

1 - - -

2 CHAIRMAN JOHNSON: Mr. Khalaf.

3 MR. KHALAF: Just a couple
4 questions.

5 CHAIRMAN JOHNSON: Is your
6 microphone on?

7 Okay, why don't we start at this
8 end.

9 Mr. Susswein.

10 MR. SUSSWEIN: Good afternoon,
11 Colonel.

12 COLONEL FUENTES: Good afternoon.

13 MR. SUSSWEIN: I really have one
14 question. And it may be a difficult one from your
15 perspective because, obviously, every trooper
16 answers to you and they know of your personal
17 commitment, not only to the Consent Degree but
18 what's embodied in the Consent Decree. But in
19 your statement, you refer to the warning that was
20 given in the 15th report. And it seems pretty
21 clear that you and the entire outfit were highly

22 motivated to address that warning to -- I'll use

23 the word "correct" -- to correct what the monitors

24 have discovered.

25 In your view, what role has and does

1 the independent monitor play in motivating the
2 State Police to do many of the things that you've
3 done with respect to compliance with the Consent
4 Decree?

5 COLONEL FUENTES: Of course, I can't
6 speak prior to 2003, but I've been very motivated
7 by the monitors and passed along that message
8 since I came in in 2003.

9 I think the best motivation that the
10 monitors can give is for us to create systems
11 where we don't have to be motivated from the
12 outside, that what we see inside the organizations
13 through a great deal of our own scrutiny, if we
14 see anything there that we don't like or if we see
15 something trending in a direction that we don't
16 want it to go, that we don't necessarily have to
17 engage in a process of discussion with the
18 monitors, that we step in and create our own
19 corrections or changes in policy and procedure.

20 MR. SUSSWEIN: Thank you.

21 CHAIRMAN JOHNSON: Ms. Brown.

22 MS. BROWN: Thanks very much.
23 Thank you again, Colonel, for coming
24 in.
25 In the session with the monitors

1 earlier this morning when we asked what kinds of
2 things should we be thinking about if the Consent
3 Decree is dissolved, they mentioned three things:
4 They mentioned transparency and sort of public
5 education; they mentioned money and funding for IT
6 and training and other things; and they mentioned
7 leadership. And they also said more than once,
8 and I think everyone agrees, that your leadership
9 has been an extraordinary part of where we find
10 ourselves now.

11 My question for you is: What have
12 you done within the Department to institutionalize
13 some of the principles of your leadership in
14 performance reviews, in either rewards or
15 consequences for certain actions? How can we look
16 forward and know that those principles are
17 maintained?

18 COLONEL FUENTES: Well, the reforms
19 and the tasks of the Consent Decree are embedded
20 right now into about 36 of our standing operating
21 procedures, which not only form the highway that

22 we ride on as an organization, but also the
23 guardrails; kind of gives you those limits beyond
24 which you cannot go. And I'm sure that if you ask
25 OSPA, monitors or myself, we certainly have not

1 been shy to Office of Professional Standard to
2 keep a very close eye that our members do not go
3 outside of those procedures and protocols. And if
4 they do, then it's very, very aggressively
5 investigated.

6 But if I can just go back to those
7 36 standing operating procedures. There's a lot
8 of time and investment and money and public trust
9 and confidence that are investigated into what
10 those 36 SOPs, as we call them, into the
11 composition of those standing operating
12 procedures. I said before and I just alluded to
13 in my written testimony here that we need to take
14 this away from any superintendent's order, any
15 Attorney General's directive, any Governor's
16 Executive Order. If you want to have
17 sustainability, we need to legislate or codify
18 these 36 standing operating procedures.

19 I have probably a selfish reason for
20 saying that, in that these reforms are not
21 inexpensive. Things like our motor vehicle

22 recorders, the MVRs, have a shelf life. And we've
23 already had to turn them over since 1999. The
24 maintenance on them is expensive. They wear out.
25 We look to spend -- I believe last time we got

1 \$10 million to replace them, just to try to put
2 that into perspective. We're trying to match
3 technology up to doing things a little bit better,
4 such as going to digital in-car MVR system that
5 would not only make it hands-free for the trooper,
6 that information would automatically be uploaded
7 to the station. But it would also give our
8 supervisors the ability instead of scanning, you
9 know, a cassette or a tape, just to be able to be
10 cued directly through a CAD number, directly to
11 where that is on the web, for instance. So we
12 free up our supervisors to have more time to go
13 out on the road and do on-site supervision of the
14 troopers.

15 So to kind of wrap that entire long
16 answer into one phrase, it's codification of the
17 reforms that are required here to take these
18 principles forward. Certainly not just what I've
19 seen up to this point from a leadership
20 perspective, but for all the time the monitors
21 have invested, the OAG through the Office of State

22 Police Affairs.

23 MS. BROWN: Thank you.

24 CHAIRMAN JOHNSON: Reverend Floyd,

25 please.

1 REV. FLOYD: Good afternoon,

2 Colonel.

3 COLONEL FUENTES: Good afternoon,

4 Reverend.

5 REV. FLOYD: We really appreciate,

6 once again, your very thorough report and the work

7 that you have been doing.

8 You mentioned in your report a

9 continued auditing component. Could you elaborate

10 on that? Are you suggesting something independent

11 of the State Police or something within that

12 agency?

13 COLONEL FUENTES: I'm not going to

14 be presumptive here on the decisions or

15 recommendations of the Committee. We have a

16 system right now that works well. I refer to part

17 of that linkage between State Police and OSPA.

18 That's gotten to be a very, very healthy

19 relationship; and, certainly, there's a lot of

20 learning incurred that -- or excuse me, skill-set

21 that already exist over there. But at the end of

22 the day, we just like to have a mechanism through
23 which we can continue to move our reports through,
24 to continue to have the organizational
25 transparency that does relate and translate to

1 public confidence.

2 REV. FLOYD: Thank you.

3 CHAIRMAN JOHNSON: Ms. Carroll.

4 MS. CARROLL: Good afternoon,
5 Colonel. Thank you.

6 My question actually relates to a
7 Risk Analysis Panel meeting that you had back in
8 March in regards to the information provided to
9 the Moorestown Station. What caught my eye is
10 that Dr. Eckert noted that there was some
11 information presented to the group that related to
12 motorist aid in accidents. And Dr. Ginger also
13 said numbers are going to be the numbers.

14 Do you think that it would be
15 beneficial to integrate those two models,
16 something that's reported to the New Jersey
17 Turnpike Authority for transparency purposes? Do
18 you think that would help in any way?

19 COLONEL FUENTES: I think we're kind
20 of relating to a research question here and what
21 may have gone on and what may need to go on as we

22 move forward into the future. I referred to,
23 obviously, some of the studies, Professors
24 Lamberth and Kadane who did a study in the 1990s
25 which was really reaffirmed in the 2005 study. We

1 have Lang, Johnson, and Voss who did their study
2 in 2002 on the turnpike. We got George Kelling,
3 2004; and we have the eminent Jeff Fagan who I
4 followed for, really, all of my academic career
5 who this year who took a look at the Lamberth
6 study.

7 I don't think there's any contention
8 involved with the numbers here about the 30
9 percent. I mean, I agree with the findings of
10 that report. Where that translates from disparate
11 numbers to disparate treatment I think is a divide
12 that we haven't begun to cross yet. Number one,
13 we're not seeing that, disparate treatment in any
14 of our objective systems. But there's many other
15 things that need to be answered. So I'm actually
16 calling for a continued look at this.

17 We've got 42 percent of our stops,
18 for instance, at Moorestown that are done in the
19 blinds. In other words, they're done between 8:00
20 p.m. and 5 a.m. in the morning. That's a
21 significant percentage of stops. We've got

22 Interstate 295, which attracts most of the
23 population on both sides of the turnpike because,
24 quite frankly, that's a toll-free roadway. We
25 have the instances that you just brought up, I

1 believe, where you have accidents and motorist aid
2 where take a look at those. And that's
3 non-discretionary dispatch activity. That's where
4 a trooper makes no decision. And they're
5 dispatched to take care of somebody who's broken
6 down or actually involved in an accident. And
7 that number hovers right around 30 percent. So
8 something is going on there.

9 I don't have the answer. And I need
10 to have the answer to reconstruct any policy. So
11 I'm looking for all of the productive research to
12 date, and I've named four studies -- five if you
13 include the one in the 1990s. And we need to
14 answer some of these other questions and finally
15 get to the bottom of this, because this is not
16 only frustrating for me, it's frustrating for
17 every single trooper at the Moorestown Station,
18 the population of which has been turned over
19 several times. The last two station commanders
20 have been MAPPS coordinators, so they know about
21 these oversight systems, they know about

22 statistics, and they know how to interpret them.

23 So we continue to go to the 30 percent being a

24 disparity number compared to Cranbury and Newark,

25 but we're not taking it those extra steps. And

1 quite frankly, I'm asking the Commission to help
2 me with that, to get to that point where we can
3 make some policy.

4 MS. CARROLL: Thank you.

5 CHAIRMAN JOHNSON: Mr. Bembry,
6 please.

7 MR. BEMBRY: Actually, that subject
8 matter relates to a statement that you made in
9 your report. Not so much the incidence of traffic
10 stops, but you mentioned something about station
11 commanders. And my question to you is: Can you
12 explain in some detail what you mean by the
13 cyclical approach to informed decision-making?

14 And I'll let you know why I'm asking
15 that question. As we've heard and as we are
16 aware, the State Police is a decentralized police
17 force. And we heard comments from our monitors
18 that's not a bad thing. We also heard and it's
19 well noted that your leadership is well commended.
20 So the question is: When you mention cyclical
21 approach to informed decision-making, are you

22 talking about a management system or a style? And

23 that's my question.

24 COLONEL FUENTES: Sure. I think

25 cyclical goes to the heart, as I would look at my

1 leadership, which I consider to be consensus
2 leadership. We're putting together, as an
3 anecdote here, a Technology Committee that is
4 going to be opened up to everybody. They're going
5 to be making some very important decisions on
6 technology, not only as we move forward on some of
7 the things I spoke about, but other things related
8 to the fusion center. And if we find a trooper
9 out there, not a sergeant but a trooper who has
10 some skill-set or expertise in technology, that
11 person is going to find themselves, in all
12 likelihood, on that committee.

13 The notion of a cyclical approach is
14 that everybody is in the cycle, from the trooper
15 to the supervisor to the assistant station
16 commander to the station commander, the MAPPS
17 coordinators for the troop, the Office of State
18 Police Affairs, the federal monitors, and myself.
19 Particularly when it comes to critical incidents
20 or doing critical reviews, which are use of force,
21 K9, and the consent search, you know, where you're

22 looking at multilayered. It also travels a cycle.

23 And what is learned cycles back to the trooper and

24 policy so it gets implemented on the road.

25 So in many respects, the cyclical

1 approach is like a flattened organization which
2 values information at all levels.

3 I certainly hope that's a
4 satisfactory response.

5 MR. BEMBRY: Yes.

6 And another question. Let's assume
7 that -- and this is only an assumption. That the
8 Committee agrees to the monitoring reporting and
9 also agree to one of the recommendations that you
10 mentioned, that there's a codification of the
11 system that's in place now. Would you say that
12 the -- or do you believe that your agency can
13 provide, make a technical assistance or expertise
14 to other law enforcement agencies, i.e., the
15 municipalities in this state, to replicate what
16 you have done?

17 COLONEL FUENTES: Well, I can tell
18 you, sir, that we've been doing that for at least
19 the last three years. And I'm not going to name
20 specific departments, but we've had some of the
21 biggest city departments in the country. Many

22 State Police agencies, some county departments,
23 have come to us and asked how do they basically go
24 from 0 to 60, not reinventing the wheel but
25 perhaps taking some spokes off the wheel that we

1 already have, which is the MAPPS System which, as
2 you know, has components to it that can be mobile.

3 We can unplug those and then help another PD,
4 police department, with doing that.

5 We're not making any proprietary
6 claims to MAPPS. I think it's valuable for us and
7 the Department of Justice has recognized this to
8 be able to export some of the practices which were
9 well-learned by us over a period of years,
10 instituting, hitting the speed bumps, flattening
11 out those speed bumps, being able to move on and
12 get up to speed. I think we are at the point now
13 where these systems have integrated themselves
14 into every nook and cranny of the organization and
15 into every action and every patrol activity that
16 the troopers are doing. But we absolutely -- and
17 I would certainly encourage that in this forum and
18 everywhere else that I've gone to continue to work
19 with police departments to do that.

20 MR. BEMBRY: Thank you.

21 MR. GOLDSTEIN: Good afternoon,

22 Colonel.

23 COLONEL FUENTES: Good afternoon.

24 MR. GOLDSTEIN: Nice to see you, as

25 always.

1 I think it goes without saying, the
2 members on this Committee, how impressed we all
3 have been by your leadership in the State Police
4 and how I think we all wish that you would stay
5 forever. But I think we all know that's not
6 possible or realistic. So we're all trying to, as
7 you try to struggle with at end of your statement
8 today, how can we sort of institutionalize the
9 reforms that you have led, what can we do to make
10 certain that we don't have a repeat of what took
11 place in the late '80s and the '90s.

12 In looking at all of that, there are
13 a couple things that come to mind. I know you and
14 I discussed this last time. You were here last
15 October. I just wanted, before I get there, just
16 to understand a little bit more about how the
17 difficulty or the issue with the consent searches
18 was uncovered by the State Police and also by
19 OSPA, or was it by OSPA and the State Police. How
20 did all of that get done? How did you all
21 identify what the problem was? What was each

22 agency's role in doing that?

23 COLONEL FUENTES: Well, OSPA and the

24 State Police worked on this together. It went to

25 my office. It appeared to be an upticking trend.

1 When it was drilled down upon, we found some
2 connection -- not an entire connection because we
3 knew that the consent searches were going to build
4 and they were going to build very quickly after
5 Eckel, and certainly that happened to the extent
6 that half of our consent searches today involve
7 the Eckel substitute.

8 The training was another matter
9 entirely. The training involves commercial motor
10 vehicles. And I certainly don't need to tell
11 anybody here every time that we've gone to a
12 Homeland Security Alert or any of the intelligence
13 information that I've seen involves CMV or
14 commercial motor vehicle borne explosive devices.
15 It's clear that our troopers and our detectives
16 who deal with these methods of conveyance every
17 day need to be trained in what's right and what's
18 wrong in that industry in terms of trafficking of
19 some sort. And it doesn't have to be just drugs,
20 it could be weapons, it could be immigration
21 issues, it could be explosive devices. So it was a

22 very targeted audience that this was designated
23 for: Narcotic detectives and investigations and
24 our members of the Transportation Safety Borough,
25 which are our troopers that do Title 49 federal

1 inspections.

2 Empty seats in the class, I think
3 well-intended commanders and field ops put some
4 troopers in there. Therefore, putting some tools
5 in the tool box that supervisors hadn't caught up
6 to yet. And supervisory review and oversight is
7 very, very important here. I've never thought
8 that this was an issue of training, the consent
9 searches as they related to that training, but it
10 was an issue of supervisory oversight. So we
11 trained troopers and we didn't supervisors that
12 same training. So therefore, you know, troopers
13 that ended up doing more consents basically said,
14 "Well, this is the way that we were trained."

15 And we corrected that. We corrected
16 that through adding something onto our training
17 cycle, which now includes outside agency training.
18 And also as we move forward with this -- and
19 there's always going to be training. We can't
20 deny our troopers or our supervisors training,
21 particularly in the post-911 era. That just

22 doesn't make sense because we have great
23 responsibilities in this state that relate to what
24 is going to be even forthcoming with the crime
25 plan and what we're going to have to do with gun

1 trafficking and with drug trafficking and other
2 issues. So we have to continue to train. But we
3 can't make the mistake that we did then in that we
4 have to have a specific audience, we have to have
5 specific policies and procedures that protect the
6 way that that training is applied. And so there
7 was slippage as a result of the cross-pollination.
8 And we stepped in very, very quickly, OSPA and the
9 State Police, in order to -- and when I say
10 quickly, we're talking about things implemented in
11 March of 2006, in May, in June, and then leading
12 really to a complete global look at all of those
13 types of searches by last September or October,
14 which in a large organization is moving pretty
15 quick.

16 MR. GOLDSTEIN: Perhaps you can just
17 tell me, what did OSPA do in this? Where did they
18 come in, at the very beginning?

19 COLONEL FUENTES: They came at the
20 very beginning.

21 MR. GOLDSTEIN: And how did they

22 come in?

23 The reason why I'm asking is our

24 struggle here is whether or not we should keep

25 OSPA -- we talked about that before -- whether or

1 not we should change it in some way, whether or
2 not there should be a new kind of organization,
3 whether or not it did the auditing, the audit
4 function, OSPA were to be merged in some way,
5 where should it be. I just want to understand, if
6 I could, what OSPA did in this instance; whether
7 or not what it did was helpful, useful; they came
8 after you all discovered all this. Where were
9 they in the whole process?

10 COLONEL FUENTES: Well, they were
11 right at the beginning, number one, in helping to
12 spot this trend. The Risk Analysis Core Group, of
13 which OSPA plays a very, very critical part, were
14 able to really delve into it as a result of
15 looking at all our databases, whether it's IA Pro,
16 whether it's MAPPS, human resources, whatever the
17 database. They have actually put it together in a
18 report. But members of OSPA brought what they
19 believed was an uncomfortable trend forward.

20 So I would have to say the two
21 critical mentors and counselors on the change that

22 took place was the Office of State Police Affairs

23 and the Risk Analysis Core Group.

24 MR. GOLDSTEIN: When we were talking

25 earlier today, Dr. Ginger said if there was going

1 to be continued, I guess for lack for a better
2 term, supervision or continued audit function or
3 the OSPA in some form was to be continued going
4 down the road in the future and so forth, given
5 all that the State Police have accomplished over
6 the last several years, given all that you believe
7 based upon those accomplishments the Consent
8 Decree to be dissolved and basically, as you have
9 recommended, just your recommendations and nothing
10 else, if there's to be anything more than that,
11 there would have to be some form of trust between
12 the State Police. And if there was any other
13 group or organization that would be tasked with
14 some form of audit function or some other function
15 that OSPA has, he had some question as to whether
16 or not that trust could really be accomplished
17 between whatever this organization might be and
18 the State Police.

19 I was sort of surprised when I heard
20 that. Do you ascribe to that, that there is a
21 need or that there be a lack of trust between the

22 State Police, between yourself and, let's say, if
23 OSPA was to be continued in some form coming out
24 of the Attorney General's Office, would there be a
25 need to have to reestablish a whole new trust

1 between all of you in law enforcement?

2 Or is Dr. Ginger just -- and I'm not
3 trying to comment on what he said, just making
4 reference to what he has observed across the
5 nation when he has performed the very same
6 services.

7 COLONEL FUENTES: I didn't hear what
8 Dr. Ginger said, but, number one, that trust and
9 confidence is there between myself and the Office
10 State Police Affairs. I suspect -- and again I
11 don't want to be presumptive on decisions that
12 will be made by this Committee, but I think a
13 future OSPA, if that happens, is going to probably
14 also have a broader mission, because Mr. Bembry
15 brought it up. I take many, many calls from
16 police departments, not only in state, but around
17 the country, on what they can do and how much it
18 will cost and how can we institute a MAPPS System
19 and they only have this much money. I suspect
20 that OSPA's role is going to probably go farther
21 and wider than where it is now in any continued

22 role for the Office of State Police Affairs. I

23 think certainly they will be well suited for that,

24 along with our assistance.

25 MR. GOLDSTEIN: Thank you very much.

1 COLONEL FUENTES: You're welcome.

2 CHAIRMAN JOHNSON: Reverend Justice.

3 REV. JUSTICE: Thank you.

4 Thank you, Colonel. Nice to see you
5 again.

6 The troopers who use the training in
7 which some drivers were stopped, were they veteran
8 or newly trained?

9 COLONEL FUENTES: I have to tell you
10 that our field operations people, if you go out to
11 the stations, they're pretty young. In some
12 respects, we're dealing with troopers that have a
13 max time of two to five years on the job. They're
14 very motivated. They're highly educated. They
15 want to learn. They have a great deal of pride in
16 their job. So although I don't know -- and I can
17 certainly find out and get that back to you
18 through the Chair -- what their age and their
19 status within the organization was in terms of
20 years, I would be willing to throw my weight
21 behind the opinion that they're going to be in

22 that range, probably two to five years; maybe less

23 than five years, two to four, two to three.

24 REV. JUSTICE: Thank you.

25 MR. HUERTAS: Colonel, how are you?

1 COLONEL FUENTES: How are you?

2 MR. HUERTAS: I'm just going to
3 follow-up on Mr. Goldstein because he took my
4 question. But right now, the independent monitor
5 comes in and actually monitors or audits the State
6 Police activities against a standard which are the
7 tasks that are enumerated. If in fact we take
8 your model, which is to continue the State Police
9 and OSPA to work conjunctively to publish data,
10 who would actually be responsible for gathering
11 the data and ensuring the integrity of that data
12 other than the organization itself or OSPA?

13 COLONEL FUENTES: Well, that would
14 certainly be the auditing component that I
15 recommend. And you've noticed even in my October
16 2006 testimony, I stayed deliberately vague on
17 that. There are certainly many choices. I'm used
18 to working with one, which is the Office of State
19 Police Affairs model right now. We have troopers
20 that are assigned over there who shuttle back and
21 forth from division getting data, looking at data,

22 going to stations, and undertaking a lot of the
23 work that brings the OSPA the data that they need
24 to be able to do the good things that they do.
25 MR. HUERTAS: You can see where

1 somebody would look at that and say, you know,
2 you're actually conducting an internal audit of
3 which you have a vested interest to look your
4 best, without being critical. In other words, you
5 could probably maneuver the data to suit whatever
6 purpose you need without having an independent
7 entity come in and say, "This is what we have
8 found or not found."

9 The prime example is probably this
10 type of training that was conducting that you felt
11 was appropriate but not appropriate to that
12 particular group within the State Police.

13 COLONEL FUENTES: That training,
14 incidentally, will become appropriate to field
15 operations personnel, but it will become
16 appropriate when we get supervisors trained first.
17 And that will clearly happen. I think we do right
18 now the appropriate oversight mechanisms. And
19 within a very short amount of time of spotting
20 this trend, I think within a matter of two or
21 three months, collectively OSPA, the monitors, and

22 us had developed a supervisor checklist on consent

23 to search.

24 I can tell you that the fact that

25 we're even sitting here discussing this is a

1 discussion that is not occurring in any other
2 police department in the country. I mean, this is
3 unheard of. And as the monitors have not been shy
4 about articulating, this is really unprecedented
5 in law enforcement.

6 We find ourselves in a position
7 right now going to a power CAD system which we're
8 testbedding right now, going to an electronic
9 report, a daily activity report which you've
10 gotten to know over the years, to a new motor
11 vehicle stop report. Some of the questions we're
12 asking have caused us to now manually search data.
13 So we're finding ways way beyond the Consent
14 Decree. The Consent Decree is that baseline.
15 This aggregating data that we collect under the
16 Consent Decree and then re-aggregating new data.
17 So this is a constant evolutionary process, which
18 I think goes to the heart of what you were just
19 mentioning about organizational transparency and
20 these continued reports. We're writing reports on
21 reports. And we're satisfied because that's

22 giving myself and my commanders the ability to
23 make realtime decisions on what we like in what we
24 see and what we don't like in what we see.

25 MR. HUERTAS: As you stated,

1 Colonel, basically, the Consent Decree serves as
2 your basic foundation and then you continue to
3 aggregate and examine data in terms of seeing
4 other trends where the division should be going.

5 COLONEL FUENTES: I think the
6 monitors themselves have been frustrated. I have
7 no idea if Jim Ginger said this when we were out.
8 They've been frustrated that the systems we have
9 right now are actually keeping us from answering
10 the questions that we need to quickly. So, you
11 know, the manual process, it does take a lot of
12 time. We have to go into records. So we're
13 finding a way to make that digital or in some way
14 to make that electronic. And Jim understands
15 that, that in some respects it's kind of holding
16 us back at this point. But we're continuing to
17 forge ahead on that front.

18 MR. HUERTAS: Thank you, sir.

19 COLONEL FUENTES: Thank you.

20 CHAIRMAN JOHNSON: Mr. Rambert.

21 MR. RAMBERT: Colonel, welcome, sir.

22 Thank you for coming out today.

23 From my perspective, under this

24 leadership and probably before, the state police

25 are a group of highly motivated individuals.

1 They're the best of the best. If you give them a
2 goal, a clearly-defined goal, they're going to go
3 and achieve it. The Consent Decree was a
4 goal. Now, they said there's 100 percent compliance.

5 Once the Consent Decree is lifted, what is the
6 motivation to continue to keep that standard?

7 COLONEL FUENTES: Well, again,
8 codification. Let me point out something. I'm
9 not going to name specific departments, but there
10 have been departments, perhaps Jim Ginger has
11 spoke to you about them, who have slipped after
12 getting out of the Consent Decree. This is a
13 concern that I have. This is a concern that the
14 Attorney General has. I'm sure it's a concern
15 that the Governor has and, quite frankly, it's the
16 reason why we've gotten this distinguished
17 Commission together. We need to make sure that
18 the baseline that we have right now -- or if we
19 say standing operating procedures -- allows us
20 to continue to change those procedures to add new
21 technology and new procedures, but they're going

22 to be covered under a law. So that if money
23 interferes, we can't lose money from the
24 development of those systems or the upkeep or the
25 maintenance of those systems. And to be honest

1 with you, that's what I really worry about. I'm
2 worried that we're not going to be able to
3 afford -- you talk about sustainability. I'm
4 talking about economics. The part about
5 sustainability I'm truly worried about are not the
6 troopers, are not commanders, are not the
7 oversight. I'm worried about the economy of
8 continuing the reforms. And that, quite frankly,
9 is where I need this Committee to step in and also
10 advocate that.

11 MR. RAMBERT: Thank you.

12 CHAIRMAN JOHNSON: Ms. Yang.

13 MS. YANG: Thank you, Chairman.

14 It's nice to you again, Colonel.

15 COLONEL FUENTES: Good afternoon.

16 MS. YANG: Good afternoon.

17 I have actually two questions for
18 you, Colonel. I think you've discussed earlier
19 additional items that you want to see codified.
20 There's been probably several. But can you give
21 us a few examples, in order of importance, that you

22 think really are the key reforms that should be
23 codified and why?
24 COLONEL FUENTES: Well, I'll give
25 you the two biggest, and that's MAPPS and MVRs.

164

1 They're systems that are completely embedded in
2 technology. And because they're technology-based,
3 they're evolving. They can evolve beyond the
4 ability for organizations to pay for ways to
5 gather new data like I'm talking about right now.
6 So in one aspect of this, you need
7 to make sure that systems are staffed up and you
8 need to make sure, because the staffing works with
9 those systems. The technology is the issue that
10 I'm concerned about. If with we can continue to
11 have the technology and be able to build on that
12 technology, these reforms will hold. And they
13 won't hold because I'm sitting in that seat or there's
14 a particular attorney general or governor, they'll
15 hold because that's the mandate. You know, again,

16 that's the one thing I'm concerned about -- the
17 economics of this.

18 MS. YANG: And, Colonel, I think
19 it's been mentioned before that the State Police
20 can be viewed as a self-correcting entity. One of
21 the concerns was not so much that the training was
22 unauthorized, but that maybe it shouldn't have been
23 given to certain members of the State Police. How
24 can we ensure that in the future -- let's say
25 there isn't monitoring -- the State Police will

1 prevent that from happening again? What
2 mechanisms do you have in place that can prevent
3 that? Do you regularly ask your supervisors to
4 come up with training agenda and you have to give it
5 a stamp of approval? How will that be dealt with?
6 COLONEL FUENTES: Well, you know,
7 again, it's the same things: making sure that the
8 Risk Analysis Core Group is allowed to continue
9 its mission, because that is a collective of some
10 of the best minds on these issues, to include
11 whatever monitoring we have, to include MAPPS
12 units, to include officer initiatives. All of
13 those units and offices that play a very critical
14 role all the time, this is what they do, this is
15 their job, is to look at all the data and to look
16 for any trends. The consent -- I wish I didn't
17 have to sit here and talk about warnings being
18 fired over the bow and slippage, but, you know, I
19 realized after my initial consternation and the
20 things that were developed in response to it, that
21 in many respects this was our finest hour. I

22 mean, we missed the 15th -- or excuse me, the
23 troop's Task 50 report which actually caused us to
24 go to a 16th. And that was my doing. That wasn't
25 anybody else's, but that was a very appropriate

1 thing to do because we had a chance to look at the
2 reforms in action. And this was actually a good
3 thing for the monitors to be able to sit back and
4 take a look at, for myself to sit back and take a
5 look at, and for the public as well. This shows
6 that the reforms work and it showed that they work
7 in a way that's not being employed by any other
8 agency in American law enforcement.

9 MS. YANG: Thank you.

10 CHAIRMAN JOHNSON: Mr. Weber.

11 MR. WEBER: Thank you.

12 Good after, Colonel.

13 COLONEL FUENTES: Good afternoon,
14 sir.

15 MR. WEBER: I just want to try to
16 put this into as practical light as possible,
17 because as you know, we have an obligation to
18 present to the Governor a report with concrete
19 recommendations. And I want to make sure that as
20 we do our internal deliberations we're able to
21 take what we have before us and operationalize it.

22 You had said -- there seemed to me
23 to be actually two most important parts of your
24 comments on the last page, as far as I'm
25 concerned, in which you talk about codification of

1 the reforms and continued auditing component. And
2 you answered some of the questions. You mentioned
3 that there are 36 SOPs that address those reforms.

4 So my first question is -- and this
5 isn't a gotcha game. If the 36 SOPs don't cover
6 all of the reforms, where else can we find the
7 reforms, not in an SOP form, but how else can we
8 have a list of the actual reforms that have been
9 put in place and how the State Police has embraced
10 those reforms and educated the members of the
11 State Police as to what the reforms are?

12 COLONEL FUENTES: Well, some of
13 those standing operating procedures were brand new
14 as a result of the Consent Decree -- on MAPPs,
15 there's one on the Risk Assessment Core Group.
16 Some of them are changes to the search SOPs, the
17 traffic stops SOPs. And when you look at those
18 standing operating procedures, which I probably
19 couldn't carry into this room collectively --
20 they're rather thick and they cover virtually
21 every detail of what goes on in the field operation

22 section and maybe many other sections. Office of
23 Professional Standards had changes that were
24 embedded in there as well. The training academy
25 protocols also embedded in those SOPs were changed

1 as well. When I put the number of 36 on it, I
2 think this is a living, breathing mechanism in the
3 division, so I can't say that things that we've
4 learned as we move through this aren't going to
5 result in three or four more standing operating
6 procedures because it can't be articulated or
7 appropriate for the 36. But I think what's
8 important right now is to get those 36 covered.
9 That's what I think is important because that
10 is -- that's 99 percent of where we need to be in
11 the post Consent Decree era.

12 MR. WEBER: And the thought is to
13 take those 36 SOPs and codify them somehow as
14 either regulations or as law. And my assumption
15 is that not all of the 36 deal with funding
16 issues. Correct me if I'm wrong. Your concern is
17 that the SOPs that deal with funding issues, you
18 in particular want those codified into law because
19 there's budgetary issues that relate to that. So
20 it's one thing to say, okay, we've codified this,
21 but then three years from now if you don't have

22 the money to support what you have codified,

23 you're going to get caught short.

24 COLONEL FUENTES: Exactly. And I

25 forget really what the estimate is, but it's

1 probably something along the lines of 5 to 10
2 percent of your capital investment into technology
3 gets spent every year in maintenance and upkeep.
4 That can amount to a lot of money that you're
5 going to need at certain times to be able to
6 upkeep these systems. And as I mentioned before,
7 the MVRs were one case where we were getting a
8 lot of maintenance issues and we realized that we
9 were going to need to recycle some of these MVRs.
10 And also going to the new digital which has all
11 kinds of supplemental benefits to it in terms of
12 workload on supervisors ease of gathering data and
13 uploading data. Those are the things, again, that
14 I'm concerned about in the post-Consent Decree
15 era, in the post-Superintendent Fuentes era. We
16 shouldn't be making that a problematic legacy for
17 the next superintendent and for a future attorney
18 general.

19 MR. WEBER: I would ask the Chair
20 that to the extent we can present to the Committee
21 either a synopsis of the SOPs or the SOPs that you

22 think would warrant codification in the form other
23 than SOP as well as the related budgetary issues,
24 and again, try to keep it focused on
25 sustainability of the reforms under the Consent

1 Decree, that would be very helpful. I know it

2 would be very helpful to be me.

3 COLONEL FUENTES: I certainly will

4 do give to the Chair, and that will be the

5 extracted language out of all of those standing

6 operating procedures that really embody what we've

7 seen as the reforms in the Consent Decree.

8 MR. WEBER: One more issue just very

9 quickly. The second recommendation, you said this

10 back in October of '06, was a continued auditing

11 compliance. And I must say from my standpoint it

12 seems that the OSPA has done a remarkable job.

13 You've made it work very well with the State

14 Police to help to get to what the monitors have

15 called a watershed moment.

16 Candidly, my concern, though, is

17 that if the OSPA has the independent monitoring

18 role that the independent monitors currently have

19 but post dissolution of Consent Decree, you don't

20 really have an independent organization from sort

21 of a corporate governance standpoint because

22 they're both giving you advice and then they're

23 also reviewing how you've taken that advice.

24 So my question to you is: Is there

25 an alternative structure that you think would work

1 with the way the State Police performs now and go
2 forward into the future that would allow you to
3 have the support that you need from the OSPA which
4 seems to be very important to the day-to-day
5 dealings with the State Police as well as another
6 entity that on a quarterly or biannual basis would
7 be able to get reports and review them so you have that
8 distance, you have that -- sort of that ethics wall
9 up, so you have the transparency you talked about
10 and you have the public confidence?

11 COLONEL FUENTES: I think when I
12 came here in October, I mentioned an academic
13 institution, I mentioned an individual who had a
14 skillset in police reform professionalism as other
15 options. And, again, I think as discussions go on
16 outside of my presence, those are the types of
17 things that you need to talk about with some other
18 informed people as well. I can only speak for
19 now. I can speak for the environment that I'm
20 working in right now, which is very productive.
21 But we're looking at this data all the time. And,

22 again, OSPA has been not shy at all in bringing
23 forward concerns that we need to correct, and
24 thankfully so. And I have a great relationship
25 with them. But, again, that brings us up to really

1 three suggestions here. And I don't want to be
2 more presumptive than that on what the Committee
3 maybe doing.

4 MR. WEBER: Thank you, Colonel.

5 COLONEL FUENTES: Thank you.

6 CHAIRMAN JOHNSON: Mr. Khalaf, is
7 the microphone working now?

8 MR. KHALAF: Good to go. Thank you.

9 Thank you very much, Colonel, for
10 being here today.

11 COLONEL FUENTES: Hi, Mr. Khalaf.

12 MR. KHALAF: Just real quick. I
13 know we've gone deluge with all the studies and
14 reports and whatnot. You had mentioned the study
15 by the Institute of Police in Rutgers. Do we have
16 a copy of that study? Is that something that we
17 have?

18 COLONEL FUENTES: It may be on their
19 website. I'm not sure what the "www." is, but
20 it's the Police Institute at Rutgers. And it's
21 their traffic stop study, I believe, concerning

22 New Jersey State Police.

23 MR. KHALAF: Now, was that study

24 done in direct response to the Lamberth report, or

25 that was just --

1 COLONEL FUENTES: No. I believe it
2 did involve the Attorney General's Office. At the
3 time I think under -- General Harvey had worked
4 alongside the Police Institute in bringing about
5 that study, and I think it's circa 2004.

6 MR. KHALAF: Oh, okay, so it's not a
7 new study.

8 COLONEL FUENTES: No, no, it's not.
9 It's one of the studies -- and I think there's
10 four major ones that include, you know, Jeff
11 Fagan's peer review report along the way.

12 MR. KHALAF: I just thought it was
13 something new.

14 COLONEL FUENTES: No, no.

15 MR. KHALAF: Okay. Now, you
16 indicate that -- going back to the situation with
17 the training, you indicated that one of the things
18 that tipped you off that was going wrong was the
19 upticking numbers of searches and whatnot. My
20 question is: Had the numbers not gone up, was
21 there a mechanism that would have caught this

22 sooner rather than later? Was there something
23 else besides just the numbers that might have
24 tipped you off that there was a problem with this
25 training?

1 COLONEL FUENTES: You know, I'm
2 going surmise there would be public complaints,
3 but we didn't get any public complaints. So this
4 was really internal. I think it's also important
5 to point out that -- and every one of these
6 searches, you know, was viewed by those multiple
7 layers and found to have sufficient reasonable
8 articulable suspicion to move forward. You know,
9 the issue for us is where we saw the training.
10 You know, you get some boilerplate language. I
11 have been through this training myself years ago.
12 And also, what we saw as some reach for reasonable
13 articulable suspicion. Without getting into
14 really inappropriateness for
15 unconstitutionality, still falling short of
16 that, not violating State Police policies or
17 procedures or the monitors reports or the task of
18 the Consent Decree, but almost seeing a kind of
19 edge up a bit, and then moving in to really
20 preempt that. And, you know, some of this was
21 predictive, and it was predictive on January 10,

22 2006, when the Supreme Court came down with the
23 Eckel decision. And then OSPA very quickly on
24 January 12th had us a guideline on how to
25 interpret the decision with Eckel. Knowing that

1 the consent to search would now become
2 potentially, you know, as the circumstances
3 warrant, a legal substitute, that our consents
4 were going to double; and they did. And so we got
5 out of it.

6 In the process of understanding that
7 prediction, it also gave rise to the other things
8 we mentioned about the training. And again, I sit
9 here as a proponent of the training. But I say
10 that it needs to be relevant to the audience. And
11 mostly, you need to have supervisors who know as
12 much as the troopers do about the applications of that
13 training, because they're the ones that, quite
14 frankly, have to say yes or no. Just like on a
15 pursuit, and a consent to search is the same
16 thing. We have the prosecutors very actively
17 engaged in questioning -- and all of this goes on
18 before the motorist is asked. The motorist has
19 not been asked yet. This is the trooper
20 articulating the RAS to the supervisor and then
21 discussing whether to ask the question to the

22 motorist.

23 MR. KHALAF: I just had a concern

24 that we move in to a numbers sort of a game here,

25 a numbers process. We're looking at end result

1 numbers then say there's a problem versus
2 looking at the process and finding problems that
3 way. Is that something that creates a problem?

4 COLONEL FUENTES: Well, there was a
5 process issue here. And the process issue is
6 that maybe the training within the training cycle,
7 which has been working very well for us and
8 largely concerns internal training, now needs to
9 include outside agency training; because the
10 training cycle ask things like, "When giving the
11 training you're giving, what goal are you
12 trying to achieve? Have you met the goals? And
13 along the way do you anticipate any difficulties?"
14 That's very important. That's been a process
15 that's been working very, very well through the
16 training academy. Now it includes outside agency
17 vendors as well.

18 MR. KHALAF: Thank you.

19 CHAIRMAN JOHNSON: Mr. Goldstein.

20 MR. GOLDSTEIN: This is just to
21 follow-up, if I could, Colonel, with what Ms. Yang

22 and Mr. Weber were asking about. I just want to

23 be clear. I think you've answered it, but I just

24 want to be clear that I understand it.

25 As far as codification, it would be a

1 regulation or by statute of 36 SOPs, if I
2 heard you correctly, you are going identify each
3 one of those and tell us what they are and perhaps
4 make a recommendation as to whether or not it
5 should be regulation or by statute?

6 COLONEL FUENTES: Again, I think the
7 thing to do that Mr. Weber had brought up here
8 is -- because some of these SOPs are fairly long.
9 The SOP on traffic stop runs 40-something pages
10 and really runs the whole gamut of activity that
11 was before the Consent Decree. So we need to
12 withdraw the language from that where the policies
13 have been changed or additional elements to that
14 standing operating procedure has been included,
15 because that is what we're now doing under the
16 Consent Decree. That needs to be kind of
17 boldfaced out, I guess, and be readily viewable
18 by the Committee here.

19 MR. GOLDSTEIN: Thanks. That's
20 fine. We would appreciate all that.

21 As to those 36, whatever the number

22 actually turns out to be, if there's any cost or
23 expense involved, can you or your staff identify
24 what that cost is, so we don't --
25 COLONEL FUENTES: Absolutely.

1 MR. GOLDSTEIN: And then the second
2 part of this -- and if I've missed any part,
3 please correct me. As far as the technology is
4 concerned, whether it be the MAPPS program or any
5 other technological program the State Police could
6 be using into the future, given what you might
7 have on your drawing board or could be implemented
8 in this case the very near future, could you
9 identify what those programs are and what the cost
10 factor would be for those programs, both to buy
11 the technology new and what you would anticipate
12 the repair cost would be? Because if we're going
13 to make this recommendation, I think we have an
14 obligation both to you and the State Police and to
15 ourselves to be very specific so that we're just
16 not making some broad recommendations without a
17 price tag, because I think you and I both know
18 it's going to get shot down.

19 COLONEL FUENTES: If I could
20 maybe -- it may be that the more generic
21 interpretation here is appropriate, too. In that

22 it should be that the State Police must always
23 audio and videotape its motor vehicle stops. That
24 kind of wraps it all up. The technology may
25 change. It will get better, but you have to

1 accomplish that, you have to do that. Those are
2 the types of things I think we can break out of
3 those standing operating procedures. I can't
4 speak to the future, but we can put a price tag on
5 those right now. And since we have those systems,
6 it really is an upkeep and maintenance cost and
7 then really a shelf life so that it can be
8 anticipated five years on down the road that there
9 needs to be a certain rotation of aspects of
10 technology. That, I believe that information is
11 at hand, and I think that would mitigate a lot of
12 reading and a lot of work on behalf of this
13 Committee in bringing that forward.

14 MR. GOLDSTEIN: That would be very
15 helpful. It would help us a lot.

16 COLONEL FUENTES: Certainly, I'd be glad
17 to do that.

18 MR. WEBER: Mr. Chair, can I ask one
19 more question?

20 CHAIRMAN JOHNSON: Sure. We have
21 one more question over here and then we'll go down

22 to you and then I have few follow-up questions.

23 I thought it was Mr. Bembry. Did

24 you have anymore?

25 MR. BEMBRY: Yes. It goes to the

1 issue of independence, as Mr. Weber had mentioned.

2 And it just raised -- actually, I've been thinking

3 about what he raised in terms of OSPA, and as he

4 indicated --

5 CHAIRMAN JOHNSON: Mr. Bembry, could

6 you use the microphone?

7 MR. BEMBRY: I'm sorry. The OSPA

8 has been noted for doing an excellent job on

9 working with you. However, this issue of

10 independence -- when we talk about sustainability,

11 what's in place -- it's a key question once the

12 monitors leave. My question is -- also, I should

13 say that the monitors indicated that in order to

14 sustain the efforts of your agency, we would have

15 to continue the fine leadership that's in place.

16 You mentioned legislation, codification, if you

17 will, and also having the community involved. The

18 question then goes to, with the OSPA and the

19 nature of it and having worked with you so

20 closely, could you see another entity,

21 specifically the public advocate, as another

22 agency to ensure that the community is involved
23 when we talk about an entire state process to
24 ensure that the state community, if you will, has
25 involvement in the activities of the State Police?

1 COLONEL FUENTES: Whichever entity
2 that is, it basically has to accomplish the same
3 things that we're doing with OSPA right now.
4 There's an obvious learning curve on this that
5 whatever this Committee recommends, there is going
6 to be a significant amount of time for a person or
7 a body to get up to speed and develop the
8 skillsets that are now in place with OSPA. I've
9 heard everything from a public advocate to an
10 inspector general to a civilian complaint review
11 board. And again, all of those have pros and
12 cons. You know, at the end of the day we're going
13 to keep operating like we operate. We're going to
14 keep doing these semiannual reports and by all
15 indications and where we're moving right now
16 reports that are going to lead to more reports and
17 better ways to look at the state and better ways
18 for it to become publicly accessible.

19 I don't know much about what would
20 be the construction of a public advocate's -- or a
21 public advocate on this or an inspector general

22 specifically assigned to this. But, again, it
23 would be my hope and expectation that it would be
24 doing the same things that really underscore our
25 relationship with OSPA right now. If I was asked

1 to provide a criteria for what that component
2 would do, I would have to use the standard model.

3 MR. BEMBRY: Thank you.

4 CHAIRMAN JOHNSON: Mr. Weber.

5 MR. WEBER: Thank you.

6 Colonel, it's probably more in the
7 form of comment than a question. I want to be
8 careful because I don't think that we want to be
9 in a position to ask the Legislature to codify
10 behavior or policies within the State Police that
11 go to sort of the day-to-day operations. You
12 don't -- there's internal discipline for that,
13 right? So there's certain SOPs where I don't
14 think -- I know I would be not be supportive of
15 the Legislature taking your SOPs, ones that deal
16 really with on-the-street practice and say, "If
17 you don't do this, you've broken the law." I
18 think there's already laws on the books of New
19 Jersey about engaging in racial profiling and it's
20 a felony, I believe, maybe a Class 3 or Class 2.
21 So that's one comment, and you do with that as you

22 please as you present the SOPs to us. But that's

23 something that I'm concerned about.

24 The second thing is I would ask the

25 Chair to maybe provide me with a little bit of

1 guidance on timing because I know that we're
2 looking to move rather quickly on issuing our
3 report, and we would like to have the benefit of
4 your recommendations on what Mr. Goldstein and I
5 have asking you about sooner rather than later.

6 COLONEL FUENTES: We will start
7 working on that today. And I believe you're
8 absolutely right, the behavioral aspects of this
9 are going to fall to me and continue to fall to
10 any superintendent who want -- Title 53 invokes
11 discipline and levies discipline inside the
12 division. The generic things are going to
13 involve, quite frankly, technology and making sure
14 that we have the systems that get us the data that
15 we need to be able to both reward and/or
16 discipline behavior.

17 MR. WEBER: Thank you.

18 CHAIRMAN JOHNSON: I have a handful
19 of questions, several of which relate to the
20 concerns that have been raised by committee
21 members who aren't here, but I'm sure would be

22 interested in the answer as we'll report them to

23 them.

24 Last fall when you first met with

25 us, I believe it was Mr. Harris, James Harris, who

1 asked you about the diversity of the State Police
2 as well as diversity of command staff. And during
3 your testimony you indicated that you had a number
4 of strategies in place and efforts going forward
5 to enhance the diversity of the State Police. The
6 question that we ask now 11 months later is how
7 have those strategies played out? What do your
8 most recent classes look like or upcoming classes
9 look like as you move forward and worked on this
10 diversity strategy?

11 COLONEL FUENTES: Well, as you know,
12 our selection process is a very long one. It
13 lasts about a year and a half by the time you can
14 actually put a trooper in uniform and get them
15 out on their own on the road. Along the way of
16 selection process, which includes physical,
17 psychological, and the written and the background
18 investigation and a couple of other things, you
19 spend a lot of money. It takes a lot of time.
20 And you develop a pool of applicants that will
21 take you through two classes, three classes,

22 before you institute another process. I can tell
23 you our last two classes we put out, if you look
24 at the demographics -- and I did want to stay away
25 from percentages -- they were low. But we were

1 dealing with a qualified pool of candidates that
2 looked decent in the beginning when it was a pool,
3 and we do try and take our minority groups because
4 of the diversity issue and get them into the
5 academy just as soon as possible. Quite frankly,
6 over time, people have to get other jobs, they go
7 into other work. So our pool has a natural
8 dwindling process to it.

9 I can tell you that the changes that
10 we made to the selection process and that we have
11 input into, I'm very satisfied with. We've now
12 moved the physical before the written process.
13 Our recruiting unit, I would place up against any
14 in the country. The written exam was given over
15 the last two weeks. We went into that written
16 exam with -- I think it was a 43 or 44 percent
17 minority and women going into that written
18 exam -- excuse me. I'm wrong there. Going into
19 the physical process. And coming out of the
20 physical process, there's failure to appear for
21 the -- you know, they don't show up for the exam

22 or they elect themselves out or opt themselves out.

23 The number went down to about 33 percent. But I

24 can tell you that number is still among the best

25 in State Police agencies. We're now going through

1 the written exam. And we're going to have to see
2 what the numbers are coming out of the written
3 exam. But I can tell you that I've had numerous
4 discussions with the Attorney General on this, and
5 we are laser-pointing every step of the process
6 here. We know that the systems we put in place
7 are working. We have pet programs now which
8 actually -- you have a chance to do a dress rehearsal
9 on the physical test so that when you come -- so
10 you can a month or two out from taking the
11 physical test you know what you're going to have
12 to take, you know what state of fitness you're in,
13 and you have two months to kind of remedy
14 yourself. We have a mentoring process that keeps
15 in touch with people that we've taken past the
16 initial application and are moving towards the
17 physical test.

18 So for the 148 selection process,
19 which is what we're in right now, I'm very happy
20 where we are demographically. And we're going to
21 have to take a look now to see what comes out of

22 the written test. And if we're not happy with
23 those numbers, I think the Attorney General and I
24 are going to sit down and we're going to discuss
25 the options there.

1 CHAIRMAN JOHNSON: Thank you.

2 Another issue that was raised at

3 your first visit with us was on the data, that's

4 the demographic data that was collected for the

5 MAPPS System. You referenced this a number of

6 times. The post-9/11 world, one of the areas of

7 potential concern is profiling of motorists of

8 Arab decent. And when this question was raised

9 last year, one of the things that became clear to

10 us was that since it wasn't in the Consent Decree --

11 at least one of the explanations was it was not

12 something that in the Consent Decree originally --

13 the systems haven't been changed to take into

14 account this additional concern, and we raised

15 with you whether or not that was something that

16 you were going to take on as part of a

17 modification of the system. Have you in that time

18 taken a look at that? Is there a team that's come

19 together to work on that issue at all?

20 COLONEL FUENTES: There's been pros

21 and cons to that. I think it was Mr. Khalaf,

22 actually, who had asked that question back in
23 October. And I remember my initial discomfort
24 with that was in saying that I hate to put a
25 trooper in a position where on a motor vehicle

1 stop he or she has to ask questions that you
2 couldn't ask on a mortgage application. The
3 categories we have right now are the ones we work
4 with. I can tell you if we changed those -- and
5 it's an interesting proposition and it remains an
6 interesting proposition -- this is going to
7 globally affect every police officer in the State
8 of New Jersey. And I think this is something
9 where I have to turn to my legal counsel in the
10 Attorney General's Office and, quite frankly, ask
11 for guidance on this. Because if we break it down
12 into Arab-Americans, break it down into Muslims, if we
13 keep breaking these categories down here, it
14 requires a questioning process on a motor vehicle
15 stop that, in fact, may generate complaints. And
16 I totally understand the reason for collecting the
17 data. I get a little bit worried about the
18 reaction of the motorists of being asked those
19 questions on the side of the road. But I think
20 it's an interesting proposition and it's something
21 that maybe we should ask the Attorney General's

22 Office to work along side us in trying to resolve
23 it. There hasn't been an outcry on this that I've
24 heard of coming, you know, to the police community
25 in general. Not to us in particular, but, you

1 know, more generally speaking with the State
2 Association of Chiefs of Police. I don't believe
3 that it's been a very big issue. But, again, if
4 this does rise up as a concern, I'm going to need
5 legal guidance because it's a very, very dicey
6 issue.

7 CHAIRMAN JOHNSON: Circling back to
8 the question on diversity, I know you talked about
9 recruits, but I had also had mentioned the issue
10 of promotions and command staff.

11 The promotion process, we have heard
12 from a number of witnesses, is considered by many
13 to be an imperfect one -- at least within some
14 groups of minority officers, less than a fair one.
15 This was something that was raised early on in the
16 process. What steps have you taken to ensure that
17 the public at large is confident that people who
18 rise within the ranks or at least seek to rise
19 within the ranks of the State Police have a fair
20 shot at doing so?

21 COLONEL FUENTES: Well, we're in the

22 middle of a process right now with the Attorney

23 General's Office to revamp that entire system.

24 And I hold with those who say that it's far too

25 subjective at this point, not objective enough.

1 It goes to the heart of having a fair written exam
2 at the ranks to be promoted and to really have a
3 very discernable and understandable pipeline to
4 promotion. That includes the good things that you
5 have done in the organization, a look at the
6 things that maybe weren't so good, your education,
7 your ability to understand what the core
8 competencies are -- which is incidentally all I
9 expect out of a written exam, is that you can
10 attest to the core competencies of the rank that
11 you're trying to get promoted to. At the upper
12 ranks, a very solid in-basket or interview
13 process, which we're following right now. So
14 we're not quite there yet. We are well along in a
15 process which is at the stage of bringing on board
16 a vendor that is going to be responsible for
17 designing a promotional exam, and in addition to
18 that for defining knowledge, skills, and abilities
19 that define job function at every single rank.
20 And I know that Attorney General Milgram is
21 extremely committed. I know that Governor Corzine

22 is a stickler about the process and wants the
23 process to be followed. And we try and do that.
24 But we have a promotional system that can be made
25 much better. And I'm going back to 2003 when I

1 sat down before my selection committee and
2 competed against everybody else, that was one of
3 the things I said that needed to be changed. And
4 we are along on that process, but we're not there
5 yet. But I'm confident that we're going to get
6 there soon. And this is a major hurdle that we're
7 getting over right now with the vendor and with
8 the creation of a written exam and the knowledge
9 skills and abilities which have to be defined.

10 CHAIRMAN JOHNSON: Terrific.

11 There's been a lot of discussion
12 today about codification, and I think that Mr.
13 Weber's helpful distinction between behavioral
14 issues, which you wouldn't necessarily want to
15 codify, and what one might consider institutional
16 issues and procedures that you would, one concern
17 that we will have as we think through this is
18 flexibility. And that is, what we don't want to
19 do is recommend a set of legislative changes that
20 are so inflexible that the systems can't evolve
21 the way the systems ought to evolve as new

22 methodologies come forward. So this is more or
23 less a request as we work through our process for
24 you to work with us to help identify those areas
25 where flexibility -- we ought make room for

1 flexibility and continued growth.

2 COLONEL FUENTES: And again, I think
3 maybe that just what I jotted down, a generic
4 statement that we must, you know, audio and
5 videotape motor vehicle stops, must convene panels
6 to look at transit and analysis, must continue to
7 publish semiannual reports, must continue to
8 engage a MAPPS-like system here and with various
9 components in it. And again, what I'm saying is
10 actually very much tied into the technology that
11 allows us to give a view of the behavior. But
12 that is the critical, critical component.

13 CHAIRMAN JOHNSON: And we had the
14 sense from monitors this morning and also from you
15 that there are certain things that are required by
16 the Consent Decree that had outlived their utility.
17 Could you identify with more specificity those
18 things which you would like to see go by the
19 wayside as we move forward?

20 COLONEL FUENTES: Well, not go by
21 the wayside, but evolve like the motor vehicle

22 stop report. And concerning consent searches, we
23 need to get a better handle on circumstances
24 involving refusals. We need to be able to have
25 more accurate locations and data that quite often

1 is provided sometimes in written patrol activity
2 log. So actually getting to the point where it's
3 electronic and allows the trooper to enter that
4 data out from the car, not have to wait until he
5 gets into a station to enter things into a records
6 management system are the types of things that are
7 really going beyond the Consent Decree. That's
8 the disaggregation issue that I mentioned, which
9 is what we're involved in right now in the
10 development and implementation of what we call the
11 power key, which is a computer assisted dispatch
12 that's going to allow us to do so many more things
13 that we can't do right now. Those aren't mandated
14 under the Consent Decree. That's an organization
15 that is now asking the questions and is trying to
16 get the answers in ways that doesn't tie us up in
17 knots for weeks and weeks in going through paper
18 trails.

19 CHAIRMAN JOHNSON: But as to --
20 there were some elements, at least my recollection
21 from last year's hearing, is there were elements

22 that you would seek to modify. For instance, the
23 rate at which supervisors were required to review
24 videotapes of certain stops. And as I recall your
25 testimony, you were actually considering and beta

1 testing an approach, a different approach, to selecting
2 stops so that you didn't have your sergeants and
3 others spending as much time conducting video
4 review. Have you finished that test? Have you
5 changed procedure there?

6 COLONEL FUENTES: That's actually
7 going through a rollout right now. That's the
8 digital MVR program, Which -- right now there's a
9 lot of labor that goes into these tapes that we have
10 that have to be manually installed, they have to
11 be taken out, reports have to be made, they have
12 to be stored for a lifetime. So let's assume
13 they're 20 years, and you know from tapes they
14 chemically decompose. So what we're looking to do
15 is go into this digital system where when a car
16 reaches a station -- and we're going to get there;
17 We're rolling this right now -- it
18 automatically uploads the data from all the motor
19 vehicle stops into the station. And the
20 supervisors themselves, instead of sitting in
21 front of a TV and looking for a critical incident,

- 22 a consent to search or a deployment of a K9 or use
- 23 of force or a pursuit will cue it by a number to go
- 24 to specific stop. I can tell you that it takes a
- 25 half hour to 45 minutes or more for a supervisor

1 to get to a point on the tape where, you know,
2 where they want to be. So it's eliminating all of
3 that and at the same time having that be in a
4 system that's readily retrievable, retrievable in
5 real time in a moment's notice by a supervisor.
6 We'll get things done so much quicker and so much
7 more efficiently.

8 CHAIRMAN JOHNSON: So are fewer
9 stops being reviewed as a result of this? Or is
10 it just your review is more efficient?

11 COLONEL FUENTES: We're doing the
12 reviews more efficiently. And probably the
13 monitors can talk more about that process. But
14 for a while we were doing 100 review, and that
15 just absolutely tied us up in knots. So now I
16 think we're doing -- where are you, Chris? Half
17 to three-quarters? What's the percentage of the
18 reviews?

19 CAPTAIN O'SHEA: We're doing all
20 criticals. We're doing all stop arrests. We are
21 doing any video that there is some type of

22 post-activity that would have fallen under a
23 supervisor's review in the past. So the number is
24 probably about 75 percent, but it's more efficient
25 work than it is all the work.

1 COLONEL FUENTES: Feel free, the
2 reporter, to attribute that response to me.

3 CHAIRMAN JOHNSON: Did you hear
4 that?

5 THE COURT REPORTER: I did hear it.
6 I just need his name.

7 COLONEL FUENTES: Captain Chris
8 O'Shea, O-'S-H-E-A.

9 CHAIRMAN JOHNSON: I know you're
10 concerned about naming particular communities and
11 police departments that have come out from under
12 Consent Decrees, but could you at least share with
13 the Committee lessons learned from communities
14 that have come out from under Consent Decrees and
15 have either successfully emerged from the Consent
16 Decree over, say, one, two, three, four, five years
17 or have had problems? If there are particular
18 lessons that you can share with us, I think that
19 would be helpful.

20 COLONEL FUENTES: Some of the same
21 things that this Committee has brought up: they

22 ran out of money to be able to sustain some of the
23 technology; and there was a waning interest in
24 successive administrations about maintaining those
25 reforms, both in terms of the police chief and

1 political component in the city. Those are two
2 things I think we need to be visionary on and
3 actually account for those.

4 CHAIRMAN JOHNSON: That probably
5 ends my questions.

6 Are there other questions from
7 members of the Committee?

8 Is there anything else you'd like to
9 add before we leave?

10 COLONEL FUENTES: I appreciate the
11 work of this Committee. And I looked at this
12 Committee, and not only from what I've said in my
13 testimony and the monitors, as the legacy of this
14 Committee are the things I spoke about today.
15 It's making sure that the reforms will continue
16 and be a model not just for law enforcement
17 agencies in the state but really across the
18 country. I travel around this country, and I have
19 other police executives of all kinds of
20 departments in all sizes of departments recognize
21 the things that are being done in the State

22 Police. And my principal concern as I move
23 forward is to make sure that becomes a legacy
24 collectively for all of us, not just myself, but
25 certainly this Commission. So I thank you. I

1 thank you for the work that you're doing.

2 CHAIRMAN JOHNSON: We thank you for
3 your work.

4 We are going to adjourn for 45
5 minutes. I know there are some members of the
6 public that wanted to come back and speak to us
7 and they had to go return to work. So at least
8 some members of the Committee will be here at 5:00
9 to hear them. Thank you.

10 COLONEL FUENTES: Thank you.

11 - - -

12 (Whereupon, a recess was taken.)

13 - - -

14 CHAIRMAN JOHNSON: You may proceed.

15 MR. HOWELL: My name is John Howell.

16 I live at 333 West State Street, Apartment 4F,

17 Trenton, New Jersey.

18 CHAIRMAN JOHNSON: Could you spell
19 your last name, please?

20 MR. HOWELL: H-O-W-E-L-L.

21 CHAIRMAN JOHNSON: Thanks.

22 MR. HOWELL: Well, I offer my
23 testimony as both a victim of racial profiling and
24 as a case study of how police practice management
25 can be improved.

1 In 2001, I moved to Delaware
2 Township, Stockton, New Jersey. Within a week of
3 moving to the town, I found myself greeted one
4 night by the local police. After noticing an
5 unidentified automobile approach the rear of my
6 car at a high rate of speed then tailgate me until
7 I reached the center of Sergeantsville, in
8 response I pulled over in the center of town to
9 permit the hurried motorist to pass. The motorist
10 turned out to be the local police who stopped when
11 I pulled over, wanted to know who I was and
12 whether I was lost.

13 My 18-mile commute from home in
14 Delaware Township to downtown Trenton traversed
15 seven communities, Delaware Township, Stockton
16 Borough, West Amwell, Lambertville, Hopewell,
17 Ewing, and Trenton. Of the seven communities, my
18 twice daily one-mile travels through the City of
19 Lambertville garnered the greatest and most ardent
20 attention of local law enforcement.

21 After living in the area for about a

22 month, I found myself being followed through the
23 city by local police at least once a week and
24 especially on weekends, never mind that I had been
25 a frequent visitor to Lambertville over the

1 previous 15 years due to my artistic and athletic
2 interests. Apparently, my shopping with local
3 merchants, patronage of local restaurants, and
4 twice daily commute through the city was more than
5 many of the department's officers could tolerate.
6 As a result, I found myself cringing every time I
7 spotted a police cruiser as inevitably they would
8 drop whatever they were doing and follow me.
9 Police officers making u-turns, donuts, and other
10 interesting automobile maneuvers were the rule of
11 the day. One officer even drove his cruiser
12 across the town's corner Exxon station in an
13 effort to follow me.

14 Finally, the uneasy peace was broken
15 after a town officer followed me out of town into
16 Hopewell Township and stopped me while shopping at
17 a local antique market. After he arrived, he
18 confronted me, ordered me back into my automobile
19 and demanded I sit inside of it; whereupon, he
20 returned to his cruiser, activated his lights and
21 began investigating my license and insurance.

22 Though the incident ended with the police
23 officer's angry and uncivil response to the
24 discovery of my Delaware Township residency and
25 the legitimacy of the documents, I determined that

1 if the cat-and-mouse games were not ended,
2 something far more serious could occur. Indeed, a
3 few days later I awoke one weekday morning to find
4 a Delaware Township police cruiser parked on the
5 lower front lawn of my home.

6 As a result of the two major
7 instances, I began making inquiries and filed
8 complaints about the Lambertville and Delaware
9 Township Police Departments. A few months later,
10 after the intervention of several persons in human
11 rights organizations and a three-hour conference
12 with the Lambertville Police Director, since
13 mid-2002 an uneasy peace has prevailed between
14 myself and the several police departments of
15 southwestern Hunterdon County.

16 Again, my point in presenting this
17 testimony is not so much to complain about the
18 actions of local police -- those issues are
19 hopefully permanently resolved -- but to note the
20 system deficiencies that allowed me to be racially
21 profiled.

22 Today, the public is specifically
23 aware that most police vehicles contain cameras
24 which record police activities in front of the
25 car; and, hopefully, the presence of such systems

1 has helped reduce the incidence of racial
2 profiling. However, these systems depend
3 specifically upon the officer activating their
4 lights and siren. Absent such activation,
5 incident recording does not occur. As a result,
6 an officer can engage in harassment or other abuse
7 largely with impunity as long as they do not
8 activate these systems. Indeed, harassment of an
9 individual could theoretically occur unmonitored
10 until the officer drives the victim to such a
11 level that it provokes an incident permitting a
12 legitimate police action to be recorded on the
13 camera.

14 In our conference with the
15 Lambertville Police Director, several issues
16 emerged:

17 One, not all Lambertville Police
18 Department vehicles were equipped with camera
19 systems, and many of the instances where an
20 inquiry was made on my automobile license were
21 made in cruisers without camera systems.

22 Two, when the tailing incidences
23 occurred, the officer refrained from activating the
24 cruiser's lights or siren, as these would activate
25 the camera and record the activity.

1 Three, the Department's on-board
2 computer system did not flag repeated license
3 inquiries by the same or other officers.

4 Four, management was too willing to
5 assume that a complainant was simply being overly
6 sensitive of a police presence or have other
7 motivations behind their complaint.

8 It is important to understand that
9 racial profiling does not simply encompass the
10 open harassment of minority individuals but also
11 takes more subtle forms. Where repeated license
12 inquiries of the same automobile flagged by the
13 county-wide computer system and alert management
14 at the state, county, or municipal level could have
15 noted the problems, investigated, and intervened.
16 In your deliberations and determinations, I ask as
17 a victim of racial profiling that you incorporate
18 license inquiry, flagging protocols, and
19 management monitoring tools in all law enforcement
20 computer systems in New Jersey.

21 I have a printed copy, if you'd

22 like.

23 CHAIRMAN JOHNSON: Great. Yes, we

24 would like a copy of your testimony. That's very

25 helpful.

1 Were there mechanisms in
2 Lambertville for actually receiving your
3 complaint? Or did you simply go to management?

4 MR. HOWELL: I basically started
5 making inquiries and went to management. What
6 basically happened was I contacted a human rights
7 organization. The head of that organization heard
8 my complaint. It turned out that he had -- I had
9 met him because he was the former resident of my
10 house at the time. And I explained to him what
11 had happened. He had heard of other or had been
12 told of other incidents of a similar nature, so he
13 arranged for the meeting with the police director.

14 CHAIRMAN JOHNSON: So it was through
15 basically someone who was more familiar with the
16 procedures that you were able to get into the
17 police hierarchy?

18 MR. HOWELL: Exactly.

19 CHAIRMAN JOHNSON: It was nothing
20 within the police department itself that told you
21 how to make complaints?

22 MR. HOWELL: No.

23 CHAIRMAN JOHNSON: And then as far

24 as the investigation of your complaint, do you

25 know what steps the police department took?

1 MR. HOWELL: Not really. The
2 outcome of the complaint was a letter that was
3 sent to me about two to three weeks after the
4 meeting stating that they didn't feel that
5 anything had occurred that was illegal, unethical,
6 et cetera. However, it seemed a little strange
7 that every time one comes to town to shop or
8 pass through in the evening commute that, sort
9 of as though I have a GPS tag on my car, the
10 police swoop down and follow me. You would think
11 that people would get bored with this after a
12 while, because this went on for several months.
13 But they did not. And so finally after the
14 intervention of this organization and some other
15 ones and some other people, it stopped.

16 And I think another important point
17 is that I was -- I count myself as being
18 fortunate. I was able to access these resources
19 and the contacts were there for me to, hopefully,
20 access. I just started asking around. You're in
21 this situation, you move to area that's quite

22 idyllic, and then this begins happening. So I
23 just started asking. And fortunately,
24 fortunately, people stepped up to the plate. So
25 like I said, it's sort of uneasy truce, but as

1 long as I can go and do my landscape photography
2 and kayaking or whatever, I'm perfectly happy.

3 CHAIRMAN JOHNSON: That sounds
4 pretty idyllic.

5 Mr. Huertas.

6 MR. HUERTAS: I just have a couple
7 questions.

8 Sir, did you say this started in
9 2002?

10 MR. HOWELL: It started in 2001. I
11 relocated there in October of 2001, the 1st of
12 October. And the meeting occurred in early 2002.

13 MR. HUERTAS: So since 2002, have
14 you had a problem with them stopping you or being
15 followed?

16 MR. HOWELL: There were -- let's put
17 it this way. There were a few incidents where --
18 yes, I thought I was being followed and then they
19 broke off.

20 MR. HUERTAS: Let me ask you another
21 question. When you went and spoke to the chief,

22 you did file a complaint?

23 MR. HOWELL: Yes, I did.

24 MR. HUERTAS: That's why the letter

25 came later on and it said that they investigated

1 the complaint and found no merit to the complaint.

2 MR. HOWELL: Yes.

3 MR. HUERTAS: Did you receive any

4 summonses at the time, any tickets?

5 MR. HOWELL: No.

6 MR. HUERTAS: You never received any

7 type of motor vehicle action, whether your car was

8 towed, you received a summons or warning?

9 MR. HOWELL: Absolutely not.

10 MR. HUERTAS: So there was really no

11 record of the stop other than the officers

12 activating a vehicle headlights at a Mobil?

13 MR. HOWELL: That one time at the

14 antique market just south of Lambertville. The

15 other times, they simply followed. I mean, there

16 were times when I honestly thought that they were

17 going to get out of the car and make some sort of

18 inquiry and it didn't happen. But there was

19 nothing wrong with the car; and everything, the

20 license, the registration were current.

21 MR. HUERTAS: Was it the same police

22 officer all the time or different ones?

23 MR. HOWELL: No, it was different

24 ones.

25 MR. HUERTAS: How many times were

1 you stopped?

2 MR. HOWELL: Stopped once.

3 Followed, I think I documented at least 20

4 incidents. And I would sometimes test to see if

5 this was just coincidence. Because of what I do,

6 probability is pretty important. I regulate

7 insurance. You know, when you turn corners three

8 or four times, it's highly improbable that this

9 person just happens to be going to the same

10 destination you are, especially when you're not

11 going directly there. So it was obvious that I

12 was being followed.

13 MR. HUERTAS: So you were stopped

14 one time, followed at least 20 times?

15 MR. HOWELL: Uh-huh.

16 MR. HUERTAS: You mentioned

17 inquiries about your license that one time you

18 were stopped.

19 MR. HOWELL: According to the Police

20 Director in Lambertville, he stated that virtually

21 every time I had been followed that my

22 license had been entered into the computer.

23 MR. HUERTAS: Your license or your

24 license plate?

25 MR. HOWELL: The plate.

1 MR. HUERTAS: The license had never
2 been entered because they would have a record of
3 that.

4 MR. HOWELL: Yes.

5 MR. HUERTAS: Thanks.

6 CHAIRMAN JOHNSON: Thank you for your
7 contribution.

8 MR. HOWELL: Thank you for inviting
9 me.

10 CHAIRMAN JOHNSON: We'll take a copy
11 of your testimony and it will be part of the record at
12 these proceedings. Thank you. And obviously
13 considered by -- although there are many fewer of
14 us here now, it will nevertheless be considered by
15 the whole Committee.

16 MR. HOWELL: I appreciate it. Thank
17 you.

18 (Meeting adjourned at 5:15 p.m.)

19

20

21

22

23

24

25

1 C E R T I F I C A T E

2

3 I, Lisa C. Bradley, a Certified
4 Court Reporter and Notary Public of the State of
5 New Jersey, do hereby certify that the foregoing
6 is a true and accurate transcript of the testimony
7 as taken stenographically by and before me at the
8 time, place and on the date hereinbefore set
9 forth, to the best of my ability.

10 I DO FURTHER CERTIFY that I am
11 neither a relative nor employee nor attorney nor
12 counsel of any of the parties to this action, and
13 that I am neither a relative nor employee of such
14 attorney or counsel, and that I am not financially
15 interested in the action.

16

17

18

19

LISA C. BRADLEY, CCR, RPR

20

CCR NO. 30XI00228700

21

22

23

24

25 Dated: October 15, 2007

