



STATE OF NEW YORK
EXECUTIVE CHAMBER
633 THIRD AVENUE
NEW YORK, NY 10017

March 25, 2008

VIA TELEFAX

Hon. Andrew Cuomo
Attorney General
New York State Department of Law
120 Broadway, 25th Floor
New York, New York 10271

Dear Attorney General Cuomo:

Enclosed please find a letter that we received late yesterday from the Albany District Attorney's Office ("DA's Office"). As you will see, the DA's Office requests that we: (1) waive all privileges applicable to documents that the Executive Chamber provided to the DA's Office relating to its current investigation; and (2) grant a "waiver of Grand Jury secrecy" under CPL § 190.50(7) with respect to those documents that were provided pursuant to Grand Jury subpoena.

These requests raise important legal questions. I would appreciate receiving a *formal advisory opinion* on: (1) whether the Executive Chamber has the power to waive all privileges with respect to these documents, or whether former Governor Spitzer has his own right to assert an executive privilege or any other privilege to these documents; and (2) whether the Executive Chamber has the power to grant a "waiver of Grand Jury secrecy" with respect to the subpoenaed documents under CPL § 190.50(7), or whether that subsection covers only motion papers and other similar court documents.

As you will see, the DA's Office requests a response by 5:00 p.m. today, so I would appreciate your guidance on these two legal issues today.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. O'Byrne', written in a cursive style.

Charles J. O'Byrne
Secretary to the Governor

cc: The Hon. David Soares

Attachment

COB/hpc



COUNTY OF ALBANY
OFFICE OF THE DISTRICT ATTORNEY

P. DAVID SOARES
DISTRICT ATTORNEY

ALBANY COUNTY JUDICIAL CENTER
6 LODGE STREET
ALBANY, NEW YORK 12207
(518) 487-9460 - FAX (518) 487-8093

MARK B. HARRIS
CHIEF ASSISTANT DISTRICT ATTORNEY
CHERYL K. FOWLER
DEPUTY CHIEF ASSISTANT
DISTRICT ATTORNEY

March 24, 2008

Governor David A. Paterson
State Capitol
Albany, NY 12224

Dear Governor Paterson:

I am writing to formally request a waiver from you so that the Office of the Albany County District Attorney can fully air the relevant information uncovered during our investigation of events surrounding the release of documents from the Executive Chamber and the aftermath. The Office of the Albany County District Attorney has been involved in investigating the matter titled "Troopergate" since August 2007, and investigation "D" as of October 2007. After countless hours and numerous resources, on September 21, 2007, the Office of the Albany County District Attorney released a report resolving the "Inquiry Into the Alleged misuse of New York State Resources by the Office of the Governor Elliot Spitzer and the Division of State Police."

In October 2007, the Commission on Public Integrity presented the Albany County District Attorney with allegations that former communications director Darren Dopp had committed perjury on a July 22, 2007 sworn written statement submitted to the Office of the Attorney General, and that Senior Executive Chamber employees may have coerced Mr. Dopp into signing the allegedly false statement. We have concluded our investigation into this matter and are prepared to publish our findings.

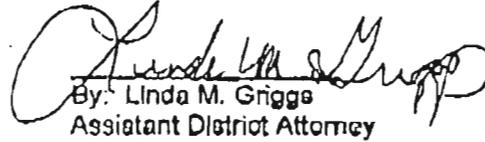
During investigation D, the Executive Chamber most graciously provided us with limited waivers of privilege so that we could interview employees and review documents that would not otherwise be available to us. At this time, we request that the Executive Chamber expand the previously limited waivers of privilege so as to allow us to issue a public report on the facts and conclusions of our investigation. Further, we would request a CPL 190.50(7) waiver of Grand Jury secrecy as it pertains to documents that were previously provided to us pursuant to Grand Jury subpoenas.

The public has expressed great interest in this matter, and we believe the People of the State of New York and the County of Albany have a right to a full airing of the events surrounding this case. We believe this is especially so because this matter involves the State's highest Office. The People have put their trust in your Office, and transparency is the most honorable way of reciprocating that trust.

We would appreciate a response to our request by 5:00 pm on March 25, 2008. We will make the information on which we are requesting a waiver available for your review in our office.

Very truly yours,

**P. DAVID SOARES
DISTRICT ATTORNEY**


By: Linda M. Griggs
Assistant District Attorney