York State emergency response plan?

MR. ZAHNLEUTER: Is your question seeking the date of the last revision?

MR. SISK: Yes, the date of the last revision which is currently in effect.

MR. ZAHNLEUTER: Is your question -- when you say "state radiological emergency plan," does that question include the appendices?

MR. SISK: The affidavit refers to the state portion.

I will let the witness respond based on what is stated here.

MR. CZECH: From my recollection, the most current revision date on the state portion of the state radiological emergency preparedness plan was September of '87.

MR. SISK: I am now handing the

2 reporter a document which I will ask to be  
3 marked as Exhibit 3 to this deposition.

4 It is a document entitled, "Article  
5 2-B State and Local Natural and Manmade  
6 Disaster Preparedness."

7 I will vouch for the record this is  
8 a copy of Article 2-B of the New York State  
9 Executive Law.

10 (Document marked as REPG Exhibit 3  
11 for identification, as of this date.)

12 MR. SISK: Gentlemen, this is a  
13 question for the panel.

14 Are you familiar with that state  
15 statute?

16 MR. BARANSKI: I am aware of the  
17 state statute.

18 MR. PAPILE: I am aware of it.

19 MR. CZECH: In general terms, I am  
20 aware of it.

21 MR. SISK: Mr. Czech, in preparing  
22 and revising and overseeing the state  
23 portion of the New York State emergency  
24 response plan, do you make reference to  
25 Article 2-B of the Executive Law?



MR. LANPHER: Can I ask for clarification? What do you mean by "make reference"? Review that law?

I object to the question as vague.

MR. SISK: Can you answer the question?

MR. CZECH: Can you just restate it and I will give it a stab.

MR. SISK: Yes.

In preparing and revising and overseeing the state portion of the New York State emergency response plan, do you make reference to Article 2-B of the executive --

MR. CZECH: The state radiological emergency preparedness plan has a reference of appropriate statutes, et cetera, in Article 2-B as referenced in there. That's correct.

MR. SISK: General Papile, let me ask you to refer to Section 20 of this statute and particularly to Section 20, Subdivision 1, portions C and E.

"Those state and local natural

2 disaster and emergency response functions  
3 shall be coordinated in order to apply  
4 fullest protection and benefit to the  
5 people," and Subsection E says, "State and  
6 local plans, organizational arrangements  
7 and response capability required to execute  
8 the provisions of this article shall, at  
9 all times, be the most effective that  
10 current circumstances and existing  
11 resources allow."

12 General Papile, is this portion of  
13 the state law followed by the REPG in its  
14 involvement in radiological emergency  
15 response plans?

16 MR. ZAHNLEUTER: I object to the use  
17 of that term "followed." It's vague.

18 MR. SISK: Can you answer the  
19 question?

20 MR. PAPILE: Well, I would rather  
21 defer to my counsel because it's a legal  
22 conclusion.

23 I am really not sure whether I  
24 should answer that question or not because  
25 it takes, I think, a legal interpretation.

2 MR. SISK: Mr. Czech, can you answer  
3 that question?

4 MR. ZAHNLEUTER: Well, the question  
5 you are asking is the same question that  
6 Mr. Papile just answered?

7 MR. SISK: That's correct.

8 MR. ZAHNLEUTER: I still object  
9 because it's vague and it calls for a legal  
10 conclusion.

11 MR. CZECH: I can't make a --

12 MR. ZAHNLEUTER: As Mr. Papile has  
13 stated, it calls for a legal conclusion, so  
14 I object. You are asking for Mr. Czech's  
15 answer.

16 MR. CZECH: I am not sure if I  
17 understand what you mean by "followed" the  
18 sections you referred to.

19 MR. SISK: Mr. Czech, you have  
20 stated in the affidavit that you are  
21 responsible for preparation, maintenance  
22 revision and oversight of the state portion  
23 of the New York State emergency response  
24 plan.

25 Now, in performing those functions,

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do you follow this provision of the New York State Executive Law?

MR. CZECH: I do not.

MR. SISK: What do you make reference to in preparing, maintaining, revising and overseeing the state portion of the New York State emergency response plan?

MR. LANPHER: I object to the question. It's vague.

You use the term "what do you make reference to." It assumes that he makes some specific reference to something in this law and you haven't established that.

MR. SISK: Can you answer the question?

MR. CZECH: If I understood your question correctly, the primary is Newreg 0654, 10-CFR, Part 50 and 44-CFR, Part 350.

Now, specifically for Article 2-B, the areas of interest would be 29-C, "Radiological Preparedness," and areas dealing with Section 24, "The Local State of Emergency," and Section 28, "State

2 Declaration of Disaster Emergency."

3 MR. SISK: Let me ask this question  
4 of you, Mr. Czech.

5 Do county plans exist for, in the  
6 State of New York, for each of the counties  
7 located within the 10-mile EPZ's of each  
8 operating nuclear power plant?

9 MR. CZECH: For the plants at Ginna,  
10 Nine Mile Point, Fitzpatrick and Indian  
11 Point, there are such county plans within  
12 the 10-mile EPZ.

13 MR. SISK: Now, can you tell me, to  
14 the best of your ability, why do those  
15 plans exist?

16 MR. LANPHEK: I object. This is so  
17 irrelevant and it really is a waste of  
18 time.

19 MR. CZECH: I am not sure I even  
20 know.

21 MR. SISK: Let me ask you to refer  
22 to Section 22 of the New York Executive  
23 Law.

24 The section states, "The commission  
25 shall prepare" -- Section 22, "The

1 commission," which refers to the State  
2 Disaster Preparedness Commission, "shall  
3 prepare a state disaster preparedness  
4 plan."  
5

6 MR. CZECH: What section?

7 MR. SISK: 22, item 1.

8 MR. PAPILE: Page 25, Larry.

9 MR. SISK: And continuing --

10 MR. LANPHER: Listen to the  
11 question.

12 MR. SISK: -- "and submit such plans  
13 to the governor for approval no later than  
14 one year following the effective date of  
15 this act."

16 Now, Mr. Czech, to your knowledge,  
17 in your capacity as the chief of nuclear  
18 protection planning for REPG, has the state  
19 portion of the New York State emergency  
20 response plan been prepared in response to  
21 this mandated state law, to your knowledge?  
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23 MR. CZECH: No, that's not correct.

24 MR. SISK: Why has the state plan  
25 been prepared?

MR. LANPHER: Same objection.

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MR. ZAHNLEUTER: The question was why has the state plan been prepared?

MR. SISK: Yes.

MR. ZAHNLEUTER: To the best of Mr. Czech's knowledge?

MR. SISK: That's correct.

MR. ZAHNLEUTER: I object on vagueness grounds.

MR. SISK: Can you answer the question?

MR. CZECH: There was a state radiological plan in existence prior to Article 2-B and the state radiological plan evolved subsequent to Three Mile Island with the publishing of Newreg 0654, so that the state radiological plan -- actually the state radiological emergency planning goes back before the operating sites to probably the early sixties and it has been an evolutionary process.

MR. SISK: Do you know why that planning process was begun and why those plans exist?

MR. ZAHNLEUTER: I object. These

2 questions aren't very relevant to any real  
3 issue that we have before us. It's a waste  
4 of time.

5 MR. LANPHER: I object also because  
6 it calls for speculation going back to the  
7 early 1960's.

8 MR. CZECH: I can say, I was not  
9 then and am not in a policy position to  
10 make those kinds of determinations.

11 I was the doer and had a job to do.  
12 That's all.

13 MR. SISK: Fair enough.

14 Do any of the other panel members  
15 have anything to add to that?

16 MR. PAPILE: No. I was in Vietnam  
17 then.

18 MR. SISK: General Papile, let me  
19 just ask you this question.

20 Based on your experience and  
21 expertise in emergency planning, and I want  
22 to ask this question as a general matter,  
23 if we assume that the possibility of a  
24 disaster is unavoidable and that the  
25 possibility simply exists, in your opinion,



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by a memorandum which indicates it is from James D. Papile, Director, REPG, dated September 1, 1987.

It is on the letterhead for the New York State Disaster Preparedness Commission. Its subject is "Revised New York State Plan."

(Document marked as REPG Exhibit 4 for identification, as of this date.)

(Recess taken)

MR. SISK: Back on the record.

MR. SISK: General Papile, do you recognize that document?

MR. PAPILE: I do.

MR. SISK: Can you identify it for me?

MR. PAPILE: It is the updated -- updated complete to include all pages of the state portion of the New York State radiological emergency preparedness plan.

We had been requested by FEMA to submit all pages in the future, so when they review it, they won't have to insert the changes.

2 That's why it was done in this  
3 fashion; otherwise we would have just  
4 submitted changes.

5 MR. SISK: Let me ask you this: Has  
6 this revision of the state portion of the  
7 plan, has it been approved by the DPC?

8 MR. PAPILE: The DPC will approve  
9 it.

10 We have submitted this to FEMA.  
11 FEMA has made comments on it, specifically  
12 they asked us to include Appendix K, which  
13 had ingestion in preparation for the  
14 exercise.

15 Our comments have been submitted  
16 back to FEMA. Soon as they're approved, we  
17 will make the changes to the plan  
18 accordingly and submit it to the DPC. That  
19 has been our normal procedure.

20 The original of the plan was  
21 approved by the DPC. Since then, we have  
22 been making changes. It is because FEMA  
23 requires us to make changes with guidance  
24 memorandum and other paraphernalia.

25 MR. SISK: General Papile, will

2 there be further revisions to this document  
3 before it is submitted to the DPC for  
4 approval?

5 MR. LANPHER: I object to the  
6 question. Calls for speculation.

7 MR. SISK: If you know.

8 MR. PAPILE: I can't answer that  
9 question. I don't know.

10 Things may happen.

11 MR. SISK: Are you aware of any  
12 changes that you intend to make to this  
13 document before submitting it to the DPC  
14 for approval?

15 MR. PAPILE: Yes, there are,  
16 because, as I have just stated, we  
17 submitted comments to FEMA for their  
18 approval.

19 If they approve those comments, we  
20 will make changes accordingly. If they  
21 don't buy our comments, they may ask us to  
22 do other things.

23 MR. SISK: Has this plan been used  
24 in any recent exercise for nuclear  
25 facilities inside or outside the State of

1  
2 New York?

3 MR. PAPILE: Other than Shoreham?

4 MR. SISK: Other than Shoreham.

5 MR. PAPILE: Yes. That's why we  
6 wrote Appendix K, because FEMA required us  
7 to because of the ingestion pathway  
8 exercise at Ginna.

9 MR. SISK: Was the state involved in  
10 an ingestion pathway exercise for the  
11 Yankee Rowe plant recently?

12 MR. LANPHER: At this point, I can't  
13 recall if I had a standing objection to  
14 other power plants, but if I didn't, I want  
15 one for Yankee Rowe.

16 MR. SISK: I understand. Those are  
17 preserved, in any event.

18 MR. PAPILE: We voluntarily  
19 participated at the request of FEMA region  
20 1 in an exercise for Yankee row.

21 MR. SISK: When was that conducted?

22 MR. PAPILE: Wednesday, Wednesday of  
23 this week.

24 MR. SISK: And in doing so, what  
25 planning document did you use for that

2 participation?

3 MR. LANPHER: I object. I don't  
4 know what you mean by a planning document.

5 MR. SISK: Let me ask you this: Did  
6 you use the procedures in Procedure K in  
7 this document that has been marked Exhibit  
8 4?

9 MR. PAPILE: I would like to defer  
10 to Mr. Czech because we were away when he  
11 ran it.

12 MR. SISK: That's fine.

13 MR. CZECH: The Yankee Rowe was  
14 what -- in the current regulatory jargon,  
15 is what is referred to as a partial  
16 participation exercise; and Procedure K, I  
17 will characterize as being the basis for  
18 ingestion pathway.

19 However, there are other internal  
20 documents alerting us, et cetera, that  
21 various state agencies would have that --  
22 would also be brought to bear that are not  
23 formally part of this document.

24 MR. SISK: Would these include  
25 additional documents that are prepared and

2 maintained by REPG?

3 MR. CZECH: They are not.

4 MR. SISK: What other state agencies  
5 would that include?

6 MR. CZECH: Hold on a second.

7 (Discussion off the record among the  
8 witnesses)

9 MR. CZECH: The agencies involved  
10 were the Radiological Emergency  
11 Preparedness Group, the State Emergency  
12 Management Office, the State Department of  
13 Health, the Department of Agriculture and  
14 Markets, the Department of Transportation,  
15 and the Division of State Police.

16 MR. SISK: Were any other  
17 radiological emergency response plans used  
18 or relied upon in that exercise insofar as  
19 the State of New York participation was  
20 concerned?

21 MR. CZECH: Do you mean procedures  
22 or --

23 MR. SISK: I am talking about -- any  
24 radiological emergency response plan. For  
25 example, did you use or implement any

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procedures in a plan for Yankee Rowe?

(Discussion off the record between  
Mr. Papile and Mr. Czech)

MR. CZECH: As far as I know, and I  
am trying to interpret the question, I  
would say no, there were no other plans.

MR. SISK: Does any other member of  
the panel have anything to add to that?

MR. PAPILE: No, I know of no other  
specific plans, no.

MR. SISK: Mr. Czech, referring to  
the document that has been identified as  
Exhibit 4, has this document been -- well,  
let me just ask you this.

What regulatory criteria do you rely  
upon in structuring and in revising this  
state portion of the state plan?

MR. LANPHER: I object. It has  
already been testified to.

MR. SISK: Did you previously  
testify that you relied upon various  
federal regulations, 10-CFR, Part 50, for  
example?

MR. CZECH: And 44-CFR part 350, and

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first and foremost, a guidance document,  
Newreg 0654.

MR. SISK: General Papile, in  
assisting counties with the preparation of  
their radiological plans for operating  
plants in the State of New York, do you  
similarly rely upon those federal  
regulations?

MR. PAPILE: Yes, we do.

MR. SISK: And is it your job, then,  
to ensure that those county plans with  
which you are involved comply with those  
federal regulations?

MR. LANPHER: I object. Calls for a  
legal conclusion about what compliance  
means.

MR. SISK: Let me rephrase it.

That those plans follow the  
structure that is outlined in the federal  
regulations.

General Papile, was the answer yes?

MR. PAPILE: No, my answer was that  
we comply with the county plan the same as  
we did with the state portion of the plant



2 we comply with 0654, those items listed in  
3 0654.

4 MR. CZECH: May I add a little bit?

5 MR. SISK: Sure.

6 MR. CZECH: That radiological  
7 emergency preparedness plan is patterned  
8 after the overall disaster preparedness  
9 plan as outlined in Article 2B, and I  
10 believe we go further than 0654 in that we  
11 also addressed, if you will, a prevention  
12 mitigation or preparedness section as well  
13 as the response which 0654 is geared to.

14 MR. PAPILE: Good answer.

15 MR. SISK: And does that same answer  
16 apply to your involvement with the various  
17 county plans?

18 MR. PAPILE: Yes, it does. We have  
19 prevention mitigation as well as the  
20 introduction to the plan itself, which is  
21 not necessarily required by 0654.

22 MR. SISK: Mr. Czech, does the state  
23 portion of the RERP -- let me ask you this.  
24 You have told me that there are some things  
25 in the state portion of that plan which are

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somewhat beyond the requirements of the federal regulatory structure.

Now, are the provisions of that plan in any fashion inconsistent with the federal regulatory structure?

MR. LANPHER: I object to the question. Calling for a legal conclusion. These gentlemen aren't lawyers.

MR. SISK: I didn't ask a legal question.

MR. LANPHER: You are asking if the RERP is inconsistent with legal requirements.

MR. SISK: I am asking for your understanding as a planner.

MR. ZAHNLEUTER: Same objection.

MR. PAPILE: We would have to go by review process by FEMA region 2 and the assistance committee that supports region 2, and although there are some revisions and modifications, I don't know of anything that we vary from the intent or desires of 0654.

MR. SISK: In fact, FEMA has to

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approve this state plan, does it not?

MR. PAPILE: That's true.

MR. SISK: And FEMA has approved this state plan?

MR. PAPILE: It has approved the state portion of the plan insofar as it goes for two sites, that would be for the Nine Mile and Fitzpatrick plants in Oswego County and for the Ginna facility in Wayne and Monroe. We have not received a so-called 350 approval for Indian Point.

MR. SISK: Has FEMA reviewed this state portion of the radiological emergency response plan?

MR. PAPILE: They have. But it's my understanding that typically, for purposes of 350, it's reviewed as the state portion, in conjunction with any local plans for that site, so that the approval comes on a site basis as opposed to the state portion versus the local portion.

MR. SISK: I understand.

Is that correct, General Papile?

MR. PAPILE: That is absolutely

2 correct.

3 MR. SISK: General Papile, to your  
4 knowledge, is there a Procedure I for this  
5 document?

6 MR. ZAHNLEUTER: You are referring  
7 to exhibit 4, right?

8 MR. SISK: I am referring to Exhibit  
9 4.

10 I note that on the table of  
11 contents, there is a Procedure H and a  
12 Procedure J. Is there a Procedure I?

13 MR. PAPILE: No, there is not. And  
14 one of our changes we --

15 MR. CZECH: If I may, the reason the  
16 Procedure I is not listed there is because  
17 a capital I can be confused with a Roman  
18 numeral 1.

19 MR. SISK: That's what I suspected.

20 Now Mr. Czech, can you refer to page  
21 Roman numeral I-9, bottom right-hand corner  
22 of that page, it says "Rev. 10/85."

23 MR. LANPHER: Excuse me, Mr. Sisk, I  
24 don't know where you are.

25 MR. SISK: It's in the first part of

2 the document.

3 MR. LANPHER: Oh, O.K. Roman  
4 numeral I dash what?

5 MR. SISK: Dash 9.

6 MR. SISK: The bottom of the page  
7 contains a reference, "Legal authorities  
8 and reference documents," and that contains  
9 a reference to New York State Executive Law  
10 Article 2B.

11 Mr. Czech, is this the reference you  
12 referred to earlier as to legal authorities  
13 within the state plan?

14 MR. CZECH: That looks like the  
15 section. I thought there was a tabulation.  
16 This is probably it.

17 MR. SISK: Mr. Czech, let me ask you  
18 to refer to Procedure K, page A-2. There  
19 is a paragraph just past the middle of that  
20 page that makes reference to technical  
21 federal support?

22 MR. CZECH: Yes. I see it.

23 MR. SISK: And that paragraph also  
24 makes reference to support from the U.S.  
25 Department of Energy radiological

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assistance plan, or RAP, and states that,  
"Technical expertise with sophisticated  
monitoring sampling and laboratory analysis  
capability will be provided from the  
Brookhaven area office with U.S. DOE and  
Brookhaven National Laboratory staff."

Mr. Czech, can you describe for me  
the involvement of the DOE/RAP in the  
ingestion pathway procedure that we are  
referring to? Can you elaborate on that  
for me?

MR. CZECH: Yes. I think I can.

The DOE radiological assistance plan  
or program, depending what you want to  
refer to it as, would provide additional  
technical expertise, environmental  
laboratories, sampling capability, staff to  
support and complement off-site response by  
the state and local authorities.

MR. SISK: Does the State of New  
York depend upon DOE/RAP to provide  
radiological monitoring teams in that  
capacity?

MR. LANPHER: I object to the

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question. I don't know what you mean by "depend upon."

MR. ZAHNLEUTER: Depend upon in what way?

MR. SISK: Can you answer the question?

MR. CZECH: I will have to go back to the question of depend. We use them in support of that initial response in our system for the current operating reactors, we rely upon field monitoring teams from the county government. Then as we would get into, for example, the longer range problem like ingestion pathway, which this is referring to, then we are referring to state resources and supplemented by what we can get from the federal government through DOE and the FERMAP plan.

MR. SISK: General Papile, do each of the county governments that have radiological plans for nuclear plants in New York have their own radiological monitoring teams?

MR. PAPILE: Yes, they do.

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MR. SISK: Do those teams consist of county personnel employed full time by the county?

MR. PAPILE: No. Some counties have full-time employees, other counties have people that they have trained as volunteers.

MR. SISK: Do any of the counties use the DOE/RAP monitoring teams?

MR. PAPILE: Usually only through a request through the Health Department or if the EOC is then organized through the EOC, State EOC.

(Recess taken)

MR. SISK: Mr. Baranski, just for clarification, is this version of the state plan, that's the September 1 version, is that the one that was employed for the Ginna exercise in October of 1987?

MR. BARANSKI: That's correct.

MR. SISK: Now, before the break, I had asked some questions about county radiological monitoring teams.

General Papile, are those county



1  
2 Rensselaer County was the one that had  
3 asked for a notification call.

4 MR. SISK: Does that describe the  
5 extent of the county's involvement in that  
6 exercise?

7 MR. CZECH: Rensselaer County did  
8 some internal call-ups putting in place  
9 some of their procedures. But to the  
10 extent that was done, I don't know. This  
11 was a partial participation. It was a  
12 limited scope exercise.

13 MR. SISK: What do you mean by  
14 partial participation?

15 MR. CZECH: It was -- the closest I  
16 could probably come to it would be that for  
17 New York State's participation, it was more  
18 of a table top.

19 MR. SISK: O.K.

20 Mr. Baranski, I wanted to return to  
21 one question I asked earlier about the  
22 Ginna ingestion pathway exercise.

23 And I will ask you this question not  
24 as a legal question but as your  
25 understanding as the exercise director for

2 REPG.

3 Does that Ginna exercise satisfy the  
4 six-year exercise requirement that you  
5 referred to, for each and all of the county  
6 plans for nuclear plants located in the  
7 State of New York?

8 MR. LANPHER: I object. It is  
9 calling for a legal conclusion, thus it is  
10 an improper question. I also think it is  
11 vague.

12 MR. ZAHNLEUTER: Same objection.

13 MR. BARANSKI: The ingestion pathway  
14 exercise that was conducted for Ginna was  
15 conducted with the intent to satisfy the  
16 six-year requirement. We do not yet have  
17 the FEMA post-exercise assessment report  
18 that says that we have fulfilled that  
19 requirement. Until we receive that  
20 document, it still could be in limbo.

21 MR. SISK: I understand, but was it  
22 your intent in conducting or participating  
23 in that exercise, on behalf of REPG, that  
24 that exercise would satisfy the  
25 requirements for any ingestion pathway

2 exercise for all of the plants located in  
3 the State of New York and all of the county  
4 plans for those plants?

5 MR. LANPHER: Are you including  
6 Shoreham?

7 MR. SISK: I am including Shoreham.

8 MR. BARANSKI: To the best of my  
9 knowledge, that is my understanding, that  
10 if we conducted, or if we did conduct a  
11 successful exercise, that would satisfy  
12 FEMA's six-year requirement for the state.

13 MR. SISK: Were any counties other  
14 than those within the 50-mile pathway of  
15 Ginna involved in that exercise?

16 MR. LANPHER: I would like a  
17 clarification. I don't know what you mean  
18 by involved. Actually employed players?

19 MR. SISK: Were they players in that  
20 exercise? I will accept that correction.

21 MR. BARANSKI: There were players in  
22 the Ginna ingestion pathway exercise.

23 MR. SISK: And were they from county  
24 governments?

25 MR. BARANSKI: Yes, they were.

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MR. SISK: Which county governments?

(Discussion off the record among the witnesses)

MR. BARANSKI: There were thirteen counties involved in the Ginna ingestion pathway exercise.

MR. SISK: Are you now making reference to a portion of the state plan?

MR. BARANSKI: I'm going from the conduct of the exercise. And in the preparation for that exercise, we worked with thirteen counties.

MR. SISK: And can you describe for me, either list them or describe for me generically, which counties were involved?

MR. BARANSKI: Yes, I can.

MR. SISK: And what document are you now referring to?

MR. BARANSKI: I am referring to page K-19 Rev. 87, Attachment 6, "Ingestion exposure pathway analysis and notification procedure for Ginna."

MR. SISK: Are all of those counties listed at the bottom of that page?

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MR. BARANSKI: That's affirmative.

MR. SISK: Are all of those counties within the 50-mile ingestion pathway of the Ginna plant?

MR. BARANSKI: All or portions of these counties are within the 50-mile ingestion pathway for Ginna.

MR. SISK: Mr. Baranski, let me ask you to flip back a few pages on that procedure to page K-9, which is a map. It has an indication in the upper right-hand corner, "Attachment 1," and in the lower right-hand corner, "Rev. 8/87."

In the upper -- turning that page sideways, in the upper left-hand corner, there is a legend on the map which indicates that the area shaded in dots constitutes the 50-mile EPZ for various plants that are located or depicted on that map.

I will direct your attention specifically to the shaded area in the 50-mile circle around the Millstone plant.

Mr. Baranski, does that 50-mile EPZ

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for Millstone encompass all or part of  
Suffolk County, New York? Can you tell  
from looking at this?

MR. BARANSKI: I can't really tell  
from this particular map how much of  
Suffolk County is involved in Millstone  
EPZ.

MR. SISK: Does it appear that some  
portion of Suffolk County is involved in  
the Millstone 50-mile EPZ?

MR. BARANSKI: It does appear that  
some is.

MR. SISK: Mr. Czech, can you  
elaborate on that at all since I gather you  
have been primarily responsible for this  
document?

MR. CZECH: That's correct.

MR. LANPHER: I object to the  
question. I don't think you have a  
question. You are asking him to talk about  
this page. I think there should be a  
proper question.

MR. SISK: Can you tell from looking  
at this page or from your knowledge of what

2 this page contains, that the 50-mile EPZ  
3 around Millstone encompasses all or some  
4 portion of Suffolk County, New York?

5 MR. CZECH: I know that it includes  
6 at least some portion of Suffolk County. I  
7 don't know if it includes all of Suffolk,  
8 the 50-mile EPZ.

9 MR. SISK: Now, has the state REPG  
10 conducted any training for a response  
11 within Suffolk County and within the  
12 50-mile ingestion pathway for Millstone?

13 MR. LANPHER: I object to the  
14 question. He already testified to that and  
15 he said no. It is repetitive.

16 MR. SISK: I apologize, I thought I  
17 defined it to the county earlier, but let's  
18 be clear. Has the state conducted any  
19 training or been involved in any training  
20 with respect to such a response?

21 MR. CZECH: Not for Suffolk County  
22 or Shoreham. Or -- I am talking for state  
23 people in the Shoreham Suffolk County area.  
24 There has been no training.

25 MR. SISK: Let me just be sure.

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2 There has been no training of state  
3 personnel for such a response with respect  
4 to Millstone?

5 MR. CZECH: That's correct.

6 MR. SISK: And let me just be sure.

7 I believe that you testified earlier  
8 there has similarly been no exercise with  
9 respect to a state response in the  
10 ingestion pathway for Millstone?

11 MR. CZECH: That's correct.

12 MR. SISK: Let me note for the  
13 record that I do have a number of questions  
14 with respect to the state plan for these  
15 witnesses.

16 I am going to ask a few of those at  
17 this juncture, and if there is time at the  
18 end of the deposition, I will return to it.

19 MR. ZAHNLEUTER: Let me caution you  
20 that Mr. Papile must leave at 4:30, so I  
21 would suggest that you keep that in mind.

22 MR. SISK: That was stated earlier.

23 MR. SISK: Mr. Czech, with respect  
24 to Part 1, Section 3 of this plan, which is  
25 entitled, "Response," it --



2 MR. LANPHER: Do you have a page  
3 number, Mr. Sisk?

4 MR. SISK: It is Section 3 of Part  
5 1, and the pages are numbered accordingly  
6 with Roman numeral III in front of them.

7 MR. LANPHER: O.K.

8 MR. SISK: Can you tell me, Mr.  
9 Czech, are the provisions of this section  
10 designed -- are they based primarily upon  
11 following the federal regulations and  
12 guidelines that you referenced earlier?

13 MR. LANPHER: Can I have that read  
14 back, please?

15 MR. SISK: Do you understand the  
16 question?

17 MR. CZECH: That's why I was trying  
18 to formulate --

19 MR. SISK: Let me withdraw the  
20 question.

21 (Discussion off the record between  
22 Mr. Papile and Mr. Baranski)

23 MR. SISK: General Papile and Mr.  
24 Baranski are conferring. Let me withdraw  
25 that question and try again.

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2 MR. SISK: Can you tell me what  
3 regulatory requirements, if any, you have  
4 relied upon or the REPG has relied upon in  
5 preparing and updating this specific  
6 section of the state plan?

7 ( Discussion off the record between  
8 Mr. Papile and Mr. Czech)

9 MR. CZECH: When we undertook the  
10 initial job of putting together the  
11 radiological emergency preparedness plan,  
12 one of the approaches we were supposed to  
13 take was to pattern this plan, since it is  
14 supposed to be an appendix to the overall  
15 disaster preparedness plan, in a similar  
16 fashion.

17 That's why you will see the sections  
18 are named the same. The responsibilities  
19 and so on of state agencies are followed,  
20 what their normal legal responsibilities  
21 would be and, again, patterned after the  
22 disaster preparedness plan, so that's how  
23 the plan was formulated.

24 Then, of course, we had to make sure  
25 that the elements of Newreg 0654 would fit

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into that structure.

I hope that's what you are asking.

MR. SISK: Let me ask you to refer specifically to the executive summary, Page 1. It is near the very beginning of the document.

The second paragraph under "Background" makes reference to Federal Rules including 10-CFR 50, which I assume is 10-CFR Part 50, is that correct?

MR. CZECH: That would be correct.

MR. SISK: Now, let me refer you to specifically the next paragraph which states, and I am reading the second sentence, "The REPG is responsible for developing comprehensive plans and procedures for prompt reactions to potential emergencies at nuclear power plants in New York or in bordering states."

Have I read that correctly?

MR. CZECH: That's correct.

MR. SISK: Mr. Czech, does that sentence apply to the Shoreham nuclear power plant?

2 MR. CZECH: Since I didn't write it,  
3 I really guess I don't know. I believe the  
4 intent at that time was with strictly the  
5 operating plants.

6 MR. SISK: Would that apply to  
7 Shoreham, if Shoreham were operating?

8 MR. LANPHER: I object to the  
9 question. Calls for a speculation.

10 MR. ZAHNLEUTER: I also object.

11 MR. CZECH: From my point of view,  
12 it is a policy decision that I wouldn't be  
13 privy to make.

14 MR. SISK: General Papile, can you  
15 answer that question?

16 MR. PAPILE: I use the same answer.

17 MR. SISK: Let me ask you to refer  
18 to page 2 of the executive summary. The  
19 paragraph at the top states as follows:  
20 "The federal rules required several  
21 provisions be included in the development  
22 of a radiological plant: a uniform accident  
23 classification system consisting of four  
24 emergency action classes created to assist  
25 in prompt emergency notification, and the

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concept of emergency planning seasons or  
EPZ's which define two specific radiation  
pathways for each power facility and was  
adopted to improve response activity  
efficiency."

The next paragraphs refer to the  
10-mile and 50-mile EPZ's.

Two paragraphs further down it  
states, "These aforementioned requirements  
are contained in this NYSREPP on February  
1, 1985 the generic state plan received  
federal approval from FEMA."

Now, Mr. Czech, does this plan then  
employ the uniform accident classification  
system as set forth in the federal rules?

MR. LANPHER: I object. The  
question speaks for itself on that.

MR. SISK: Is that correct?

MR. CZECH: That's correct.

MR. SISK: And by that, I want to be  
sure, are you responding to my question?

MR. LANPHER: Or to me?

MR. CZECH: There are four classes.  
The notification of an unusual event,

2 alert, site area emergency and site  
3 emergency are used in this plan.

4 MR. SISK: Those are the four  
5 classifications that are set forth?

6 MR. CZECH: That is correct.

7 MR. SISK: Now this document also  
8 indicates that FEMA approved the generic  
9 state plan.

10 When we say "generic state plan,"  
11 does that refer to this, what we have  
12 called the stated portion of the New York  
13 State radiological emergency preparedness  
14 plan?

15 MR. CZECH: That's the state portion  
16 on the state agency portion of it, but I  
17 still think I am correct and this is, I  
18 believe, an incorrect statement that the  
19 plans are on a site-by-site basis.

20 This February 1, 1985 was for  
21 Oswego. I did not write this part.

22 Thank you for calling it to my  
23 attention.

24 MR. SISK: General Papile?

25 MR. PAPILE: I agree with Larry.

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MR. SISK: Now Mr. Czech, referring now to Part 1, Section 4 of the document which begins on page Roman numeral 4 dash 1, "Recovery" -- it's entitled "Recovery," what regulations or guidelines were used to structure this portion of the generic state plan?

MR. CZECH: This portion of the state plan was structured before I became responsible for maintenance by the state plan, so I am not totally sure, other than the state's disaster preparedness plan and any portions of Newreg 0654, that may pertain to recovery.

MR. SISK: Does the New York State disaster preparedness plan contain regulatory requirements that apply to site specific disaster plans or county plans?

MR. LANPHER: Could I have that question read back, please?

(Record read)

MR. LANPHER: I object to the question as calling for a legal conclusion about what constitutes a regulatory

2 requirement.

3 I also think it's vague.

4 MR. SISK: I would ask the question  
5 to you, Mr. Czech, in your capacity as  
6 the -- as a member --

7 MR. CZECH: My answer is going to be  
8 and still is that I am not a lawyer, but I  
9 don't believe that the disaster  
10 preparedness plan is a regulatory document.  
11 It's a generalized planning document or  
12 concept of operations for responding to a  
13 broad range of disasters.

14 MR. SISK: Now Mr. Czech, let me ask  
15 you to turn back to the executive summary  
16 of this document on page 2.

17 Under the caption  
18 "Prevention/Mitigation," I believe you  
19 stated earlier --

20 MR. LANPHER: Wait. Just a second,  
21 please.

22 MR. SISK: Have you found that  
23 portion, Mr. Czech?

24 MR. CZECH: I have.

25 MR. SISK: I believe you stated



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earlier that prevention mitigation is a provision of this plan, which goes beyond the instructional requirements of Newreg 0654, is that correct?

MR. CZECH: My interpretation of Newreg 0654 is that it's primarily a response guidance, whereby the very nature of the title of the document talks about response plans.

And you will notice that the New York State plan is very deliberately referred to as radiological emergency preparedness plan trying to differentiate the fact that we talk about, we think, a little bit more than just the actual response phase.

So that the interaction of governments and the training and so on, as far as the prevention might -- is a vital part of the process.

MR. SISK: I will note again under that section, there is a reference to the policy of the state as set forth in Article 2-B, Mr. Czech.

2 Is that another one of the  
3 references that you were thinking of  
4 earlier?

5 MR. CZECH: That's correct.

6 MR. SISK: In the interest of time,  
7 I am going to depart from my questioning on  
8 this document and its details for a moment  
9 and return to it later, if there is time.

10 Let me ask this general question.  
11 General Papile, does this generic portion  
12 of the state plan identify any state  
13 resources that could be -- and I am not  
14 asking that in a legal sense -- I am asking  
15 that in a practical sense -- does this  
16 document identify any state resource that  
17 could be employed in responding to a  
18 radiological accident at the Shoreham  
19 plant?

20 MR. ZAHNLEUTER: I object. I object  
21 because that document speaks for itself and  
22 the question pertains to Shoreham. It  
23 calls for speculation.

24 MR. SISK: Can you answer the  
25 question, General Papile?

2 MR. PAPILE: Well, my counsel  
3 presented it real well.

4 I think it's asking for speculation  
5 and I can't speculate because I don't know  
6 what we really have and so forth and so on.  
7 I can't speculate.

8 MR. SISK: General Papile, let me  
9 get down to this a little bit on a nuts and  
10 bolts level.

11 The state does have a Radiological  
12 Emergency Response Group, doesn't it?

13 MR. PAPILE: Who does?

14 MR. SISK: What's the title of your  
15 agency?

16 MR. ZAHNLEUTER: We covered this. I  
17 think this is a repetitive inquiry.

18 We are wasting time.

19 MR. PAPILE: Which agency, sir?

20 MR. SISK: REPG.

21 MR. PAPILE: The Radiological  
22 Emergency Preparedness Group?

23 What's the question?

24 MR. SISK: Your agency.

25 MR. PAPILE: What was the question?

2 MR. SISK: The question is -- and I  
3 don't mean to be cute: You do exist, don't  
4 you?

5 MR. PAPILE: Yes, we do.

6 MR. SISK: Isn't there a State  
7 Department of Health?

8 MR. PAPILE: Yes, there is.

9 MR. SISK: In fact, there are a  
10 number of state agencies that are set forth  
11 in Article 2-B, are there not?

12 MR. PAPILE: Yes, there are.

13 MR. SISK: And the heads of those  
14 various agencies have positions on the  
15 Disaster Preparedness Commission, don't  
16 they?

17 MR. PAPILE: Yes.

18 MR. SISK: Ignoring legal questions  
19 which lawyers can debate at a later date,  
20 and focusing on practical questions, would  
21 it be possible for any of those agencies to  
22 respond in any capacity to a radiological  
23 accident at Shoreham?

24 MR. PAPILE: No. It is not  
25 possible.

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2 MR. ZAHNLEUTER: I object to this  
3 question because it's impossible to ignore  
4 the legalities of any situation.

5 I also object because it calls for  
6 speculation, and the witness has already  
7 answered.

8 MR. SISK: General Papile, why is it  
9 not possible?

10 MR. PAPILE: There is no plan.

11 MR. SISK: Does that complete your  
12 answer?

13 MR. PAPILE: For now.

14 MR. SISK: When you said, "there is  
15 no plan," can you tell me what you mean?

16 MR. PAPILE: There is no plan for  
17 that situation.

18 MR. SISK: Meaning that there is no  
19 Shoreham specific radiological emergency  
20 response plan?

21 MR. PAPILE: Agreed.

22 MR. SISK: Now I will ask you -- let  
23 me ask this question of Mr. Czech.

24 Will you turn to page Roman numeral  
25 III-18 of this document, Section III-18.

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There is a subsection which states, which refers to "State implementation of a county's plan in those instances where a county does not implement the plan itself."

Mr. Czech, to your knowledge, how long has this section been contained in the New York State generic plan?

MR. CZECH: I don't remember the date, but I do remember that this was specifically put in to address the Rockland County situation.

MR. SISK: Tell me what you mean by the Rockland County situation.

MR. CZECH: At some time in the past, officials in Rockland County decided to withdraw from the planning process for the commercially operating plants at Indian Point.

MR. SISK: And what, if anything, did REPG do in response to that situation?

MR. LANPHER: I object to the question.

This is irrelevant to the current situation at Shoreham and the subject

1  
2 matter of this proceeding.

3 MR. ZAHNLEUTER: I agree.

4 MR. SISK: Can you answer?

5 MR. CZECH: In some general terms,  
6 since I was not directly involved with the  
7 Rockland situation --

8 MR. LANPHER: I object also because  
9 it calls for speculation.

10 We don't have the right witness.

11 MR. SISK: Can you answer the  
12 question to the best of your ability, and  
13 then I will refer this to other members of  
14 the panel as well.

15 MR. CZECH: The situation that  
16 existed was that we had a state plan, state  
17 portion of the plan, if you will.

18 We had county plans in existence  
19 from three of the counties within the New  
20 York planning zone, Westchester, Orange and  
21 Putnam and Rockland, which initially had a  
22 plan and then choose to withdraw.

23 And the state was directed to  
24 develop a compensating plan to protect the  
25 citizens of Rockland County using -- and I

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must say that the Rockland County officials allowed the state people to use their resources, basically their EOC staff, et cetera, to prepare for a drill at Indian Point.

MR. SISK: General Papile, did you have any involvement in this process?

MR. PAPILE: I had none.

MR. SISK: And Mr. Baranski, did you?

MR. BARANSKI: Yes, sir, I did.

MR. SISK: Can you describe the role in the situation that was described; that is, specifically with respect to the preparation of an interim compensating plan for Rockland County?

MR. LANPHER: May I ask for a clarification?

Is the question what Mr. Baranski's role was, if any, in the preparation of such a plan?

MR. SISK: Yes.

MR. BARANSKI: That preparation was primarily confined to DOE's assessment and



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the field monitoring team activities.

MR. SISK: Did you actually write some portions of that Rockland County compensating plan?

MR. BARANSKI: I specifically recall reviewing portions of it.

Whether I actually put in the paper to write specific words, I don't remember.

MR. SISK: Was the interim compensating plan for Rockland County prepared by people who were on the REPG staff?

MR. ZAHNLEUTER: If you know.

MR. SISK: If you know.

(Discussion off the record among the witnesses)

MR. BARANSKI: Some of the REPG staff were involved in the preparation of that plan.

MR. SISK: To the best of your recollection, what people on the REPG staff, what individuals, were involved in that process?

MR. BARANSKI: Well, I have already

2 identified myself.

3 Employees that are no longer with  
4 REPG were involved and interfacing with the  
5 Lieutenant Governor's Task Force that was,  
6 in effect, ramrodding the project.

7 MR. SISK: What do you mean by  
8 "ramrodding the project"?

9 MR. BARANSKI: He was appointed by  
10 the governor to take charge of this  
11 situation and develop a plan and  
12 successfully implement the plan, and he  
13 direct involvement with that.

14 MR. SISK: Who was that?

15 MR. BARANSKI: Lieutenant Governor  
16 Al Del Bello.

17 MR. SISK: Can you give me the names  
18 of the individuals, if you recall, who were  
19 on the REPG staff at the time, who were  
20 involved in preparing that interim  
21 compensating plan?

22 MR. LANPHER: I object.

23 Can you give any way how this is  
24 relevant at all, Mr. Sisk?

25 MR. SISK: Let me just say, my

2 question stands.

3 MR. LANPHER: Well, my objection  
4 stands.

5 MR. SISK: I understand.

6 MR. ZAHNLEUTER: I object on the  
7 grounds that the names of individuals is  
8 not relevant to Shoreham or even this  
9 inquiry.

10 I think that the positions that they  
11 occupied may be remotely relevant, but the  
12 names are certainly not -- the names are  
13 certainly not relevant and we are occupying  
14 wasteful time in this deposition.

15 MR. SISK: Let me say, I don't know  
16 how this proceeding will turn down the road  
17 and the witness can tell me the names.

18 MR. BARANSKI: In addition to  
19 myself, we had J.R. Dillenbeck and Robert  
20 Howard.

21 MR. SISK: General Papile, do you  
22 have anything to add?

23 MR. PAPILE: No. I am asking him  
24 rather than him asking me.

25 I wasn't involved, but I knew what

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was going on.

MR. BARANSKI: Those are the only ones that I am sure of.

MR. SISK: Was a Mr. -- and I'm sorry, I don't know the full names, Ned Smith involved in that project?

MR. BARANSKI: I can't recall whether he was directly involved with the Rockland compensating plan.

MR. SISK: Has Mr. Ned Smith left REPG?

MR. BARANSKI: To the best of my recollection, Ned Smith was never a part of REPG.

MR. SISK: Do you recognize his name in any respect?

MR. BARANSKI: I do recognize his name.

MR. SISK: Do you know what position he held at the time that the Rockland County plan, interim compensating plan, was being prepared?

MR. BARANSKI: I don't know what his position was.

2 I do know that he had previously  
3 retired from state service.

4 MR. SISK: Prior to the time that  
5 this plan was prepared --

6 MR. BARANSKI: That's affirmative.

7 MR. SISK: Now I am going to hand  
8 the reporter and ask him to mark as I  
9 believe we are up to Exhibit 5 in this  
10 deposition, a document entitled,  
11 "Radiological Emergency Response Interim  
12 Plan for Implementing Compensating Measures  
13 for Rockland County."

14 It is dated June 30, 1983. It bears  
15 the name New York State Disaster  
16 Preparedness Commission on the front cover.

17 (Document marked as REPG Exhibit 5  
18 for identification, as of this date.)

19 MR. SISK: Let me ask this question  
20 of the panel.

21 Can you identify this document?

22 MR. LANPHER: Are you asking whether  
23 they are personally familiar with the  
24 document, other than reading the title?

25 MR. SISK: Let me ask this of the

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panel.

Have you seen this document before?

MR. PAPILE: I have.

MR. BARANSKI: Yes, I have.

MR. SISK: Mr. Czech?

MR. CZECH: The cover doesn't look familiar, but I know, at one time or another, I have seen the Rockland compensating plan.

MR. SISK: Do you recall having seen this particular version of it dated June 30, 1983?

MR. CZECH: I can't recall.

MR. SISK: Now General Papile, what is this document?

MR. PAPILE: Well, from the title, it's an interim plan for implementing compensating measures for Rockland County radiological emergency response.

MR. SISK: Mr. Baranski, can you take a look at that document and can you tell me whether that appears to you to be a copy of the interim compensating plan for Rockland County that was prepared by the

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REPG?

MR. LANPHER: I object to the question on multiple grounds. First of all, it was not established that the REPG prepared this plan at all.

Second, for him to answer that question would require him to take a great deal of time to go through this entire plan, which is approximately one inch thick, double-sided copy.

MR. SISK: Mr. Baranski, was an interim compensating plan for Rockland County prepared by the REPG?

MR. BARANSKI: Negative.

MR. SISK: Can you tell me who prepared the plan that you have in front of you?

MR. LANPHER: If you know.

MR. ZAHNLEUTER: If you know.

MR. SISK: If you know.

MR. LANPHER: Are you asking who prepared Exhibit 5?

MR. SISK: Yes.

MR. BARANSKI: To the best of my

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recollection, it was prepared under the Lieutenant Governor's Task Force, and I don't remember the names of the individuals that were responsible for consolidating the various portions of this.

MR. SISK: To the best of your knowledge, was this interim compensating plan prepared by employees of the State of New York?

MR. LANPHER: I object to the question.

He has already testified that he doesn't know who, on the task force, prepared it or had the role, thus you are asking him to speculate about whether those people that he can not identify were New York State employees.

MR. BARANSKI: I cannot identify whether they were employees of New York State that prepared this document. I just don't know.

MR. SISK: Do you know who prepared the document?

MR. LANPHER: I object. He has



2 already testified that he doesn't know.

3 MR. SISK: Do you know of anyone who  
4 had any role in preparing the document?

5 MR. BARANSKI: Well, I just  
6 testified earlier that I did have a  
7 recollection of reviewing portions of the  
8 document.

9 I did also testify that I did not  
10 recall whether I had actually put pen and  
11 paper in the preparation of this document.

12 MR. SISK: Mr. Czech, do you know  
13 who prepared this document?

14 MR. CZECH: No, I don't.

15 MR. SISK: Mr. Baranski, do you know  
16 who would know who prepared this document?

17 MR. ZAHNLEUTER: If you know, Mr.  
18 Baranski.

19 MR. BARANSKI: Well, I could  
20 certainly suggest that you get ahold of the  
21 former Lieutenant Governor and see what his  
22 directives were in preparation of this  
23 document. That would be the top individual  
24 responsible for this plan.

25 MR. SISK: Mr. Czech, do you have

2 any idea who prepared this document?

3 MR. CZECH: No. I don't.

4 MR. LANPHER: He already answered.

5 MR. SISK: I meant to ask: Do you  
6 know who would know, other than the former  
7 Lieutenant Governor?

8 MR. CZECH: I would think that's the  
9 best source.

10 MR. SISK: Mr. Baranski, is the  
11 cover to this document, and particularly  
12 the legend at the bottom of the first page,  
13 "New York State Disaster Preparedness  
14 Commission," is that familiar to you?

15 MR. BARANSKI: Yes.

16 MR. SISK: Is that the official  
17 legend of the New York State Disaster  
18 Preparedness Commission?

19 MR. LANPHER: I would like a  
20 clarification.

21 You mean the circled thing with the  
22 "State of New York"?

23 MR. SISK: Logo.

24 MR. BARANSKI: This logo appears to  
25 be consistent with other DPC documents,

1  
2 that I am aware of.

3 MR. SISK: Let me ask this question  
4 of the panel, if any member of the panel  
5 knows.

6 Did the Federal Emergency Management  
7 Agency review this interim compensating  
8 plan for Rockland County in a federally  
9 graded exercise?

10 MR. LANPHER: I object. Calls for  
11 the panel to speculate.

12 MR. ZAHNLEUTER: If you know.

13 MR. BARANSKI: FEMA did review this  
14 one.

15 MR. SISK: Did FEMA review this  
16 other than in a federally graded exercise?

17 MR. BARANSKI: Yes, they did.

18 MR. SISK: Did FEMA approve that  
19 plan in a federally graded exercise?

20 MR. BARANSKI: They don't evaluate a  
21 plan during an exercise.

22 The plan is one evaluation and  
23 exercise is a separate evaluation.

24 MR. SISK: Did FEMA approve the  
25 exercise of the plan.

2 MR. LANPHER: I object to the  
3 question.

4 I don't know what you mean by  
5 "approve" by FEMA.

6 MR. SISK: Can you answer the  
7 question?

8 MR. BARANSKI: Post-exercise  
9 assessment report for the interim exercise  
10 concluded basically that the plan and the  
11 exercise could protect the public health  
12 and safety.

13 MR. SISK: Now let me ask the  
14 reporter to mark this document, which I am  
15 about to hand him, as Exhibit 6 to this  
16 deposition.

17 It bears the title, "Post-Exercise  
18 Assessment, Federal Emergency Management  
19 Agency, August 24-25, 1983, Exercise of the  
20 State of New York Radiological Emergency  
21 Response, Interim Plan for Implementing  
22 Compensating Measures for Rockland County."

23 (Document marked as REPG Exhibit 6  
24 for identification, as of this date.)

25 MR. SISK: Off the record.

2 (Discussion off the record)

3 MR. SISK: Mr. Baranski, is this a  
4 copy of the post-exercise assessment that  
5 you just referred to?

6 MR. BARANSKI: Yes, sir.

7 MR. SISK: And is the FEMA finding  
8 that you just referred to summarized at the  
9 top of the summary after page numbered 8 in  
10 small Roman numerals?

11 MR. BARANSKI: Yes.

12 MR. SISK: General Papile, have you  
13 ever seen this document before?

14 MR. PAPILE: I have seen the  
15 document, but I don't think I have ever --  
16 I won't speculate.

17 I don't think I have ever read it,  
18 but I have seen it.

19 MR. SISK: And, Mr. Czech, have you?

20 MR. CZECH: Yes.

21 MR. SISK: Are you familiar with it?

22 MR. LANPHER: I object to the  
23 question.

24 What do you mean by "familiar? Has  
25 he ever read it?

2 MR. SISK: Have you ever previously  
3 reviewed this document?

4 MR. CZECH: A long time ago. I know  
5 the document, but without reading it, I  
6 wouldn't know what's in it specifically.

7 MR. SISK: Did you have any  
8 involvement in the exercise of the Rockland  
9 County interim compensating plan?

10 MR. CZECH: I am trying to  
11 recollect, because back in this time frame,  
12 I was functioning as the exercise director.  
13 However, we were running exercises on an  
14 annual basis at each site and I don't  
15 remember doing the scenario for this one,  
16 because I think I was doing one upstate at  
17 the same time.

18 I would think -- I may have done it,  
19 but I don't remember.

20 If we could go to OL-3 or OL-5, I am  
21 sure we could find it in there.

22 MR. SISK: Do you have any  
23 recollection of who would have been  
24 responsible for that exercise if you were  
25 absent at the time?

2 MR. LANPHER: I object to the  
3 question.

4 What do you mean, who would have  
5 been responsible?

6 MR. SISK: Let me ask.

7 Do you have any recollection of who  
8 was responsible for that exercise if you  
9 were not there?

10 MR. LANPHER: You are asking who?

11 Let me object. Who was responsible  
12 from the REPG point of view?

13 MR. SISK: Yes, from REPG.

14 MR. CZECH: As exercise director?

15 MR. SISK: Yes.

16 MR. CZECH: During this time frame,  
17 most of the exercises were my  
18 responsibility.

19 However, because of the large number  
20 we were doing, not only of federal  
21 reevaluated exercises, but also preexercise  
22 drills, we had to split the load up and I  
23 believe, at this time, some of those were  
24 done by Bruce McQueen.

25 MR. SISK: Who is Bruce McQueen?

2 MR. CZECH: Currently the executive  
3 officer in REPG.

4 MR. SISK: What are his  
5 responsibilities, to the best of your  
6 knowledge?

7 MR. ZAHNLEUTER: Are you asking now  
8 at this time or as of 1987?

9 MR. SISK: I am asking now.

10 MR. CZECH: I would rather defer  
11 that to General Papile.

12 MR. PAPILE: He is my assistant and  
13 he takes care of funding and personal  
14 matters for me, takes care of allocation of  
15 space, equipment and communications,  
16 purchasing and procurements.

17 MR. SISK: I will now hand to the  
18 reporter and ask him to mark as Exhibit 7,  
19 a document entitled, "Affidavit of John D.  
20 Leonard, Jr." It's a document filed by  
21 LILCO in this proceeding dated December 10,  
22 1987.

23 (Document marked as REPG Exhibit 7  
24 for identification, as of this date.)

25 MR. SISK: General Papile, have you



2 ever seen this document before?

3 MR. PAPILE: Never.

4 MR. SISK: Mr. Baranski. Have you?

5 MR. BARANSKI: I have not.

6 MR. SISK: And Mr. Czech?

7 MR. CZECH: No, sir, I have not.

8 MR. SISK: Let me ask you to take a  
9 few moments to review the content of this  
10 document.

11 MR. CZECH: Any specific parts you  
12 would like us to start out with?

13 MR. SISK: I would simply like for  
14 you to review the document. It's fairly  
15 short, four pages, and perhaps this would  
16 be a good time for at least the reporter to  
17 change his tape.

18 MR. ZAHNLEUTER: I would like to  
19 note for the record, please, that it will  
20 take more than a few moments to read this  
21 document. It may take indeed 10, 15  
22 minutes.

23 It's a document that these witnesses  
24 have never seen before. It has no  
25 relationship to their prior activities.

2 I think they are entitled to take  
3 whatever time they need to study this  
4 thing, if that's what, indeed, you are  
5 asking.

6 If you are indeed asking them to  
7 study this document, which I will counsel  
8 them to do, your time is running short and  
9 I note that it's about 3:40 and Mr. Papile  
10 does have to leave, and this deposition  
11 does have to end at five o'clock.

12 MR. SISK: Well, let me just say  
13 that it's fairly short, easy to read.

14 Let's see if he we can accomplish it  
15 in the next five minutes or so.

16 (Recess taken)

17 MR. SISK: Back on the record.

18 I will ask this question of each  
19 member of the panel in turn.

20 Mr. Czech, have you reviewed the  
21 affidavit of plaintiff Leonard?

22 MR. CZECH: Yes, I have.

23 MR. SISK: And can you tell me  
24 whether, to your knowledge, the facts  
25 contained therein and specifically the

2 facts in paragraphs No. 5 through the end  
3 of that affidavit are accurate?

4 MR. LANPHER: I object.

5 MR. ZAHNLEUTER: I object. There  
6 has been no foundation for the fact that  
7 what's in this affidavit is fact.

8 Also I object to the use of an  
9 affidavit filed by a LILCO employee as a  
10 means of questioning the state witnesses  
11 from REPG.

12 Proper questioning would entail  
13 probing of their knowledge of things within  
14 their understanding. It is not proper to  
15 present them with a LILCO affidavit and ask  
16 them to comment on whether what's in it is  
17 fact.

18 MR. SISK: I think the question was  
19 framed appropriately, taking that into  
20 account, but the objection is noted.

21 Can you answer the question, Mr.  
22 Czech?

23 MR. CZECH: Can you repeat it.

24 MR. SISK: To your knowledge, are  
25 the facts contained in paragraphs 5 through

2 the end of that affidavit accurate?

3 MR. CZECH: To the best of my  
4 knowledge, there appears to be some, I  
5 won't characterize it as errors, but some  
6 statements in here that are news to me that  
7 I tend to doubt.

8 MR. ZAHNLEUTER: You know --

9 MR. LANPHER: I am going to object  
10 before we go any further. These witnesses  
11 have already testified to their very  
12 limited involvement, if at all, in the  
13 Indian Point compensating matter.

14 To probe their memories concerning a  
15 LILCO affidavit is not going to lead to any  
16 kind of probative evidence whatsoever. I  
17 object.

18 MR. ZAHNLEUTER: I also have a  
19 further objection. I have perused, for  
20 example, fact No. 10, or whatever it is,  
21 No. 10 which says that "As vice president  
22 of engineering, Mr. Leonard was personally  
23 involved in recruiting Power Authority  
24 employees to fill these positions."

25 I think it is improper to ask these

2 witnesses if that is a fact, because they  
3 are not competent to know what Mr.  
4 Leonard's involvement might or might not  
5 have been. They are not Mr. Leonard.

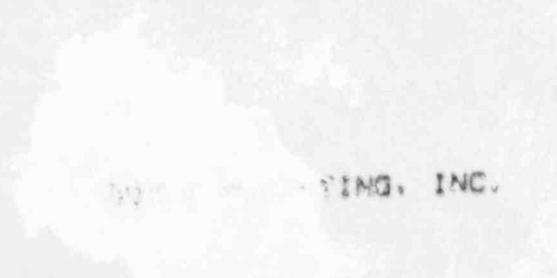
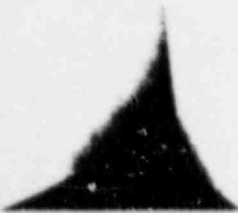
6 That goes back to what I said before  
7 about these people being state workers.  
8 They certainly don't have whatever  
9 knowledge a LILCO employee might attest to  
10 in an affidavit. -

11 For example, fact No. 11 says, "To  
12 the best of my knowledge, these witnesses  
13 are not competent to testify as to whether  
14 it is true or not" -- "true as to whether  
15 or not Mr. Leonard's statement is true, to  
16 the best of his knowledge."

17 This is an improper line of  
18 questioning. It is not going to produce  
19 probative evidence. It is also a waste of  
20 time.

21 MR. SISK: For the record, as was  
22 the objection.

23 Let me ask you, General Papile, to  
24 your knowledge, were any employees of the  
25 New York State Power Authority or



2 Consolidated Edison authorized by the state  
3 to participate as traffic guides and in the  
4 other capacities reflected in Mr. Leonard's  
5 affidavit in the exercise of the Rockland  
6 County plan?

7 MR. LANPHER: I object to the  
8 question. Authorized by whom?

9 MR. SISK: By the State of New York.

10 MR. LANPHER: There is no evidence  
11 at all that the State of New York  
12 authorized any person to do anything.

13 MR. SISK: Can you answer the  
14 question, General Papile? Do you have any  
15 knowledge concerning that subject?

16 MR. PAPILE: Well, based on  
17 counsel's objection, I would like to say  
18 that I don't know who authorized him. I do  
19 not know of anything in this document  
20 except that I did know that there was talk  
21 about bus drivers being used as backup.  
22 That's the only knowledge I have.

23 MR. SISK: Mr. Baranski, do you have  
24 any knowledge concerning these facts that I  
25 have just posed to General Papile?

2 MR. BARANSKI: I would like my  
3 response to the fact that I did know that  
4 Power Authority personnel participated as  
5 field monitoring team members.

6 MR. SISK: And Mr. Baranski, is that  
7 the extent of your knowledge with respect  
8 to the facts set forth in this affidavit?

9 MR. BARANSKI: That's correct.

10 MR. SISK: Very briefly, General  
11 Papile, I don't recall whether I asked you  
12 this question in the beginning, but let's  
13 go back to the New York State radiological  
14 plan.

15 I believe that was Exhibit 3.

16 MR. CZECH: 4.

17 MR. LANPHER: 4.

18 MR. SISK: I apologize, Exhibit 4 to  
19 this deposition.

20 General Papile, is that your  
21 signature or initial on the cover  
22 memorandum to that document?

23 MR. PAPILE: I think it is.

24 MR. SISK: Do you have a list of the  
25 recipients of the New York State

2 radiological plan?

3 MR. PAPILE: My office does.

4 MR. SISK: Who in your office  
5 maintains that list?

6 MR. PAPILE: One of my secretaries.

7 MR. SISK: Are there recipients on  
8 that list who are located on Long Island?

9 MR. PAPILE: To the best of my  
10 knowledge, no.

11 MR. SISK: Did the recipients of  
12 this document include various personnel  
13 within various state agencies, such as the  
14 Department of Health.

15 MR. PAPILE: The agencies that  
16 occupied the EOC.

17 MR. SISK: The agencies that  
18 occupied the state EOC?

19 MR. PAPILE: Correct.

20 MR. SISK: Was this sent, to the  
21 best of your knowledge, to any of the  
22 government employees within the various  
23 counties for operating nuclear plants in  
24 the state?

25 MR. PAPILE: I don't really know.



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MR. SISK: It went to the seven counties.

SISK: General Papile, referring back briefly to the procedure that we alluded to earlier on page Roman Numeral 3-18, and that is the provision entitled "State Implementation of a County's Plan," in those instance where a county does not implement the plan itself, General Papile, could that portion of the state plan be used to implement an emergency response to an accident at the Shoreham nuclear power plant?

MR. PAPILE: It could not.

MR. SISK: Why not?

MR. ZAHNLEUTER: I object to these questions because it calls for gross speculation, as I have stated many times before.

Mr. Papile, you may answer.

MR. SISK: Why could it not be used?

MR. PAPILE: Well, I agree with my counsel. It is speculation. It will not be used because the highest authority in the state said it would not be used.

2 briefly -- that during the deposition of  
3 Mr. Halpin, Mr. Lanpher corrected a  
4 response that had been given previously to  
5 the same fact by witness Halpin four times.  
6 It was subsequently modified by witness  
7 Halpin.

8 I will stand on the answer  
9 previously given and reflected in the  
10 transcript by General Papile. It is not my  
11 recollection that that was his answer. And  
12 I will leave it at that.

13 General Papile, would the state,  
14 would the Disaster Preparedness Commission  
15 and the REPG be able to respond to an  
16 emergency at the Shoreham nuclear power  
17 plant in the absence of an approved Suffolk  
18 County radiological emergency preparedness  
19 plan?

20 MR. LANPHER: I object. I don't  
21 know what you mean by "respond."

22 Do anything or do something that  
23 would be adequate?

24 MR. ZAHNLEUTER: I would like to add  
25 to that, "be able to" is also vague.

2 MR. SISK: I will accept a portion  
3 of Mr. Lanpher's correction.

4 Would the state be able to do  
5 anything?

6 MR. PAPILE: It is pure speculation.  
7 I don't know.

8 MR. SISK: General Papile, can you  
9 tell me what resources, departments,  
10 agencies or instrumentalities of the state  
11 you would be able to direct if the governor  
12 ordered you to respond to an emergency at  
13 the Shoreham nuclear power plant?

14 MR. ZAHNLEUTER: I object. One of  
15 the grounds for my objection is you  
16 included in your question or statement,  
17 "you would be able to direct." Now that's  
18 a vague instruction, because I am not sure  
19 if that means Mr. Papile as a person, as a  
20 general, as director of REPG, in whatever  
21 capacity he may have.

22 I also object, as we have said over  
23 and over again here today, that relates to  
24 the implausibility of this hypothetical and  
25 the fact that it calls for speculation.

2 MR. LANPHER: I also object because  
3 I don't believe it has been established  
4 that REPG has any direction responsibility  
5 in the event of a radiological emergency.  
6 I believe that's Dr. Axelrod or the  
7 governor, those are the people who direct,  
8 not REPG.

9 MR. SISK: Can you answer?

10 MR. PAPILE: I have no director  
11 responsibility. I would have to take  
12 orders from higher up.

13 MR. SISK: In your capacity as the  
14 head of the REPG and given the knowledge  
15 that you have obtained in that capacity,  
16 can you tell me what state resources, and  
17 by that I mean departments, agencies,  
18 personnel, the governor could direct to  
19 respond to an emergency at the Shoreham  
20 nuclear power plant if he choose to do so?

21 MR. LANPHER: I object, calling for  
22 speculation about what the governor would  
23 do or Dr. Axelrod would do as designee.

24 MR. SISK: I have asked what  
25 resources they could use.

2 MR. ZAHNLEUTER: I have the same  
3 objection.

4 MR. PAPILE: Without a plan, it  
5 would be pure speculation. I wouldn't want  
6 to answer that without a plan.

7 MR. SISK: By without a plan, do you  
8 mean without a Suffolk County approved  
9 plan?

10 MR. PAPILE: With any plan. As of  
11 this time, I see no plan.

12 MR. SISK: Would a plan other than a  
13 plan approved by Suffolk County suffice?

14 MR. ZAHNLEUTER: I object on the  
15 grounds of vagueness of that question. It  
16 has no limits or bounds other than a county  
17 plan. I think you need to define that  
18 question before it can be answered  
19 intelligently.

20 MR. SISK: Can you answer the  
21 question?

22 MR. PAPILE: I can't answer the  
23 question.

24 MR. SISK: General Papile, is the  
25 state, and by that I mean the EPC and the

2 MR. SISK: Have you reviewed any  
3 portion of the LILCO plan in a prior  
4 revision?

5 MR. PAPILE: As previously stated,  
6 those parts that were given to me by  
7 counsel.

8 MR. SISK: Was that Revision B, of  
9 the plan?

10 MR. ZAHNLEUTER: If you know.

11 MR. PAPILE: I don't know.

12 MR. SISK: When did you conduct this  
13 review?

14 MR. PAPILE: I don't really know.  
15 It is over a year, I think.

16 MR. SISK: Let me ask you, General  
17 Papile, and I -- let me simply state for  
18 the record, I know there will be multiple  
19 objections to this question. I know what  
20 the objections are and they are all  
21 preserved.

22 The question is assuming the  
23 following hypothetical: If the Shoreham  
24 plant were licensed to operate, the plant  
25 went into full power operation, an accident

2 occurred at the plant, LILCO notified the  
3 governor and the chairman of the DPC that  
4 an accident had occurred. And if further  
5 the governor ordered you to implement the  
6 LILCO plan to respond to that emergency,  
7 based on your limited review of the prior  
8 version of the LILCO plan, could you  
9 implement or assist in the implementation  
10 of that plan?

11 MR. ZAHNLEUTER: I object to this  
12 hypothetical. I have to say that it is  
13 directly contradictory to what the governor  
14 has said, which is that LILCO's plan will  
15 not be implemented by the State of New  
16 York. Any hypothetical that includes that  
17 in direct contravention to the governor's  
18 statement is absolutely unintelligible and  
19 defective.

20 MR. SISK: Let me state for the  
21 record that the NRC rule assumes that the  
22 plan be implemented in the absence of  
23 another procedure, and that the state has  
24 changed its mind previously on this issue.  
25 Could you answer the question?

2 MR. LANPHER: Are you asking in  
3 essence, putting aside the hypothetical  
4 part, do you feel as if you are familiar  
5 now? Is that really what you are asking?

6 MR. SISK: That's what I am asking.  
7 Could you implement the LILCO plan based on  
8 the review that you have conducted?

9 MR. LANPHER: I have the same  
10 objection.

11 MR. PAPILE: No way.

12 MR. SISK: Why not?

13 MR. PAPILE: There is so much to a  
14 plan that we haven't seen, I have no way of  
15 even surmising what I am missing. No way,  
16 and I want to be emphatic.

17 MR. SISK: And that is because you  
18 have not reviewed the plan and you are not  
19 sufficiently familiar with it to know  
20 whether you could.

21 MR. PAPILE: I don't even know there  
22 is a plan.

23 MR. SISK: General Papile, have you  
24 been directed not to review that LILCO  
25 plan?



2 to the best of my knowledge, not to review  
3 it.

4 MR. SISK: What time frame did that  
5 occur?

6 MR. PAPILE: In the early time  
7 frame, I can't remember, but long before I  
8 became the director. About 1983.

9 MR. SISK: General Papile, I will  
10 now hand to the reporter and ask him to  
11 mark as Exhibit B a document which bears a  
12 cover of a letter dated March 24, 1982.  
13 This is a letter to Mr. L. Czech from Mr.  
14 C.A. Daverio of LILCO. It is on LILCO  
15 letterhead.

16 (Document marked REPG Exhibit B for  
17 identification, as of this date.)

18 MR. PAPILE: I do not recognize that  
19 document.

20 MR. SISK: Mr. Czech, do you  
21 recognize this document?

22 MR. CZECH: Not offhand. I see it  
23 was directed to me.

24 MR. SISK: Mr. Baranski, do you  
25 recognize the document?

2 MR. BARANSKI: No, sir, I do not.

3 MR. SISK: Mr. Czech, were you  
4 involved in a review of a plan such as this  
5 one submitted by the Long Island Lighting  
6 Company to the State DPC?

7 MR. ZAHNLEUTER: I object on  
8 relevancy grounds.

9 MR. LANPHER: I object also, Mr.  
10 Sisk, because you said, "a plan such as  
11 this one."

12 Does this exhibit contain a plan? I  
13 haven't read it enough. I see it talks  
14 about scenarios and objectives. Is this a  
15 plan? Is this purported to be a plan?

16 MR. SISK: Item 2 on the cover  
17 letter states "Addressed" --

18 MR. LANPHER: That doesn't establish  
19 that this constitutes a plan. Your  
20 question assumes that this is a plan. I am  
21 not sure that that's established, so I  
22 object to the question.

23 MR. ZAHNLEUYER: Is there a question  
24 pending?

25 MR. SISK: I have asked Mr. Czech

2 whether he was involved in reviewing any  
3 plan submitted by Long Island Lighting  
4 Company to the DPC in 1982.

5 MR. LANPHER: That's a different  
6 question. I would just note from the  
7 record what you asked before.

8 MR. CZECH: I was involved in  
9 reviewing portions of the Suffolk County  
10 plan as prepared by LILCO and/or their  
11 contractors. This particular document, as  
12 far as I know, was never reviewed against  
13 an 0654 checklist, and was not included in  
14 the state portion of the disaster  
15 preparedness plan.

16 MR. SISK: When you say "this  
17 document," are you referring specifically  
18 to this exhibit?

19 MR. CZECH: Exhibit No. 8. That's  
20 correct.

21 MR. SISK: Was any version, to the  
22 best of your recollection, of such a plan  
23 submitted by LILCO, reviewed against Newreg  
24 0654?

25 MR. CZECH: Similar to Exhibit 8?

2 MR. SISK: Yes.

3 MR. CZECH: To the best of my  
4 knowledge, it was never evaluated by anyone  
5 at REPG against 0654.

6 MR. SISK: Do you know whether  
7 anyone within REPG made any recommendation  
8 to the State DPC concerning approval or  
9 disapproval of a plan submitted by LILCO  
10 for Suffolk County?

11 MR. LANPHER: I object to your  
12 question because I think it's vague.

13 I don't know what you mean by  
14 "approval" or "disapproval."

15 If you could clarify those terms, it  
16 might not be objectionable.

17 MR. SISK: Do you understand the  
18 question?

19 MR. CZECH: Yes.

20 As far as REPG was concerned, I do  
21 not know of any recommendation for approval  
22 or disapproval of any plan submitted by  
23 LILCO for Suffolk County.

24 MR. SISK: Do you know of any  
25 recommendation for approval or disapproval

2 of such a plan by any part of the DPC, the  
3 DPC staff, for example?

4 MR. CZECH: That, I couldn't speak  
5 to.

6 All I can do is tell you we provided  
7 a checklist of how we thought the plan  
8 stacked up against 0654, period.

9 There was no approval or disapproval  
10 or recommendation. What happened after  
11 that, I have no idea.

12 MR. SISK: By "we," are you  
13 referring to REPG?

14 MR. CZECH: That's correct.

15 MR. SISK: Let me ask you this.

16 Do you recall whether one such  
17 review was conducted or whether there were  
18 multiple reviews?

19 MR. CZECH: There was at least --

20 (Discussion off the record among the  
21 witnesses)

22 MR. CZECH: I believe that there was  
23 only one review and I think it may have  
24 been of a second or third revision of a  
25 plan, but as far as I know, there was one

2 review.

3 MR. SISK: I just have one final  
4 document before General Papile leaves.

5 This is a document that I am asking  
6 the reporter to mark as Exhibit 9 to this  
7 deposition.

8 (Document marked as REPG Exhibit 9  
9 for identification, as of this date.)

10 MR. SISK: It is a document  
11 entitled, "Motion to Dismiss on Grounds of  
12 Objections and Point of Law," which I will  
13 vouch, for the record, was filed by the New  
14 York State Attorney General on or about  
15 December 9, 1982 in a legal proceeding in  
16 the Supreme Court of the County of Albany.

17 It includes as a portion, and I  
18 apologize, one page of this is missing, the  
19 first page of a document which constitutes  
20 a motion to dismiss.

21 It also contains an affidavit by  
22 Donald B. Davidoff which states that Mr.  
23 Davidoff is the director of the  
24 Radiological Emergency Preparedness Group  
25 of the New York State Disaster Preparedness

2 Commission.

3 General Papile, have you ever seen  
4 this document or any part of it before?

5 MR. PAPILE: To the best of my  
6 knowledge, no.

7 MR. SISK: Mr. Baranski?

8 MR. BARANSKI: I have not.

9 MR. SISK: And Mr. Czech?

10 MR. CZECH: I don't believe I have  
11 seen the part that was filed by Robert  
12 Abrams.

13 I may have seen the affidavit by  
14 Donald Davidoff, but it's a long time ago.

15 MR. SISK: Was Mr. Davidoff, in  
16 fact, the director of REPG at this time,  
17 that is, roughly December 9, 1982?

18 MR. CZECH: That's correct.

19 MR. SISK: Did you assist in any way  
20 in preparing this affidavit with Mr.  
21 Davidoff?

22 MR. CZECH: I did not.

23 MR. LANPHER: I object to the  
24 question.

25 He has already said he doesn't have

2 any specific recollection of the affidavit.

3 MR. SISK: Again, the record will  
4 reflect what it reflects.

5 Now, General Papile, I realize you  
6 have to leave fairly shortly. Let me just  
7 ask you this question.

8 When Mr. Davidoff directed you not  
9 to review or continue to review any plans  
10 submitted by LILCO relating to Shoreham,  
11 did he tell you why you should not review  
12 it?

13 MR. PAPILE: I would like to answer  
14 that by, he directed not only me, but the  
15 group.

16 We did know -- whether he told us or  
17 not, I don't know, but because of the  
18 publicity being received, the newspapers  
19 and so forth, we knew there was litigation  
20 pending.

21 And I am not sure whether he told  
22 us, whether I read it, or whether it came  
23 through the fifth hole or whatever. I am  
24 not sure. But we did know there was  
25 litigation pending.



2 MR. SISK: And did Mr. Davidoff give  
3 you any further explanation as to why REPG  
4 should cease using the plan?

5 MR. PAPILE: I am really not sure.

6 MR. SISK: You just don't recall at  
7 this time?

8 MR. PAPILE: I don't recall.

9 I am sure he may have said more, but  
10 I don't know.

11 MR. SISK: At this note, it's 4:30.

12 I do, in all honesty, have  
13 additional questions for General Papile.

14 MR. PAPILE: You can take my place.

15 (Discussion off the record)

16 MR. SISK: I will simply note for  
17 the record, I do have some additional  
18 questions for General Papile, and Mr.  
19 Zahnleuter, I am sure, will make the  
20 appropriate pronouncements at the end of  
21 the deposition as to what that may or may  
22 not entail.

23 I understand you have to leave.

24 (Whereupon, Mr. Papile left the  
25 deposition room.)

2 well, for radiological emergency response  
3 exercises for the various plans?

4 MR. BARANSKI: Could you be more  
5 specific with the type of communication?

6 MR. SISK: The communication lines  
7 specifically within the state EOC and the  
8 county EOC.

9 If it depends on the plan, just tell  
10 me that.

11 MR. LANPHER: But the first part of  
12 the question -- I lost it. Who maintains  
13 whatever equipment exists? Is that it?

14 MR. SISK: Let me put it this way.  
15 By "maintains," I mean who operates  
16 equipment? Who has control of it?

17 MR. LANPHER: Oh, O.K.

18 MR. BARANSKI: In accordance with  
19 the plan at the existing operating power  
20 plants, we have what is known as the RAC  
21 action line that is in existence between  
22 the operating plants and the state EOC in  
23 Albany.

24 MR. SISK: Mr. Baranski, in the  
25 event of an actual emergency at the

2 Shoreham plant, would it be physically  
3 possible, in your opinion, to deploy state  
4 personnel to, for example, the state office  
5 building in Hauppauge on Long Island and  
6 direct a -- well, let me put it this way,  
7 in an effort to respond to a radiological  
8 emergency at Shoreham and maintain  
9 communications with the state EOC?

10 MR. ZAHNLEUTER: Objection on  
11 speculation grounds. Also failure to  
12 specify.

13 What state personal are you talking  
14 about, Mr. Sisk, because obviously there  
15 are state personal in the state office  
16 building in Hauppauge on a regular basis.

17 MR. LANPHER: I think the question  
18 got very confusing. I object on that  
19 ground.

20 MR. SISK: Can you answer the  
21 question?

22 MR. BARANSKI: No, sir, I can't  
23 because without a plan, I would just be  
24 speculating on what communications are  
25 available.

2 gentlemen. Referring back to your  
3 affidavit, the affidavit which I believe  
4 was marked as Exhibit 2 to the deposition,  
5 it contains headings referring to "Ingested  
6 Pathway Responses" and "Recovery and  
7 Reentry."

8 I recognize you have stated you have  
9 haven't reviewed the LILCO plan in its  
10 entirety.

11 Have you reviewed the LILCO plan  
12 insofar as it relates to those two areas,  
13 that is, ingestion pathway and recovery and  
14 reentry?

15 MR. BARANSKI: I have not.

16 MR. CZECH: Neither have I.

17 MR. SISK: Have you reviewed  
18 portions of the plan that relate to  
19 ingestion pathway and recovery?

20 MR. CZECH: I have not.

21 MR. BARANSKI: Neither have I.

22 MR. SISK: Now, let me continue with  
23 the affidavit.

24 Mr. Czech, refer to the bottom of  
25 page 3 of that document. The last sentence

2 states, "New York State plan" -- "The New  
3 York State plan is, in fact, site-specific  
4 for recovery and reentry activities and for  
5 all activities, including ingestion  
6 pathway, but does not work and could not  
7 work as LILCO postulates."

8 Can you explain for me why that is  
9 the case?

10 MR. CZECH: I will have to try to  
11 remember all the material preceding this,  
12 but the recovery and reentry, I believe the  
13 LILCO allegation was very generic and it  
14 was a state responsibility.

15 And I believe if you really look at  
16 the plans in Article 2-B, that  
17 recovery/reentry is primarily the  
18 responsibility of the local government  
19 first, with support from the state  
20 government, not the other way around.

21 MR. SISK: Now, Mr. Czech, this  
22 sentence states that the New York State  
23 plan is, in fact, site-specific for  
24 recovery and reentry activities.

25 Have such site-specific plans been

1  
2 exercised for all of the operating nuclear  
3 power plants in the State of New York,  
4 specifically with respect to recovery and  
5 reentry activities?

6 MR. CZECH: Elements of recovery and  
7 reentry have been exercised at all of the  
8 sites, but there is currently no guidance  
9 for what constitutes an adequate recovery/  
10 reentry response.

11 So apparently, I guess we have not  
12 really gotten full credit or we are not  
13 really sure what they are looking for in  
14 terms of recovery and reentry.

15 MR. SISK: Now I will ask you to  
16 refer to the bottom of page 4 of this  
17 affidavit.

18 At the bottom of page 4, the last  
19 sentence states, "As a result, the state  
20 could not adequately respond to a Shoreham  
21 emergency without a detailed Shoreham  
22 specific off-site plan appended to the  
23 state generic plan, without the training of  
24 state and local personnel concerning those  
25 specifics, without the development of

2 internal agency procedures and without the  
3 evaluation of state and local personnel  
4 during exercises and drills."

5 Let me ask you first, Mr. Czech,  
6 what does the word "adequately" mean at the  
7 beginning of that sentence?

8 MR. CZECH: My definition would be  
9 to insure the health and safety of the  
10 population.

11 MR. SISK: Does this sentence mean  
12 that the state's response would be  
13 better -- the state's response to a  
14 Shoreham emergency would be better if these  
15 specifics that are delineated in this  
16 sentence were provided and the training  
17 delineated therein occurred, than without  
18 those specifics and without that training?

19 MR. LANPHER: Can I have that  
20 question read back, please.

21 (Record read)

22 MR. LANPHER: I object to the  
23 question.

24 I think it's very confusing, these  
25 words "responsibilities" --

2 MR. SISK: Do you understand the  
3 question?

4 MR. CZECH: After I heard it read  
5 back, I am not so sure.

6 Absent planning and training and  
7 testing, I have no idea what, if any,  
8 response there would be.

9 So I don't know how I could  
10 characterize if it's going to be better or  
11 worse or not. I don't know if there will  
12 be a response.

13 With these things, I think we have  
14 shown that as we have gone along in  
15 improving plans, continuing training, doing  
16 drills and exercises, I think a review of  
17 the post-exercise assessments for the  
18 various operating plants would show that we  
19 have improved.

20 And FEMA is saying we are doing a  
21 pretty good job and they are comfortable in  
22 saying that we can insure the safety of the  
23 residents that live within the limits of  
24 the emergency planning zone.

25 MR. SISK: This sentence says



2 unequivocally, does it not, that the state  
3 could not adequately respond without a  
4 detailed Shoreham specific off-site plan  
5 and training and a number of other  
6 specifics?

7 MR. LANPHER: I object. The  
8 sentence says what it says.

9 MR. ZAHNLEUTER: That's true. You  
10 are asking for something else, Mr. Sisk.

11 MR. SISK: Is that a correct  
12 characterization of what the sentence says?

13 MR. CZECH: The sentence is as it's  
14 written.

15 MR. SISK: My question is, since the  
16 sentence says that the state could not  
17 adequately respond without the specifics  
18 delineated in the sentence, does that mean  
19 that a response to a Shoreham emergency  
20 would be enhanced by providing for those  
21 specifics?

22 MR. ZAHNLEUTER: I object.

23 MR. LANPHER: I object. Calling for  
24 speculation.

25 MR. ZAHNLEUTER: This has been asked

2 and answered also.

3 MR. SISK: Can you answer the  
4 question?

5 MR. CZECH: Not any better than I  
6 did before.

7 MR. SISK: Let me refer you to the  
8 fifth page of the affidavit, page 7. I'm  
9 sorry, the fifth page of the affidavit,  
10 paragraph 7.

11 There is a reference in the second  
12 sentence of that paragraph to the support  
13 role of counties in the ingestion pathway  
14 phase.

15 Now, Mr. Baranski, does Suffolk  
16 County play a support role in the ingestion  
17 pathway phase for the Millstone plant in  
18 Connecticut?

19 MR. BARANSKI: Without a plan, I  
20 can't speculate on what Suffolk County  
21 would do.

22 MR. SISK: I am asking whether  
23 Suffolk County plays a support role in the  
24 ingestion pathway phase for the Millstone  
25 nuclear power plant.

2 MR. LANPHER: And Mr. Baranski  
3 answered that precise question.

4 MR. SISK: Does it have a support  
5 role in any plan for the Millstone nuclear  
6 power plant.

7 MR. BARANSKI: Since I haven't  
8 reviewed any plans for Millstone, I can't  
9 answer that.

10 MR. SISK: Does Nassau County play a  
11 support role in the ingestion pathway phase  
12 for the Indian Point power plant?

13 MR. BARANSKI: By the very nature of  
14 an ingestion pathway problem and looking at  
15 the Indian Point site, we have not dealt  
16 with Nassau County for an ingestion  
17 pathway.

18 MR. SISK: The New York State  
19 plan -- I'm sorry, the New York State plan  
20 does not deal with Nassau County as far as  
21 ingestion pathways?

22 MR. BARANSKI: No, sir, I am not  
23 saying that at all.

24 If you looked at the maps and you  
25 showed us the maps and Nassau County is

2 involved partially with the 50-mile EPZ of  
3 Indian Point -- now we have not stressed  
4 Nassau's involvement in an ingestion  
5 pathway exercise to date at Indian Point.

6 MR. SISK: Well, my question to you  
7 makes specific reference to the statement  
8 in the affidavit of -- and I believe and I  
9 will just note this for the record, that  
10 the map contained on page K-9 of the state  
11 plan appears to encompass a large portion  
12 of Nassau County in the Indian Point  
13 50-mile EPZ.

14 My question is, does Nassau County  
15 play a support role in the ingestion  
16 pathway phase or any plan for the Indian  
17 Point plant?

18 (Discussion off the record between  
19 Mr. Baranski and Mr. Czech)

20 MR. ZAHNLEUTER: While the witnesses  
21 are conferring, Mr. Sisk, it's five  
22 o'clock.

23 I will allow the questioning to  
24 continue for a few more minutes, but I  
25 suggest that you begin to wrap up this

2 deposition.

3 MR. BARANSKI: By the very  
4 definition of the plan and the areas that  
5 are affected within the 50-mile EPZ, if  
6 there were an ingestion problem in Nassau  
7 County, they would be in a support role.

8 MR. SISK: Can you refer me to any  
9 document which sets forth that support  
10 role?

11 MR. BARANSKI: Not right offhand.

12 MR. SISK: How would they be  
13 involved in a support role?

14 MR. BARANSKI: In the event of an  
15 ingestion pathway situation, just like it  
16 was at the Ginna exercise, we may call upon  
17 the counties to support us in the various  
18 activities that are involved in the  
19 ingestion pathway problem.

20 MR. SISK: Does the state have any  
21 specific plans or agreements with Nassau  
22 County to play that specific type of  
23 support role?

24 Do you know, Mr. Czech?

25 MR. CZECH: As far as I know, at

2 this stage, we have not developed those  
3 with Nassau County.

4 MR. SISK: Now let me refer you to  
5 page 6 -- I'm sorry, it's the bottom of  
6 page 5 and the top of page 6 of this  
7 affidavit.

8 There is a passage in paragraph 8.  
9 In the interest of time, I won't read that  
10 into the record.

11 I will ask you to simply review that  
12 very quickly.

13 MR. LANPHER: All of paragraph 8 or  
14 just some portion of it?

15 MR. SISK: Yes, all of paragraph 8.

16 Now, with respect to that paragraph,  
17 there is a particular area -- the second  
18 sentence of that paragraph refers to  
19 experience at other sites in New York  
20 State.

21 Let me ask once again whether this  
22 statement means that, and if it doesn't  
23 mean it, tell me so.

24 But does this statement mean that  
25 planning, training and drilling enhance

2 site-specific response capabilities for  
3 radiological emergencies?

4 MR. CZECH: I would say, yes.

5 MR. BARANSKI: Yes.

6 MR. ZAHNLEUTER: With that, Mr.  
7 Sisk, the time for this deposition has  
8 expired.

9 It's after five o'clock, probably  
10 seven or eight minutes after five o'clock,  
11 so this deposition must conclude.

12 MR. SISK: O.K.

13 I will note for the record that, as  
14 with certain previous depositions, I have  
15 attempted to conduct as much questioning as  
16 I can on an issue-by-issue basis.

17 Of course, counsel can have  
18 disagreements as to issues which -- ones I  
19 believe are relevant and ones the other  
20 side believe are not.

21 I have tried to stick to issues  
22 which I believe, to LILCO, are quite  
23 relevant to this proceeding.

24 I do have have a number of  
25 questions, as I noted earlier, about the

Attachment 2



1 resume, I would only like to focus on the developments, I  
2 guess, since 1985. Really, I guess your promotion to  
3 Deputy Chief Inspector in the Office of Chief of District,  
4 and your most recent promotion.

5 Can you describe for me briefly your duties as  
6 Deputy Chief Inspector in the Office of Chief of District?

7 A Well, as I indicated on Page 2, I assisted the  
8 Chief of District in Staff Supervision in coordination of  
9 uniform patrol functions within the Police District. The  
10 Police District is comprised of some five hundred and some  
11 odd square miles in the County of Suffolk, and we are  
12 responsible for the Uniform Patrol function.

13 We have six precincts. They are normal average  
14 complement of uniform personnel assigned to the several  
15 bureaus and the uniform precinct, which number somewhere in  
16 the vicinity of sixteen to eighteen hundred men. The law  
17 enforcement function is multi-faceted, and requires  
18 considerable effort and coordination.

19 The Chief of District's Office also performs  
20 inspections, surveys, manpower analyses, and reporting  
21 criteria. I assisted in that function.

22 Q Is it fair to say that your job in the office of

1 Chief of District was probably more of an administrative  
 2 nature in administering all of these various uniform  
 3 patrolmen, as compared to, say, -- and then is what I really  
 4 want to kind of focus on -- expertise that is relevant to  
 5 your testimony -- such as planning or testing of these people  
 6 to see if they properly do their job?

7 A During staff function, and the conduct of  
 8 inspections and visits to the several commands, most  
 9 normally in a supervisory capacity, you are conducting  
 10 inspections, evaluations, and analysis of the function of  
 11 the personnel during the course of those visits, and you do  
 12 plan for special events that you have advance warning of  
 13 and, of course, you are constantly reviewing with  
 14 subordinate commanders the appropriateness of existing  
 15 plans for those which occur spontaneously.

16 So, there is a planning supervision, coordination,  
 17 liaison. The function can't be described as a nine to five  
 18 task.

19 Q In the extent you function in evaluating the  
 20 performance of people underneath you in the organization,  
 21 how do you really go about that evaluative process?

22 A You review reports that are submitted by

1 personnel. You review the circumstances that surround a  
2 particular incident or time frame. You interview and review  
3 reports of other personnel who had taken part in these  
4 same set of circumstances in that activity or reviewed the  
5 activity, and you arrive at decisions, or conclusions.

6 Q And I take it in April of this year you left that  
7 job to take the job of Assistant Chief Inspector, is that  
8 correct?

9 A Yes, sir, I was reassigned.

10 Q Could you explain to me generally your  
11 responsibilities as Assistant Chief Inspector?

12 A Well, I now work in the office of Chief of  
13 Headquarters. That staff function is responsible for, as  
14 I have indicated on page 2, the units that provide support  
15 services to the Department, and the department has approx-  
16 imately twenty-seven to twenty-eight hundred sworn personnel,  
17 probably eight hundred or more civilian personnel, and the  
18 subordinate units include supply and procurement, fleet  
19 management, which is beyond the normal transportation and  
20 maintenance unit of our own that supports our police  
21 department. That is the county-wide service of fleet  
22 management. The property clerk's office. The personnel

1 bureau, and the communications and records bureau.

2 Q Let me ask you to help me a little bit to  
3 understand this organization.

4 A Yes.

5 Q Two of the bureaus I am most interested in is  
6 first the personnel bureau. Can you describe for me a little  
7 bit of what their functions are?

8 A The personnel bureau in which Inspector Cosgrove  
9 is assigned as Commander, has subordinate units; the  
10 personnel section, the evaluation section, the Police  
11 Academy Section, -- the Police Academy has the fire-arms  
12 training unit, the audio-visual unit, the recruit training  
13 unit, the in-service training unit. They also have a  
14 research and development unit that is within the Academy  
15 staff.

16 We have an employee -- I am trying to find the  
17 proper phrase, an appropriate one -- they review prospective  
18 candidates for the police department, do extensive background  
19 investigations, and coordinate that effort with outside  
20 agencies, conduct interviews concerning the candidate's  
21 character, trustworthiness, and medical capacity.

22 In addition to which recently there was

1 developed and will be on board for the long term, the  
2 recruitment unit, a police recruit recruitment unit.

3 All of these units come under Deputy Inspector  
4 Cosgrove in the personnel bureau.

5 Q Can you also describe for me the responsibilities  
6 of the Communications and Records Bureau?

7 A The Communications and Records Bureau, they  
8 are two --

9 Q Two different bureaus?

10 A Two separate functions, but within the same  
11 bureau. Communications per se is the technical aspects of  
12 radio and telephone communication. They have a technical  
13 service unit. They are responsible for the purchase,  
14 installation, and upkeep of all of our radio communica-  
15 tions.

16 They have a telephone technical service unit  
17 which coordinates our demand for services with the New York  
18 Telephone Company and maintains certain internal telephone  
19 communications.

20 They also with our emergency complaint operators  
21 and our dispatch section, communications duty officer, these  
22 people are all on a twenty-four hour basis. That comes

1 under the communications bureau as well.

2 They are responsible for, and maintain, all of  
3 the communications towers and satellite dishes that are  
4 throughout the county, some of which extend beyond the  
5 county, on a cooperative and coordinating basis with other  
6 law enforcement and State and County agencies.

7 The central records bureau is the respository  
8 for all of the records that are maintained -- completed and  
9 maintained by the police department pertaining to the  
10 activities of the police department.

11 Q So, I take it that includes both records dealing  
12 with criminal activities within the County, as well as  
13 things like traffic accidents and various other reports.

14 A Those are many of the records that are there,  
15 yes, sir.

16 Q I take it -- and we will get into this later --  
17 but the material that serves as the basis for the memorandum  
18 -- I don't know the position of Mr. Webber, to you, were  
19 based on records that were maintained by that Bureau, is  
20 that correct?

21 A Right. Copies of all vehicle accidents that  
22 are responded to and investigated by members of this

1 department -- 104-A's, are maintained in the Central Records  
2 Bureau, and Lt. Webber was, at the time of my request,  
3 the Commanding Officer of that Bureau.

4 Q In your new function as Assistant Chief Inspector,  
5 do you have many responsibilities that get you into the  
6 planning area as you did say when you were the Deputy  
7 Chief Inspector, or have some of those responsibilities now  
8 gone because you have a different group of people you are  
9 supervising?

10 A You are right. It is less, right.

11 Q Do you do any kind of planning activities now?

12 A I haven't been called upon to support that  
13 planning effort in the last few months.

14 Q You have or have not?

15 A Have not.

16 Q Okay. Mr. Roberts, I would like --

17 A Excuse me. You know, every day administratively  
18 we are planning for the efficient operation of our units.  
19 We are in a support capacity. If you could understand the  
20 up-front, on the line type, that is the chief patrolling  
21 district -- that is the uniform force from which I came in  
22 April.

1           But in order to satisfy those needs, whether they  
2 are to be planned for, or spontaneous, we are always in this  
3 constant administrative effort to support whatever the  
4 district requires, okay?

5           And to the extent it might require some level  
6 of planning, yes; I am involved in it, on a continuum, as  
7 well as relating to the subordinate commanders in the  
8 headquarters division on a continuum, to maintain their  
9 contribution levels so that their responses would be  
10 efficient and timely or spontaneous events.

11           In other words for the plans which we have on the  
12 shelf, so to speak, in which we would grab for in an  
13 unforeseen incident.

14           So, it isn't that I am not planning planning. It  
15 is of a lesser level, yes, in my mind, only because uniform  
16 force is the front line. The demands are greater for those  
17 people.

18           Q       Chief Roberts can you identify for me the  
19 contentions you believe you will be testifying on in this  
20 proceeding?

21           A       I believe that I will be testifying on  
22 20.E, 21.I, 40, and 41, and I believe it is 20.E and F.



1 are Lt. Webber's response to your request, is that correct?

2 A This is what he produced to me.

3 Q Okay. Chief Roberts, I would like to briefly go  
4 over each of these documents so that I understand what they  
5 are.

6 If I can have you look at page 2 of Roberts  
7 Exhibit No. 2. The first column, which is entitled, Precinct,  
8 I take it that there are six precincts that cover all of  
9 Suffolk County, is that correct?

10 A No, sir. Suffolk County is probably nine hundred  
11 and twenty square miles. The police district comprises only  
12 some five hundred and forty square miles of that entire  
13 geography. Generally described as the five western townships  
14 within Suffolk County. From Nassau County line to the  
15 easternly Riverhead, Southampton, Brookhaven town lines.  
16 Riverhead, Southampton, and east to the points, Orient and  
17 Montauk are separate and distinct police jurisdictions within  
18 each down or incorporated village therein.

19 So, when you say there are six precincts, there  
20 are six Suffolk County Police Department Precincts in the  
21 Suffolk County Police District, which comprises the five  
22 western townships.



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detectives?

A. My position is the assistant chief of detectives.

Q. Assistant chief of detectives?

A. I provide staff and line supervision to some -- to a division that is composed of three bureaus and has the better part of 375 sworn officers performing investigative functions.

MS. STONE: Mark this as Exhibit 2.

(Document marked Roberts Exhibit 2 for identification, as of this date.)

Q. Chief Roberts, to whom do you currently report within the Police Department?

A. My immediate superior is Chief Arthur Feldman. He is the chief of detectives. In his absence, it would be the chief inspector who is Peter Murray.

Q. I show you what has been marked as Exhibit 2 to this deposition and ask if you recognize this document?

A. That is an organizational chart that was -- that had an effective date of July 31, 1985. Since that period of time there have been some modifications to the organizational structure

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and there is currently another organizational chart in place, but basically, as far as the three divisions are concerned which I think would be the focus of your inquiry, it is in fact the investigation division, the patrol division and the headquarters division.

Q. You referred to a new organizational chart.

Do you know when that became effective or available?

A. I'm going to say 1987.

Q. The beginning of 1987 or the end of 1987?

A. During 1987.

MS. STONE: We will follow up in writing but we hereby make a demand for the newer organizational chart.

MR. MILLER: I think you may have that chart, Ms. Stone. Of course, if you do not, I'll be more than happy to provide it but I believe it was filed in connection with the exercise litigation during 1987, perhaps in connection with the testimony rendered by Chief Roberts and others in the

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Suffolk County Police Department in connection with contention 40 and contention 41.

MS. STONE: If it has been filed, then we will find it. Since we don't have it today --

Q. Would you take a blue pen and indicate for me, if you will, any changes to this chart, to the extent that you can, to reflect the new way that the department is organized? If that is impossible, let me know and let me know why.

A. It is not impossible but it is extremely time-consuming. It -- changes are in areas that are outside of my present province of responsibilities. I could tell you this, if you give me two minutes, I could go get one.

Q. Why don't we do that, that is fine.

(Recess taken)

MS. STONE: Let's mark this as Deposition Exhibit 3.

(Document marked Roberts Exhibit 3 for identification, as of this date.)

Q. Chief Roberts, I show you what has been marked as Deposition Exhibit 3 and ask you if

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this is the organizational chart to which you just referred as being the most recent one that became effective at some point in 1987?

A. That is.

Q. O.K. Can you take a pen for me, if you will, and circle the job that you currently have?

A. Yes.

(Witness complies)

MS. STONE: For the record, he circled it in blue ink, "Detective Division, Office of the Chief of Detectives."

Q. You are the assistant chief of detectives?

A. Yes, ma'am.

Q. And the chief inspector is whom?

A. Peter Murray.

Q. And then to whom does Peter Murray?

A. He would report to the commissioner of police.

Q. Directly to the commissioner?

A. Yes.

Q. O.K. Can you describe for me

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generally what types of responsibilities fall within the jurisdiction of the chief of detectives as opposed to the chief of patrol or the chief of headquarters?

A. The chief of detectives insures staff and line supervision over those members assigned by the commissioner to the investigation division. The investigation division is charged with the responsibility to investigate all felonies, sex, vice and gambling incidents and to conduct any other investigations in cooperation with the uniformed patrol force or as directed by the commissioner of police.

Q. Do you have authority over uniformed patrol officers that are not detectives?

A. We have some silver shields, uniform. We have some police officers.

Q. As opposed to detectives?

A. That's right. In other words, police officer is a grade. Detective is a grade. We do, yes, have some police officers assigned to the detective division.

Q. What does the office of the chief of patrol have authority over in the Suffolk County

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Police Department?

A. The chief of patrol is charged with providing uniformed patrol to all areas of the police district and in order to enhance that function, he also has within the division a highway patrol bureau which is -- which has patrol function on the Long Island Expressway, concurrent patrol effort on the Sunrise Highway, and they have special enforcement groups that patrol areas throughout the police district on an as-needed basis.

There also is a special patrol bureau which is comprised of a crime scene unit, an aviation unit, an emergency services unit, and those people supplement and enhance the patrol effort on an as-needed basis.

Q. I see a category on this chart and I believe it is the category you just referred to as the emergency service section?

A. Right.

Q. What is the responsibility of that section?

A. Could I give you the other bureau within the patrol division first?



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Q. Sure. I'm sorry, I thought you were finished.

A. No.

Q. Go ahead.

A. The other bureau is the marine bureau. To the north and south we are surrounded by water, Long Island Sound and the Atlantic Ocean, and we have a tremendous amount of waterways along the barrier beach, between the barrier beach, Fire island, and the mainland south shore.

The marine bureau is responsible to staff marine vessels for the purpose of patrolling and enforcement of the boating public as well. They have assigned sectors of patrol on the barrier beach, physically, to which the marine bureau has people that they assign to that on a 24-hour basis.

Those are the three bureaus within the patrol division.

Q. Now, this emergency service section under the special patrol bureau under the office of the chief of patrol, what is it responsible for?

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A. The emergency services section is a group of approximately 25 officers, which includes their supervisors, and they have specially equipped vehicles for response to crisis scenes.

And when I say crisis scenes, it could be a serious motor vehicle accident with a passenger or driver pinned in there. They have the extricating equipment where they could violate the vehicle and remove.

They have heavy weapons response in the event of hostage or barricaded subject scenarios.

They also respond to hazardous material spills and provide a safe area until the arrival of New York State Department of Environmental Conservation, the County Department of Health and representatives of the prosecutor's office.

Q. Who is the chief of patrol at the present time?

A. It is Acting Chief, Assistant Chief Joseph Monteith.

Q. Who is the head of the special patrol bureau at the present time?

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A. Captain Arthur Houde.

Q. And who is in charge of the emergency service section at the present time?

A. That would be Lieutenant -- the first name escapes me, could be Thomas -- Woods.

Q. Does this emergency service section carry with it or have within its auspices any special type of equipment?

A. They do.

Q. What do they have assigned to them?

A. I would be leaving things out. If you could be specific, I'll say yes or no.

Q. Do they have any special types of vehicles such as mobile vans, tow trucks?

A. They don't have tow trucks.

Q. No tow trucks?

A. No. They have a bomb trailer.

Q. What is a bomb trailer?

A. O.K. That is a flatbed vehicle which has a concrete steel reinforced basin and you take a suspect item or known explosive device and you can secure it into that container on the flatbed and transport it to a safe location and there, detonate it.

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When you say special vehicles, vans, they are enclosed vehicles to the extent that they are bigger than vans.

Q. Are you referring to the bomb trailer or are you referring to some other kind of vehicle?

A. I'm talking about the vans. You said do they have vans. They have vans, they are larger vehicles than what I consider to be a van. Two- or four-door sliding door. These are back entrance vehicles, they have compartments specially designed by them to carry whatever pieces of equipment they might need. Rappelling ropes, costuming, special uniforms for the protection of themselves while they are at any given scene. Bullet-proof vests.

Q. Is there a radio in these vans?

A. Oh, yes.

Q. Are there loudspeakers on these vans, either on the top or inside the car?

A. I don't know.

Q. Does that division have portable loudspeakers or sirens?

A. I'm sure they are accessible to them.

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Q. Are there sirens in the vans?

A. There are sirens on the vehicles.

Q. Do you know how many such vans there are?

A. I would say three.

Q. Where are they garaged normally?

A. Their focus point of operation and their office is located at MacArthur Airport, in the Town of Islip.

Q. Is there any kind of central garage there or are other vehicles also parked there?

A. Well, within the special patrol bureau you also have response vehicles that are used by crime scene technicians when they are on duty. They may have five or six of the smaller type vans which have that equipment that is necessary to respond to a burglary, homicide scene, in order to develop and recover, trace evidence. Things of that nature.

Q. What are the responsibilities of the chief of headquarters?

A. He provides those auxiliary services which are vital to provide the linkage and the patrol capability: communications, which would

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include radio as well as teletypewriter, he provides radio installation and maintenance.

He has the central records bureau wherein copies of the departments records are maintained.

He maintains the supply and procurement section which is in essence a quartermaster unit and works through the county offices of purchasing to procure those items of equipment which are necessary to sustain the operation of the Police Department.

He also has the property clerk's office which is a rather large facility and is responsible for the care and custody of any physical evidence or properties which come in to the possession of the Police Department from whatever source, either found or recovered.

Q. Under the education and community support bureau, I see on Roberts Exhibit 3 a reference to a "Civil Defense Section."

A. Uh-huh.

Q. Who is in charge of that section?

A. I believe there is a Sergeant Hayden, who is presently assigned as liaison from this

1 department.

2  
3 Q. Who does the sergeant liaison with?  
4 What do you mean by liaison?

5 A. With the County Department of  
6 Emergency Preparedness.

7 Do you want to go through that other  
8 bureau?

9 Q. I'm sorry. Did I cut you off again?  
10 I apologize. You have such a nice, slow tempo.

11 A. Also included in that educational and  
12 community support bureau, also there is the Police  
13 Academy which provides the basic and in-service  
14 training.

15 In addition to the state statutes,  
16 responding to needs of the several units within  
17 the department.

18 In addition, you have the community  
19 services section which includes the juvenile  
20 service section as well as the community relations  
21 unit and the community service unit. Those are  
22 the people who interface with organizations within  
23 the several communities in the police district and  
24 provide the liaison and interface between the  
25 public and the Police Department.

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Q. Who is the chief of headquarters at the present time?

A. We have an acting chief and that would be Assistant Chief Philip McGuire.

Q. Who is in charge of the education and community support bureau?

A. That would be Deputy Inspector Gerald Marcoe.

Q. Who is the chief inspector at the present time?

A. Peter Murray.

Q. O.K. Back to this civil defense section that Sergeant Hayden is in charge of, what exactly are the responsibilities of that section, if you know?

A. He supervises the accomplishment of training requirements for the several auxiliary police units that exist within the five towns which comprise the police district of Suffolk County.

Could I help you in this regard?

Q. Sure.

A. Suffolk County is 920 square miles. It is contiguous to Nassau County and flows to the



2 east. At the apex of the river in Riverhead, and  
3 Peconic Bay is formed, there is a north and south  
4 fork that extend north to Orient Point and leaps  
5 over to Shelter Island which stands out there in  
6 the middle of Long Island Sound and on the south  
7 fork, it extends easterly to Montauk Point and  
8 from there it is a short hop to Ireland.

9 Way back in 1959, the county decided  
10 to charter form a government and all of those  
11 other things. In that proposal at the time was  
12 the county Police Department. There was  
13 fragmented law enforcement efforts over a period  
14 of time and it was an attempt to bring things  
15 together, not solely in the law enforcement area,  
16 the administrative agencies of the county as well.  
17 The county was under a tremendous growth pattern  
18 at that time.

19 As to the law enforcement effort,  
20 however, there was a proposal that in order for a  
21 township, O.K., to become part of a police  
22 district within the county, it -- a township had  
23 to be contiguous to another affirmative voting  
24 township.

25 It resulted in the five western

2 towns, the county has 10 towns, probably 20  
3 some-odd village entities within several towns,  
4 but there are 10 towns.

5 The five western towns voted  
6 affirmatively to form a police district. They are  
7 Babylon, Huntington, Islip, Smithtown and  
8 Brookhaven, Brookhaven being the furthest east in  
9 the district and extends from Great South Bay,  
10 Atlantic ocean, north to Long Island Sound. The  
11 five townships to the east, Riverhead, South  
12 Hampton, which are immediately contiguous to  
13 Brookhaven, didn't vote to become part of the  
14 police district, thus barring East Hampton on the  
15 south shore, South Hold and Shelter Island on the  
16 north shore, from becoming part even if they  
17 wanted to.

18 So if you back yourself back 120  
19 square miles back into the police district, we  
20 probably have 540 square miles, five townships, a  
21 multitude of village entities, governmental  
22 structures within those five townships; some by  
23 far much smaller law enforcement entities within  
24 some of the villages, not all of them, some of  
25 those villages.

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Q. All right.

A. That is where we are.

Q. So you have jurisdiction over  
Babylon, Huntington, Islip, Smithtown and  
Brookhaven?

A. Well, when you say jurisdiction, the  
county Police Department being a county agency has  
concurrent jurisdiction throughout the county.  
However, because there is law enforcement effort  
in the five eastern towns, they maintain stability  
and have grown somewhat over the years since 1960  
their own law enforcement effort within the towns  
and the designated villages out there.

The patrol division, O.K., is  
responsible and has the initial jurisdiction for  
the police patrol effort within the police  
district and that is the five western towns, the  
towns you just mentioned. However, the patrol  
effort would not include those village entities  
wherever they may co-exist within the five towns  
who have organized police forces.

Q. You could patrol there but you choose  
not to because those villages are already  
patrolled?

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2 A. They did not opt to become -- they  
3 had the option to become, because they were  
4 governmental entities. Some did opt. Some never  
5 had police other than the town police. They  
6 contracted with them, so the assumption carried  
7 over into the county.

8 Q. What is the extent of your  
9 jurisdiction in those towns and villages that  
10 opted out of the police district these many years  
11 ago?

12 A. Opted not to become part of --

13 Q. The police district within or without  
14 the police district boundaries. Tell me as to  
15 each.

16 A. O.K., as to each we do it on an  
17 on-call-as-needed basis. That would be for  
18 anything in the five eastern townships.

19 Q. Only if they call you do you come in  
20 and do something?

21 A. That's right. In the patrol effort.  
22 That's right.

23 Now, within the police district  
24 formally, five western townships, for those  
25 agencies like Northport, Amityville, Village of

1  
2 Asharoken, there are probably seven or eight of  
3 them out there, elected not to become part of an  
4 organized police district. They have their own  
5 police force. They number anywhere from 3 to 15,  
6 3 to 18, whatever their strengths may be.  
7 Depending on their size, Amityville and Northport  
8 being the two largest far to the west. Northport  
9 in the Town of Huntington and Amityville in the  
10 Town of Babylon.

11 Q. I may have not -- I followed you  
12 except for one thing. I'm confused about what  
13 your -- what the difference is between your legal  
14 authority over villages and towns within the  
15 district physically that are not part of the  
16 police district and those that are physically  
17 outside the police district and therefore not  
18 directly covered by the police district?

19 A. O.K. Within the police district, if  
20 they had an organized police force in one of those  
21 village entities, we would not perform on a  
22 regular basis the uniformed patrol function.

23 Q. Is that just a practice or is that  
24 because you do not have the authority to actually  
25 enter and perform police functions in those

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Roberts

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villages?

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A. I look at it in a different light.

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We have a county charter, we have a county Police

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Department. We have a police district which

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performs those patrol functions necessary for the

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protection and health and safety of the citizens.

8

We have never seen fit to exert ourselves so I

9

don't know what would be the answer.

10

Q. Suppose --

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A. Could we move in and take over the

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territory, Village of Amityville which has a staff

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of 25 sworn officers? I don't know. Never been

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brought to mind.

15

Q. Has it come up in a situation where

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you are chasing a speeder through, and I apologize

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for my knowledge of geography, but you chase a

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speeder through Babylon and he, knowing the

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boundaries of the police district, darts off into

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the Village of Amityville, which you say is not

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covered.

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Can you follow him into there to

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arrest him?

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A. State law provides that if he passes

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safely through the Village of Amityville, we will

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take him into Pennsylvania.

Q. You can take him anywhere?

A. Close pursuit.

Q. Hot pursuit, close pursuit?

A. Yes.

Q. O.K. But that is only the type of  
circumstance that you can think of that has come  
up, you haven't had the need to go in and exert  
your police power in any other jurisdiction?

A. I know of no circumstances, no.

Q. In what location -- are you familiar  
with the Grucci --

A. G-r-u-c-c-i.

Q. You are obviously familiar with it.  
-- fireworks factory blowup of a few  
years ago?

A. That was in Bellport, New York, just  
south of what we call Montauk Highway.

Q. Was that within the jurisdiction of  
Suffolk County?

A. Yes, it was.

Q. Now, was it within the jurisdiction  
of the Suffolk County police district?

A. Yes, it was.

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Q. Is that one of these towns or is that a village that has opted into the police district?

A. The Village of Bellport. The Grucci site was outside of the village limits but was in the hamlet of Bellport.

We really have a very difficult scenario here as far as identifying specific -- when you say Bellport, most people say Village of Bellport. That is not true. We have school district boundaries, we have municipality boundaries, there are postal zones, there are fire district zones, and a number of other things.

But to my recollection, the Grucci site for that experience is located outside of the Village of Bellport which is within the Town of Brookhaven.

Q. But it is in something called the hamlet?

A. Of Bellport.

Q. Of Bellport.

Now, is that hamlet part of the Suffolk County police district?

A. It is because it is part of the Town of Brookhaven.



2 Q. Within Suffolk County, the boundaries  
3 of the county itself, how many different police  
4 forces are there?

5 A. Within the county itself?

6 Q. Within the county, aside from your  
7 own Police Department, how many other police  
8 forces, departments, divisions?

9 A. Who perform similar functions?

10 Q. Who perform similar functions.

11 A. My answer would be very misleading  
12 because I think too many conclusions could be  
13 drawn from it. Let me suggest to you, though,  
14 that with every attempt to respond to it, O.K.,  
15 appropriately for your purpose, I'm going to say  
16 that within the police district which is the five  
17 western towns, O.K., we have a county Police  
18 Department. That takes care of the towns. So  
19 they are off the board.

20 Now, how many village entities out  
21 there have and still maintain their own law  
22 enforcement agency? This is purely speculation.  
23 I've seen it, I've read it in the book, I know it  
24 is in the directory, I didn't look at a directory  
25 today, yesterday or some other time. If you --

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Q. What directory?

A. It is a directory of associated law enforcement agencies. O.K. There are some professional groups, so that you can interface appropriately, and phone listings.

Q. Is this a New York State publication?

A. I'm sure they have one. No, it isn't. It is locally produced.

Q. O.K.

A. O.K. I can give you my best guess.

Q. Why don't you do that?

A. Good. They even have -- let me preface it with this. On Fire Island -- are you familiar with the topography?

Q. Yes?

A. There are two police departments on Fire Island. Two villages there opted to have their own Police Department. That is it. Saltaire to the west has one man, so you see I'm going to give you some figures now, numbers of agencies, but they begin with one.

Then you have the Village of Ocean Beach which is somewhat to the east of Saltaire along Fire Island and they may have four full-time

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Roberts

2 officers, may supplement themselves. Very  
3 favorite spot for tourism during the summer. They  
4 may have a half dozen seasonal officers to provide  
5 supplemental services. On that same strip of land  
6 there, you have the National Seashore. What their  
7 staffing is I really don't know, but it is not a  
8 hell of a lot. Their interests are drawn  
9 specifically to that sandy barrier and that -- it.

10 Q. You were going to guess as to how  
11 many --

12 A. Within the district?

13 Q. No, within Suffolk County.

14 A. But I wanted to start with the  
15 district.

16 Q. Within the district, O.K.

17 A. There is another village with only  
18 one guy.

19 Q. Not the number of people?

20 A. Belle Terre, B-e-l-l-e, T-e-r-r-e.  
21 I'm going to say six, seven.

22 Q. What is your working relationship  
23 with those --

24 A. Profound.

25 Q. What does profound mean?

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A. Extremely close.

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The east end, O.K., there are no village entities within the Town of Riverhead. In the Town of South Hampton on the south fork, three villages that have organized police departments. Town of East Hampton, East Hampton Village has an organized police department. Back over on the north shore, Southold, the Village of Greenport has an organized police department. Then sticking out there in Peconic Bay is Shelter Island and they have a police force. Four men.

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Q. That covers Suffolk County?

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A. Yes, ma'am.

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Q. When you were describing the profound relationship that you have with the other law enforcement agencies within your district, you mean a sense of cooperation exists between you?

A. Extremely solid.

Q. How about the law enforcement entities outside of your district, what is your relationship with them?

A. Whenever the opportunity for interaction presents itself, it goes off well. That is on an as-needed basis.

2 this question since we have not been  
3 provided any verification to the answers to  
4 the interrogatories. You didn't object to  
5 it in the answers to the interrogatories.

6 MR. MILLER: I believe there are  
7 objections stated to the interrogatories  
8 that were served separately and those  
9 objections go to all of your  
10 interrogatories so the objection has been  
11 stated, I think. Obviously, I don't  
12 believe any of these questions you have  
13 been asking Chief Roberts are relevant.

14 MS. STONE: I'm sorry, could you  
15 read back my question.

16 (Record read)

17 MR. MILLER: My objection is on the  
18 record.

19 You can go ahead, Chief Roberts.

20 A. To the best of my recollection, the  
21 department has authorized budgeted positions in  
22 the area of 2800. We don't have that many on  
23 board.

24 Q. How many sworn officers do you  
25 actually have on board at this time?

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A. Last report I saw referenced 2625.

MR. MILLER: I think you mean 26 or  
2500?

A. Do you want me to put zeroes on it?

MR. MILLER: For the record, yes,  
sir. Those numbers go together.

Q. 2625.

A. What I was reaching for really was  
what came after 26. I wanted to be as reasonably  
correct as I could.

Q. So approximately 2625 officers. O.K.

A. Not all of those are really present  
for duty either.

Q. Where are they if they are not  
present for duty?

A. Well, some of them are on extended  
leave due to either job-incurred or personal  
injuries of serious consequence.

Q. How many would you say are out for  
those?

A. If you took them in a bundle,  
probably upwards of a hundred.

Q. During the daytime, approximately how  
many of these officers -- and I'm talking about

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sworn officers at this point -- are actually on duty in Suffolk County? I'm also going to ask you to define daytime, if you have shifts.

A. That is perfect because I just wanted to do that for you.

Q. O.K. What are your shifts?

A. We do -- there are standard shifts, traditional that the department holds to. Let me say that the underlying tour chart is midnight to 8:00 a.m. in the morning; and then 8:00 a.m. in the morning until 4:00 p.m. in the afternoon; and then 4:00 p.m. in the afternoon until midnight that night, so that covers the 24-hour period.

There are, because -- that is the basic uniformed patrol chart. On that chart there are 22 squads for staffing purposes and they rotate and fluctuate throughout the 365 days. There are other charts that are apropos to a day tour. Some may begin at 6:00 a.m. in the morning, some may begin at 7:00 a.m. in the morning, some may begin at 9:00 a.m. in the morning. And then more often than not, the tour charts provide for 8 hours of labor on the clock so you can fit the 24-hour time frame.

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Your question?

Q. My question was, starting with the daytime shift, 8 to 4, and I recognize that some shifts may run 9 and some may start earlier, approximately how many of the sworn officers are on duty in Suffolk County during, say the weekdays?

A. Right. I was just going to ask you what day of the week.

Q. Let's pick Wednesday.

A. Wednesday. Uniformed officers --

Q. Not necessarily uniformed officers. Sworn officers.

A. Sworn officers?

Q. Yes, because your detectives are not necessarily uniformed.

A. They are not uniformed and there are other sworn officers besides detectives who are not required to be in uniform.

Q. So just your sworn officers.

A. I don't know. That would be speculation on my part. You know, really, it would.

Q. Would you say there were fewer or



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more than a hundred people on duty during a given time?

A. During the day, Wednesday?

Q. Yes.

A. Well, there would be more than a hundred officers during the day on Wednesday.

Q. Are your -- is your work force lighter on weekend days, Saturdays and Sundays?

A. Yes, it is.

Q. Are there any other days of the week when it is lighter than the Wednesday date we have chosen?

A. It would depend on the character of the day, particular holiday.

Q. Weekdays otherwise are fairly standard?

A. Oh, yes. That is because of the level of interaction between many of the day workers, not necessarily in uniform, who perform interface with other governmental entities.

Q. Chief Roberts, did you participate in the government's answers and additional objections to LILCO's second set of interrogatories regarding contentions 1 through 2, 4 through 8, and 10, if

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ask you if you recognize this document? And feel free to look through it.

A. Thank you.

(Pause)

I've never seen this document before.

Q. O.K. I realized earlier you told me that you could not verify how many officers there were on any given shift, but I want to ask you further --

A. No ma'am, I don't want to get picky, but we left it at a day shift Wednesday.

Q. Yes.

A. O.K., then you said would your staffing -- I understood your subsequent comments to be would the staffing be less on a weekend or any single day of the week and I said depending on the character of the day, if it was within the week or what have you.

I'm sorry to interrupt you.

Q. My question is I'm trying to figure out on any given day approximately how many of these 2600 sworn officers are actually on duty daytime, as opposed to evening time, as opposed to the graveyard shift, and that is what I'm trying

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to find out. We chose Wednesday as a standard date.

A. Right.

MR. MILLER: Ms. Stone, why don't you show the witness the response to the interrogatories which I've stipulated for the record certain of those responses came through Chief Roberts.

You are taking a lot of time. If you are testing Chief Roberts' memory, I don't see the purpose of it.

MS. STONE: I was trying to get the answer out if you let me do it.

Q. The answers to the interrogatories indicate that there are approximately 185 officers.

MS. STONE: I have the right to probe this witness' memory.

MR. MILLER: You have the right to waste everybody's time for four hours so go ahead and do so.

Q. Does that refresh your recollection?

A. What you've shown me on 22 discusses uniformed officers assigned to vehicles for patrol

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purposes.

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Q. My question is broader than that. I just thought that might refresh your recollection.

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A. It may. Let me read it, please.

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Q. O.K.

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(Pause)

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A. This doesn't -- I can't do it really.

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Q. Why don't we do it first with uniformed, if that is easier for you?

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A. This doesn't -- this is not your question (indicating).

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Q. I agree. But your counsel wanted me to show you the document so I've shown you the document to see if it refreshes your recollection.

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I have two questions. I want to know, on any given shift, how many sworn officers of these 2600 are on duty, approximately, and then I'm going to ask you the exact same thing for the uniformed officers which these answers to interrogatories indicate you have 1,750 such officers, or at least I believe so. It is sort of ambiguous. Maybe -- let me ask you the question first.

Of these 2600 that you've described

1  
2 that are sworn police officers, how many are  
3 uniformed?

4 A. Well, because of the several  
5 services, you know, when you look -- when you look  
6 at this organizational chart, your 3, you would  
7 have to see, as I indicated, that even in the  
8 detective division, we do have a complement of  
9 sworn officers.

10 Q. Right.

11 A. We do in fact have sworn police  
12 officers, O.K., which takes away from any figure  
13 that you may see or reflect upon that says "police  
14 officers," whatever document that might be.

15 Of the several sworn police officers,  
16 all right, who would in any other position be in  
17 uniform but are not, two of them do report to us  
18 in uniform, each of the five days they work,  
19 because of the nature of their function, O.K.

20 Q. If they were assigned to any other  
21 division they may not -- they might regularly wear  
22 uniforms, but because they work for the detectives  
23 bureau, they don't wear their uniform?

24 A. That's right. That other number --  
25 right.

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Q. You still have two people reporting to your division that wear uniforms?

A. Yes, ma'am.

Q. How many, approximately, in the patrol division?

A. O.K., well, that is --

Q. How many are uniformed?

A. Each precinct has a crime control unit who functions in a street level investigative status and they wear every-day clothing, anywhere from dungarees to a dress suit with a tie, depending on the nature of their assignment. The current extremity of each of those several units, I don't know exactly, but I'm going to guess --

Q. I'm interested in the uniformed ones.

A. I understand but -- I could tell you for instance, there are 1740 sworn officers assigned to the patrol division. Now, what are you going to do with that figure? That is what I'm trying to say.

Q. O.K.

A. They are not all uniformed.

Q. Is the answer that you don't know or --

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A. I can give you a figure you don't understand, but I don't want to mislead you either.

Q. I'm looking for approximation. I realize on some day some one person may or may not show up in a uniform. I'm looking for some approximate figure of how many police officers wear uniforms in Suffolk County at any given time, how many are on duty wearing --

A. Even the guys who ride the boats in the middle of the bay have a uniform on.

Q. That is what I'm interested in.

A. That is the function we would expect them to be performing, so --

Q. We have a Wednesday daytime shift, 8 to 4. How many police officers in Suffolk County in your district under the auspices of Commissioner Guido are wearing uniforms?

A. Speculative.

Q. More than a hundred, fewer than a hundred?

A. More than a hundred.

Q. More than 200?

A. More than 200.

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Q. More than 300?

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A. More than 300.

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Q. More than 400?

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A. More than 400.

6

Q. Should I skip two categories. More

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than 600?

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A. Functioning throughout the entire 540

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square-mile district, yes.

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Q. About -- more than 600?

11

A. No. Definitely not. Not to my

12

knowledge.

13

Q. Between 500 and 600?

14

A. Well, now you are getting queasy.

15

I'm queasy to begin with, but I'm going to say, a

16

lot of people are spread out out there, not all

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performing a patrol function.

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Q. That doesn't matter. Wearing a

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uniform?

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A. Anything in that area would be total

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speculative on my part. I can give you a

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staffing --

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Q. Who would know, Chief Roberts?

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A. In uniform? Because it embraces the

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whole department, because there are a number of



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auxiliary services, for instance, which I might consider administrative support, all right, supply and procurement, quartermaster, property clerk, transportation and maintenance, they are in uniform. They are in some class of uniform.

Q. Does it help you to say within the patrol division how many uniformed officers are on duty on our hypothetical Wednesday shift?

A. Daytime?

Q. Daytime shift.

A. I might be able to give you something on that.

Q. O.K.

(Pause)

A. This is only in the patrol division?

Q. Only in the patrol division, is the question here.

A. About 250.

Q. O.K. Are these -- of these individuals, how many on our hypothetical daytime Wednesday are in vehicles actually out on patrol?

A. Do you want to consider the barrier beach?

Q. Sure -- well, let's exclude Fire

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Island.

A. Special enforcement efforts vary from day to day.

Q. How many people are involved in that activity?

A. Depending on the day of the week, it could run through either Saturday or Sunday, that is why I say it varies.

Q. How many people are involved in that area?

A. Could be 25 people.

Q. All right. Let's exclude them from this number.

A. Patrol, patrol -- to dissect it in the fashion in which I know you are trying to get, however, the methodology we are employing here is difficult. 175, 180.

Q. And in how many vehicles, is that with approximately one person per vehicle or two per vehicle?

A. To my knowledge, I know of 11 double-sector units so you would have to back out 12 from whatever, 175 or 180.

Q. O.K. So that leaves about --

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A. Those are authorized mobile units. Depending on circumstances arising during any given tour, day, evening, weekend, holiday, the platoon lieutenant in every one of the six precincts, plus highway patrol in their effort to perform whatever the level of, as far as is required to mix and match.

Q. But the rest of them --

A. Statically it is 127 assigned sector units, 11 of which are double units when they are in service.

Q. How many vehicles does that put out during our hypothetical Wednesday daytime shift?

A. 12 from 175 or 180, whichever figure you want to lay out.

Q. Approximately 160-ish, 165, 170-ish?

A. Whatever it comes out to.

Q. O.K. How does the staffing differ if we shift from our hypothetical daytime shift to the 4-to-12 shift on a given Wednesday evening?

A. It should not significantly vary.

Q. How about the graveyard shift, the 12-to-8 shift, how does your staffing differ?

A. For a number of years, there was

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employed, because of manpower shortages, what we call on overlay concept. We would merge sectors of patrol. The criteria was constant but its application would vary depending on what precinct you were in and you might, because of the chart now, the chart, all right, provides for those men specifically assigned to an active patrol effort in the precinct commands. It is about a charted one-fifth reduction of manpower availability.

Q. Approximately one fifth less than the daytime and evening shift charted?

A. However, at the present time, the department has, for the last few months, been staffing the midnight tour without significant variance from the 8-to-4 or 4-to-12 solely on the patrol effort.

Q. How long is that expected to continue?

A. I have no idea. That is strictly budgetary. I have no idea.

Q. How does your Saturday and Sunday staffing differ from the Wednesday which we have taken as typical of Monday through Friday?

A. Significantly.

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Q. How? Greater or lesser?

A. Much less.

Q. How much less is charted?

A. You are talking department?

Q. Uniform. In the patrol area.

A. O.K., you see you did it yourself.

Q. You've asked me to. You told me it was simpler to figure it out this way.

A. I understand. I can give you the figure, but there has to be an understanding what it represents, and you just did it.

Q. I'm asking you specifically, uniformed --

A. Madam, let me say this to you, please. I can sit here the better part of this day and lay down figures for you to the best of my recollection with a sincere interest in being honest with you, but unless we have a common understanding what the figure relates specifically to, I will not be party to giving you what you will later construe to be an attempt on my part to misconstrue or mislead that will never be my intent.

Q. Chief Roberts, I have no interest in

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that at all.

A. Good, then we are on the same foundation. I certainly hope so because I came here today with that view in mind.

Q. Nothing --

A. Let me suggest to you now, you said --

Q. I have a very specific question.

A. Are you going to let me finish? As pertains to your question --

Q. I don't want a speech. I want an answer.

A. You said uniform and then you said patrol. They are two different things.

Q. You told me this figure, as I understood it, that we have been talking about, the 170 to 80 that is out on the street during the daytime shift, we are talking about uniformed patrol officers in the patrol division.

A. I did not say we had 180 out on the street on a daytime shift. You asked me how many vehicles were operated in a patrol mode on a daytime shift and I said it would be 175 to 180, less those double units, which was 11, take 12

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away from 175 or 180.

Q. If it was not clear before, I want it clear now, I'm looking to see how that category of officers changes for the Saturday and Sunday shifts, and I'm sorry you didn't understand that I was moving within the same category.

A. You asked me for uniformed officers. The numbers of those vehicles may vary. From the vehicles you can get the numbers of men.

Q. Right. How many vehicles in that category that we have just discussed where you've given me an estimate of --

A. 175 to 180.

Q. 175 to 180?

A. Less the double units.

Q. What happens on weekends with respect to the number of those vehicles and attendant -- occupants?

A. With the current patrol effort--

Q. Does that current patrol effort differ from the chart that you've referred to?

A. Well, the current patrol effort goes beyond the chart to the extent that on the midnights, it would provide for nonutilization of

1  
2 an overlay and bringing in additional people to  
3 complement for the failure of the chart to  
4 provide.

5 Q. All right. Why don't you tell me the  
6 charted figures first?

7 A. So on the weekend -- well, I guess  
8 that it would be approximately one fifth less on  
9 the midnight tour.

10 Q. For the daytime Saturday and Sunday  
11 effort?

12 A. Right.

13 Q. Now --

14 A. No, no, for the midnight tour.

15 Approximately one fifth less, the chart provides,  
16 but the current police effort is to staff without  
17 significant variance on a 24-hour basis so as many  
18 vehicles as you see in an active patrol mode,  
19 patrol division, every effort is maintained --  
20 every effort is expended to maintain that level of  
21 staffing for that mode of operation on a 24-hour  
22 basis. That would be 7 days a week.

23 Q. 7 days a week. O.K.

24 A. Now, depending on the character of  
25 the day, either occurring midweek or weekend, that



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25

effort could be increased.

Q. On weekends?

A. Yes.

Q. O.K.

A. Utilizing people in an overtime status.

Q. On a given Saturday, then, we can take it that the figure is about the same, approximately 175 vehicles are patrolling in your area, a few of which are staffed with two people instead of one person, is that fair and accurate?

A. That would be my estimate. That is the entire police district, yes.

Q. Yes. What is your department, what is the organizational relationship between the Suffolk County Police Department and the Department or Division of Fire, Rescue and Emergency Services?

A. Lateral.

Q. What do you mean by lateral?

A. We communicate laterally.

Q. Who or what entity is that department under the auspices of?

A. The Department of Fire Safety and

1  
2 maintains a communications dispatch capability for  
3 those units as well where none is provided at the  
4 local level.

5 Q. Chief Roberts, do you routinely carry  
6 a paging device, a beeper?

7 A. Yes. I have another one, too.

8 Q. You have two? One was a gun. You  
9 routinely carry that with you?

10 A. Yes, ma'am.

11 Q. And --

12 A. When I'm on call.

13 Q. Who has knowledge of that number, who  
14 within the Police Department?

15 A. Communications duty officer.

16 Q. Who is the communications duty  
17 officer?

18 A. That varies. They work different  
19 charts to provide a 24-hour coverage.

20 Q. And under whose auspices is that  
21 communications duty officer?

22 A. The commanding officer of the  
23 communication and records bureau.

24 Q. That is under the chief of  
25 headquarters?

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A. It falls within his purview.

Q. Where is this person located?

A. Which one?

Q. Physically, the communications duty officer?

A. He is in this building.

Q. Is there one person on duty at all times with that responsibility?

A. Yes, ma'am.

Q. And does that position maintain a list of all of the telephone numbers, home addresses?

A. There is a roster available to him.

Q. Who keeps that roster?

A. When you say "who keeps" it --

Q. Is it kept in that office where --

A. He has a printout. I don't know how often that printout is published. He has a printout. It is probably published on a bimonthly basis or something and -- by the county. He has it available to him.

MS. STONE: We are about an hour and a half through. This would be a convenient time.

1  
2 MR. MILLER: Yes.

3 (Recess taken)

4 MS. STONE: Would you mark this as

5 5.

6 (Document marked Roberts Exhibit 5  
7 for identification, as of this date.)

8 BY MS. STONE:

9 Q. Chief Roberts, you are familiar with  
10 the LILCO plan relating to an emergency at  
11 Shoreham, are you not?

12 MR. MILLER: We do have a relevant  
13 question, in my opinion, at 11:16 in the  
14 morning.

15 Go ahead, Chief Roberts.

16 A. I am familiar with the plan.

17 Q. Have you reviewed the entire plan or  
18 simply portions of it?

19 A. I would say portions of it.

20 Q. Do you know what portions you've  
21 reviewed?

22 A. My interest was really drawn to the  
23 evacuation effort as it pertained to movement of  
24 traffic.

25 Q. Do you have a copy of the entire plan

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or just of that provision, the evacuation effort?

MR. MILLER: Does Chief Roberts have  
a copy?

MS. STONE: Yes.

A. I don't have a copy personally.

Q. Personally. Have you ever had a  
copy?

A. I've had a copy made available to me.

Q. Who has made this available to you?

A. The county and counsel at varying  
times in the last -- how many years, five years.

Q. Do you know how many people within  
the Suffolk County Police Department have copies  
of some or all of the LILCO emergency plan?

MR. MILLER: Presently have copies?

MS. STONE: Yes.

A. To my knowledge, nobody has a copy,  
when you say person, but there is a copy in the  
possession of this department.

Q. Who has custody of that?

A. Right now it is in an office on that  
side of the building (indicating). When you say  
who has custody of it, it is in a bookcase.

Q. So people can borrow it when they

1 want to look at it, is that what you mean?

2 A. They could.

3 Q. Do you have -- have you actually got  
4 in your possession, though, a copy of an excerpt  
5 of it, I don't mean in your possession here today,  
6 but --

7 A. No, I don't have any copies of  
8 excerpts of the LILCO plan, no.

9 Q. You use this volume that is on the  
10 bookshelf when you want to look at a portion of  
11 the plan?

12 A. It is more than one book. Yes.

13 Q. O.K. Do you know what revision of  
14 the plan is the one that is on the bookshelf that  
15 you've just referred to in the Police Department?

16 A. I heard a few months ago that there  
17 is a revision 9 to the plan. Whether or not that  
18 has been correlated into that current copy,  
19 three-volume, four-volume mass, I really don't  
20 know.

21 Q. Have you had an opportunity as of  
22 today's date to review or evaluate revision 9 of  
23 the LILCO plan?

24 A. Not in its entirety.

1  
2 Q. What portions of revision 9 of the  
3 plan have you reviewed?

4 A. I was made aware of some changes  
5 contained in there which would indicate the  
6 establishment of additional hierarchy in the LERO  
7 organization and provide for the response of one  
8 or more people to county agencies during an  
9 evacuation mode.

10 Q. Did you learn of this by actually  
11 looking at portions of revision 9 or did you learn  
12 it because you were told by somebody of the  
13 changes?

14 A. My recollection, I think I actually  
15 looked at some pages which were part of revision  
16 9.

17 Q. Have you discussed these aspects of  
18 revision 9 with anyone else at the Suffolk County  
19 Police Department?

20 A. Not presently employed.

21 Q. Anyone who is a former employee of  
22 the department?

23 A. Yes.

24 Q. Who is that?

25 A. Former Commissioner James Caples.

1  
2 the police in such an environment. I gave him a  
3 copy of that.

4 Q. Did you discuss with him, though, law  
5 in Suffolk County with respect to participating in  
6 an emergency plan for a nuclear plant?

7 A. That may well have been part of my  
8 conversation.

9 Q. To the best of your recollection,  
10 what did you say to him and what did he say to you  
11 with respect to that?

12 A. I can't really recall. I may have  
13 said, but that would be may, it would be  
14 conjecture right now.

15 Q. You don't have any recollection of  
16 what you said to him and he said to you with  
17 respect to that?

18 A. Specific? No. Not really.

19 Q. Are the police officers in Suffolk  
20 County trained to direct traffic, Chief Roberts?

21 A. Yes, they are.

22 Q. What kind of training do they  
23 receive?

24 MR. MILLER: I will go back, Ms.

25 Stone. Your last line of questions I



1  
2 thought were relevant questions. If you  
3 are going to continue this line of  
4 questioning regarding training of the  
5 Suffolk County police, which I assume you  
6 will, in order to disrupt your time as  
7 little as possible, we will go back to my  
8 standing objection on relevancy grounds and  
9 if you get back to another relevant line of  
10 questions, I'll note that for the record.

11 MS. STONE: O.K.

12 Q. I believe my question was what was  
13 the nature of the training for police officers in  
14 Suffolk County with respect to traffic direction?

15 A. I know that it is part of their  
16 qualifying educational requirements which goes on  
17 for several months at the police academy.

18 Q. Where is the police academy?

19 A. It is at Westhampton, New York.

20 Q. Who is in charge of that?

21 A. Captain Charles Reisinger.

22 Q. Are there standard materials that are  
23 issued in connection with the training of police  
24 officers from this academy?

25 A. I'm sure that there are a lot of

1  
2 classroom training as well as practical exercises  
3 that the trainees are put through over a period of  
4 time.

5 Q. To the best of your knowledge, does  
6 this training include the blocking of lanes on the  
7 roadway?

8 A. I would think it would.

9 Q. Controlling access to roads?

10 A. I would think it would.

11 Q. Turning a road into one-way flow?

12 A. I would think it would.

13 Q. Are there any materials relating to  
14 traffic direction located within the Police  
15 Department of Suffolk County?

16 A. You mean written materials?

17 Q. Written.

18 A. I don't really know.

19 Q. Is there a library -- I say that,  
20 obviously we are sitting in a law library?

21 A. Yes.

22 Q. Is there a library of police-related  
23 materials available to the police officers of  
24 Suffolk County?

25 A. Those adjuncts that the academy might

1  
2 use in its instructional courses, I'm not fully  
3 aware of.

4 Q. Are there any types of resources,  
5 resource material generated by the academy or any  
6 other law enforcement entity, that are available  
7 for the use of police officers or their  
8 supervisors with respect --

9 A. I really wouldn't know the answer. I  
10 would be guessing. It would be guessing on my  
11 part. I don't routinely perform the function so I  
12 don't relate to it on a regular basis.

13 Q. Are police officers given training,  
14 either in the academy or here, with respect to  
15 individual intersection diagrams, is that part of  
16 the training?

17 A. I don't fully understand the question  
18 but let me give you an answer how I perceive the  
19 question.

20 The control of motor vehicles  
21 approaching an intersection and who should be  
22 given the right-of-way or what traffic should be  
23 directed to proceed first, either on a priority or  
24 other basis, yes, I'm sure that is all part of  
25 their training.

1  
2 Q. What authorization need does a given  
3 police officer need to reroute traffic in Suffolk  
4 County?

5 A. The needs and his discretion. The  
6 vehicle and traffic law of the State of New York  
7 provides that he determines those issues.

8 Q. What type of instructions need to be  
9 given to an individual officer if there is a  
10 decision from headquarters to reroute traffic  
11 because of an accident or any other event?

12 A. He can take action on his own  
13 initiative.

14 Q. Suppose a police officer is not on  
15 the scene of an accident, there is a very large  
16 accident, and you are sending a number of police  
17 vehicles to the area, what types of instructions  
18 do you give under those circumstances?

19 A. It might well be appropriate for a  
20 supervisor in charge to direct other responding  
21 units to approach lateral intersections or  
22 perimeter road, character designs and detour,  
23 reroute and direct traffic away from the accident  
24 scene, which would also include a road closure if  
25 it becomes necessary.

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Q. Are the officers in Suffolk County familiar with traffic intersection diagrams?

A. You mean if you had a booklet of foreign traffic intersection designs which might be characteristic of an intersection, they might encounter somewhere within the police district?

Q. Well, my question --

A. They wouldn't need a booklet. If -- most of our patrol officers are assigned to a certain patrol sector. They quickly learn and adapt to what co-exists in their sector during their tour of duty. Tomorrow they will be coming back to the same place. The intersections, they read them very well.

Q. Because they work with them every day?

A. Those days.

Q. They have them committed to memory?

A. Those days they are working, yes.

Q. You referred earlier to precincts. How many precincts are there within the Suffolk County Police Department?

A. There are six.

Q. How are they geographically defined?

1 A. Well, they are precincts.

2 Q. Let me back up before I get a long  
3 answer that has boundaries and all of that.  
4

5 Are they approximately the same size,  
6 geographically spaced across the geographical  
7 area, under your authorization?

8 A. No, and they really weren't in 1950  
9 either. At that time, 1960, the county has  
10 evolved and the evolution is to the east. The  
11 Town of Brookhaven is the largest land mass  
12 municipality in the State of New York. There are  
13 two precincts in that township. One on the south  
14 shore and one on the north shore.

15 Q. By --

16 A. So you take a number of factors into  
17 consideration when they first put them in. You  
18 not only had to consider the populous and the  
19 nature of the environment, business coupled with  
20 residential, commercial, those aspects, but you  
21 also had to be concerned with land mass. How long  
22 does it take you to get to a particular scene.

23 So the inherent considerations were  
24 for the development of sectors, in other words,  
25 patrol sectors. We do not in all instances

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relieve at the end of a tour at a station house. Most of our relief points are away from the station house and during the course of that assigned tour, the supervising officer visits each of his assigned subordinates once or more during that tour.

Q. O.K. The precincts are geographically defined. Does each precinct have a precinct headquarters of some type?

A. They have a precinct building, four of which are similar in design and the other two are designed differently, but of similar design to each other.

Q. Are there any other police buildings within these precincts?

A. Several.

Q. What are they?

A. Well, the marine bureau facility, for instance, is based on Timber Point, county land on the south shore. They have a rather large facility. They can do indoor repair work on more than one boat at one time, and it also provides classroom space for training and whatever needs there may be. Storage of particular specialized

1 equipment for that type of a function.

2 The emergency services unit, crime  
3 scene unit, aviation unit, they are housed at the  
4 MacArthur Airport and they have a hangar for  
5 storage of their aircraft.  
6

7 Q. What is --

8 A. And other facilities.

9 Q. What is the station house that you  
10 just referred to?

11 A. Station house would be a precinct.

12 Q. O.K.

13 A. That would be professional slang,  
14 jargon.

15 Q. Do you use traffic intersection  
16 diagrams within the Police Department, and I  
17 realize they are familiar, but do you have them?

18 A. In a training scenario I'm sure they  
19 do. Every day, officers on patrol sketch  
20 intersectional and roadway characteristics when  
21 they file motor vehicle accident reports.

22 Q. Do you have diagrams posted anywhere?

23 A. Of what?

24 Q. Of intersections?

25 A. They would have to be of such



2 A. They are.

3 Q. Have you reviewed the individual  
4 intersection diagrams of the Shoreham plan?

5 MR. MILLER: Excuse me, Ms. Stone, I  
6 am familiar with the LILCO plan and to my  
7 knowledge there are no traffic  
8 intersections or diagrams of intersections  
9 included within the LILCO plan.

10 MS. STONE: Let me ask the witness.

11 Q. Have you reviewed any intersection  
12 plans or diagram intersection plans that are  
13 related to the Shoreham/LILCO plan?

14 A. In the plan there are highlighted,  
15 some portions of the roadways for highlighting, I  
16 guess that is the purpose of them being in the  
17 plan, there really aren't that many, which  
18 highlight the intention of the planner to  
19 recharacterize the roadway for the purpose of  
20 movement of vehicles. As in one-way traffic  
21 design, continuous flow. A few circumstances like  
22 that. That is my recollection of the plan as  
23 opposed to you may be talking about the envelopes  
24 that have a nice picture --

25 (Pause)

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Q. I am referring to the individual diagrams, traffic plans that are not a part of the plan but are related to the plan and I believe you have reviewed them in connection with your prior testimony here? Correct me if I'm wrong.

A. O.K.

A. I'm sorry to take advantage of you, correct me if I'm wrong, are those the ones that are in the envelopes and would be handed out at a mobile site and handed out --

Q. Yes.

A. Because the supervisor may not have been there on a prior occasion. I know they exist. I've never looked at them. I never had access inside one of those envelopes. I know -- I've read that this packet is delivered to the supervisor at the mobilization staging area.

Q. Has anyone at the Police Department looked at those diagrams in the envelopes?

A. Not to my knowledge.

Q. Has anyone told you what they look like?

A. What they --

Q. What those --

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Roberts

A. Diagrams look like?

Q. Yes.

A. No. I was told there was a diagram in this envelope along with some other data and an equipment list or something like that.

Q. I want to direct your attention -- let me show you first, I'm not sure if we ever showed this to you for identification, Exhibit 5 which is entitled "Affidavit of Richard C. Roberts," and ask you if you've ever seen that document before?

MR. MILLER: For the benefit of the record, I assume we are now going to pursue a line of questions concerning Chief Robert's February 1988 affidavit and if so I would consider that line of questioning relevant to this proceeding. We are doing this exactly backwards, of course, but it seems to take less time this way.

A. I have seen this before.

Q. O.K. I want to direct your attention to paragraph 5 of that affidavit. In particular, I want to direct your attention to page 2, the bottom three lines where you state: "Nor would

1  
2 they have been trained how to respond to a  
3 radiological emergency at Shoreham."

4 And I believe that the "they" in that  
5 quote refers to the members of the Suffolk County  
6 police.

7 Are police officers in the Suffolk  
8 County Police Department trained to respond to an  
9 emergency at the Brookhaven National Laboratory?

10 MR. MILLER: Objection on relevancy  
11 grounds. Go ahead, Chief.

12 A. Specifically to a radiological  
13 emergency occurring at Brookhaven National  
14 Laboratory?

15 Q. No, that was not my question. My  
16 question is what about an emergency at the  
17 Brookhaven National Laboratory.

18 A. An emergency?

19 Q. An emergency.

20 A. O.K. Yes.

21 Q. What is the nature of that training,  
22 if you know?

23 MR. MILLER: I'll go back to my  
24 standing relevancy objection on this line  
25 of questions.

1  
2 Shoreham, at any location other than  
3 Shoreham, without the implication that  
4 anything has happened at Shoreham.

5 A. Yes.

6 Q. For what type of radiological  
7 emergency have the police been trained?

8 A. Well, the level of involvement would  
9 indicate that our greatest concerns at this point  
10 in time are to those hazardous materials, spills,  
11 those premises, industrial, who have storage of  
12 toxic materials et al., whatever substance.

13 Q. What training has there been in these  
14 areas?

15 A. The academy has that responsibility  
16 and there is classroom and then -- what do you  
17 call it, what is a good word -- they would  
18 exercise a particular site location and  
19 supervisors would have to react to the scenario as  
20 described.

21 Q. Do you know any particular sites as  
22 to which officers are trained at the academy?

23 MR. MILLER: You mean trained to  
24 respond to a particular site?

25 MS. STONE: Yes.

1  
2 A. No. Without specific reference to  
3 any particular site, no.

4 Q. O.K. Let's go back a couple of  
5 questions to where -- the one that started have  
6 the Suffolk County police officers been trained in  
7 connection with potential radiological and see if  
8 you can find that question.

9 (Record read)

10 MS. STONE: Read the answer too.

11 (Record read)

12 Q. I want to go back to potential  
13 radiological emergencies anywhere else.

14 Have the Suffolk County police been  
15 trained with respect to potential radiological  
16 emergencies at anyplace aside from the Shoreham  
17 plant?

18 A. Well, --

19 Q. Or I'll say anywhere and you can  
20 say -- and you can answer.

21 A. Yes, they have. They would respond  
22 to a radiological emergency occurring within the  
23 County of Suffolk.

24 Q. They would?

25 A. Yes.

1  
2 Q. No matter where that radiological  
3 emergency occurred?

4 A. Yes.

5 Q. What training has been done with  
6 respect to radiological emergencies within the  
7 County of Suffolk occurring within the County of  
8 Suffolk or occurring outside but having an affect  
9 on the County of Suffolk?

10 A. To my knowledge, it is not site  
11 specific. O.K.

12 Q. O.K. What is the nature of the  
13 training that has been given?

14 A. I'm not fully aware of the totality  
15 of the training that is afforded to the officers  
16 at the Police Academy and/or the in-service that  
17 may be afforded them with specific assignments,  
18 i.e., emergency service response personnel.

19 They go away to special schools.  
20 They go to Huntsville, Alabama, they go to New  
21 Jersey, and those people are the up-fronters, so  
22 to speak. They are our uniformed personnel, and I  
23 could be mistaken, but generally are instructed to  
24 establish a perimeter and once that has been  
25 established, then they wait for the emergency

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Q. And these are the people you say who have been trained in Alabama and New Jersey with respect to radiological emergencies?

A. Yes.

Q. How many people are employed in that?

A. I believe 25 would be a fair number. They work off a 22 squad chart. There are three supervisors that I'm aware of.

Q. Have these individuals been trained, to your knowledge, with respect to pathway operations relating to any action that might have to be taken in connection with the Indian Point nuclear plant or the Millstone Point plant?

MR. MILLER: Excuse me, is the question about pathway operations?

MS. STONE: Ingestion pathway operation.

A. I don't have any knowledge of that.

Q. You don't know whether anyone in Suffolk County, or do you know whether anyone in Suffolk County, in the Police Department, has been trained with respect to any evacuation which might have to take place in Suffolk County by virtue of an accident at Indian Point or Millstone Point?



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MR. MILLER: Excuse me, Ms. Stone.  
Your question goes to whether there has  
been training for the possibility of having  
to evacuate Suffolk County because of an  
accident at the Indian Point plant?

MS. STONE: Yes.

THE WITNESS: Or Millstone.

Q. You understand the question?

A. I do.

Q. What is your answer?

A. I'm not aware of any.

Q. Could there be such training to the  
people from emergency services that you are just  
not aware of?

A. There could be.

Q. You state in paragraph 5 that in your  
opinion, it cannot be assumed that police -- let  
me give you the quote. "It cannot be assumed that  
police participation would provide effective  
preparedness during such a major undertaking as  
asserted by LILCO."

Why is that your opinion?

A. Well, although it is not specifically  
said there, what I'm saying is, is that police

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2 participation to the extent that they would do  
3 that function which has already been assigned to  
4 LERO workers. I don't believe that we could  
5 provide effective preparedness. In addition to  
6 which I do not believe that our people have been  
7 trained and exercised to perform under those  
8 conditions to the magnitude with which the plan  
9 would require them to perform.

10 Q. O.K. Let's go back to your first  
11 basis for your opinion, which is that they would  
12 not perform -- and correct me if I'm wrong about  
13 what I understand your testimony to be -- but what  
14 I understand is you say your police officers would  
15 not perform these functions because the function  
16 was also assigned to someone who is not a sworn  
17 police officer?

18 A. No.

19 Q. All right, why don't you clarify that  
20 for me because that is the way I understood it.

21 MR. MILLER: Before you clarify it,  
22 Chief Roberts, so we can leave the record  
23 as clear as possible, I did find your last  
24 question relevant and so long as you  
25 continue this line of questioning, I

1  
2 believe these questions are relevant. But  
3 you have, I think, misstated Chief Roberts'  
4 testimony.

5 MS. STONE: I didn't understand his  
6 answer. That is why I worded it that way.

7 A. What I'm trying to say here is that I  
8 don't believe that without the proper training and  
9 exercising to determine the level of expertise  
10 developed and then solely to the extent that the  
11 plan would proscribe where the people would be  
12 put, all those factors, all taken into  
13 consideration.

14 Q. I'm confused.

15 A. I don't then believe that we could  
16 provide an effective preparedness for such an  
17 emergency.

18 Q. What training is it that your people  
19 don't have?

20 A. Well, I've never really been in  
21 charge of such -- what I consider to be a major  
22 scenario or occurrence, and to be very frank with  
23 you, without an appropriate period set aside for  
24 planning and gross consideration, I don't think  
25 really that I'm prepared to answer that.

1  
2 Q. O.K. I would like to go back and  
3 read his initial answer --

4 A. Aside from getting into a car and  
5 driving somewhere.

6 MS. STONE: Let's go back to the  
7 original answer when I gave the quote from  
8 paragraph 5 of the affidavit. Read the  
9 answer.

10 You can give the question and answer  
11 if counsel wants it, but I want to focus in  
12 on a particular portion of your answer and  
13 get you to expand on it because I think we  
14 have gotten away from it, and it is the  
15 portion that I attempted to characterize  
16 and characterized improperly and I want to  
17 go back and focus on that and have you  
18 explain to me what you mean by it.

19 (Record read)

20 Q. What did you mean by that portion of  
21 your answer where you said that the police  
22 participation to the extent that they would do the  
23 functions assigned to LERO officers poses a  
24 problem in terms of police response during a major  
25 emergency at Shoreham?

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2           A.     I think it goes beyond just those few  
3 things that we have very recently discussed, in  
4 other words, training, exercising to insure that  
5 the training has been appropriate and satisfies  
6 the need.

7           My feelings also attach themselves to  
8 portions of the plan which say LERO workers are  
9 assigned in this number to respond to these  
10 locations and perform those functions. I don't  
11 think we have ever agreed that, at least from the  
12 police department's standpoint, that we totally  
13 agree with the LILCO plan and the number of  
14 restricted, our conversation is now solely to  
15 traffic guideposts, D.K., that we agree that there  
16 should only be 135 assigned traffic posts, nor do  
17 we believe, nor have we said even if we did  
18 believe 135 was adequate, that the numbers of  
19 people assigned to staff all of those described  
20 traffic posts would be sufficient to handle  
21 evacuating the public for an extended period of  
22 time.

23           Of course there are other factors.  
24 The movements through certain described  
25 intersections that have been made part of the plan

1 of unknown substance and it is giving you a good  
2 kick on the electronic device, that is site  
3 specific.  
4

5 We are talking about, in my  
6 estimation, an area, depending on wind drift and  
7 other factors that come into play, that creates an  
8 imagery in my mind of a rather large, expansive  
9 area and I never have thought that the staffing  
10 provided for in the LERO plan was anywhere near  
11 appropriate and adequate to insure preparedness.

12 Q. O.K. But assuming your police  
13 officers were directed to provide access control  
14 along given geographical boundaries, would they  
15 understand the concept of access control?

16 A. I'm sure they would.

17 Q. If you were directed to do so by the  
18 commissioner of police, would you direct the  
19 police officers under your control to follow the  
20 LILCO plan with respect to its provisions for  
21 access control?

22 MR. MILLER: You are asking the  
23 witness to speculate, but with that  
24 understanding, Chief Roberts, you may  
25 answer.

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A. You are asking me to speculate and all of the information I have available to this point in time indicates to me that the LILCO/LERO plan would not be followed, so you are asking me to speculate on whether or not I would do it if my commissioner said "follow those directions that are in the LERO plan."

Q. I'm not asking you what your police officers would do, I'm asking you --

A. What I would do.

Q. If you were ordered by your commissioner, ordered by your commissioner, to direct your officers, to order your officers to follow a certain behavior, including the LILCO plan, would you carry out that order from your commissioner?

A. It would have to be a lawful order and knowing what I know, the circumstances would have to change.

Q. What are the circumstances that would have to change for you to carry out that order?

A. I just indicated that to you. All of the information I have available to me at this point in time indicates that county agencies will

2 not, will not follow the LILCO/LERO plan.

3 Q. That is not my question. My question  
4 is you said that you would only carry out a lawful  
5 order. Is it your opinion that such an order from  
6 your commissioner would be something you would not  
7 follow out under the present circumstances if this  
8 happened this afternoon as we are sitting here?

9 A. Under the present circumstances, I  
10 have the highest level of regard and faith and  
11 respect for my superiors. Yes, I would follow the  
12 order.

13 Q. You would follow the order?

14 A. I would.

15 Q. Despite --

16 A. Because I wouldn't expect him to give  
17 me an unlawful one.

18 Q. That is in spite of the local laws  
19 that have been passed with respect to  
20 participation in emergency planning preparedness?

21 A. I'm not going to place my judgment on  
22 the level of my knowledge above his. I know what  
23 currently exists. If those circumstances changed  
24 and I don't know it, but the man gives me an  
25 order, I will perform it.



1  
2 Q. Is that the same with respect to  
3 other aspects of the LILCO plan, if you were  
4 directed, ordered to tell your police officers to  
5 direct traffic in accordance with the LILCO plan,  
6 would you do so?

7 MR. MILLER: I want to understand  
8 your hypothetical. You are talking about  
9 an order given today that under current  
10 county law would be an unlawful order but  
11 would be coming from the commissioner to  
12 Chief Roberts, would he carry it out.

13 MS. STONE: My hypothetical doesn't  
14 consider whether the present law makes it  
15 lawful or unlawful. That is a question for  
16 greater minds than yours or mine. The  
17 hypothetical is as the law stands today, in  
18 light of all of the circumstances that are  
19 present today in terms of the laws, he has  
20 already said that he would obey an order  
21 from the commissioner with respect to  
22 access control.

23 It was a very limited question. I'm  
24 asking if that same reasoning applies with  
25 respect to other aspects of the LILCO plan.

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2 Q. If you were directed to tell your  
3 police officers to act in compliance with the  
4 LILCO plan in other areas, would you also do so on  
5 the direction of your commissioner?

6 A. Yes, I would. And at the same time  
7 that I was doing it, you can rest assured that I  
8 would be telling him that I didn't believe it  
9 would work.

10 Q. But you would do it?

11 A. Yes, ma'am.

12 Q. Now, given the training that your  
13 police officers already have and the experience  
14 that they have, do you think that they could  
15 follow the directions in the LILCO plan? My  
16 question is not whether it would be effective or  
17 not, because you've given me your answer on that.  
18 My question is could your officers physically  
19 follow your order if you followed your  
20 commissioner's order and directed them to carry  
21 out functions under the LILCO plan.

22 MR. MILLER: That question is  
23 grossly overbroad. It is vague. It asks  
24 if officers could follow any kind of an  
25 order relating in any way to the LILCO

2 plan. It calls for speculation by the  
3 witness. I do not see how Chief Roberts  
4 can answer that question.

5 If he believes otherwise, he may  
6 answer.

7 A. I can attempt to answer it in my own  
8 way.

9 Q. Go ahead.

10 A. It is not a yes or no. The plan  
11 outlines certain actions on the part of LERO  
12 workers. It assumes a response by the public to  
13 those directions at all. Assuming that those  
14 circumstances co-exist, our people are trained,  
15 yes, they could do it.

16 Q. Assuming everything else in the LILCO  
17 plan --

18 A. Is true.

19 Q. -- went as outlined, your police  
20 officers would be able to respond in the manner  
21 described in the LILCO plan, is that your  
22 testimony?

23 A. That's right, but you know, the  
24 qualification to that answer is I haven't seen it.  
25 We have reviewed exercises conducted under the

2 LERO plan and they would indicate that it is not  
3 workable in many areas and that the plan itself is  
4 inherently flawed.

5 Q. That is the effectiveness of the  
6 plan?

7 A. The questions you are asking go back  
8 to -- and I can't, like a blackboard, erase it out  
9 of my mind and have you say -- I know my people  
10 can direct traffic and they will direct traffic  
11 under the most trying conspiracy, but they have to  
12 be assured that what they are doing is what should  
13 be done and that at a point in time, whatever time  
14 that effort should be modified, changed or other  
15 people made available to assist in the same  
16 functions that are making their task almost  
17 impossible to perform, that it is available to  
18 them, and these are all ramifications and as --  
19 you know, as a police supervisor, I just wouldn't  
20 want to put people out on a post and you go there,  
21 you go there, you go there, you do this and then  
22 have it all fall flat on its face.

23 Q. But if you were directed to do so --

24 A. If it is not going to work, and  
25 nothing has been shown to me to this point in time

2 that it will work, then why would I do it in the  
3 first instance?

4 Q. But you would do it if you were  
5 directed to do so, you would direct your officers  
6 in accordance with the LILCO plan?

7 A. Sure. Sure.

8 Q. If you referred --

9 A. I can't imagine anybody telling me to  
10 do it.

11 Q. You made a reference to people making  
12 it impossible for your police officers to do their  
13 job. What did you mean by that?

14 A. No, I'm saying that if in fact the  
15 plan's assumptions are not what will be the real  
16 world scenario, then you could give out all of the  
17 diagrams and instructions you want and it is not  
18 going to work. It is not going to work. I don't  
19 care if you have 1 officer or 7 officers out  
20 there.

21 Q. Do you have any specific reason to  
22 believe that your officers would not follow your  
23 instructions?

24 A. I have none.

25 Q. If you gave them as an order?

2 A. I have none, so long as they are  
3 physically able to perform, yes. Some officers  
4 have indicated that that would be actions or  
5 attitudes before they repaired for duty. Our  
6 people respond in a totally responsive and caring  
7 way.

8 (Pause)

9 A. I hope you grabbed that last portion  
10 of my statement, and that was to the extent that  
11 no, that would be pre-mobilization. If they come,  
12 they will do it. I don't know how many will come,  
13 but it never has been proposed. We have never had  
14 the mobilization efforts to the scale or extent  
15 that we believe the manpower requirements would be  
16 in such a scenario, but --

17 Q. What is the largest number of men  
18 you've tried to mobilize at any given time for an  
19 emergency?

20 MR. MILLER: Objection on relevancy  
21 grounds.

22 MS. STONE: Fine.

23 A. There have been scenes, back in the  
24 60's, early 70's, there were some scenes of civil  
25 disobedience.

1  
2 MR. MILLER: Ms. Stone, if you are  
3 going to ask about communications  
4 capabilities of the Police Department --

5 MS. STONE: I'll just ask him about  
6 communication systems. I won't limit it in  
7 any way. I was trying to give him a hint  
8 as to where I was going.

9 MR. MILLER: I understand but your  
10 question implies that the RECS system is  
11 part of the police communication system.

12 MS. STONE: I delete any reference  
13 to the nature or topic of what the  
14 questions are to follow. I'll just ask the  
15 question.

16 Q. Are you familiar with the term RECS  
17 system?

18 A. I believe I have a familiarity with  
19 it.

20 Q. Do you have such a system in Suffolk  
21 County, if you know?

22 A. Not to my knowledge.

23 Q. What is your understanding of what an  
24 RECS system is?

25 A. That is a conference type scenario.



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you pick up a phone and it automatically rings at certain designated locations and when the phones are picked up, there is a roll call and then a conversation ensues and acknowledgment of the information translated read back and the conversation ceases, the phones are hung up.

It could activate from any one of several sites.

Q. Do you know whether there has ever been an RECS line or system hookup between the Shoreham plant and the Suffolk County Police Department?

A. I don't have any knowledge.

Q. You don't have any knowledge as to whether there ever has been one, is that what you are saying?

A. That was the question.

Q. Yes. Are you familiar with the term -- excuse me, who would know, is there someone who would have more knowledge about this type of communication system than yourself?

A. To my knowledge, there is -- there isn't any. There has been movement in that bureau, Communications and Records Bureau,



1 probably there has been a change of commanding  
2 officer at least twice, maybe three times, in the  
3 last five years.  
4

5 Q. Who is the current commanding  
6 officer?

7 A. Philip Robilotto.

8 Q. Do you know for a fact that there is  
9 not an RECS system between the Shoreham plant of  
10 the Suffolk County Police Department or do you  
11 just not know whether there is or not such a  
12 system?

13 A. I don't know that there is such a  
14 system.

15 Q. You don't know whether or not there  
16 is, there could be one, for all you know?

17 A. I depend -- no, I don't believe there  
18 is one because in the last couple of years, there  
19 have been declared unusual incidents at the site  
20 and they have come through either on the outside  
21 line or 911, so I would suspect that if there was  
22 RECS, it would be easier to go the other route.

23 Q. Have you ever heard any discussion  
24 within the Police Department of the advisability  
25 of having an RECS line with Shoreham?

2 A. I've read it in the plan.

3 Q. Has there ever been any discussion  
4 within the Police Department that you know of with  
5 respect to an RECS line to Shoreham?

6 A. I'm not privy to it.

7 Q. Do you think that that would be a  
8 good thing to have?

9 MR. MILLER: Calls for speculation.

10 A. If that plant ever went on line, it  
11 would.

12 Q. I'm not talking about in connection  
13 with the plant being on line or not. Just talking  
14 about for emergencies such as the ones you've  
15 described like bomb scares?

16 A. You could have people lined up the  
17 road and pass the message orally. If we are  
18 designated to perform a response mode, the  
19 quickest that we could get the message, it would  
20 give us time to put out the call. I'm not against  
21 it, that is for sure.

22 Q. Are you familiar with the term NAWAS?

23 A. No.

24 Q. What kind of communication system  
25 does the Police Department use to communicate with

2 other police departments in the Suffolk County  
3 area?

4 MR. MILLER: I object on the  
5 relevancy grounds. As long as we continue  
6 on this line, I'll ask for a standing  
7 objection on relevancy grounds.

8 A. Radios and telephones.

9 Q. Are you in radio communication with  
10 the other law enforcement offices that you  
11 described earlier, both within the district and  
12 outside the district?

13 A. No.

14 Q. Is there no countywide radio system  
15 to reach all law enforcement entities within  
16 Suffolk County?

17 A. I can't say with a certainty that  
18 they all have that capability.

19 Q. If you wanted to reach the police  
20 department in a town outside your district like  
21 East Hampton, would you reach it by radio or by  
22 telephone?

23 A. Telephone.

24 Q. Are there dedicated lines between  
25 this office and that?

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2 A. I've never heard of it.

3 Q. Do you know what, if any, dedicated  
4 lines there are within the Suffolk County Police  
5 Department phone system?

6 A. I don't know if the dispatcher in an  
7 ideal situation, if -- there is more than one  
8 dispatcher in the communication dispatch aspect, I  
9 don't know if the respective dispatchers if they  
10 are on precinct frequencies can just pick up a  
11 phone and it will automatically ring down at the  
12 desk, for instance, at the respective precincts.  
13 I know he has the capability of using a land line  
14 for that purpose.

15 I'm almost sure we have the  
16 capability of picking up a phone and communicating  
17 laterally with fire safety dispatch. Those are  
18 the only dedicated lines that I'm aware of.

19 Q. How about with New York?

20 A. When you say New York --

21 Q. If you were going to reach the New  
22 York Police Department.

23 A. I would call them on the phone.

24 Q. Could you describe for me, to the  
25 best of your knowledge, the radio system you have

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within the Suffolk County Police Department for internal communications.

(Pause)

MR. MILLER: For the record, I consulted with Chief Roberts for the purpose of instructing him not to get into specifics regarding communications capabilities of the Police Department. We went through this issue some time ago and Chief Roberts will not answer questions with respect to particular frequencies and the use of those frequencies although I have no trouble with him generally describing the communication system of the Police Department.

MS. STONE: O.K.

Q. If you would indicate for me when there are different frequencies and when people are on -- entities are on the same frequency without revealing what that frequency is, I would appreciate it.

A. We have a communications capability, multifrequency communications dispatch system.

Q. Where is it located, where does its

2 central function take place?

3 A. For the purposes of our conversation,  
4 I would say Yaphank.

5 Q. Who is in charge of this system?

6 A. We have a communications director.

7 Q. What is his name?

8 A. Vincent Stile.

9 Q. How is this system staffed here in  
10 Yaphank?

11 A. You have 24-hour staffing of an  
12 emergency complaint operator crew who receive  
13 complaints and process them through to the radio  
14 dispatch section, similarly staffed on a 24-hour  
15 basis.

16 Q. Are these the 911 operators?

17 A. The ECO's are 911.

18 Q. Is there any other way to access  
19 them?

20 A. You can call them from a police  
21 phone.

22 Q. All right. The complaints come in to  
23 these operators and they are then farmed out to  
24 the dispatchers?

25 A. Uh-huh.

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Q. How many dispatchers are located here in Yaphank at any given time?

A. Do you have a day of the week?

Q. Does it vary with the day of the week, before I pick a day of the week?

A. I don't want to make it difficult. I would say there is a minimum of five dispatchers on duty.

Q. Are they --

A. At a given point in time.

Q. Is there a dispatcher per precinct or do -- or does each dispatcher dispatch regardless of precinct boundaries?

A. Each of them have similar capabilities. They can dispatch by precinct or they can dispatch countywide.

Q. What authority do these dispatchers need to get before they respond to a complaint that has been passed along to them by the operator?

A. None. It is called for service. You would have to be an idiot to say what about this. You don't do these kinds of things. We have supervisors on the floor where the ECO's are so

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when it gets to the dispatcher, it goes boom, pow, that is it.

When I say the dispatcher can go precinct or countywide, that is our units. Our units. It doesn't take away from your prior question with respect to communicating with outside agencies.

Q. Let me go back to a question I didn't ask earlier and that is your authority.

Assuming you are not in hot pursuit of some speeding motorist but you have some other type of emergency situation, do you have authority to make arrests, carry out general police functions in any of the towns and villages that are not specifically within your police district but are in Suffolk County?

A. Yes.

Q. Is that --

A. Depending on the nature and seriousness of the offense.

Q. So it is tied to an emergency type of situation rather than, however you defined emergency, as opposed to simply patrolling?

A. It is an observed violation.



1  
2 If you care to answer that question,  
3 Chief Roberts, you may. If you don't care  
4 to answer it, don't.

5 MS. STONE: I withdraw the question.

6 Q. Do you have dispatchers anywhere  
7 besides in this building?

8 A. There may be one -- no, not for the  
9 purpose of dispatch, no. There may be one or two  
10 monitoring stations that have the capability of  
11 communicating outside of their office but probably  
12 with no greater ease than if you picked up a  
13 portable radio and did the same thing.

14 Q. In the event of an emergency, what  
15 procedures are there for you to reach other  
16 supervisory people in the Police Department?

17 A. On or off duty?

18 Q. Off duty.

19 MR. MILLER: Ms. Stone, you are  
20 talking about any kind of an emergency?

21 MS. STONE: Yes.

22 MR. MILLER: Talking about within  
23 this police department how would Chief  
24 Roberts reach other supervisory personnel  
25 off duty?

2 MS. STONE: Yes.

3 A. Each of us has a call sheet for  
4 respective supervisors in your sphere of  
5 responsibility, so to speak, as well as lateral  
6 and hierarchy. If you want to direct your inquiry  
7 to a specific individual, you call him by phone.

8 Q. Do you carry such a list with you?

9 A. I do.

10 Q. You do. Who is on the list that you  
11 carry with you?

12 A. The hierarchy and my lateral.

13 Q. Everyone above you?

14 A. Oh, yes.

15 Q. Is that what you are saying?

16 A. Yes. If you are in the field and --  
17 there are certain requirements for notification  
18 and you are best advised to do it.

19 Q. Suppose you were trying to reach  
20 Commissioner Guido, how would you go about doing  
21 that?

22 A. I would communicate through the duty  
23 officer.

24 Q. You would call from your home to the  
25 duty officer who then would contact Commissioner

2 Guido?

3 A. Uh-huh.

4 Q. Could you call him directly if you  
5 wished to do so?

6 A. I could but I -- you go through the  
7 duty officer first. You save time. He may not be  
8 where I'm calling to begin with and he will pick  
9 him up somewhere.

10 Q. Is it customary that a supervisor  
11 like the commissioner would leave his  
12 whereabouts -- information about his whereabouts  
13 with the duty officer?

14 MR. MILLER: You are asking the  
15 witness to speculate. Commissioner Guido  
16 has been here for two weeks. I don't think  
17 that custom has been established for the  
18 commissioner.

19 MS. STONE: I will rephrase the  
20 question.

21 Q. Is there any policy or practice  
22 within the Police Department with respect to  
23 notification to the duty officer about your  
24 whereabouts when you are off duty?

25 A. Not unless you are on call.

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Q. Is that true with respect to the commissioner?

A. He promulgates the rules. I'm sure that he makes himself available to the duty officer during those periods of time when he knows certain other members of his staff will not be available, so if in fact he were not available, all right, your call reference would be made to the next lesser rank and you would pick up a guy quickly.

Q. Is it your practice to notify the duty officer as to where you are at all times?

A. When I'm on call.

Q. How often are you on call?

A. As often as I'm delegated that responsibility.

Q. You don't deem yourself to be on call at all times?

A. 24 hours a day?

Q. Yes.

A. If I were there when the phone rang, I would respond to whatever direction I was given. Theoretically, there are always responsible people who are designated on call during whatever period

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question.

Q. If you are calling from home and you want to reach the duty officer, how do you reach the duty officer?

A. I dial his phone number.

Q. Directly?

A. Yes.

Q. If someone within the Police Department wanted to reach the county executive, they would call the duty officer directly at his number and it would go up. Suppose you could not remember the number of the duty officer, could you reach the duty officer through 911?

A. I could, in an emergency.

Q. If someone needed to reach the county executive and called to 911, what would the procedure be, if you know, for reaching the county executive through that number?

MR. MILLER: Your question would be if anyone, Joe Citizen wants to reach the county executive?

Q. If Joe Citizen realizes that an atomic bomb just went off near him and he saw a mushroom cloud and he wants to find out what the

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county executive is doing about it, how would he go about doing that if his first impression was to call 911?

A. He can call 911 but he is not going to talk to the county executive.

Q. What would happen to his call if it came in?

A. The information would be recorded, it would be given to a responsible supervisor in the field to check out and the call then would be disconnected from 911.

What you don't do with the 911 lines, you don't tie them up. You take the information and you get off. There is stacking capability.

Q. Is there a warning point located within Suffolk County?

MR. MILLER: Could you define what you mean by "warning point"?

MS. STONE: Let me see if the witness is familiar with the term "warning point."

A. I know what it is generally used as.

Q. Have you ever heard the term "Suffolk County warning point"?

2 A. Yes.

3 Q. What is your understanding of that  
4 term?

5 A. I believe that the warning point is  
6 located in the Department of Emergency  
7 Preparedness.

8 Q. Of the Division or Department of  
9 Fire, Rescue and Emergency Services?

10 A. The correct terminology or  
11 identification of Mr. Davis' group over there, the  
12 department is the Department of Public Safety, to  
13 my knowledge, and he is the department head. In  
14 that organizational structure, there is an Office  
15 of Emergency Preparedness.

16 Q. What is the organizational  
17 relationship between the Suffolk County Police  
18 Department and this Suffolk County warning point?

19 MR. MILLER: Well, your question  
20 assumes that such a warning point exists.  
21 I don't believe that is the testimony  
22 offered by this witness.

23 MS. STONE: I believe he said it is  
24 located a block away from here in that  
25 division.



2 Q. Am I wrong?

3 A. I didn't say it was -- where it was  
4 located but I said in the last three or four  
5 questions that in the structure of the Department  
6 of Fire Safety is the Office of Emergency  
7 Preparedness and that there is an Office of  
8 Emergency Preparedness and that I believe that the  
9 warning point is located at the Office of  
10 Emergency Preparedness.

11 Q. So it exists, you believe it exists?

12 A. It is not a block away. It is down  
13 the street.

14 Q. Do you know the street? I thought  
15 you pointed in this direction.

16 MR. MILLER: We have to make sure we  
17 have an understanding on the record of what  
18 you are talking about. Are you talking  
19 about some Suffolk County warning point as  
20 specified in the LILCO plan or some other  
21 kind of Suffolk County warning point?

22 MS. STONE: I'll ask the witness.

23 Q. Are you familiar with the existence  
24 of such an entity, office or organization  
25 independent of such an entity being described in



2 the LILCO plan?

3 A. No, I'm not. I know from past  
4 attendance in a meeting here or there discussions  
5 with people over the years that the Office of  
6 Emergency Preparedness interfaces with concerned  
7 state agencies and things like that, yes, I know,  
8 so I'm going to say the total of my knowledge is  
9 that would be where the warning point is.

10 Q. O.K. Well, let me ask another  
11 question about that.

12 A. But they are not staffed on a 24-hour  
13 basis.

14 Q. Is there a warning point office,  
15 division or something that has current employees,  
16 to your knowledge, within the Department of Public  
17 Safety?

18 A. I don't think there is an office of  
19 warning point. I think the warning point is the  
20 responsibility of the Office of Emergency  
21 Preparedness and I say to you that I personally  
22 don't know that they are staffed 24 hours a day.  
23 I don't believe they are.

24 Q. Are there any people assigned to this  
25 thing called a warning point, to your knowledge?

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A. There are employees in the Office of  
Emergency Preparedness, I know that.

Q. That are assigned to the warning  
point?

A. I don't know that they are assigned  
to a warning point. I mean warning point creates  
in my mind a need for a 24-hour message receipt  
system, seven days a week, 365 days a year, and my  
last interface with that agency, that particular  
office, they are not there 24 hours a day.

Q. Do you know what, if any, function  
the warning point has?

A. I'm sure it is to notify the county  
executive of receipt of information that there is  
an impending or an actual situation existing which  
would raise concerns for the public health or  
safety.

Q. Do you know anything else about how  
it is supposed to operate or does operate?

A. How it is supposed to operate --  
there are people that --

MR. MILLER: The question, Chief, is  
do you know.

Do you know how it is supposed to

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operate?

A. To the extent that I do I can tell you.

Q. Sure. Tell me your understanding of how it is supposed to operate.

A. It is my understanding that certain designated county department heads, upon notification, would respond to that location and there assist the county executive in his direction toward protecting the public health and safety. Depending upon the nature of the incident. Who knows.

Q. It is your understanding that that is something that exists right now to respond in the event of an emergency or to facilitate --

A. Not any emergency but an emergency, yes.

Q. Do you know what the procedure is for the notification to individuals in the event of an emergency?

A. From?

Q. From the warning point.

A. No.

Q. Do you know what authority rests with

2 the warning point?

3 MR. MILLER: I --

4 Q. With the office in charge of that  
5 warning point.

6 MR. MILLER: I don't understand what  
7 authority.

8 Q. What authority in the event of an  
9 emergency rests with the office in charge of the  
10 warning point?

11 MR. MILLER: I don't understand the  
12 question. What authority lies with the  
13 warning point?

14 MS. STONE: Yes.

15 Q. What authority rests with the  
16 individuals who would be called to the warning  
17 point in the event of an emergency?

18 MR. MILLER: I don't think the  
19 warning point can have authority.

20 MS. STONE: I withdraw the question.

21 Q. How is your 911 number at the Police  
22 Department staffed?

23 MR. MILLER: Lest there be any  
24 doubt, my continuing relevancy objection is  
25 still in force.

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Q. You may --

MR. MILLER: Go ahead, Chief

Roberts.

A. 911, there are rotating shifts of civilian employees with job descriptions of emergency complaint operators. There also is a small contingent of uniformed sworn officers that assist that group in that particular function, 911. They supervise the teleserve aspect.

Q. Those operators are located in this building?

A. They are.

Q. And how many operators are assigned at any given time, if you know?

A. I'm going to guess. Probably no less than seven or eight at any one given point in time. On occasions there may be one or two more.

Q. Are the 911 operators only authorized to transfer calls to dispatchers or are they also authorized to transport -- translate, transfer those complaints to other members of the Suffolk County Police Department?

A. I've heard of the conversation describing call switching. Now, I don't know if

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Roberts

each of the stations in there has that capability but if you call 911, that is a continuing educational process as far as the general populace is concerned. "Please don't call 911 unless it is an emergency." It is done in every police jurisdiction. It really ties up the system.

So whether or not they presently have this call switching capability, if they can take a nonemergency number and switch it over to a nonrelegated line, generally no, they do not take calls. They take complaints.

Q. Has the Suffolk County Police Department conducted or had conducted at their request any analysis or informal or formal report of the 911 procedure, to your knowledge?

A. I wouldn't know.

Q. Does the Police Department have any analyses or reports relating to traffic flow or the capacity of the roads in Suffolk County?

A. The Police Department? Not to my knowledge. That is a function of the Traffic Safety -- that is the responsibility of Traffic Safety, an arm of the Suffolk County government.

Q. What equipment and procedures does

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Suffolk County have for the removal of traffic impediments which occur within Suffolk County?

MR. MILLER: I assume you are limiting your question to the Suffolk County Police Department, not Suffolk County?

MS. STONE: My question was Suffolk County.

MR. MILLER: Chief Roberts can't speak for Suffolk County.

MS. STONE: I thought you were referring to the end of my question, not to the beginning of my question. I thought I -- I will restate the question just in case you are right about the way I first asked it.

MR. MILLER: I'm right.

Q. Does the Police Department have -- excuse me. Strike that.

What equipment or procedures does the Police Department have for the removal of traffic impediments in Suffolk County?

A. As a general rule, the Police Department, based on the licensing authorities



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within the five townships that comprise the police district, use the services of private towers.

Q. Does the Police Department have any tow trucks of its own?

A. Some.

Q. Approximately how many?

A. I'm told 11.

Q. Is it the Police Department's practice and policy to use those 11 tow trucks for removing traffic impediments?

A. No.

Q. What are those tow trucks to be used for under the procedure of the Police Department?

A. For the purpose of picking up a disabled police unit, laterally to assist another county agency in taking one of their county vehicles off the roadway. Very few circumstances involved there.

By far, mostly their function is to respond and remove vehicles which are of an evidential nature.

Q. Where are these tow trucks located?

A. One or more may be satellite from the garage but we have two garages. One is in

2 Yaphank, the other one is in Hauppauge.

3 Q. Is the procedure to call one of these  
4 contracting tow companies when a traffic  
5 impediment is discovered by one of your officers?

6 A. Yes, that vendor service, the  
7 respective ordinances require rotating lists of  
8 assignment. You have two classifications. One is  
9 disability and the other is MVA.

10 Q. Do these --

11 A. In one or more of the townships, in  
12 order to tow from an accident scene, you have to  
13 have the capability to repair that vehicle when  
14 you get it to your place of business, so that is  
15 why they have two lists. DM and MVA.

16 Q. Do these companies only tow cars at  
17 the direction of the Police Department or is there  
18 some standing arrangement with some of these  
19 companies to remove cars that are, for instance,  
20 illegally parked, without obtaining specific prior  
21 approval of the Police Department?

22 A. They don't tow nor do we tow  
23 illegally parked vehicles.

24 Q. I guess my question is, do they have  
25 to call to get advance authorization before the

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Roberts

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removal of any car or are there circumstances

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under which the tow companies are authorized to

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remove without getting specific authority from a

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police officer?

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A. They go out and conduct a normal

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course of business. They certainly would not --

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that would be considered unauthorized use of a

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motor vehicle or whatever if you go out there and

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hook onto a car because it is parked off the

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shoulder of a public roadway.

12

Q. Are there any circumstances under

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which utilities or other organizations within

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Suffolk County are authorized to remove vehicles

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that are impeding their work?

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MR. MILLER: Authorized by whom?

17

MS. STONE: The Police Department.

18

A. That are impeding their work?

19

Q. Yes.

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A. There is provision in the state law

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that you can move an illegally parked vehicle to a

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legally parked position so as to facilitate the

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movement of traffic. I'm not aware of anything

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that says that a utility truck can either push or

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tow a vehicle from the base of a pole because they

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want to change a transformer. They would have to call the local authorities.

Q. But there are circumstances under which a utility would be permitted to move an impediment.

MR. MILLER: Are you asking a question?

MS. STONE: Yes.

MR. MILLER: Now your question is whether a utility would be permitted.

Q. Do you envision circumstances under which a utility would be authorized under the law or practices of Suffolk County to remove a vehicle which was impeding its work?

MR. MILLER: Authorized by whom?

MS. STONE: Suffolk County Police Department.

A. Well, the police officer has, I guess it goes back to common law, he has the discretionary authority to remove impediments from a public roadway. I guess he can commandeer and direct utilization of appropriate equipment without maliciously or intentionally causing damage to a particular piece of equipment.

2 Q. Not my question. My question is if a  
3 water main has burst, and there is a car sitting  
4 over the manhole, does the company that is there  
5 trying to repair it have to seek permission or  
6 have there ever been circumstances in your 32  
7 years in Suffolk County where the utility of its  
8 own initiative and at its own expense removed the  
9 car?

10 MR. MILLER: Excuse me, that was not  
11 your question before.

12 MS. STONE: That is my question now.  
13 I've reworded it.

14 MR. MILLER: Now you are back to  
15 permission and not authority.

16 MS. STONE: You may characterize it  
17 however you wish.

18 MR. MILLER: The words speak for  
19 themselves.

20 Chief Roberts?

21 THE WITNESS: I have the impression  
22 that I answered.

23 MR. MILLER: Don't talk to me.

24 Q. I'm listening.

25 A. I had the impression I answered it.

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population in that district or in that precinct.

A. That area covers, the Sixth Precinct -- it is a big precinct. A hell of a land mass. You are not talking about an immediate neighborhood or community. That is a big land mass. I would like you to understand that.

The capabilities, probably call several fire departments and tell them to set off their fire sirens, those that have them. The other one would be call the public radio station and notify them and ask for their cooperation in putting out public information bulletins.

I can't imagine even a Grucci incident affecting that large a portion of our population over such a vast geographical area, so, I mean, it is speculative.

The other methods quite obviously are you enlist the cooperation of fire service members and your own personnel that are available and you go knocking on doors, drive up and down the streets, blow your horn, shout out the window.

Q. If you were directed by the commissioner of police to respond following a

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radiological emergency, respond following the announcement of a radiological emergency at Shoreham, would you use the LILCO siren system that is in place?

MR. MILLER: Now we have gotten back to a relevant question which I, of course, will permit the witness to answer but I object to the question on different grounds; that it calls for speculation by this witness.

Your question also implies that Chief Roberts would be in the position to make a decision as to whether LILCO sirens should be activated. He is not in that position.

If you think you can answer that question, Chief Roberts, please do so.

A. I have to tell you, that is -- that wouldn't be part of my job.

Q. Assuming that you were assigned the responsibility for notifying the public in the event of a radiological emergency at Shoreham, would you use the LILCO installed siren system?

MR. MILLER: Calls for gross

2 speculation by the witness.

3 A. Assuming the magnitude of the  
4 seriousness of the consequences of an incident  
5 occurring at Shoreham? And those facilities were  
6 there and they were operational, it would  
7 certainly seem to be in the best interest to use  
8 those sirens in tandem with any other methods of  
9 notification that we could develop and implement.

10 Q. O.K.

11 A. We would have to know where the  
12 switch is or however else you do it.

13 MS. STONE: One minute.

14 (Pause)

15 (Recess taken)

16 BY MS. STONE:

17 A. Excuse me, in furtherance of those  
18 sirens and utilization of other things that are  
19 out there in the environment, like the fire  
20 sirens, you know, today, and for as long as I've  
21 been living out here, the fire siren is notice to  
22 the volunteers to come to the house, as opposed to  
23 public, "You better get in your car, call your  
24 husband, get out of here," so if you are going to  
25 use those things you have to have some -- they



Attachment 4

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

\_\_\_\_\_  
In the Matter of )  
 )

LONG ISLAND LIGHTING COMPANY )

(Shoreham Nuclear Power Station, )  
Unit 1) )  
\_\_\_\_\_

Docket No. 50-322-OL-5  
(EP Exercise)

DIRECT TESTIMONY OF ASSISTANT CHIEF INSPECTOR  
RICHARD C. ROBERTS, INSPECTOR RICHARD DORMER,  
INSPECTOR PHILIP McGUIRE, and  
DEPUTY INSPECTOR EDWIN J. MICHEL

ON BEHALF OF SUFFOLK COUNTY

REGARDING

CONTENTION EX 40 -- MOBILIZATION, DISPATCH, AND STAFFING OF  
TRAFFIC CONTROL POSTS DURING THE FEBRUARY 13, 1986  
SHOREHAM EXERCISE

February 27, 1987

Q. Please briefly explain the general organization and structure of the Suffolk County Police Department, so that your respective positions within the Department can be placed in perspective.

A. The Suffolk County Police Department consists of approximately 2600 officers, of whom approximately 1800 are assigned to the Patrol Division. There are three Divisions in the Department -- Patrol, Investigation, and Headquarters. The Patrol Division is responsible for providing day-to-day police service to the five western townships of Suffolk County. These five townships are spread over 540 square miles, with over 1.3 million residents. The Investigation Division handles investigations of major crimes (e.g., homicides, narcotics, arson and other felony offenses). In addition to the Major Crimes Bureau, the Investigation Division also includes the General Services and Special Services Bureaus. The Headquarters Division provides equipment and logistical support services to the Department and includes the Operations, Communications and Records, and Personnel Bureaus. An organizational chart of the Suffolk County Police Department is appended to this testimony as Attachment 5.

Within the Patrol Division, there are six Precinct Commands, together with the Highway Patrol Bureau, Marine Bureau and Special Patrol Bureau. The Highway Patrol Bureau has about 125 officers and is charged with patrolling the Long Island Expressway and the Sunrise Highway, and with providing traffic enforcement on

selected roadways within the six Precinct Commands. The Marine Bureau has about 65 officers and is assigned responsibility for patrolling selected beaches and the harbors and waterways adjacent to Suffolk County, including the Long Island sound. The Special Patrol Bureau has about 90 officers and exercises command over Sections such as the Canine, Aviation, and Emergency Services Sections. The Special Patrol Bureau also is responsible for performing special services for the Department; its personnel are issued special weapons and equipment and are specially trained in emergency preparedness and response.

The Sixth Precinct provides police service to the Shoreham plant site and the surrounding area, including almost all of the LILCO 10-mile EPZ. The Sixth Precinct's area of responsibility covers 176 square miles in northern Brookhaven township; more than 225,000 persons reside within this area. Approximately 250 officers are assigned to the Sixth Precinct, which is divided into 21 patrol sectors. The other five Precinct Commands are similarly divided into patrol sectors and are responsible for providing police service to the rest of the Suffolk County Police District.



May 13, 1988

'88 MAY 17 P6:21

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

Before the Atomic Safety and Licensing Board

In the Matter of )

LONG ISLAND LIGHTING COMPANY )

(Shoreham Nuclear Power Station,  
Unit 1) )

) Docket No. 50-322-OL-3  
) (Emergency Planning)

CERTIFICATE OF SERVICE

I hereby certify that copies of Governments' Response to "Supplement to LILCO's Response to Governments' April 13 Objection and Motion in the Alternative to Compel Discovery" have been served on the following this 13th day of May 1988 by U.S. mail, first class, except as otherwise noted.

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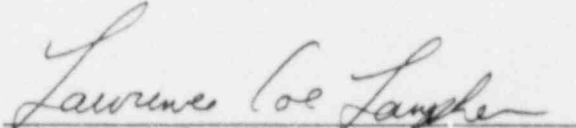
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