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STATE OF NEW JERSEY  
ADVISORY COMMITTEE ON POLICE STANDARDS

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PUBLIC MEETING  
TRANSCRIPT OF PROCEEDINGS

LOCATION: State Museum Auditorium  
205 West State Street  
Trenton, New Jersey

DATE: Tuesday, November 21, 2006

TIME: 11:00 a.m.

- - -

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1 C O M M I T T E E M E M B E R S :

2

3 JAMES JOHNSON, COMMITTEE CHAIR

4 LARRY BEMBRY

5 ELLEN BROWN

6 MICHELLE CARROLL

7 KEVIN DONOVAN

8 REVEREND REGINALD STYLE FLOYD

9 JONATHAN GOLDSTEIN

10 CARMELO V. HUERTAS

11 REVEREND J. STANLEY JUSTICE

12 SAMER E. KHALAF

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14 MICHAEL RAMBERT

15 ED STIER

16 THERESA YANG

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11/21/2006 Hearing - 11/21/06 Pt. 1

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1 CHAIRMAN JOHNSON: Good morning. My  
2 name is Jim Johnson, and it's my privilege to  
3 welcome you to what is the fourth and likely final  
4 hearing of New Jersey Advisory Committee on Police  
5 Standards. For those of you who haven't attended  
6 these hearings before and aren't familiar with the  
7 work of this Committee, our charge is three-fold:

8 First, we're to recommend to the  
9 Governor whether and under what circumstances the  
10 State of New Jersey should join with the United  
11 States Department of Justice in filing a motion to  
12 the United States District Court to terminate the  
13 Consent Decree that was entered into in 1999 by  
14 the State of New Jersey and the United States  
15 Department of Justice to address the problem of  
16 racial profiling by some State Police officers;

17 Second, we've been asked to make  
18 recommendations on how to ensure that the practice  
19 of racial profiling is not engaged in or tolerated  
20 in the future in the event that the Consent Decree  
21 is terminated by the United States District Court;

22 And third, we've been asked to make  
23 recommendations to the Attorney General and  
24 Governor on how the programs developed by the  
25 New Jersey State Police can assist other law

1 enforcement agencies throughout the State in  
2 preventing all forms of racial profiling.

3 In our previous hearings we've heard  
4 from the Superintendent of the State Police, the  
5 independent monitors who have been reviewing the  
6 procedures and actions of the State Police for the  
7 last seven years. Those were actually our first  
8 two panels of the witnesses. We've heard from the  
9 Office of State Police Affairs at the Attorney  
10 General's Office. We've heard from the State  
11 Police Internal Affairs Office, the State Police  
12 Union, the National Organization of Black Law  
13 Enforcement Executives, local and municipal law  
14 enforcement representatives, and experts on police  
15 oversight and accreditation and licensing.

16 At today's hearing and the written  
17 comments that we will receive, we will be hearing  
18 from additional academic and professional experts,  
19 minority law enforcement organizations, victims,  
20 and advocates for victims of racial profiling, and  
21 community representatives who will present a wide  
22 variety of perspectives on issues that govern this  
23 Committee.

24 Now, as to housekeeping matters, we  
25 started at 11:00 Trenton time or 11:20 for the

1 rest of the world, and we will continue until 1:45  
2 or so when we will take about a 45-minute lunch  
3 break. If we go a little bit longer in the  
4 morning, our lunch break will be shorter because  
5 we have a long day ahead of us. We will resume  
6 promptly at 2:30 and continue until approximately  
7 7:00. We'll have a couple of additional breaks  
8 throughout, both for the benefit of the panelists  
9 but more importantly for the benefit of the  
10 reporter.

11 Given the length of the sessions, I  
12 don't expect that everyone will be able to keep  
13 their seats. I ask, though, that if you  
14 anticipate having to leave during the proceedings  
15 that you try to move out quietly. And to minimize  
16 disruption, we ask that you turn your cell phones  
17 and pagers to silent mode now.

18 Now, if anyone would like to ask a  
19 question of the Panel today, we're requesting that  
20 you write your question on one of the index cards  
21 available at the entrance. You can then leave the  
22 card either with the staff member by the entrance  
23 or with one of the other members who will be  
24 circulating throughout the audience. And there  
25 are two members of the staff here. We ask them to

1 raise their hands up here. If time permits, I  
2 will ask the panel to answer your questions. If  
3 we run out of the time, we will incorporate your  
4 questions and the answers to them in the public  
5 record.

6 In addition, we have reserved the  
7 period from about 4:45 to 7:00, so a little bit  
8 over two hours, for members of the public to make  
9 statements to the Committee. Anyone who wishes to  
10 speak may sign up at the entrance of the  
11 auditorium, and we will proceed to call people in  
12 the order in which they are listed on the sign-up  
13 sheet.

14 Anyone who wishes to submit  
15 testimony in writing, either in addition to or in  
16 lieu of oral testimony, instead of oral testimony,  
17 they're welcome to do so. Information submitted  
18 to the Committee or discussed these hearings will  
19 be made available to the public on the website.  
20 The transcript of these proceedings will also be  
21 posted on the web. Our website can be found at  
22 <http://www.state.nj.us/acps>. That's  
23 [www.state.nj.us/acps](http://www.state.nj.us/acps).

24 Now, on behalf of the Committee, I  
25 would like to sincerely thank today's panelists for their

1 time and testimony. With that, I want to turn  
2 things over to our first witness who would be  
3 Samuel Walker.

4 Samuel Walker is Emeritus Professor  
5 of Criminal Justice at the University of  
6 Nebraska-Omaha. He has performed extensive  
7 research and consulting on police accountability,  
8 including citizen oversight of the police, early  
9 intervention systems for police officers, and the  
10 mediation of citizens complaints against police  
11 officers. Professor Walker is the author of 13  
12 books on police and criminal justice policies and  
13 civil liberties. He has served as consultant to  
14 the Civil Rights Division of the United States  
15 Department of Justice and to local governments and  
16 community groups a in number of cities across the  
17 country on police accountability issues, and he  
18 has served as a consultant to the Attorney General  
19 of the State of New Jersey, looking at the issues  
20 here. With that, I'd ask Professor Walker to  
21 proceed.

22 PROFESSOR WALKER: Good morning, Mr.  
23 Chairman, Members of the Commission. It is a  
24 pleasure to be here. I appreciate the opportunity  
25 to speak on this. This particular subject is my



1 principal area of research, teaching, and  
2 consulting. I've visited a number of cities and  
3 counties on this particular issue, police  
4 accountability issues. I have two books on the  
5 subject, and I actually have testified before bodies  
6 similar to the Commission, usually at the  
7 municipal level in Austin, Texas; Portland,  
8 Oregon; Reno, Nevada. So I've got experience  
9 with that.

10 I was explaining to some people  
11 earlier this morning that it's odd that I am in  
12 Trenton on this issue. I should be back home in  
13 Omaha. We are in the midst of an enormous  
14 political controversy on this very issue in Omaha.  
15 We have a form of police oversight in the City of  
16 Omaha, Police Auditor. The Mayor and the Police  
17 Chief managed to ignore all of her work for four  
18 and a half years. And when she delivered a very  
19 extensive and powerful, well-documented report on  
20 abuses related to traffic stops, they fired her.  
21 It's huge political mistake and really setting the  
22 stage for some very serious problems in the  
23 future. So with that in mind, I'm still happy to  
24 be here. I appreciate very much the opportunity  
25 to speak.

1 I think I will go through my formal  
2 presentation very quickly because I know you have  
3 questions. And my experience, again, with similar  
4 commissions, task forces, and other areas, the  
5 questions on your minds are really the important  
6 part. So let's talk about the Consent Decree  
7 compliance.

8 What I know about this is based on  
9 the Monitor's reports and my personal site visit.  
10 Again, I was retained by the Office of Attorney  
11 General earlier this year. I should say that I  
12 have had some other prior involvement with the New  
13 Jersey State Police. I visited them a couple  
14 years ago. I was in the State during the spring  
15 and got almost a full day's presentation on the  
16 MAPPS System. Prior to that, I was retained by  
17 the United States Department Justice as a  
18 consultant on the original Consent Decree, but my  
19 involvement there involved -- was limited to the  
20 citizen complaint process.

21 What did we learn? Well, the  
22 general assessment is that the New Jersey State  
23 Police has successfully complied with the original  
24 Consent Decree. My visit last spring, I was very  
25 impressed with what I saw and what I heard and

1 with what they were doing in the sense of  
2 commitment. They have new policies and procedures  
3 in place, and it looks like supervisors are  
4 performing their required duty.

5 I think it's very important to put  
6 this in context, because there are a number of  
7 similar consent decrees around the country.  
8 Pittsburgh was the first entered into by the U.S.  
9 Department of Justice. They successfully met the  
10 terms of that Consent Decree, and it was lifted  
11 five years later. Steubenville, Ohio, similar  
12 story there. But in Los Angeles they have not  
13 been successful in complying with the terms of  
14 their Consent Decree. Earlier this year the  
15 federal judge extended the Consent Decree by  
16 another three years. And, in fact, in last  
17 Thursday's the Los Angeles Times there was a story  
18 on the latest Monitor's report, and there are  
19 still problems. They are not complying with the  
20 terms of that.

21 New Jersey has the MAPPS System,  
22 what we call an early intervention system. The  
23 Los Angeles Police Department has been working on  
24 theirs for 15 years. It was recommended by the  
25 Christopher Commission in 1991; 15 years, and they

1 still don't have a fully operational early  
2 intervention system similar to MAPPS. But I think  
3 it gives some credit to the New Jersey State  
4 Police for, in fact, getting the job done and  
5 getting it done in a timely fashion.

6 Cincinnati, there's some serious  
7 problems related to compliance with the terms of  
8 the Consent Decree.

9 Washington, D.C., we have more  
10 serious problems. Their first Monitor's report  
11 said literally no progress had been made, still a  
12 number of delays.

13 Oakland, California, similar  
14 situation. They were chastised rather soundly  
15 by the federal judge, I think a year and a half  
16 ago, for their failure to meet their terms.

17 So, again, I think that puts the  
18 situation in New Jersey State Police in some kind  
19 of context, and you can take some pride in the  
20 fact that the State Police complied with the terms  
21 and complied fully and in a timely fashion.

22 Now, what do we do now if and when  
23 the Consent Decree is dissolved or lifted? You  
24 have really three basic alternatives. You can  
25 have no external oversight; you can have some

1 internal oversight by the New Jersey State Police,  
2 and they have proposed contracting with some  
3 academic institutions and some researchers for  
4 that; or you can have some form of external  
5 oversight. And you really have two alternatives  
6 there: You can have it maintained through the  
7 Office of State Police Affairs or create a wholly  
8 new independent agency.

9 My recommendation is external  
10 oversight through the Office of State Police  
11 Affairs. Part of my presentation will be on why I  
12 think that's a good idea and with examples of what  
13 is happening and not happening in other  
14 jurisdictions.

15 Why do we want to reject no  
16 oversight? The lesson -- the important thing that  
17 I have learned in recent years is the importance  
18 of continued external oversight and the need for  
19 independent oversight. Again, I'll get to that as  
20 I'll later explain some of the examples from other  
21 jurisdictions.

22 Why not internal New Jersey State  
23 Police oversight? Because the important thing  
24 here is some independent oversight. I think the  
25 best way to think of oversight is it's analogous

1 to getting an annual physical, a checkup. Isn't  
2 that standard medical practice, good health? You  
3 want someone outside, an external person, an  
4 external expert who will poke and probe and test  
5 and so on and give you the bad news. You know,  
6 "You need to worry about blood pressure, you need  
7 to think about your cholesterol, you need to get  
8 more exercise, you need to lose some weight" and so  
9 on.

10 We don't do an annual physical by  
11 standing in front of a mirror and reviewing  
12 ourselves. You need that external outside  
13 assessment.

14 Why not a new external agency?  
15 Well, there would be substantial issues with that. Th  
16 would be delay. It would need legislation. You  
17 would have to go through a process of creating it.  
18 And also, a point that I'm going to come back to  
19 later, you already have some expertise within the  
20 Office of State Police Affairs.

21 So why oversight through that  
22 agency? Well, it's independent of the New Jersey  
23 State Police itself. It can provide an  
24 independent set of eyes and ears. It is  
25 responsible to the Attorney General and the

1 Governor who are -- the Governor is elected by the  
2 people so it is fully responsive to the will of  
3 the people. There is a body of expertise there.  
4 And there's also the potential for expanded  
5 responsibilities, which at the conclusion of my  
6 presentation I will emphasize it is extremely  
7 important.

8 The central issue here is  
9 continuing oversight, independent oversight.  
10 And this is consistent with the national trend  
11 since the 1980s. This oversight debate sort of  
12 died in the 1960s and then was reborn in the 1970s  
13 and has been going rather substantially and  
14 steadily, since really, the mid-1980s. And  
15 there's increasing recognition of the police  
16 experts that external, independent oversight, a  
17 different set of eyes and ears, is extremely  
18 important to maintain professional standards.

19 We look at the experience of other  
20 law enforcement agencies. This is my special  
21 expertise here. I've had a chance to get around  
22 the country to be on site in a number of different  
23 jurisdictions and to see what's happening and get  
24 an appreciation for the value of having those  
25 external eyes and ears. I should just say that

1 that is simply one type of police reform. There  
2 are many other ways in which you can get to the  
3 state where you are at present with New Jersey  
4 State Police. Others have done it differently.  
5 But you've got reforms in place. The real crucial  
6 issue here is maintaining those and making sure  
7 they don't fade away.

8 The key lesson. The single most  
9 important thing I've learned in the last couple of  
10 years is the potential for reforms to fade and to  
11 just sort of just disappear. So we have law  
12 enforcement agencies that agree do the right thing  
13 and put in place some good and important reforms.  
14 And then all of a sudden, they just sort of --  
15 they're just not there. That's really the central  
16 issue. I think that's exactly the point you are at  
17 here in New Jersey. As a result of the conception  
18 and monitor's report, you've made tremendous  
19 progress with the New Jersey State Police, which  
20 you can be proud of, they can be proud, everyone  
21 can be happy. The question is, are they going to  
22 be maintained or are they going to be allowed to  
23 slide and slip away?

24 The most important things I've  
25 learned in the last couple years are the different



1 factors that contribute to that. Budget cuts,  
2 what I call rewards of success, they change  
3 leadership. And just the simple fact that  
4 accountability is hard. It's tough. It's not  
5 easy. Let me run through these individually very  
6 quickly.

7 Budget cuts. All public agencies  
8 have serious financial constraints. And I know  
9 New Jersey is not necessarily in the best situation  
10 at the moment in terms of public budgets.  
11 Training is often the first thing to be cut. It  
12 looks like it's easy from the standpoint of the  
13 chief executive. Well, if you don't train, you  
14 will have both officers and supervisors losing  
15 their commitment to these reforms that have been  
16 in place.

17 Very often promotions are delayed  
18 because of budget cuts. You simply can't afford  
19 to do the promotion. Well, you lose supervisors.  
20 You don't have enough. This is a big problem in  
21 agencies where the ratio of supervisors to  
22 officers is out of compliance with professional  
23 standards and, in some cases, departments' own  
24 requirements.

25 Data entry. For example, the MAPPS

1 System, which is a great system, has tremendous  
2 potential for identifying problems and pointing in  
3 the direction of very specific kinds of reforms.  
4 That requires timely data entered in there on time  
5 and accurately. You've got to have some people to  
6 do that.

7 This happened with the LA Sheriff's  
8 Department with their early intervention system,  
9 which was held up as the model for many years, the  
10 PBI System. Because of budget cuts, they didn't fill  
11 data entry positions, and the data wasn't in there  
12 so the whole system began to collapse, a hidden  
13 kind of erosion of what was good and very  
14 important to this kind of system.

15 The rewards of success. Some  
16 reforms are made, the organization has changed,  
17 some good things are done, good things are put in  
18 place. And the key commanders who did that work,  
19 they get rewarded, they get promoted, they get  
20 transferred to another assignment. This is sort  
21 of a natural part of an organization. You reward  
22 people who do well. In some cases, the people who  
23 follow them didn't have the history, didn't have  
24 the commitment, didn't necessarily know all the  
25 details of the process or procedures they were

1 responsible for. Again, this is very well  
2 documented in the LA Sheriff's Department,  
3 especially the very troubled Century Station. So  
4 again, that's another way in which good things can  
5 kind of slip away.

6 Change leadership. You get the key  
7 person at the top is retired or removed, whatever,  
8 and the organization as a whole loses its  
9 commitment.

10 New Orleans in the late 1990s,  
11 everything you is heard true. It's as bad as  
12 you've heard about. Well, they set about to make  
13 some changes. Well, the captain who was in charge  
14 of their Public Integrity Division retired and  
15 lost really the continuity of that. Their chief  
16 left the job. He's now a police chief in Atlanta.  
17 So it's not clear to me that the current chief --  
18 I think they've changed chiefs a couple times --  
19 really has the same kind of commitment.

20 So things can erode because of  
21 changes. Some cases that's a result of political  
22 factors outside of the control of the law  
23 enforcement agency.

24 Pittsburgh. Pittsburgh complied  
25 with the Consent Decree. The Consent Decree was

1 lifted by the federal judge. Things were going  
2 well. The person who made it happen was Chief  
3 Robert McNeilly. What happened? Well, there was  
4 a new Mayor elected in the fall of 2004. January  
5 2005, that Mayor was sworn in. The first thing he  
6 did was fire Chief McNeilly and put in place  
7 someone who had been not at all enthusiastic or  
8 supportive or understanding of these very  
9 important kinds of reforms. So you can lose your  
10 commitment that way.

11 And the most important thing is,  
12 accountability is hard. Changing an organization  
13 and maintaining good reforms is not easy. A lot  
14 of my research involves these earlier mentioned  
15 systems, the MAPPS System in New Jersey State  
16 Police. The phrase I came up with, "It isn't a  
17 toaster." You don't go down to Target and buy it  
18 and take it home and take it out of the box and  
19 plug it in and hit the on button and expect it to  
20 work by itself. It requires continuous day-in,  
21 day-out, month-in, month-out attention and  
22 oversight.

23 And, again, with law enforcement  
24 agencies where you have all your front-line  
25 employees working out there in the field without

1 any direct supervision, you've got a thousand  
2 disasters waiting to happen. You really have to  
3 stay on top of it. So you don't just fix the  
4 problem once and then go off and worry about other  
5 things. We really require continuous attention.

6 This form of oversight similar to  
7 what I proposed is working well in a number of  
8 jurisdictions, San Diego, Boise, LA Sheriff's  
9 Department, San Jose. Most important, the  
10 important thing that I find particularly valuable --  
11 there are respectful partnerships where the  
12 oversight person and often an advisory committee  
13 work in close partnership with the police  
14 department or law enforcement agency. And most  
15 important, they have what I call a policy review  
16 process where complaints or other information  
17 they've identified, some particular problems, they  
18 have a formal process for discussing alternatives,  
19 and they develop new policies to correct those  
20 problems. And it's a form of housekeeping that  
21 takes care of little problems. And taking care of  
22 the little problems, like our personal health,  
23 take care of your cholesterol, your blood pressure  
24 and so on, you'll be in good health in later  
25 years. Hundred-person agencies are the same and are

1 just as complicated.

2 The other reason for my  
3 recommendation is an expanded role for the Office  
4 of State Police Affairs. Now, as I've heard last  
5 spring, to some extent they've done a little bit  
6 of this, but there's a tremendous opportunity to  
7 provide accountability services to all the local  
8 police departments across the state. It would be  
9 a resource center.

10 Here's what would be the scenario.  
11 You've got a department, local police department,  
12 city police department, and there's been some  
13 allegations of excessive force, profiling,  
14 whatever. The Office of State Police Affairs  
15 could be the agency that could help that  
16 department. The chief calls him and says, "Look,  
17 we've got some problems. Can you help us?"

18 They can do a needs assessment, they  
19 can review their policies and procedures. What's  
20 their use of force policy, what's their traffic  
21 stop policies, how are they investigating  
22 allegations of misconduct, how are they  
23 investigating allegations of profiling, for  
24 example. And also provide training for commanders  
25 and rank and file officers. It would be a

1 resource for all those agencies. This would be a  
2 national model. No other state has an agency at  
3 the state level where local law enforcement  
4 agencies can go and get help on these particular  
5 issues. So you really have a chance for New  
6 Jersey to really go to the head of the class and be  
7 the first state and the only state that provides  
8 these kinds of services, that will take care of  
9 problems and potential problems in all  
10 jurisdictions across the State, all those  
11 municipal police departments. There's a huge  
12 opportunity. It would be a model for other  
13 states.

14 That is my presentation.

15 CHAIRMAN JOHNSON: Thanks very much.

16 Our practice in the previous  
17 hearings, and we will follow this today, is for  
18 each of the panelists to ask questions. We've  
19 been allocating about five minutes to each  
20 panelist to ask questions get answers, and we  
21 simply move down the panel. So far, no panelist  
22 has been penalized for using less than  
23 five minutes in time.

24 So we'll start with Mr. Bembry.

25 MR. BEMBRY: Thank you for your

1 presentation.

2 I note there's a difference between  
3 the police agencies that were monitored or  
4 currently being monitored and New Jersey State  
5 Police, and that is there are local entities  
6 throughout the country that have been monitored  
7 versus a state police agency. Do you see that  
8 being an advantage in terms of New Jersey State  
9 Police Enforcement Agency continuing to be  
10 successful versus the local police agencies that  
11 you've observed?

12 PROFESSOR WALKER: I think it's  
13 pretty much the same thing, because when you look  
14 at the various consent decrees, New Jersey,  
15 Cincinnati, LA, the concept is essentially the  
16 same. They're calling for the same kinds of  
17 reforms. New Jersey was different only in the  
18 sense that there was more of a focus on traffic  
19 stops, traffic enforcement. In terms of the  
20 accountability mechanisms and so on, it's  
21 essentially the same. And all of them have a  
22 requirement for something equivalent to MAPPS. It  
23 just goes by a different name. I think it's  
24 really the same. The challenge is really the  
25 same.



1 CHAIRMAN JOHNSON: Thank you.

2 Ms. Brown.

3 MS. BROWN: Thank you very much, Mr.  
4 Chair.

5 And thank you for your presentation.

6 Professor, I have a question about  
7 one of the bullets that you put up about personnel  
8 and where you say, well, key commanders move on  
9 and change their role.

10 Can you tell us any examples of how  
11 you build sort of a human resources or personnel  
12 infrastructure that helps to continue to review  
13 line officers and first level supervisors'  
14 performance around these kinds of issues so you  
15 get something in the personnel review policies  
16 that keeps this issue alive even though leadership  
17 may change?

18 PROFESSOR WALKER: I wish I did.  
19 That is a crucial issue. And I think in that  
20 issue, it's really the person at the top. The  
21 person at the top has got to have a commitment and  
22 to make sure that there's adequate training for  
23 commanders and that the right people are promoted.  
24 And so that when one person leaves, there are  
25 others who are available to fill that slot who

1 have the same commitment. But it's a tough issue.  
2 I wish I had a good answer.

3 MS. BROWN: Thank you very much.

4 CHAIRMAN JOHNSON: Ms. Carroll.

5 MS. CARROLL: Thank you.

6 Good morning. I have a question in  
7 regards to your recommendation to the Office of  
8 State Police Affairs as far as being accountable  
9 for both local and municipal police departments.  
10 Do you feel that that would be beneficial to have  
11 them also as the oversight person? Do you think  
12 playing both those roles would be beneficial; and  
13 why?

14 PROFESSOR WALKER: Well, I think  
15 there are two functions that need to be performed.  
16 And since they're related to the same kinds of  
17 issues of, what are the policies and procedures of  
18 the agency, is this agency following its own  
19 policies and procedures, what are its personnel  
20 practices, are there personnel practices that  
21 undermine, take away with one hand what it's given  
22 with another? I think the functions are  
23 sufficiently similar, that you would have a body  
24 of expertise there that it's kind of a natural  
25 fit. And it would be unnecessary duplication to

1 have separate agencies, units, in that regard.

2 MS. CARROLL: You also talked about  
3 sustainability in regards to MAPPS. I'm not sure  
4 if I heard you correctly. You said most of the  
5 other police organizations also have something  
6 similar in place as well, and that failed because  
7 of lack of personnel?

8 PROFESSOR WALKER: No. All of the  
9 consent decrees required something similar to  
10 MAPPS. And many, many agencies around the country  
11 have on their own initiative developed, Phoenix,  
12 LA Sheriff's Department, many, many departments.  
13 This is really seen as the key accountability  
14 mechanism today.

15 What I pointed to, there was a very  
16 good report on LA Sheriffs where they had this,  
17 what was described as the Cadillac system, the  
18 best in the country. And for reasons related to  
19 budget cuts and personnel transfers, that system  
20 began to erode a bit. But that is not the case in  
21 Phoenix or other cities; Tampa, for example, where  
22 it appears to be working well.

23 MS. CARROLL: Thank you.

24 CHAIRMAN JOHNSON: Mr. Donovan.

25 MR. DONOVAN: Thank you, Mr.

1 Chairman. I apologize for being late to you and  
2 Dr. Walker. I'm going to defer my time to my  
3 other colleagues who had the opportunity to hear  
4 your entire testimony. Thank you.

5 REVEREND FLOYD: I also apologize  
6 for being late. I concur with Mr. Donovan.

7 CHAIRMAN JOHNSON: There's a comment  
8 up here that a preacher deferring his time,  
9 that's a first.

10 REVEREND FLOYD: I'll make up for  
11 it.

12 CHAIRMAN JOHNSON: Mr. Huertas.

13 MR. HUERTAS: Thank you, Mr.  
14 Chairman.

15 Thank you, Mr. Walker for your  
16 testimony. I have just a couple questions.

17 You're recommending that OSPA  
18 continue in its current role?

19 PROFESSOR WALKER: Yes. Well, and  
20 with an expanded role.

21 MR. HUERTAS: I'm sorry?

22 PROFESSOR WALKER: And with some  
23 expanded responsibilities.

24 MR. HUERTAS: That expanded function  
25 would be the municipal assistance to the municipal

1 agencies?

2 PROFESSOR WALKER: When I did my  
3 site visit in the spring, I understood that on a  
4 limited scale, they've already sort of been doing  
5 some of this kind of work where local agencies had  
6 contacted them and asked for some help and there  
7 was some assistance given. This simply would be  
8 to formalize it, expand it, and to see it as a  
9 broad base service to all local governments, all  
10 local agencies. And it would be a huge benefit to  
11 the people of the State of New Jersey, across the  
12 state.

13 MR. HUERTAS: Dr. Walker, you also  
14 recommended, I guess, that the OSPA would have a  
15 broader scope in terms of being able to look at  
16 other functions within the organization; is that  
17 correct?

18 PROFESSOR WALKER: Yes.

19 MR. HUERTAS: Such as recruiting,  
20 areas that are not really currently covered by the  
21 Consent Decree?

22 PROFESSOR WALKER: Yes, that's  
23 correct. I think that's an extremely important  
24 point. I should have included it in my  
25 presentation. But the real model here would be

1 the special counsel for the LA Sheriff's  
2 Department. It's been around since '93. Call it  
3 Special Counsel, call it Auditor, call it Monitor;  
4 it's all the same. Call it Inspector General,  
5 it's essentially the same function. They have a  
6 broad license to look at anything and everything  
7 that might impact on the quality of police  
8 services. And that might be recruitment. They  
9 just did a tremendous report on training. They  
10 have all these training requirements, and the  
11 officers are not getting the required training.  
12 Something slipped somewhere. They looked at race  
13 and gender discrimination within the agency,  
14 issues of promotions. That goes to Ms. Brown's  
15 question. So it would be a mistake to narrow  
16 functions, as I envision, to only those issues  
17 defined by the Consent Decree. All sorts of  
18 things, all sorts of things impact officer-citizen  
19 interactions out there in the street, which is  
20 really where the heart of the issue is.

21 MR. HUERTAS: So the dissolution of  
22 this Decree would actually give OSPA greater  
23 authority than it had previously. And what would  
24 be the impact on the members of the organization in te  
25 of coming out of a Decree that they seem to be

1 under probably more scrutiny now by the Office of  
2 the State Police Affairs than they were  
3 previously?

4 In other words, would there be a  
5 dissolution of the Decree, or would it simply be a  
6 continuance of the Decree under a different term?

7 PROFESSOR WALKER: Well, as I  
8 understand it, the question of dissolving the  
9 Decree is in the hands of the judge. If that  
10 happens, it's gone. The real issue here is --

11 MR. HUERTAS: The perception.

12 PROFESSOR WALKER: Pardon?

13 MR. HUERTAS: The perception of the  
14 members of the organization.

15 PROFESSOR WALKER: Well, I think the  
16 proposal I offer is typically not a form of  
17 punishment, but as a way of borrowing the best  
18 that currently exists in other places around the  
19 country where you have this very productive  
20 working partnership between the agency and  
21 professional oversight where you can work together  
22 to identify problems in a civil and professional  
23 manner to consider alternatives and then put in  
24 place the proper solutions. It works well. It  
25 works quietly.

1                   Earlier this year I was at the  
2                   national conference, and I saw a presentation on  
3                   what happened in the City of San Diego. There's  
4                   been 300 different policy recommendations that's  
5                   come out of this process. Some of them small,  
6                   some of them are large. And the Police Chief, San  
7                   Diego Police Chief, sits in on these meetings and  
8                   discussions. Apparently, a number of cases he  
9                   says, "Wait a minute. You don't need to come up  
10                  with a recommended change. I see the problem. I  
11                  see the problem, and I'm going to come up with a  
12                  revised policy and I'll bring it back to you next  
13                  month so we can discuss that." So it's very  
14                  positive. This is not punishment.

15                         MR. HUERTAS: Forgive me, Dr.  
16                         Walker. I just don't -- I understand what you're  
17                         trying to say. I just don't see that with the  
18                         dissolution of the Consent Decree, which has a  
19                         limited role for OSPA, once that is dissolved,  
20                         then you have a greater role for OSPA and greater  
21                         responsibilities and holding every member of the  
22                         organization still to the same standard that you  
23                         held it previously to and the same accountability,  
24                         and it doesn't seem like -- there's no  
25                         dissolution, it's simply just a transformation of



1 one entity to the next.

2 PROFESSOR WALKER: Well --

3 MR. HUERTAS: And we're also talking  
4 about a department of 3,000. We're also talking  
5 about -- I think you stated that there have only  
6 been two successful departments that have met the  
7 standards of the MOU. So the rest of the  
8 departments that we're speaking of are still all  
9 in the process trying to meet those standards. Is  
10 that correct?

11 PROFESSOR WALKER: Yes. And with  
12 some difficulty, too.

13 Well, I think on your point, the --  
14 when the Federal Judge lifts or dissolves the  
15 Consent Decree, that's the end of that chapter.  
16 The federal government is out of the picture. The  
17 ball is now in the court of State of New Jersey.  
18 As I understand it, the purpose of this Commission  
19 Task Force is to decide what should you do. What  
20 is in the best interest of the people of the State  
21 of New Jersey? The question is, how can you best  
22 assure that there will be the most professional  
23 quality of law enforcement services to the people?

24 I'm offering a recommendation. It's  
25 something new. You can define it more broadly or

1 more narrowly than I have. It's a new approach.  
2 I think it would be a very wise choice.

3 MR. HUERTAS: Thank you, sir.

4 CHAIRMAN JOHNSON: Thank you.

5 Reverend Justice.

6 REVEREND JUSTICE: Thank you, Mr.

7 Chair.

8 Thank you, Mr. Walker. Perhaps a  
9 follow-up. Your second choice?

10 PROFESSOR WALKER: My second choice?

11 REVEREND JUSTICE: Yes.

12 PROFESSOR WALKER: I don't have a  
13 second choice.

14 I think the others have sufficient  
15 weaknesses. This is what I recommend. I couldn't  
16 in good conscience and with any personal  
17 credibility say, "Yeah, this would be okay, too."

18 I think there's just no substitute  
19 for having the highest quality of law enforcement  
20 service, and there's no substitute for doing it  
21 the right way. This is based on my experience and  
22 my learning. This is it. I couldn't, in good  
23 conscience, say, "You could do it that way, too."

24 REVEREND JUSTICE: Thank you.

25 Second question. What parts of the

1 Consent Decree did the police union particularly  
2 oppose when the new Mayor came on, the new the  
3 Chief, whoever it was? What parts of the Consent  
4 Decree --

5 PROFESSOR WALKER: In other  
6 jurisdictions?

7 REVEREND JUSTICE: I think you said  
8 Pittsburgh.

9 PROFESSOR WALKER: The whole thing,  
10 basically. You know, it's interesting because  
11 Pittsburgh was really a backward department in  
12 '97. It was really poorly managed. They didn't  
13 have even the basic personnel management system.  
14 They didn't have data to tell you what they were  
15 doing. Whereas, Los Angeles, you know, you see on  
16 TV shows, their reputation of the most  
17 professional place, the department with all this  
18 stuff, dragnet and everything. But, in fact, once  
19 you got inside, some things were not being done  
20 properly.

21 REVEREND JUSTICE: For 15 years?

22 PROFESSOR WALKER: Specifically just  
23 on one recommendation, they can't seem to put in  
24 place. New Jersey could, LA can't.

25 REVEREND JUSTICE: And then in LA,

1                   you feel it was combination of unwillingness to  
2                   implement -- I'm sure TA was provided and all that  
3                   other good stuff.

4                   PROFESSOR WALKER: They had a  
5                   federal --

6                   REVEREND JUSTICE: Fifteen years.

7                   PROFESSOR WALKER: There's a  
8                   leadership problem. And the leadership problem  
9                   has created a culture of just resistance, "We're  
10                  just not going to do it."

11                  They sit around telling themselves,  
12                  "Oh, we're the best," all this kind of stuff and  
13                  start they believing it--when they're not. And  
14                  this problem that begins at the top, this  
15                  leadership problem, affects the culture and it  
16                  plays out in the promotion process, the very  
17                  question Ms. Brown brought up.

18                  REVEREND JUSTICE: Thank you.

19                  CHAIRMAN JOHNSON: Ms. Milgram.

20                  MS. MILGRAM: I would just start by  
21                  saying in the interest of full disclosure that Dr.  
22                  Walker and I also worked together when I was  
23                  counsel for Senator Corzine. We had worked pretty  
24                  close with Dr. Walker in getting some  
25                  recommendations for legislation. Just so the

1 Committee knows that I have some prior  
2 relationship with the doctor.

3 A couple follow-up questions on  
4 things that you've discussed to get into a little  
5 more detail. The LA Sheriff's Department, the  
6 Special Counsel model, can you explain that a  
7 little bit?

8 PROFESSOR WALKER: Special Counsel  
9 operates under a contract with the County Board of  
10 Supervisors, County Commissioners. And it's a  
11 couple hundred thousand here and there's a staff  
12 of six or seven people, most of whom are  
13 attorneys. And most important, they have a broad  
14 license to look at anything and everything that  
15 they think might be a problem and might impact on  
16 law enforcement service.

17 For example, one of the best things  
18 they did, they took up the issue of the K9 Unit.  
19 A lot of people were getting bitten. Well, upon  
20 review, they find that the Department didn't have  
21 a policy to control when you could unleash the  
22 dogs. They identified this problem. They came up  
23 with a recommended set of policies to control the  
24 use of dogs. And you know what happened? The  
25 number of people bitten by those dogs went down

1 90 percent. People are not being unnecessarily  
2 bitten by dogs from the LA County Sheriff's  
3 Department.

4 MS. MILGRAM: To focus my question a  
5 little more specifically -- that's very helpful.  
6 What does the authority of the Special Counsel  
7 come from? Is it by statute?

8 PROFESSOR WALKER: It's a contract  
9 with the County Commissioners, which is  
10 responsible for the Sheriff's Department. They  
11 said, "Well, we're going to pay for this, too.  
12 We're going create this function."

13 MS. MILGRAM: Through what mechanism  
14 is the Special Counsel ensured full access of all  
15 information?

16 PROFESSOR WALKER: Because the  
17 County Commissioners said they shall have full  
18 access.

19 MS. MILGRAM: What's the result? I  
20 mean, does the Special Counsel work -- is the goal  
21 to issue public reports? What's the dynamic of  
22 the --

23 PROFESSOR WALKER: They investigate.  
24 They make public reports every six months.  
25 They're all available on the web, [www.parc.info](http://www.parc.info).

1           Incredibly valuable. Really thorough,  
2           professional type of reports that document all  
3           sorts of problems. I mentioned the K9 Unit.  
4           There's one on foot pursuit violations. Not  
5           governed by any policy. Turned out to be very  
6           dangerous, dangerous to officers. Employment  
7           practices. Again and again and again, whole  
8           series of issues.

9                       MS. MILGRAM: Does it have an  
10           auditing function as well?

11                      PROFESSOR WALKER: Well, you can  
12           call it the Special Counsel, call it Auditor, call  
13           it Monitor, call it Inspector General; the  
14           function is the same. The function is basically  
15           the same.

16                      Did you mean by financial audit  
17           or --

18                      MS. MILGRAM: No. Essentially  
19           exactly what you were talking about.

20                      PROFESSOR WALKER: You can call it  
21           risk management. That's what it is. Are there  
22           some things going on that cause us problems that  
23           are likely to result in litigation and cost us  
24           some tax dollars?

25                      In fact, the original purpose of

1 Special Counsel was to reduce the cost of  
2 litigation. How come we're getting sued so much?  
3 How come we're paying out so much money? Instead  
4 of just writing check, let's see what are the  
5 underlying problems and fix them.

6 MS. MILGRAM: Can you talk about  
7 Nebraska for a minute?

8 PROFESSOR WALKER: Sure.

9 MS. MILGRAM: You mentioned it in  
10 your opening comments. How is that auditorship  
11 set up?

12 PROFESSOR WALKER: It was originally by  
13 an ordinance, municipal ordinance, that created  
14 the Auditor's Office, defined its function and gave  
15 it full access to all the necessary records and  
16 created a reporting function to report to the City  
17 Council and to the Mayor and to the police  
18 department and to the public.

19 MS. MILGRAM: What are the  
20 differences between the Nebraska Auditor and the LA  
21 Sheriff's Department Special Counsel?

22 PROFESSOR WALKER: In Omaha, which is  
23 more typical, it's a municipal ordinance. You  
24 have to appeal the ordinance or not fund it to  
25 demolish it. Whereas the LA Special Counsel is



1                    simply a contract. So the County could just  
2                    decide to cancel it or not renew the contract, and  
3                    that would simply go away.

4                    MS. MILGRAM: I wonder if you have  
5                    an opinion -- I don't know if you've thought much  
6                    about this -- but why LA is so successful and  
7                    Nebraska has been unsuccessful under what seems  
8                    like a fairly similar model.

9                    PROFESSOR WALKER: There's two  
10                   elements. We've got the Sheriff's Department  
11                   which is better, and a police department that's  
12                   not so good. It's all leadership. It comes down  
13                   to leadership. So the Sheriff, Lee Baca, in LA  
14                   County is committed to this. I've met him. I've  
15                   talked to him. He's sincere and listens to these  
16                   recommendations, makes changes. And, in fact,  
17                   litigation costs have gone down.

18                   Whereas in the LAPD, Los Angeles Police  
19                   Department, there's a whole culture of, "just go  
20                   away. Go away. You wouldn't understand. You  
21                   couldn't possibly. Just go away."

22                   So in the end, you can create  
23                   whatever structure you want to, there's no  
24                   substitute for leadership and commitment on these  
25                   issues.

1 MS. MILGRAM: I think Major Huertas  
2 was asking a question about what OSPA would be.  
3 And I'm going to take an even more narrow approach to  
4 it, which is OSPA right now have certain duties  
5 under Consent Decree. Would you see those duties  
6 as continuing, or would you see that involving --  
7 I think I'm struggling to understand a little bit  
8 of whether the OSPA that you're envisioning would  
9 include the exact same things that they're doing  
10 as part of the Consent Decree right now or a  
11 modified version based on different strategic  
12 questions or priorities or issues that might  
13 arise.

14 PROFESSOR WALKER: I think a  
15 modified version based on some strategic thinking  
16 about where do we think we see some problems. And  
17 so it wouldn't necessarily have to continue all  
18 the specific functions that are part of it,  
19 because that would be very time consuming and it  
20 might not require doing all of those same things  
21 in every reporting period. So it would be a  
22 broader role and it would be greater flexibility  
23 to identify actual or potential problems.

24 MS. MILGRAM: Thank you.

25 CHAIRMAN JOHNSON: Thank you.

1 Mr. Ortiz.

2 MR. ORTIZ: I apologize, too. I  
3 defer my time to the other Commission  
4 representatives.

5 MR. RAMBERT: Good afternoon. I  
6 have confidence in this Committee that we're going  
7 to come up with something to replace the  
8 monitoring functions of the Consent Decree. My  
9 concern is the issue of budgeting. And budgets  
10 get cut all the time. And what I would not like  
11 to see happen is for the Committee to make some  
12 recommendations for an effective program for  
13 monitoring that's going to improve State Police  
14 and citizen confidence in the State Police and  
15 have it cut by budget. What recommendations do  
16 you have to prevent that from occurring?

17 PROFESSOR WALKER: Budget cuts?

18 MR. RAMBERT: Yes.

19 PROFESSOR WALKER: Well, I think  
20 it's important for you and for other people in the  
21 Attorney General's Office, in the Governor's  
22 Office, in the State Police to just to recognize  
23 that accountability is not cheap. You've got to  
24 make -- you've got to do the right thing. It's  
25 expensive. There's no way to buy it cheaply. And

1 when you have a budget crisis, when you have, you  
2 know, a problem, don't take the easy way out. You  
3 have to think seriously about which item is more  
4 important than the other. My message is that the  
5 accountability issues, which includes the  
6 oversight, which includes the training, is  
7 really -- should be the top issue, because you're  
8 going to pay for it down the road. You're going  
9 to pay for it down the road in all sorts of problems,  
10 political controversy, lawsuits.

11 It's easy to be shortsighted. My  
12 message is, you've got to keep your eye on the --  
13 accountability is essential. That might mean,  
14 when the crunch comes that might mean you might  
15 not have as many officers on the street. You  
16 might have to pay that price. But in the long  
17 term, maintaining all of the accountability  
18 mechanisms might be better for the people. That's  
19 not an easy decision. I don't want to sugarcoat  
20 the pill. That's a tough decision that's got to  
21 be made. My message is, don't mortgage the  
22 future.

23 MR. RAMBERT: Thank you.

24 CHAIRMAN JOHNSON: Mr. Stier.

25 MR. STIER: Dr. Walker, thank you

1 very much for your presentation and your report.  
2 I think it's very helpful.

3 I'd like to talk to you about  
4 organizational structure and the dynamics that are  
5 created by those structures and the logical way in  
6 which those -- you could predict that those  
7 dynamics are going to lead to good or bad  
8 consequences. Let's take, for example, the Office  
9 of State Police Affairs today. Right now, the  
10 Office of State Police Affairs plays a kind of a  
11 dual role within the State Police. They provide  
12 legal assistance, enforcement, they act as counsel  
13 to the Superintendent in connection with  
14 enforcement actions in a variety of ways, and at  
15 the same time they have the kind of oversight  
16 function that we've been talking about.

17 As I understand your recommendation,  
18 you would separate the function of acting as  
19 counsel from the oversight function. Or did I  
20 misunderstand your recommendation?

21 PROFESSOR WALKER: I think you're  
22 right on that.

23 MR. STIER: So that the Office of  
24 State Police Affairs would be strictly an  
25 oversight body?

1                   PROFESSOR WALKER: Yes. And that  
2                   legal advice function really needs to be separated  
3                   by a firewall, whether it's a different unit,  
4                   division, whatever.

5                   MR. STIER: Now, currently, you have  
6                   a unit of State Police officers assigned to the  
7                   Office of State Police Affairs. And integrated  
8                   into the Office of State Police Affairs, the State  
9                   Police recommended that those State Police members  
10                  be reassigned and become a kind of quality  
11                  assurance group within the State Police. Would  
12                  you -- does your recommendation contemplate that  
13                  the State Police unit that's currently assigned to  
14                  OSPA remain with OSPA, or would OSPA be staffed by  
15                  all non State Police members?

16                  PROFESSOR WALKER: That's not  
17                  necessarily a decided issue. You could do it with  
18                  a contingent of State Police officers assigned to  
19                  OSPA. There are various functions that have to be  
20                  done, activities, data collection and so on. That  
21                  might be one way of doing it. There's nothing  
22                  wrong with the that. It wouldn't be fatal if they  
23                  were all transferred back to the State Police.

24                  MR. STIER: Let's assume that we  
25                  ended up with an Office State Police Affairs. And

1 put aside for a moment whatever functions it might  
2 perform on a state-wide basis for municipalities.  
3 We had an Office of State Police Affairs who had  
4 no responsibility to provide services to the State  
5 Police other than oversight and that had no State  
6 Police personnel assigned to them. Is there a  
7 danger that over time in an organization whose  
8 success is measured by identifying problems that  
9 you could have a relationship of antagonism  
10 develop between an organization that is  
11 incentivised to identify problems and find fault,  
12 basically, with the State Police who are  
13 struggling to not create issues that will be  
14 brought to the surface, is that a potential  
15 problem? If so, how do you deal with it?

16 PROFESSOR WALKER: That is a  
17 problem. The opposite is also a problem, where  
18 the guardian becomes a little too cozy, a little  
19 too friendly with agency it's supposed to be  
20 guarding. So there's any number of potential  
21 undesirable outcomes. It really comes down to  
22 leadership and the quality of the key people  
23 there.

24 There are some examples of oversight  
25 agencies where the top person sort of saw his role

1 as being sort of public posture, making extreme  
2 inflammatory statements, and you did have that  
3 relationship of antagonism. That was very  
4 unproductive.

5 But again, it's a two-way street.  
6 Our problem in Omaha, we have an oversight person  
7 who did her job, and the Mayor and the Police  
8 Chief didn't listen. Totally broke down. So it's  
9 a two-way street. Again, the problem of the  
10 guardian becoming a little too friendly with the  
11 agency that that person's supposed to guard, that  
12 is also a problem.

13 There's no mechanical or structural  
14 way of guaranteeing the right outcome. It  
15 requires leadership from the very top.

16 MR. STIER: Just two more questions,  
17 if I can.

18 Are there any police organizations  
19 in which their counsel has -- in other words,  
20 we've been talking about separating the function  
21 of counsel from this oversight responsibility.  
22 Are there any police organizations in which some  
23 kind of oversight role is played by the counsel to  
24 the police organization who provides, let's call  
25 it, ethical or legal guidance to the organization,



1 to avoid violating its restraints?

2 PROFESSOR WALKER: That's an  
3 interesting question. That's sort of what the  
4 great reform was in the '70s that didn't happen.  
5 Actually, in the '60s. There was at the national  
6 level recommendations that the police departments  
7 have a police legal advisor, somebody in-house,  
8 in-house counsel, who would advise them on these  
9 problems, say, "Look you have problems with search  
10 warrants, you've got a problem with your traffic  
11 stops, you've got problems with this and that, and  
12 to try to correct those problems. It didn't  
13 happen. I think most law enforcement agencies  
14 around the country don't have that kind in-house  
15 counsel. So most are, in fact, served by the city  
16 attorney or the county attorney in case of the  
17 sheriff's department. That's really unfortunate,  
18 because they can talk themselves into being in the  
19 business of defending the department, whatever, at  
20 all costs. "Whatever outrageous thing happens,  
21 our job is to defend them in the court," not to be  
22 inside and say, "Hey, look, you need to clean up  
23 your act, change this and change that." That idea  
24 flourished in the late '60s, early '70s. It  
25 didn't go anywhere, it died.

1 MR. STIER: Did it die because it  
2 was tried and was unsuccessful, or because it  
3 wasn't actually implemented?

4 PROFESSOR WALKER: It just wasn't  
5 implemented. People just didn't see a need for  
6 it. And here we are, you know, 30 years down the  
7 road, and I think the thinking has changed.  
8 There's a greater recognition for some kind of  
9 independent eyes and ears. That would be one way  
10 of doing it for a municipal police department if  
11 you can guarantee independence of that. That  
12 would be one very good way. That's what the  
13 Special Counsel basically does. In LA County,  
14 there's a staff and they actually gather the facts  
15 and document the problems.

16 But it was a great idea. It didn't  
17 happen. We're now 30 years down the road,  
18 recognizing, okay, we need some kind of  
19 independent expertise that can give expert advice  
20 and live with the bad news about problems that  
21 need to be fixed.

22 MR. STIER: Thank you.

23 CHAIRMAN JOHNSON: Ms. Yang.

24 MS. YANG: Thank you, Mr. Chairman.

25 And thank you, Dr. Walker for your

1 testimony. I just have a couple follow-up  
2 questions.

3 You've emphasized the strengths of  
4 having the OSPA continue as an oversight model.  
5 What weaknesses would you cite regarding the  
6 institution of higher education taking over as an  
7 oversight model? I guess I want to see the other  
8 side of this.

9 PROFESSOR WALKER: Well, I think  
10 what's unique and the most important lesson of the  
11 last decade or so is that it's important to have  
12 full-time professional experts who can really dig  
13 in. If you have people who have another job,  
14 another set of responsibilities and sort of  
15 doing this on a contract basis, I don't think  
16 they're going to be able to develop -- have the  
17 time to really develop the expertise. Also,  
18 agencies are extremely complex. Police operations  
19 are complex. You've really got to dig in there to  
20 find out what's the basis for these problems,  
21 these complaints we get. So I think simply doing  
22 it by contract with some people who have other  
23 major responsibilities, I don't think is going to  
24 get the job done.

25 MS. YANG: Dr. Walker, also, you've

1 delved into extending responsibilities to OSPA as  
2 an oversight model. Besides recruiting and the  
3 implementation of Special Counsel, what other  
4 responsibilities do you see the OSPA taking on if  
5 it becomes an oversight model?

6 PROFESSOR WALKER: With respect to  
7 the State Police or other agencies?

8 MS. YANG: Just for the State  
9 Police.

10 PROFESSOR WALKER: Well, again, I  
11 think it should be modeled after the oversight  
12 agencies that are successfully working in San  
13 Jose, Boise, Seattle, LA County, where some  
14 information comes to light that there appears to  
15 be a problem somewhere, whether it's use of force,  
16 whether it's K9, whether it's traffic stops,  
17 whether it's promotions, whatever, and that person  
18 has sufficient time and expertise and resources to  
19 delve into that problem.

20 MS. YANG: And finally, Dr. Walker,  
21 currently, the municipal police departments of New  
22 Jersey, if there's an internal affairs  
23 investigation, the way I get understand it, gets  
24 referred to a county prosecutor. If the OSPA were  
25 to be used as an oversight model, would they be

1 expected now to take over that function of doing  
2 internal affairs investigations, or is that  
3 something that would be separate from what you're  
4 talking about?

5 PROFESSOR WALKER: Absolutely not.  
6 The function -- the process we're talking about  
7 looks at general patterns, looks at general  
8 policies, procedures and so on. It is not in the  
9 business of investigating individual complaints.  
10 Leave that with the units that are currently  
11 responsible for that.

12 Actually, though, you brought up  
13 another issue here. You talk about how in a local  
14 police department if there's an internal  
15 investigation, they will refer to the Prosecutor.  
16 That's only in the case where there is clearly  
17 allegations of criminal conduct, when, in fact,  
18 most of the problems are administrative. An  
19 officer violated some department policy or  
20 procedure or did something that's plain improper,  
21 and there really isn't going to be any criminal  
22 prosecution of that individual officer. The  
23 question is, are we looking at individual officers  
24 or are we looking at the whole organization? An  
25 auditor's monitoring function is to look at the

1 organization.

2 One of the problems investigating --  
3 with taking the approach that we're focusing on  
4 individual officer, we're going investigate this  
5 particular incident, is the cop on the street  
6 becomes the fall guy, he becomes the scapegoat;  
7 when, in fact, the responsibility lies higher up  
8 at the supervisors, the commanders, because  
9 they've been unable to do their job. They put  
10 this officer out on the street without proper  
11 guidance and supervision and training, and sure  
12 enough, you've got a problem. So if you focus  
13 only on the individual officer, you're not going  
14 to solve the problem; you're going to make that  
15 person the scapegoat and you're not going to solve  
16 the problem.

17 MS. YANG: Thank you, Dr. Walker.

18 CHAIRMAN JOHNSON: Thank you.

19 We're going to go back to Mr.

20 Donovan.

21 MR. DONOVAN: Dr. Walker, just a  
22 question on the Internal Affairs side. Do you see  
23 a role for the Internal Affairs being conducted  
24 individually and then all of the patterns going  
25 back to the OSPA?

1                                   PROFESSOR WALKER: Well, Internal  
2                                   Affairs has the responsibility of investigating  
3                                   allegations of misconduct. They should  
4                                   investigate those thoroughly and fairly. And if  
5                                   discipline is appropriate, it should be imposed.  
6                                   If they suspect criminal activity, it should be  
7                                   referred to the proper authorities for that. I  
8                                   think that's a big jump. That's a huge task. So  
9                                   I think looking at the patterns and trends, it is  
10                                  best to put it in a separate agency with different  
11                                  people, because that's really a different set of  
12                                  skills. Data analysis is one kind of skill.  
13                                  Investigating an individual complaint, that's  
14                                  another kind of skill. So we've got people with  
15                                  the proper skills for the task that they have.

16                                  MR. DONOVAN: Would you take all of  
17                                  the civil suits that are filed against the police  
18                                  department for the State of New Jersey and have  
19                                  them reviewed by that office, again, for patterns  
20                                  and practices?

21                                  PROFESSOR WALKER: Absolutely. I  
22                                  think civil suits are in MAPPS. You can look  
23                                  at that the trends, you can find out if they're  
24                                  going up, going down, are they located in -- are  
25                                  there certain officers that keep showing up, are

1                   there particular kinds of actions that keep  
2                   causing civil suits. Absolutely.

3                   MR. DONOVAN: So it sounds like much  
4                   of what you recommend is a review by an outside  
5                   entity of how policies have been tested on the  
6                   street where the police officer made a stop and  
7                   the policy was faulted in the court--that's  
8                   reviewed at a higher level by this entity to  
9                   correct any deficiencies in policy.

10                  PROFESSOR WALKER: Right, yes. When  
11                  it works right, it works before anybody ever gets  
12                  to court, before anybody ever files papers.  
13                  Because you'll be getting citizens complaints or  
14                  some people will simply be aware of a problem and  
15                  you proactively look into that and say, "Hey,  
16                  look, we've got a problem here and we need to fix  
17                  it before we get sued."

18                  It saves money, a lot of money. And  
19                  it saves all the bad publicity that comes from  
20                  litigation and all the bad morale, the bad news  
21                  for the agency, the bad news for the State. It's  
22                  a preventative function.

23                  MR. DONOVAN: Thank you.

24                  CHAIRMAN JOHNSON: Reverend Floyd.

25                  REVEREND FLOYD: Dr. Walker, if I



1 may get some clarification. Your position is that  
2 post-Consent Decree we ought to keep OSPA to focus  
3 on the system-wide problems? That's your  
4 position?

5 PROFESSOR WALKER: Yes. Absolutely.

6 REVEREND FLOYD: You believe that  
7 the State Police are not able to do that through  
8 their other structures they have in place?

9 PROFESSOR WALKER: I think it's --  
10 I'm not saying they're unable to do it, I'm saying  
11 it's best done by independent eyes and ears.

12 REVEREND FLOYD: You recommend the  
13 best way is OSPA?

14 PROFESSOR WALKER: Yes.

15 REVEREND FLOYD: Thank you. That's  
16 it.

17 PROFESSOR WALKER: And then we can  
18 follow up in terms of the relationship of what I'm  
19 envisioning in Internal Affairs. Internal Affairs  
20 should be investigating allegations of misconduct,  
21 and they should take the proper action. Well, one  
22 of the issues that an oversight agency will look  
23 at, are those investigations fair and thorough?  
24 Is the discipline consistent, or do you have  
25 arbitrary patterns of favoritism? That's

1 something that somebody outside can look at and  
2 will need to look at.

3 CHAIRMAN JOHNSON: Mr. Goldstein.

4 MR. GOLDSTEIN: Thank you.

5 Dr. Walker, I apologize for not  
6 being here. I read your report, and I have a  
7 couple questions about that report.

8 You seem to focus primarily on the  
9 oversight alternatives, and you go through three  
10 alternatives. One, that oversight remains in New  
11 Jersey State Police; two, as you've just discussed  
12 this morning, that it continue by the Office of  
13 State Police Affairs; and the third alternative,  
14 what you characterize as a new agency, you reject  
15 because it may require legislation or create other  
16 kinds of issues and problems.

17 Is it not possible to have another  
18 alternative to try to help us solve the issues  
19 here besides the three that you laid out? And I'm  
20 going to suggest something to you in a moment.

21 You're not saying these are the  
22 limit and we can't use our intelligence and  
23 imagination to try to create some other kind of  
24 structure in order to deal with these issues?

25 PROFESSOR WALKER: All sorts of

1 things are possible and should be discussed.

2 MR. GOLDSTEIN: In New Jersey, the  
3 Attorney General is a very special office. It's  
4 formed by the Constitution. The Attorney General  
5 has certain constitutional responsibilities and  
6 obligations. And I think one of the things that  
7 -- at least I've heard over these many weeks, at  
8 least there's been some criticisms that in the  
9 past that the Attorney General's Office has not been a  
10 involved perhaps as it should have been in  
11 overseeing the State Police or overseeing these  
12 difficult issues. That being the case, would it  
13 not be -- and also we've heard different  
14 criticisms that OSPA has its various issues, maybe  
15 it has too much on its plate, it's also tried to  
16 suggest that maybe it's building a little bit of  
17 an empire. If the key issue here is oversight of  
18 the State Police, that's the primary issue we're  
19 trying to deal with, so that all the excellent  
20 work that has been done by State Police does not  
21 go to naught and continues into the future, why  
22 could we not under the Attorney General who at the end  
23 of the day is responsible for the State Police--and  
24 the Attorney General is the highest law enforcement  
25 officer in this state--why could not the Attorney

1 General have a special section by his decree or by  
2 the Governor's decree that simply is set up to  
3 deal with oversight of the State Police to make  
4 sure that there's no further racially or any other  
5 kind of profiling? And that group be teamed by  
6 professionals with expertise, with experience, who  
7 have the confidence of the community as well as  
8 the State Police, and that group's sole task is to  
9 make certain that there is no backpedalling on the  
10 performance of the State Police and that the  
11 Consent Decree has been followed and that things  
12 will in the future adhere exactly to what the  
13 demands are of that Consent Decree? And all the  
14 other things that OSPA may have under it's heading  
15 right now, all those other things to be looked at  
16 very carefully and to be determined what's the  
17 best way to deal with those other issues, internal  
18 affairs, internal investigation, advice, whatever  
19 they are, there are ways to, I think, deal with  
20 that within the Attorney General's Office and  
21 within the State Police.

22 But why could you not have a special  
23 section, a group of people that have expertise in  
24 being able to deal with the oversight issues and  
25 who could be drawn both from law enforcement, from

1 universities, people who have expertise, outside  
2 consultants, why could not that be drawn and that  
3 be the simple solution to what we're trying to deal  
4 with here?

5 PROFESSOR WALKER: You could do  
6 that. That's not inconsistent with what I  
7 proposed. It's going to be located within the  
8 Attorney General Office?

9 MR. GOLDSTEIN: Correct.

10 PROFESSOR WALKER: Full-time  
11 professional staff?

12 MR. GOLDSTEIN: And report to the  
13 Attorney General. The Attorney General is now on  
14 the line, no more excuses.

15 PROFESSOR WALKER: The reason I  
16 suggested putting it in OSPA is because OSPA last  
17 spring did make a recommendation to this effect.  
18 I was trying to avoid getting in the business of  
19 creating another unit of something under the  
20 Attorney General's Office. I thought that would  
21 be unnecessary, but you could do that. But,  
22 again, I think the crucial -- it is under the  
23 Attorney General's Office, you've got a full-time  
24 professional staff that the director is going to  
25 be held accountable for, and sufficient resources.

1                   You could do it that way.

2                   MR. GOLDSTEIN: Thank you.

3                   CHAIRMAN JOHNSON: We've completed  
4 one round except for my question. I don't think  
5 we have any questions from the members of the  
6 audience here, so I'll proceed with my questions.

7                   First, I'm going to start with  
8 issues that are related to the internal  
9 functioning of the State Police. You mentioned  
10 the possibility of, at least, the notion that  
11 having legal counsel within a police organization  
12 is an idea that has actually been in place for  
13 some 30 years. People are beginning to see the  
14 wisdom of it. But there are police organizations  
15 that actually do have effectively a general  
16 counsel, correct?

17                   PROFESSOR WALKER: My understanding  
18 is that Charlotte, North Carolina, Police  
19 Department has something, like, six attorneys on  
20 their staff.

21                   CHAIRMAN JOHNSON: And it goes  
22 beyond that. If we were look at -- I believe if  
23 we went and examined the NYPD, they actually have  
24 an Assistant Commissioner for Legal Affairs. And  
25 in the federal model, the FBI has a general

1 counsel, the ATF has a general counsel, Custom  
2 Service, Secret Service of DEA.

3 Would it be your recommendation to  
4 this Committee that as part of our effort to  
5 strengthen some of the internal infrastructure of  
6 the State Police that we recommend the creation of  
7 a position of a general counsel of some sort  
8 within the State Police?

9 PROFESSOR WALKER: It's possible. I  
10 wouldn't oppose it. You've got a complicated  
11 structure under the Attorney General's Office.  
12 You've got Division of Law, Division of Criminal  
13 Justice. Being an outsider, I'm a little  
14 uncertain as to who's responsible exactly for  
15 what. So I'm not today quite prepared to make  
16 that recommendation, but there's nothing  
17 inherently wrong with that.

18 The problem with the police legal  
19 advisors that do exist is that, like the city  
20 attorneys, they suddenly define their business as  
21 defending the agency at all costs. "I'm not going  
22 to send you a memo telling you can fix this  
23 because it will get subpoenaed and the plaintiffs  
24 will use it against us." So they don't voice  
25 criticisms. All they do is defend, defend,

1 defend, whatever; instead of, you know, advise and  
2 correct. So there are some limits to that  
3 approach.

4 CHAIRMAN JOHNSON: Is it your sense,  
5 based on your review of different police  
6 organizations, that it's important for the head of  
7 the organization, the police organization, to have  
8 a dedicated legal advisor, legal touchstone  
9 somewhere, even if it's not within the  
10 organization, someone to basically act as a check  
11 and say, "You need to do this the following way to  
12 be compliant with the law."

13 PROFESSOR WALKER: Yes, I think so.  
14 They need access to some expert legal advice,  
15 whether it's personnel procedures, whether it's  
16 disciplinary procedures, whether it's search  
17 warrants, traffic stops, yes. I think the great  
18 failure is the police chiefs don't do that,  
19 sheriffs don't do that.

20 CHAIRMAN JOHNSON: And is it the  
21 case that your reluctance to recommend someone  
22 inside the State Police is simply an issue of  
23 trying to get a need for a better bureaucratic  
24 understanding of how the AG's Office is organized  
25 from that perspective?



1 PROFESSOR WALKER: Yes.

2 CHAIRMAN JOHNSON: The next internal  
3 issue deals with the Office of Professional  
4 Standards, which is the name for the State Police  
5 Internal Affairs Unit. Do you have a view as to  
6 whether or not an Internal Affairs Unit ought to  
7 have specific guidelines or standards for meting  
8 out punishment.

9 PROFESSOR WALKER: Yes, I do.

10 CHAIRMAN JOHNSON: What is that?

11 PROFESSOR WALKER: I don't have an  
12 opinion, I have a report on it.

13 Across the country inconsistent  
14 standards of discipline is a big issue. We find  
15 out that officers who do roughly the same thing,  
16 there are differential punishments. Some really  
17 get hammered, and others get off easy. In some  
18 cases, simply personal favoritism; in some cases  
19 there's some racial, ethnic, gender bias patterns  
20 in that.

21 In the Oakland, California, Consent  
22 Decree, one of the terms that they are  
23 specifically directed to do, to ensure consistency  
24 in discipline. Now, the approach that is  
25 beginning to develop is they have what's referred

1 to as a discipline matrix. Simply guidelines for  
2 police discipline. You know, here's what you did  
3 here, No. 4, and here is your prior disciplinary  
4 record over here and, therefore, that's the  
5 punishment you should get. In some cases there's  
6 a range. So Phoenix, Arizona has this. Oakland  
7 contacted me because they were under the --  
8 essentially I helped organize a conference on this  
9 issue to discuss this, and I have a report which  
10 I'll be happy to provide to the Commission.

11 CHAIRMAN JOHNSON: Could you do  
12 that?

13 PROFESSOR WALKER: Yes. Absolutely.  
14 It's on the website, actually.

15 The consistency of discipline is  
16 important for two reasons. You want to make sure  
17 that there aren't patterns of bias; some cops are  
18 getting off while others are being disciplined for  
19 the same offense. But you also want to make sure  
20 that the discipline is not only consistent, but  
21 that the discipline is appropriate. That if you  
22 have a racial slur by an officer, what's the  
23 appropriate discipline? If an officer uses  
24 excessive force, proven excessive force but  
25 without injury to the citizen, slammed up against

1 a patrol car or something like that, what is the  
2 appropriate discipline?

3 Nobody has the answer to that  
4 question. You cannot find a report, set of  
5 standards anywhere that will say, "If this, then  
6 that." If you want to research this issue, get on  
7 the phone and call around to different agencies  
8 and ask them. And most of them will tell you, we  
9 don't know. We sort of have a sense that it  
10 varies, but that's sort of vague. It's extremely  
11 important.

12 And the discipline -- to expand your  
13 question here. Consistency is important. That's  
14 consistency based on the findings. Well, the real  
15 question is, was the investigation itself fair?  
16 What did they do in the way of interview?

17 We do have information on Internal  
18 Affairs investigations where officers are asked  
19 leading questions. They have an investigator ask  
20 a question, dead silence, sweat, trying to  
21 explain. The investigator sort of, "Well, was the  
22 person really" -- leading questions, that's  
23 unfair, that is a biased investigation. Or the  
24 citizen's complaint comes in and the investigator  
25 asked hostile, demeaning questions. So it's not

1 just consistency on the point of discipline, but  
2 the quality of the investigation.

3 Now, to determine whether or not the  
4 investigations are thorough and fair, that is  
5 precisely something that an oversight person or  
6 agency can and should do. Whether they're  
7 consistent is something that an oversight agency  
8 could do. And then that person would then look  
9 around and see are there some ways of correcting  
10 that problem. I've got a report on it. And  
11 recommending that to the agency. A whole set of  
12 issues.

13 CHAIRMAN JOHNSON: Now, with respect  
14 to the caliber of investigations, would you  
15 envision a system in which an oversight agency or  
16 someone was actually looking at the patterns, the  
17 sorts of disciplinary findings there are to see if  
18 there are any other meanings that could be gleaned  
19 from that?

20 PROFESSOR WALKER: Yes.

21 CHAIRMAN JOHNSON: How would they go  
22 about doing that?

23 PROFESSOR WALKER: It's essentially  
24 data analysis of what were the proven findings,  
25 what was the discipline imposed.

1                   There's another problem. Again,  
2                   this has come up in some agencies. They find out  
3                   that they impose -- the discipline is officially  
4                   imposed, but doesn't happen. The discipline is  
5                   never, in fact, actually imposed. You know, it's  
6                   like the judge says you get two years in the  
7                   prison and the person never goes to prison. That  
8                   does happen. There's some oversight reports on  
9                   the Philadelphia Police Department where a huge  
10                  percentage of the cases, officers were found  
11                  guilty for an offense and they were never  
12                  disciplined.

13                  In the initial report, LA Sheriff's  
14                  where they -- some of the minor ones are someone  
15                  with -- the officer who under goes substance abuse  
16                  counseling or some anger management or whatever,  
17                  and it's a contract, basically, "We'll withhold  
18                  discipline if undergo this treatment." And the  
19                  officer never does.

20                  So you've got investigations, that's  
21                  an issue. You've got discipline that's officially  
22                  imposed and whether the discipline is carried out.

23                  CHAIRMAN JOHNSON: Thank you.

24                  Last question, and it relates to a  
25                  series of questions Mr. Goldstein asked about,

1 about oversight.

2 It has been raised from time to time  
3 in these proceedings that oversight could be  
4 viewed by some as a form of punishment for the  
5 State Police. As I understood Mr. Goldstein's  
6 questions and your responses to that, oversight is  
7 also a form of accountability for the Attorney  
8 General who has constitutional authority to and  
9 managerial authority over the State Police; is  
10 that correct?

11 PROFESSOR WALKER: Right.

12 CHAIRMAN JOHNSON: That ends round  
13 one. We have time for a quick run through if  
14 members of the Committee have additional  
15 questions. I thought early on Mr. Bembry had his  
16 hand up, so we'll start there and work our way  
17 through.

18 MR. BEMBRY: Well, actually, several  
19 of the committee members asked questions related  
20 to the one that I wanted to or a couple that I  
21 wanted to ask. And my concern, along with the  
22 Committee --

23 CHAIRMAN JOHNSON: Excuse me. Can  
24 everyone hear Mr. Bembry? Because he doesn't have  
25 a microphone at this stage. Let's pass the baton.

1 MR. BEMBRY: I stated that some of  
2 the Committee members addressed some of the  
3 concerns I've had following your testimony. And  
4 my concern and our concern is the continuity or  
5 continuation of the success with regard to the  
6 State Police, having had firsthand experience of  
7 racial profiling over the years and having  
8 actually experienced a difference in terms of the  
9 conduct of the State Police since the Decree, I'd  
10 like to commend the State Police for what they've  
11 done. However, the problem is broad-based, and  
12 some of the questions that were asked by the  
13 Committee members touches on my concern. And  
14 you've addressed this to an extent, and that is  
15 the expansion of some type of decree or systemic,  
16 I guess, mandate, if you will, where the OSPA will  
17 oversee local police activity.

18 Is it your opinion that such an  
19 agency could expand to that extent, overseeing  
20 other police or local police entities and having  
21 the success that the State Police has had, to  
22 date?

23 PROFESSOR WALKER: The answer is  
24 yes. But let's use the word "assistance" rather  
25 than "overseeing." The decree really doesn't

1 apply here. Again, the scenario I envision is  
2 you've got a city, you've got a chief, and they've  
3 got some problems, allegations of profiling,  
4 force, whatever. You have a resource where that  
5 chief can turn to within the State of New Jersey.  
6 And OSPA in this scenario can come in and say, "Of  
7 course, you do. Look at your policy on traffic  
8 stops. Your officers have no guidance. Of course  
9 they're doing whatever they want to do."

10 And they will provide that kind of  
11 technical assistance. It would be a New Jersey  
12 based resource center. So it's within the state.  
13 I don't have to look around anywhere else. That  
14 function would very quickly develop a whole body  
15 of expertise. So you're going to find the same  
16 problems in a lot of different agencies, so you  
17 get quick solutions.

18 That office could also do training  
19 conferences for chiefs or Internal Affairs  
20 commanders, all sorts of things. There's a huge  
21 opportunity here to fill the void that exists  
22 around the country. New Jersey could go to the  
23 head of the class as the most progressive state in  
24 terms of accountability for local law enforcement  
25 units.



1                   CHAIRMAN JOHNSON: Thank you. We're  
2 going to try to keep the questions and answers to  
3 three minutes total. And you should feel no need  
4 to actually ask a question if it's been asked  
5 before. We do have a lot of witnesses. This has  
6 been, I think, very helpful.

7                   So Ms. Brown.

8                   MS. BROWN: Thanks very much.

9                   Dr. Walker, you made an important  
10 point, I think, when you said that accountability  
11 costs and, in fact, accountability is not cheap.  
12 I'm not sure that I caught the figure that you  
13 gave for the Los Angeles Special Counsel's Office.  
14 I wonder if you could repeat that.

15                   Also, could you give us an order of  
16 magnitude of how not cheap accountability would  
17 be, what we should be expecting?

18                   PROFESSOR WALKER: In that case, you  
19 could find the reports, and they were paying out  
20 tens of millions of dollars a year in lawsuits.  
21 They're all in the reports. They have  
22 successfully reduced the number of cases filed and  
23 the total dollars paid out. That's a net savings  
24 for the taxpayers of LA County.

25                   MS. BROWN: About how much does that

1 office actually cost?

2 PROFESSOR WALKER: Actually, a  
3 couple of years ago it was something like 300,000.  
4 And they have, I think, six attorneys on staff.  
5 You can figure out what lawyers cost. These are  
6 quality people. They're the heads of offices of  
7 former assistant US attorneys. It's not cheap.  
8 It's not cheap. But when you're talking about the  
9 millions paying out in terms of litigation costs  
10 and the public cost of controversy and  
11 allegations, you can't put a dollar figure on  
12 that. That's extremely important.

13 MS. BROWN: Thank you.

14 CHAIRMAN JOHNSON: Ms. Carroll.

15 MS. CARROLL: I have nothing.

16 CHAIRMAN JOHNSON: Mr. Donovan.

17 MR. DONOVAN: Dr. Walker, in all of  
18 the police departments that you've talked about,  
19 has change come forward to address leadership,  
20 resources, and other issues through codification  
21 or through just the will of the local people?

22 PROFESSOR WALKER: I'm not sure what  
23 you mean by codification.

24 MR. DONOVAN: Was it specifically  
25 legislated to make the changes, or was there a

1           desire to move forward and to lock things in place  
2           so that the next leader that comes in, knowing  
3           that superintendents change, police chiefs  
4           change, and governors change, that the structure  
5           is in place and approved by the legislative body?

6                       PROFESSOR WALKER:  It's really a  
7           combination.  There's no two jurisdictions that are th  
8           same.  It's really -- it's just amazing.

9                       In San Jose, which has one of the  
10          best independent police auditors, that's in the  
11          City Charter.  It would require a vote of the  
12          people to get rid of the office.  So City Council  
13          can't just say, "Bye, you're fired," and actually  
14          removing the current auditor.  It requires a vote  
15          of like super majority.

16                      So there are all sorts of different  
17          scenarios.  But, again, to focus on the structure,  
18          this is the point.  I think it works, works well  
19          in San Jose.  You have a structure independent.  
20          But you have a series of police chiefs that  
21          recognize the value of this.  "This is going to  
22          help me.  This is going to help me.  Problems that  
23          I can then fix and it's going to keep me out of  
24          the headlines."

25                      So it's that cooperative attitude on

1 the part of the chief executive. That's a crucial  
2 part of the puzzle.

3 MR. DONOVAN: Thank you.

4 REVEREND FLOYD: Real quick, Dr.  
5 Walker. Are there any other jurisdictions in this  
6 country where you have an office similar to OSPA,  
7 similar functions?

8 PROFESSOR WALKER: At the state  
9 level?

10 REVEREND FLOYD: Yes.

11 PROFESSOR WALKER: Not to my  
12 knowledge. Not really. There might be some, but  
13 I'm just not aware of them.

14 REVEREND FLOYD: Do you think it is  
15 realistic in the State of New Jersey to have OSPA  
16 be able to go into the 600 or so municipalities  
17 and to be able to offer the type oversight that  
18 has worked so wonderful with the State Police?

19 PROFESSOR WALKER: They're not going  
20 into. They would, I think, respond to requests  
21 for help, technical assistance. It's not  
22 really an investigative function where folks from  
23 Trenton come descend on Brick Township or  
24 whatever. It's where you have a local agency that  
25 says, "Look, we've got some problems. We need

1           some help." There's a state resource that would  
2           be available to them. That would be only with the  
3           agreement of the local folks.

4                           REVEREND FLOYD: Thank you.

5                           CHAIRMAN JOHNSON: Mr. Goldstein.

6                           MR. GOLDSTEIN: This is purely a  
7           hypothetical question. Perhaps if one of the  
8           recommendations was, to follow-up on what you've  
9           been saying here today, that there be independent  
10          oversight of the State Police in some manner, in  
11          some way, outside State Police itself, what would  
12          you as someone who has all this experience tell  
13          the State Police as to why this recommendation  
14          would actually be in the State Police's best  
15          interest and why it would be helpful to them?

16                          PROFESSOR WALKER: I would recommend  
17          that they go to San Diego.

18                          MR. DONOVAN: I'm sorry?

19                          PROFESSOR WALKER: I would recommend  
20          that somebody be delegated to go to San Diego and  
21          talk to people and observe that process. I would  
22          recommend that they go to San Jose and observe  
23          that process and talk to people and look at the  
24          list of different policy changes that have  
25          resulted over the years. And I challenge anybody,

1 tell me that's wrong, tell me that that's  
2 dysfunctional, tell me it's irrelevant.

3 I think you look at all of the  
4 different kinds of improvements that have  
5 resulted, I don't think there's any other  
6 conclusion than to say, "Yeah, this is important  
7 stuff." And it's in the best interest of the  
8 agency because it's going to solve your problem.  
9 And in the long run it's going to be good for the  
10 morale of the officers.

11 MR. GOLDSTEIN: Why is that?  
12 Because we've heard just the opposite. We've  
13 heard that they ought to go back to State Police  
14 because it ought to be sort of like a reward for  
15 their excellent behavior and conduct over the last  
16 three or four years.

17 PROFESSOR WALKER: Many things  
18 affect morale. One are headlines, controversy,  
19 and allegations that say, you know, "You're all  
20 racists," and all this kind of stuff. That  
21 affects the agency and the good officer. They're  
22 affected by that, it affects their morale, how you  
23 feel about doing your job; that's not good.

24 Second, the other thing that affects  
25 morale in agencies is at the far end of spectrum, you

1 do have some officers, a small group, that are  
2 repeatedly doing things they shouldn't be doing.  
3 The MAPPS System is designed to identify and  
4 respond to that problem. But nothing damages  
5 officer morale more than an officer who's doing a  
6 good job and sees this other cop who is doing bad  
7 stuff and not being disciplined, not being  
8 punished, and still on the job. "You know, I'm  
9 working hard. It's a difficult job. It's a  
10 dangerous job, and I'm trying to maintain a high  
11 standard. And look at that." And nobody does  
12 anything about it.

13 I will tell you something. I'll  
14 tell you something very, very personal because  
15 this relates to my university. It was about --  
16 I've lost track exactly, but this was about  
17 18 years. Our university got serious about  
18 faculty misconduct, mainly sexual misconduct  
19 dealing with students. And we had some  
20 characters. At some point, they got serious about  
21 it. And they also had to learn how to do it  
22 right. I could give you the list -- this is  
23 public testimony, I won't give you the names, but  
24 I could give you the list of a person in social  
25 work, two in psychology, the person who sponsored

1 projects, tenured faculty who are no longer  
2 employed by this university. And I feel better  
3 about my organization. My morale is better. I  
4 know that there are students who are not at risk.  
5 And when a student comes in to me and says, "Hey,  
6 you know my psychology professor is doing weird  
7 stuff," I don't have to feel embarrassed, ashamed  
8 and say it's nothing we can do about it. My  
9 morale is better because of higher standards. It  
10 happens because of who I am. I get a lot of  
11 referrals. Faculty and other students, when  
12 they've got a problem. I know -- I am confident  
13 that I can tell them where to go and who to talk  
14 to and what the process will be, because I'm  
15 confident that something will happen, the right  
16 thing will be done. And that has a huge, direct  
17 impact on my morale because we're dealing with the  
18 misconduct of my colleagues.

19 MR. GOLDSTEIN: Thank you.

20 MR. HUERTAS: Dr. Walker, I guess  
21 what you're advocating here is the fact that the  
22 unit that will be coming out of the Consent Decree  
23 should not be left with its own devices but have  
24 whatever monitorship or auditorship, something  
25 that oversees that, whether it's the three options



1 that you've recommended or that Mr. Goldstein  
2 recommended. Am I correct to assume that?

3 PROFESSOR WALKER: I'm not sure the  
4 focus of your question.

5 MR. HUERTAS: What I'm saying is I  
6 just want to make sure that whatever auditorship  
7 or monitorship is utilized, what you're  
8 recommending is that the entity, like in a lot of  
9 these consent decrees, have some type of  
10 oversight, that it not be left to its own devices.

11 PROFESSOR WALKER: Right.

12 MR. HUERTAS: In whatever form that  
13 takes, that that is constructive for both the  
14 organization and the citizens in the State because  
15 it does provide state partnership?

16 PROFESSOR WALKER: Yes.

17 MR. HUERTAS: Thank you.

18 PROFESSOR WALKER: I was asked earlier  
19 about my second choice, and I don't have any. I  
20 think the others will fall short one way or  
21 another. I think there's all sorts of variations  
22 within the model that I described, but something  
23 that's fundamentally different, I can't in good  
24 conscience recommend to you.

25 MR. HUERTAS: Thank you, sir.

1 CHAIRMAN JOHNSON: Reverend Justice.

2 REVEREND JUSTICE: You did mention  
3 about your second choice, you don't have one.

4 I concur with my colleagues that  
5 made reference to the fact that, again,  
6 accountability is not cheap. Would the MAPPs  
7 System and all the other reforms that have come  
8 about, could you make an argument to that in an  
9 effort to help absorb some of the cost perhaps we  
10 may need to look at the number of troopers? Do we  
11 need more troopers over the next whatever years,  
12 et cetera, et cetera, et cetera? In an effort to  
13 absorb some of the cost, if this system is so  
14 great and, et cetera, et cetera?

15 PROFESSOR WALKER: That's an issue  
16 that's really -- that question is really outside  
17 of my area of expertise. I can't respond to that.  
18 I just don't know. I don't have the facts. I  
19 would be talking through my hat. That's a  
20 fundamental policy decision that the people in the  
21 State of New Jersey have got to make, the  
22 Governor, Attorney General, whatever. I just  
23 don't know. I would make a fool of myself if I  
24 tried to answer it.

25 REVEREND JUSTICE: Okay.

1 CHAIRMAN JOHNSON: Ms. Milgram.

2 MS. MILGRAM: Very briefly, Dr.  
3 Walker, I have a follow-up on a couple thoughts I  
4 had related to Mr. Goldstein's proposal and just  
5 to get your opinion on it.

6 The first is whether -- if you were  
7 to create a separate section in the Attorney  
8 General's Office, would there be a place for  
9 public reporting?

10 We talked a little bit about the LA  
11 Sheriff's Department Special Counsel and their  
12 report twice a year. But I guess I was just  
13 wondering what your opinion on that aspect would  
14 be.

15 PROFESSOR WALKER: Public reporting  
16 is an essential part of the process. Absolutely.  
17 All the ones that exist do public reporting. And  
18 those reports are on the web. You can read them  
19 all yourself right now. That's an essential part  
20 of providing transparency.

21 When you read the San Jose  
22 independent audit report, you learn an awful lot  
23 about that agency; you know what goes on there,  
24 what they're doing right, what they're doing.  
25 Public reporting on a regular basis, whether it's

1 semiannual, annual, some do quarterly, absolutely  
2 essential.

3 MS. MILGRAM: And another question  
4 following up on Mr. Goldstein's model -- and this  
5 is really a clarification on something I got a  
6 little bit confused about. Do you have a  
7 recommendation -- or the way Mr. Goldstein  
8 described it was tacking very close to the Consent  
9 Decree. I guess my question for you is would you  
10 -- what's your recommendation? Would you have a  
11 section that tacked very closely to the parameters  
12 of the Decree or would you favor a section that  
13 had more general oversight accountability? If  
14 there's a K9 issue, address a K9 issue. Or do you  
15 think it's better to limit it just to the terms of  
16 Consent Decree?

17 PROFESSOR WALKER: I feel very  
18 strongly that it should have a broad band that --  
19 whatever issue or problem has come to its  
20 attention should be investigated. Because all of  
21 these different issues affect operations, whether  
22 it's recruitment, training, motions, disciplinary  
23 proceedings.

24 MS. MILGRAM: Thank you.

25 CHAIRMAN JOHNSON: Mr. Ortiz.

1 MR. ORTIZ: My questions have been  
2 asked. Thank you, Dr. Walker. I appreciate it.

3 MR. RAMBERT: I just have one  
4 question, and that has to do with what are your  
5 recommendations on the public reporting on the  
6 results of the monitoring, auditorship, and public  
7 participation?

8 What are your recommendations for  
9 essentially getting information out to the public  
10 what's happening with respect to the results of  
11 the monitoring?

12 PROFESSOR WALKER: Public reporting  
13 is absolutely a fundamental essential part of this  
14 whole process of providing transparency. Opening  
15 up the agency so people know what's going on. And  
16 also that the people know what the oversight  
17 agency is doing. Because it might be that you've  
18 got the wrong person in there and that person, you  
19 know, isn't doing much and you could then call  
20 upon -- you know, there is a national professional  
21 association. They can say, "Hey, the person isn't  
22 really doing what he or she is supposed to be  
23 doing."

24 So that's an important  
25 accountability, not just for the State Police but

1 for also the oversight office. Absolutely  
2 essential.

3 MR. RAMBERT: I'm thinking in terms  
4 of a form of public reporting, their report or  
5 actually public participation on one of these  
6 oversight committees or oversight organizations.

7 PROFESSOR WALKER: Public  
8 participation?

9 MR. RAMBERT: Yes. What are your  
10 recommendations on that?

11 PROFESSOR WALKER: Well, there  
12 should be a process somewhere where people who  
13 have concerns, who have problems, can bring those  
14 to the attention of the oversight agency. It  
15 might involve a regular process of public hearings  
16 around the State, whatever kind of schedule, in  
17 which case there is an opportunity for people who  
18 have some concerns to voice those concerns. Then  
19 your auditor or monitor would then sort of sift  
20 those and say, "Hey, gee, I hear a lot of this.  
21 I'm going to look into it."

22 MR. RAMBERT: Thank you.

23 CHAIRMAN JOHNSON: Mr. Stier.

24 MR. STIER: Dr. Walker, I think I  
25 know the answer to this, but I'd like you to tell

1 me what you think.

2 The Attorney General of New Jersey  
3 has a wide range, and in some ways on the surface,  
4 conflicting set of relationships with the State  
5 Police. And if I could divide them into three  
6 categories, it might be helpful for discussion.  
7 One is monitoring. We've been focusing on  
8 monitoring here. And as you point out, your  
9 recommendation is that there be continued  
10 monitoring, that it be very concentrated, that it  
11 be -- when I say concentrated, a full-time effort,  
12 that it be broadened in scope to cover a full  
13 range of State Police functions, that there be  
14 public reporting and so forth.

15 Second, is to provide legal guidance  
16 to the State Police to help them avoid pitfalls.  
17 That requires a very close working relationship on  
18 a day-to-day basis between the Attorney General  
19 and the State Police and a good deal of  
20 information, providing legal advice on what's  
21 really going on so that he or she can anticipate  
22 problems and help the State Police avoid them.

23 And the third category of functions  
24 has to do with defending the State Police. And in  
25 that relationship there is a lot of -- lawyers

1                   tend to think about the record that's being  
2                   created in the communication that occurs between  
3                   the State Police and those who are charged with  
4                   defending the State Police.

5                                   Are those broad categories of  
6                   functions irreconcilable?

7                                   PROFESSOR WALKER: They're not only  
8                   irreconcilable, but, as you suggest, there are  
9                   some conflicts there. You're trying to help  
10                  improve, make some recommendations. On the other  
11                  hand, another unit is defending it and you don't  
12                  want to paper trail admitting that you've got  
13                  problems.

14                                   One of the most interesting reports,  
15                  I thought, from a police department was from  
16                  Fresno, California, where they addressed this very  
17                  issue. They collected information on use of force  
18                  by their officers. They had a lot of problems.  
19                  They finally had to disband this horrible  
20                  anti-crime unit. And in this report, which has  
21                  detailed embarrassing information about it, they  
22                  said, "You know, we considered the fact that the  
23                  lawyers always say don't put this information out  
24                  because the plaintiffs' attorneys will get ahold  
25                  of it and beat us to death." And it says there in



1 plain English, "We decided it's better to find out  
2 what we're doing so that we can correct these  
3 problems."

4 And I think -- so there are  
5 conflicts, but the best solution is to get the  
6 information and to bring it to their attention.

7 In terms of the conflicts, I think  
8 it's possible to build a firewall between the  
9 different units so that they are operating  
10 independently and pursuing their responsibility.  
11 I think that's a matter of just drafting the right  
12 language and instructing separation of the units.

13 MR. STIER: Just one final point on  
14 that. Isn't it absolutely essential that the  
15 Attorney General of New Jersey find a way to  
16 reconcile those conflicting relationships?

17 In other words, if you can't think  
18 about your relationship with the State Police as  
19 strictly oversight, monitoring, continually  
20 digging into the organization to find problems  
21 because of the dangers that we talked about  
22 earlier, you can't think about it strictly in  
23 terms of defense because of the dangers of  
24 becoming overly protective and ignoring problems.  
25 And so doesn't the Attorney General, whose role,

1 I'm sure, is not going to change by whatever  
2 recommendation we make, doesn't the Attorney  
3 General have to find a way to reconcile those  
4 relationships?

5 PROFESSOR WALKER: Absolutely. Just  
6 a semantic point, but one that's very crucial.  
7 The oversight agency is not digging into the  
8 organization to find problems. The oversight  
9 agency is beginning with some evidence. You've  
10 got complaints or whatever, and then digs into  
11 organization to find the underlying policy of the  
12 problem. Problems have come to people's  
13 attention. "Hmm, let's find out what's the basis  
14 for this, let's get the facts and find the right  
15 corrective action."

16 CHAIRMAN JOHNSON: Ms. Yang.

17 MS. YANG: Nothing further.

18 CHAIRMAN JOHNSON: Then just a  
19 couple, then we'll take a very, very short break  
20 between panels.

21 The oversight entity that you've  
22 discussed, you called it OSPA or Mr. Goldstein  
23 said another formulation that doesn't necessarily  
24 have the OSPA name, we have talked about it  
25 largely -- we have talked about monitoring

1 specifically focusing on racial profiling. At  
2 the end of the day, it is likely that some people  
3 will say we have not done our job if we've only  
4 focused on dealing with the question of racial  
5 profiling, somehow we've undercut the  
6 effectiveness of State Police because we're  
7 interested in both having effective State Police  
8 organization from a law enforcement perspective as  
9 well as fairness and perception of fairness in the  
10 way the job is done. Do you see the oversight  
11 agency as having a role and actually enhancing  
12 both, perception of fairness and the overall  
13 efficacy of the organization?

14 PROFESSOR WALKER: Yes. There's  
15 nothing inconsistent or incompatible with  
16 accountability and effective law enforcement. In  
17 fact, the two go hand in hand. Because for effective  
18 law enforcement, you really need the trust and  
19 confidence of the people. Now, you're not going  
20 to have that if you have repeated allegations of  
21 profiling or excessive force or whatever. So  
22 you've got to reduce those problems in order to  
23 build the confidence and trust, and that enhances  
24 effective law enforcement.

25 Let me point out that all of the

1 success stories we've mentioned, Pittsburgh, et  
2 cetera, crime went down. Crime in the city went  
3 down. In San Jose and LA County, effective  
4 oversight, crime went down.

5 CHAIRMAN JOHNSON: And then finally,  
6 on the notion of building trust within the  
7 community, has it been your experience that  
8 enhancing effective oversight is the sole  
9 component or part of a broader strategy of  
10 reaching out to the community? And could you  
11 describe some successful models that it's part of  
12 the broad strategy of reaching out to communities  
13 by police organizations.

14 PROFESSOR WALKER: Reaching out to  
15 the community is an important part of effective  
16 law enforcement strategy. The poster child for  
17 this was Boston. Things have gotten a little  
18 worse in the last couple years, but for a decade  
19 they substantially reduced the problem of youth  
20 homicides. And they did it through some very  
21 innovative, creative law enforcement strategies.  
22 But that was tightly coupled with an outreach  
23 program, a 10 point coalition.

24 CHAIRMAN JOHNSON: Could you  
25 describe that a little bit for us, please?

1 PROFESSOR WALKER: The Police  
2 Commissioner, Paul Evans, in Boston reached out.  
3 He met with people. He listened to them. Most  
4 importantly, he didn't just go to these meetings  
5 where people talked, he heard what they were  
6 saying. He made various changes in policies and  
7 procedures. And he won the trust of the  
8 African-American community in Boston where there  
9 had been no trust before. The most amazing thing  
10 happened. It was just about his last year before  
11 he retired, there was some incident, some abuse of  
12 some citizen, and he tightened up the policy. I  
13 forget what it was, on pursuit of force or  
14 whatever. Rank and file all upset. The union  
15 said, vote of no confidence in the Police  
16 Commissioner. The African-American ministers of  
17 Boston went to his defense publicly, which my  
18 impression is it's the first time it's ever  
19 happened in history that African-American  
20 ministers went to the defense of a white police  
21 chief. And they did that because they knew him.  
22 He had built that kind of trust, and they trusted  
23 him. And they had seen that he did more than just  
24 talk; he acted, and acted in bringing about  
25 change.

1                   So it can be done. And you really  
2                   can't separate, you know, the effective law  
3                   enforcement from the accountability aspects in  
4                   terms of building trust.

5                   CHAIRMAN JOHNSON: Dr. Walker, thank  
6                   you for your testimony. Thank you for taking the  
7                   time to actually come out and meet with us. We  
8                   may have some follow-up questions, which we can  
9                   submit to you later on in writing. You've been  
10                  very helpful to this Committee.

11                  PROFESSOR WALKER: Thank you.

12                  CHAIRMAN JOHNSON: We will have our  
13                  panel after a short break for the benefit of the  
14                  reporter. We'll start again in about  
15                  five minutes, so don't go very far.

16                  (Brief recess taken.)

17                  CHAIRMAN JOHNSON: Good afternoon.  
18                  We're going to get started now for the next part  
19                  and the next panel, which consists of the National  
20                  Latino Peace Officers Association representatives.

21                  I apologize for the temperature of  
22                  the room. I can't say that we're completely  
23                  responsible for it. I don't know whether or not  
24                  people thought that the testimony will be less  
25                  than entertaining so they wanted to keep it cold

1 for us, but it is cold for us. During the break,  
2 we will touch base with folks in the building and  
3 see if people can sit here for perhaps the  
4 afternoon and evening without their coats. But I  
5 have been told that it's very bad when your court  
6 reporter has to wear her coat during the course of  
7 the testimony.

8 The next witnesses will be Luis  
9 Guzman and Hector Ramos. Luis Guzman is Vice  
10 President of the New Jersey Chapter of the  
11 National Latino Peace Officers Association. He is  
12 a lieutenant with the Passaic Police Department.  
13 Mr. Ramos is President of the New Jersey Chapter.  
14 Actually, he will not be testifying, but Mr.  
15 Roberto Reyes, who is also a Vice President will  
16 be testifying. I believe that Mr. Ramos will be  
17 here as well. In fact, he is here.

18 With that, gentlemen, please  
19 proceed.

20 LIEUTENANT GUZMAN: Thank you, Mr.  
21 Johnson.

22 Good afternoon. On behalf of the  
23 National Latino Peace Officers Association and its  
24 New Jersey Chapter, we would like to thank  
25 Governor Corzine and the Advisory Committee on

1 Police Standards for the opportunity to testify on  
2 this very important subject, the potential  
3 termination of the 1999 Consent Decree.

4 First, let us provide you with a  
5 brief history of our organization. We were  
6 initially incorporated on August 7, 1974, in the  
7 State of California. Our organization grew out of  
8 the need for a bridge between law enforcement and  
9 the community we serve. Additionally, acting  
10 collectively, we have been successful in  
11 advocating for Latino officers and members of the  
12 Latino community throughout the United States.

13 One of our first achievements can be  
14 traced to our difference of opinion with the State  
15 of California regarding a height requirement for  
16 candidates seeking a position in law enforcement.  
17 While such a practice is now universally viewed as  
18 discriminatory and unconstitutional, at the time  
19 it was viewed as a standard recruiting practice  
20 for law enforcement agencies.

21 Challenging practices, which have  
22 been deemed discriminatory or unconstitutional,  
23 have been the driving force of this organization.  
24 Sometimes we have acted with the support of the  
25 court of public opinion; at other times, we have



1                   only the support of the judiciary.

2                                 In the matter you are considering  
3 today, we believe we bring forth a common sense  
4 approach to the divisive matter of racial  
5 profiling.

6                                 Prior to addressing the three  
7 questions posed by this Committee, a word of  
8 congratulations is due to Colonel Joseph Fuentes  
9 for his efforts to eradicate racial profiling as  
10 an accepted practice by the Division of State  
11 Police. The Division of State Police has been an  
12 elite force since its inception in 1921, and we  
13 believe that the eradication of the use of racial  
14 profiling will better serve and enhance the  
15 reputation of the organization. We congratulate  
16 the fine men and women of the New Jersey State  
17 Police, who on a daily basis provide exceptional  
18 service to the citizens of this great State. The  
19 courageous efforts of the rank and file of the  
20 Division of the State Police are what make  
21 possible the recommendations we offer today.

22                                 The National Latino Peace Officers  
23 Association recommends that the State of New  
24 Jersey join the United States Department of  
25 Justice in a motion to the United States District

1 Court seeking the termination of the Consent  
2 Decree entered in 1999 to eliminate the practice  
3 of racial profiling. However, our recommendation  
4 is inextricably coupled with the following  
5 precautionary measures that should be taken to  
6 prevent any backsliding on the gains achieved thus  
7 far:

8 Monitoring. Monitoring must  
9 continue to ensure compliance. Standards of  
10 compliance should be codified consistent with the  
11 standards previously set forth by the federal  
12 monitors.

13 Monitoring oversight. A body  
14 independent of the New Jersey State Police should  
15 do monitoring oversight. The scope of oversight  
16 should include the Office of the Attorney General.  
17 The group charged with oversight responsibility  
18 should be diverse in nature and must include  
19 members of the Latino community.

20 Sustainability. The office charged  
21 with oversight responsibility should be fully  
22 staffed and fully funded. In addition to  
23 compromising the mission of the oversight body,  
24 staffing or revenue shortfalls will send the wrong  
25 message regarding the commitment of the executive

1 and legislative branches to the mission of racial  
2 profiling prevention.

3 Empowerment. The monitoring body  
4 should be created by statute. The body should be  
5 empowered with the authority to issue penalties  
6 and fines when it finds clear and convincing  
7 evidence of the use of racial profiling by a unit  
8 or individual.

9 Review. The final recommendations  
10 should be accompanied with bi-annual reviews. The  
11 goals established in the initial legislation  
12 should be measurable and quantifiable. These  
13 reviews should make allowances for community input  
14 and should provide a vehicle to adjust, eliminate,  
15 or augment the initial, set forth policies.

16 We believe the foregoing  
17 recommendations provide the transparency vital to  
18 regain and maintain the public's confidence that  
19 racial profiling is not a practice employed by the  
20 New Jersey State Police.

21 Similarly, we have received  
22 community complaints that local police departments  
23 throughout the State of New Jersey are engaging in  
24 the practice of racial profiling. Accordingly, we  
25 recommend that local police departments in the

1 State of New Jersey be required to implement and  
2 observe the current checks and balances  
3 implemented by the New Jersey State Police to  
4 eliminate racial profiling practices at the local  
5 level. We believe the State Police model offers  
6 sufficient internal mechanisms to eradicate the  
7 practice of racial profiling for local police  
8 departments.

9 As with the New Jersey State Police,  
10 oversight of local police departments must come  
11 from an external source. We believe the State  
12 Police model and gained experience provide local  
13 governments with a great opportunity to replicate  
14 effective monitoring mechanisms and best practices  
15 to ensure that racial profiling or racially  
16 influenced policing does not take place in our  
17 local municipalities.

18 We want to add two additional  
19 recommendations that while not in the letter of the  
20 Committee's charge, are nevertheless within the  
21 spirit of the charge. It is our opinion that many  
22 of the problems confronting law enforcement today  
23 can be substantially remedied by achieving racial  
24 diversity within the ranks and racial competency  
25 of all members. At present, Latinos in the New

1 Jersey law enforcement community feel greatly  
2 disenfranchised. We believe the Corzine  
3 administration has the capacity to provide the  
4 Latino law enforcement community something it has  
5 lacked in the past, an opportunity to be part of  
6 the solution.

7 Once again, we want to thank you for  
8 affording us the opportunity to testify before  
9 this Committee. We will be happy to answer any  
10 questions you might have.

11 CHAIRMAN JOHNSON: Thank you,  
12 Lieutenant Guzman, for your testimony.

13 We are going to, again, follow  
14 what's become our standard procedure. We'll start  
15 at the top of the alphabet and work our way down  
16 the table. And we will have one round of  
17 questions. Each question gets about five minutes.

18 Mr. Bembry.

19 MR. BEMBRY: Thank you for your  
20 presentation.

21 We just had a witness who  
22 indicated -- actually agreed with you in terms of  
23 the need possibly to continue some form of  
24 monitoring which the Decree mandates. However, it  
25 was suggested that with regard to local agencies

1 that an entity such as we have now in place would  
2 assist local police departments and agencies but  
3 it be more of a voluntary type of enterprise.

4 You indicate or suggest that the  
5 local police departments be required to replicate  
6 an effective monitoring mechanism to ensure that  
7 racial profiling ceases or will not be continued.

8 Why do you indicate that it should  
9 be required as opposed to possibly having a local  
10 police entity or entities voluntarily seek the  
11 assistance of the system that we have in place?

12 LIEUTENANT GUZMAN: I believe that  
13 the comment, it being required, is something that  
14 would lead us to believe -- from the example of  
15 the State Police, it didn't appear that they  
16 wanted to enter into this Consent Decree and they  
17 kind of were forced into this Consent Decree and  
18 actually had positive results. And forcing or  
19 requiring municipalities to perform the checks and  
20 balances, let's say, of possible racial profiling  
21 would only serve the communities that they protect  
22 better than just maybe entering into a voluntary  
23 or where possibly those checks and balances are  
24 not maintained or mandated. I think that it  
25 certainly needs to be required by statute or other

1 mechanisms.

2 MR. BEMBRY: Thank you. No other  
3 questions.

4 CHAIRMAN JOHNSON: Ms. Brown.

5 MS. BROWN: Thank you very much, Mr.  
6 Chair.

7 And thank all for your testimony  
8 this afternoon.

9 I have two questions. I wonder if  
10 you could explain a little bit more. In the last  
11 couple of sentences of your testimony about racial  
12 diversity within the State Police force itself and  
13 racial competency. If you could talk to us about  
14 what the meaning of racial competency is, as you  
15 use it here.

16 LIEUTENANT GUZMAN: Certainly. In  
17 the State Police and many police departments in  
18 the State of New Jersey, it seems that there isn't  
19 a diverse or mirror of communities where officers  
20 aren't put in positions of -- supervisory  
21 positions where they could oversee such things as  
22 racial profiling. The numbers in the State Police  
23 are astounding, how many Latinos or  
24 African-American officers are in supervisory  
25 positions or recruitment positions. And those

1 matters need to be eradicated, for lack of a  
2 better term, fixed. I'm sure there are plenty  
3 competent Latino officers that could work in the  
4 Recruitment Division, in the Professional  
5 Standards Division, or Internal Affairs Division,  
6 whatever they might call it in the State Police,  
7 and many local police departments. And that needs  
8 to be addressed immediately.

9 MS. BROWN: Thank you.

10 The other question was that you  
11 noted that your organization has received  
12 complaints from the community about local police  
13 departments engaging in the practice of racial  
14 profiling. And I'm wondering if you've seen any  
15 differences or any trends over the period of time  
16 that this Consent Decree has been in place or  
17 that's been at the state level and things are not  
18 different or not changing at all at the local  
19 level.

20 LIEUTENANT GUZMAN: One of the  
21 biggest difference between the State Police  
22 Department and local police departments is that  
23 most of the local police officers are from the  
24 communities that they eventually work in. So  
25 there is a slight connection and there might not



1 be as much of that difference in the officer  
2 that's walking the beat and, you know, the  
3 community itself. In other words, the officer  
4 mirrors the community.

5 In the State Police it's a little  
6 different. You might have a law enforcement  
7 officer that is from an urban town that works in  
8 South Jersey, maybe not such an urban town, or  
9 doesn't mirror the community that he works in. So  
10 in answering your question, those things aren't as  
11 prevalent in the local communities as they might  
12 have been in the State Police, but there needs to  
13 be improvement in those matters.

14 MS. BROWN: Thank you very much.

15 CHAIRMAN JOHNSON: Thank you.

16 Ms. Carroll.

17 MS. CARROLL: Thank you.

18 Good afternoon, Lieutenant. I was  
19 wondering if you could tell me -- I apologize.  
20 What police department do you work for?

21 LIEUTENANT GUZMAN: City of Passaic.

22 MS. CARROLL: And what is the ratio  
23 of African-Americans and/or Latinos in your  
24 department?

25 LIEUTENANT GUZMAN: Our department

1 has changed considerably in the past five years.  
2 You might ask, well, why, why has that happened?  
3 We have a Latino Mayor who has done a tremendous  
4 job to promote not just Latinos, but  
5 African-Americans and other officers that are a  
6 representation of the City of Passaic, which is  
7 approximately 7 percent Latino and large  
8 percentage of African-Americans, and also we have  
9 a large Jewish community.

10 These things take time. They don't  
11 happen over night. Police department, police  
12 officers, work for the department 25 years, and it  
13 takes time. But promoting Latino officers,  
14 African-American officers, minority officers in  
15 the community that has those type of ethnic groups  
16 is very, very important. In my community where I  
17 work, we certainly mirror our community.

18 MS. CARROLL: Thank you.

19 We have had testimony in this  
20 Committee in regards to recruiting efforts made by  
21 different agencies, including the State Police.  
22 And we're told that the applicants are just not  
23 there.

24 Are there any suggestions that you  
25 can give to this Committee to increase those

1 numbers? Even though they're in those communities  
2 and have open houses, are there any suggestions  
3 you might be able to make from your organization  
4 to increase it?

5 LIEUTENANT GUZMAN: Many of the  
6 advertisements and those types of things go out in  
7 generic form through the Internet, and some people  
8 might not have the accessibility of those things.  
9 You need to keep it at a local level. In other  
10 words, advertise in the school system in town.  
11 Kids that are just getting out of high school that  
12 obviously live in town would maybe want to be a  
13 police officer. Also, communities have an  
14 obligation just to look harder for these type of  
15 applicants that represent the community and mirror  
16 the community so that there is representation in  
17 the police department of what your community looks  
18 like.

19 MS. CARROLL: In your New Jersey  
20 Chapter, approximately how many members?

21 LIEUTENANT GUZMAN: The numbers?

22 OFFICER REYES: If I could just add  
23 a little bit to what he just said as far as  
24 looking harder. The State Police itself have  
25 plenty of competent Latino and African-Americans

1 that can step up to higher ranking positions that  
2 aren't there now. The communities, like the  
3 Lieutenant said, a lot of these communities are  
4 people that are very competent enough to be state  
5 police or law enforcement. Some of them don't  
6 want to be police officers because of the stuff  
7 that's been happening, some of the things that  
8 they see nation-wide with law enforcement and they  
9 rather not get into it. There should be a look  
10 harder, work harder recruitment effort in Latinos  
11 and African-Americans. They're here, you've just  
12 got to find them.

13 CHAIRMAN JOHNSON: Thank you.

14 Mr. Donovan.

15 MS. CARROLL: I'm sorry, the Chapter  
16 members in the State of New Jersey, just an  
17 approximation?

18 OFFICER REYES: About 150 to 200  
19 members. We are one organization under an  
20 umbrella through the Latino Leadership Alliance.  
21 And you're talking the whole State of New Jersey,  
22 thousands.

23 LIEUTENANT GUZMAN: We have  
24 representatives in every county -- most counties  
25 have a chapter. We're the state organization.

1                   OFFICER REYES: We have over nine  
2 chapters representing Passaic County, Union  
3 County, Essex County, New Jersey Transit, and a  
4 few others.

5                   MS. CARROLL: State Police?

6                   OFFICER REYES: No. We're trying to  
7 get with the State Police. There's issues that  
8 they have to work out. We're definitely trying to  
9 get with the State Police.

10                  MS. CARROLL: Thank you.

11                  CHAIRMAN JOHNSON: Would it be  
12 helpful if we had a report back on the numbers of  
13 the members in the umbrella organization? Could  
14 you provide that to the Committee?

15                  LIEUTENANT GUZMAN: Sure.

16                  CHAIRMAN JOHNSON: Thank you.

17                  Mr. Donovan.

18                  MR. DONOVAN: Thank you, Mr.

19 Chairman.

20                  Lieutenant, thank you for your  
21 testimony. Just a question following up on the  
22 membership of the chapters. Do you get any  
23 feedback from Latino officers in New Jersey State  
24 Police, how they -- currently the efforts to  
25 eradicate profiling is doing?

1                   LIEUTENANT GUZMAN: They think  
2                   that -- well, they've said that the checks and  
3                   balances that are in place right now are working.  
4                   They were there before, a lot of these officers  
5                   were prior to the Consent Decree in the mid-'80s,  
6                   early '90s, and some of them are still there, veteran  
7                   officers, and they feel that certainly it has, as  
8                   the word we use, eradicated. But we need to stay  
9                   on top of these types of things. Like we said, we  
10                  don't want to go backwards. We need to put  
11                  certain things in place. To answer your question,  
12                  absolutely, it has certainly been corrected with  
13                  the checks and balances that are in place right  
14                  now.

15                 OFFICER REYES: Also, if I may add  
16                 on the question of the officers that come in. A  
17                 lot of them join our organization and start up the  
18                 organization to prevent things from happening. We  
19                 found in some of the --

20                 CHAIRMAN JOHNSON: Excuse me. Just  
21                 judging from the posture of people in the back of  
22                 the room, they can't hear you if you don't use the  
23                 microphone. So if the two of you can share the  
24                 microphone, that will be helpful to everyone.

25                 OFFICER REYES: Okay. Some of them

1 join the organization because they've been  
2 victimized by their departments. And some cases  
3 that were fair warning -- not so much fair warning  
4 but, you know, we were advised ahead of time, some  
5 of the towns would start chapters like this,  
6 once a chapter gets started repercussions came  
7 about. So, to us, we would have a problem not  
8 saying that there's some sort of racial problem  
9 going on with some of the towns that resist an  
10 organization like ours.

11 MR. DONOVAN: Thank you.

12 On Page 2 of your testimony, you  
13 recommend that the monitorship be terminated. Is  
14 that the view of the New Jersey Chapter? Is that  
15 the view of the Latino community? Can you just  
16 characterize that statement? Is it just from  
17 personal observations and personal dealings with  
18 the State Police?

19 LIEUTENANT GUZMAN: This is the view  
20 of our organization who receives information from  
21 many Latinos in various communities throughout the  
22 State. We've come to this conclusion after a very  
23 thoughtful process and are here today to testify.

24 MR. DONOVAN: Thank you.

25 And one last question. As municipal

1 police officers, as police officers, you've  
2 testified that your organization came up with some  
3 information identifying racial profiling in  
4 municipal departments. Can you just explain what  
5 you as an organization did to bring it to the  
6 attention of either law enforcement leaders,  
7 political leaders, to really focus on that issue?

8 LIEUTENANT GUZMAN: Okay. When  
9 these types of things occur, what usually happens  
10 is that someone will come up to us, Mr. Smith,  
11 let's say, "Lieutenant Guzman, this happened to  
12 me." What we then do is advise him on the proper  
13 mechanism for bringing this to the attention of  
14 the local department where it might have occurred,  
15 whether that be a professional standards unit  
16 within the police department or an internal  
17 affairs unit within the police department. These  
18 are some of the things that we advise, you know,  
19 citizens or residents of whatever town those  
20 things might occur, that we do to help them out in  
21 situations.

22 MR. DONOVAN: But it would be on an  
23 individual basis as to an organizational basis?

24 LIEUTENANT GUZMAN: Yes. At this  
25 point, yes.



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MR. DONOVAN: Thank you.

CHAIRMAN JOHNSON: Reverend Floyd.

REVEREND FLOYD: Good afternoon, gentlemen. I appreciate your taking the time to come in and make your presentation before this Commission.

I would like to ask a question, sort of piggybacking on what Mr. Donovan had raised. You made the recommendation that the Consent Decree should be terminated or eliminated. My question is, how did your organization -- just clarify for me. Maybe I just misunderstood your presentation. How did your organization come to this conclusion? Based on what information or data? How were they able to make this recommendation today?

LIEUTENANT GUZMAN: The recommendation is being made from speaking with State Troopers that work throughout the State and understand the checks and balances that have gone into place and have certainly made a tremendous impact on Latinos getting pulled over or several African-Americans getting pulled over.

OFFICER REYES: In addition, we also met with the Superintendent. Our organization has

1 met with the Superintendent. And our  
2 understanding is that this is a hundred percent  
3 compliant. Everything has worked up to this point  
4 since 1999. They were able to comply with every  
5 part of the Decree.

6 Some of the municipalities  
7 throughout the State, when the State Police went  
8 into this Decree and used whatever mechanisms that  
9 they used, also adopted them. My town, I work for  
10 the Township of Union. At one time, I believe all  
11 of Union County Police Departments did some sort  
12 of monitoring. We call it data collection, close  
13 to what the State Police was using. And up to  
14 this day, we still use it. We get our quarterly  
15 reports saying some of the stuff that might have  
16 been going on before no longer is going on.

17 REVEREND FLOYD: What is the feeling  
18 in the Latino community, having met with other  
19 major Latino organizations? I'm raising this  
20 issue because, as I understand, you are the first  
21 Latino organization that's coming to make the  
22 presentation before us, and I don't want to say or  
23 suggest that you speak for all Latino organizations.  
24 But I just wanted to know have you communicated  
25 with other Latino organizations that are outside

1 of law enforcement to get the feeling that in  
2 those communities, in those large Latino  
3 communities, that they feel that it will be also  
4 their desire that the Consent Decree should be  
5 terminated?

6 OFFICER REYES: Yes, we have. We're  
7 under the umbrella of the Latino Leadership  
8 Alliance of New Jersey.

9 REVEREND FLOYD: Explain that. What  
10 is that?

11 OFFICER REYES: The organization,  
12 LLANJ, is an organization that has -- not just law  
13 enforcement. They have over 200 different  
14 organizations like ours in the State of New  
15 Jersey. And they represent business, law  
16 enforcement, anything you can think of, and have  
17 been very influential on a lot of things that we  
18 do. So we have the support from our main --

19 REVEREND FLOYD: Of that  
20 organization, okay. Thank you.

21 CHAIRMAN JOHNSON: Mr. Goldstein.

22 MR. GOLDSTEIN: If I understood what  
23 you said in response to my colleague's question  
24 earlier, you made your recommendation based upon  
25 speaking both to municipal police officers as well

1 as Latino State Police officers; is that correct?

2 LIEUTENANT GUZMAN: Yes.

3 MR. GOLDSTEIN: When you spoke to  
4 Latino State Police officers -- I'm not trying to  
5 drive any wedges between them and the leadership  
6 of the State Police. I think you are familiar,  
7 the leadership of the State Police would like to  
8 take the oversight function and bring it in-house.  
9 Here, I read your remarks, your written remarks  
10 and oral remarks, I believe you are suggesting  
11 that oversight continue but it not be done within  
12 the State Police itself.

13 When you spoke to your Latino  
14 colleagues at the State Police, did you discuss  
15 this issue with them? And if you did, what was  
16 their viewpoint and how did they come to their  
17 viewpoint?

18 I'm not trying to put either you or  
19 them on the spot. I think it would helpful to  
20 understand that.

21 OFFICER REYES: I can tell you we  
22 spoke with the Superintendent himself. He  
23 actually agrees with our position, that the  
24 oversight or the monitoring continue should be  
25 from an outside agency.

1 MR. GOLDSTEIN: But we're now  
2 talking about two different things.

3 OFFICER REYES: To answer your  
4 question, though, we haven't talked to any Latino  
5 State Police officers as far as that particular  
6 subject, whether it should be in-house or outside.

7 MR. GOLDSTEIN: Thank you very much.

8 LIEUTENANT GUZMAN: You're welcome.

9 CHAIRMAN JOHNSON: Mr. Huertas.

10 MR. HUERTAS: Thank you for your  
11 testimony.

12 Is it fair to say that your  
13 organization represents a large number of Hispanic  
14 officers throughout the State of New Jersey in  
15 different chapters?

16 LIEUTENANT GUZMAN: Yes.

17 MR. HUERTAS: Would that be a fair  
18 assessment?

19 LIEUTENANT GUZMAN: Absolutely.

20 MR. HUERTAS: Would it also be fair  
21 to say that you receive input from your members in  
22 terms of practices and policies from local  
23 departments as well as State Police, departments  
24 in terms of how business is conducted or not  
25 conducted?

1 LIEUTENANT GUZMAN: That is correct.

2 OFFICER REYES: Yes.

3 MR. HUERTAS: And is it also fair to  
4 say that your organization has a close  
5 relationship with the Hispanic community itself  
6 because they're under the Latino Leadership  
7 Alliance? You said you're part of 200  
8 organizations that interact with the community, is  
9 that correct?

10 LIEUTENANT GUZMAN: Yes.

11 MR. HUERTAS: So you have a good  
12 feel of the pulse for what's going in the Latino  
13 community, which leads me to my question. I know  
14 there's always been distrust of police within the  
15 Latino communities. A lot of it has been due to  
16 some of the things that have occurred, some people  
17 have been -- there's been disparate treatment. Do  
18 you think that currently the New Jersey State  
19 Police, as well as other law enforcement agencies  
20 throughout the State of New Jersey, are doing a  
21 better job of communicating and reaching out to  
22 the Latino community in order to better explain  
23 and provide opportunities and to ensure that the  
24 citizens themselves understand their rights and  
25 what policies are in place to protect their

1 rights?

2 LIEUTENANT GUZMAN: Yes. Over the  
3 course of the Consent Decree and prior to that and  
4 in the recent past, in talking with our colleagues  
5 throughout the State, there certainly has been an  
6 improvement in those matters. But like most  
7 things, we could always do better. Police  
8 departments can always do better. Administrators  
9 can always do better in their recruitment, in the  
10 promotion, in many other aspects that I won't  
11 mention here today. This is something that's  
12 going to take time. Slowly but surely I think  
13 that we'll achieve the ultimate goal, where not  
14 one person that gets pulled over has a problem  
15 with an officer because of their racial makeup or  
16 other issues.

17 OFFICER REYES: Also, Mr. Huertas,  
18 we do, at least, if not monthly, every two weeks,  
19 we do a lot of seminars with the Spanish-speaking  
20 community. We've also done in conjunction with  
21 NOBLE, the black law enforcement. To answer the  
22 question, we do things from the domestic violence.  
23 We do stuff from gang identification in  
24 conjunction also with the State Police that has  
25 probably the best experts in the field. We get

1 the best people to be able to come in and do it in  
2 a language that they understand so that we can get  
3 closer to the community and be able to gain their  
4 trust. As part of this that has been going on  
5 with Decree, that together with what we've been  
6 doing throughout the State is why the community  
7 feels more comfortable with what they're doing  
8 with the State Police.

9 MR. HUERTAS: What can the State  
10 Police do to improve the diversity of Hispanics in  
11 leadership?

12 LIEUTENANT GUZMAN: The short answer  
13 to that is to promote more Latinos and  
14 African-Americans. I'm sure there's plenty of  
15 minority officers that could do a job just as well  
16 and maybe even better because of where they come  
17 from or their past. That is the short answer to  
18 that question. Just promote.

19 OFFICER REYES: Also at the same  
20 time, I just want to add that we believe in  
21 diversity, but also competency. The State Police  
22 has African-American and Latino officers that are  
23 more than competent enough to do these things.

24 CHAIRMAN JOHNSON: Thank you.

25 Reverend Justice.



1 REVEREND JUSTICE: Thank you. Thank  
2 you for that report.

3 In concurrence with my colleague,  
4 even though rank and file positions in law  
5 enforcement was not one of the tenets of the  
6 Consent Decree, I'm glad that you did mention that  
7 it is inclusive in your report. Because you're  
8 absolutely correct, there should be diversity in  
9 rank and file and all that good stuff.

10 You mentioned it, and perhaps you  
11 can explain to me briefly. You mentioned a body  
12 independent of New Jersey State Police, but as it  
13 relates to structure of that body and authority,  
14 can you just short --

15 LIEUTENANT GUZMAN: Part of that  
16 body should have a community component for the  
17 extended checks and balances of the racial  
18 profiling matter. How would we get that community  
19 component involved? Through organizations such as  
20 ours, through NOBLE, through our organization who  
21 have a grassroots foundation that could  
22 participate in selecting such individuals to  
23 participate in monitoring of these matters, racial  
24 profiling, promotion of competent personnel.

25 CHAIRMAN JOHNSON: And we will

1 have -- Ms. Milgram is not, but Mr. Susswein is  
2 here.

3 MR. SUSSWEIN: Thank you. I just  
4 want to quickly touch on -- thank you, by the way,  
5 for your testimony.

6 On that part of your testimony  
7 concerning local policing, you're part of a  
8 national association, you said, originated in  
9 California, so you can bring a national  
10 perspective for this. Where do you think New  
11 Jersey as a state stands with respect to a sister  
12 state on this issue with respect to racial  
13 profiling, local policing? And are you aware of  
14 any other state jurisdictions that you think have  
15 done a particularly good job of addressing the  
16 issue as a state?

17 OFFICER REYES: On a national level,  
18 since the organization originated in California,  
19 they had their own issues. Actually, they've  
20 supported, not just Latino officers, but they've  
21 also supported Asians. In fact, their first  
22 client was an Asian.

23 CHAIRMAN JOHNSON: Again, if you  
24 could use the microphone, that would be terrific.

25 OFFICER REYES: If can you ask your

1 question again.

2 LIEUTENANT GUZMAN: I can finish.  
3 To be quite honest with you concerning a national  
4 level, how the states they've handled it. I  
5 couldn't possibly answer that. I don't have that  
6 data to answer how other states like Georgia,  
7 California, they're dealing with the possible  
8 problems of racial profiling or supervision,  
9 promotions, or those things, to be quite honest  
10 with you. Basically, we concentrate on the New  
11 Jersey aspect of our organization.

12 MR. SUSSWEIN: Has your national  
13 organization published anything or taken any  
14 position on the racial profiling issue?

15 LIEUTENANT GUZMAN: No. This is a  
16 state-wide New Jersey position that we're taking.

17 MR. SUSSWEIN: Thank you.

18 CHAIRMAN JOHNSON: Thank you.

19 Mr. Rambert.

20 MR. RAMBERT: Gentlemen, thank you  
21 for being here today and your testimony this  
22 afternoon.

23 With respect to your recommendation  
24 to terminate the Consent Decree, I have a  
25 question. Have you or your organization had the

1 opportunity to have a MAPPS demonstration or have  
2 you had the opportunity to review the reports  
3 generally from the MAPPS System?

4 LIEUTENANT GUZMAN: As part of the  
5 Executive Board, I did review the MAPPS system  
6 with the Superintendent just recently and came to  
7 the conclusion that checks and balances are in  
8 place to remedy the situation.

9 MR. RAMBERT: Thank you.

10 CHAIRMAN JOHNSON: Mr. Stier.

11 MR. STIER: Thank you very much for  
12 taking the time to come here today. In terms of a  
13 scope and scale of your organization, I notice  
14 that a gentleman by the name of Martin Perez is  
15 listed on your letterhead. He's your counsel?

16 OFFICER REYES: Yes.

17 MR. STIER: Is he affiliated with  
18 the Latino Leadership Alliance?

19 OFFICER REYES: He's the president.

20 MR. STIER: So has he familiarized  
21 himself with your recommendations?

22 OFFICER REYES: Absolutely.

23 MR. STIER: Thank you very much.

24 CHAIRMAN JOHNSON: Ms. Yang.

25 MS. YANG: Thank you, Mr. Chairman.

1                   And thank you, Gentlemen, for being  
2 here to give your testimony.

3                   We talk about statistics, about the  
4 composition of local police departments. I have a  
5 question. Can you estimate or do you have actual  
6 percentage of Latino officers within the local  
7 police departments in New Jersey? Or can you  
8 provide that to us?

9                   OFFICER REYES: We'll have to get  
10 that information for you. We don't have it with  
11 us. That's something we can get to you.

12                  MS. YANG: Currently you said you  
13 have 100 to 200 members?

14                  OFFICER REYES: 150 to 200 members.

15                  MS. YANG: And my last question is  
16 -- Lieutenant Reyes?

17                  OFFICER REYES: Officer Reyes.

18                  MS. YANG: You said that members of  
19 your organization have been victimized. When they  
20 approach you, do you actively seek redress within  
21 that member's police department on that police  
22 officer's behalf? Give me an example.

23                  OFFICER REYES: Yes, we do. It  
24 comes from the State. Say, one particular  
25 jurisdiction has a problem within that

1 jurisdiction or the county, we as an organization  
2 go in. And it's better for an outside  
3 organization or an outside representation so that  
4 in the event we don't get whatever it is  
5 corrected, there won't be any repercussions to  
6 that particular officer saying it's coming from  
7 him. It's actually coming from our organization.  
8 And we believe there's strength in numbers. And  
9 we have enough professionals to take things to  
10 whatever level a particular jurisdiction wants to  
11 take it. We've managed to fix a few things,  
12 particularly in Passaic and some other  
13 jurisdictions that some of the officers have been  
14 wronged, and that's pretty much how we do things.  
15 We go in collectively, not just one officer, so  
16 there won't repercussions to that officer. They  
17 have to come after the organization.

18 MS. YANG: Thank you very much.

19 CHAIRMAN JOHNSON: Thank you.

20 Were there any questions from  
21 members of the audience?

22 Then I'll ask a couple and we'll  
23 break for lunch.

24 You recommended that the checks and  
25 balances that have been employed by the -- the

1 systems that have been employed by the State  
2 Police be imported into the State's cities and  
3 towns, and you've seen the MAPPS system which is a  
4 very robust system. It's also an expensive  
5 system. One of the things that we need to  
6 consider is not necessarily what's going to be  
7 perfect but what's going to be good. Short of  
8 putting MAPPS System in every town and  
9 municipality and city in the State, are there  
10 other recommendations that you would recommend to  
11 this Committee that we may do to enhance  
12 compliance with the State non-discrimination  
13 policy?

14 OFFICER REYES: As I stated before,  
15 not all municipalities are doing things to monitor  
16 what the officers are doing. I can tell you that  
17 in my municipality, Township of Union, we are  
18 doing something. What I would recommend to the  
19 Committee is perhaps reach out to all  
20 municipalities in the State and ask is anyone  
21 doing this. And get the data, get what they're  
22 doing, put it all together and come up with one  
23 that won't be so expensive but that will work.

24 CHAIRMAN JOHNSON: When you say get  
25 the data, just to understand, are you asking us to

1 get the data about what communities are doing, or  
2 are you asking specifically for stop data to  
3 centralize it all?

4 OFFICER REYES: Specifically, what  
5 their mechanism is, what they're doing. Not so  
6 much the actual data that they're using, but you can  
7 ask them generically if it's working. And if it  
8 is, what mechanisms they're using. Go throughout  
9 the whole State, all the municipalities, ask if  
10 they're doing anything, what their mechanisms are,  
11 and collectively come up with something that won't  
12 be so expensive but that will work.

13 CHAIRMAN JOHNSON: Thank you very  
14 much, both of you, for your testimony. It's been  
15 very helpful. We appreciate your taking the time  
16 to prepare it.

17 We will take a break until 2:35.

18 (Luncheon recess taken.)

19 CHAIRMAN JOHNSON: We are ready to  
20 proceed.

21 The next panel of witnesses will be  
22 Mr. Ed Barocas, Dr. John Lamberth, and Mr. William  
23 Buckman. Ed Barocas is the Legal Director for the  
24 American Civil Liberties Union of New Jersey. Dr.  
25 John Lamberth is a social psychologist and the CEO



1 of Lamberth Consulting. And William Buckman is a  
2 certified criminal trial attorney in New Jersey  
3 specializing in civil rights and criminal  
4 litigation.

5 We're getting started a little bit  
6 after the time -- more than a little bit after the  
7 time that we wanted to start. I've asked each of  
8 them to shorten their testimony somewhat to focus  
9 on the highlights so that we can get, as promptly  
10 as possible, to the questioning from the members  
11 of the panel. So we'll start with Mr. Barocas,  
12 please.

13 MR. BAROCAS: Thank you very much.  
14 Thank you, Mr. Johnson. Thank you for allowing me  
15 to testify today. I will shorten my testimony. I  
16 do want to read a bit of the history just to give  
17 some quick background.

18 As you all know, New Jersey has been  
19 saddled with the stain, essentially, of racial  
20 profiling by law enforcement for a number of  
21 years. It was over seven years ago, April of  
22 1999, that the then Attorney General Peter  
23 Verniero admitted that citizens were stopped and  
24 searched on the New Jersey Turnpike based on the  
25 color of their skin. The state and federal

1 government entered into a Consent Decree, and  
2 there were also a number of -- numerous amounts of  
3 lawsuits. The ACLU was involved in, I believe,  
4 12.

5 In 2002, the Troopers Hogan and  
6 Kenna that were involved in the van shooting, a  
7 much-publicized case, acknowledged that racial  
8 profiling was taught by the State Police. They  
9 acknowledged that it was encouraged by supervisors  
10 and that they and others tried to cover up the  
11 fact of racial profiling by providing false stop  
12 data.

13 Also in 2002, the New Jersey Supreme  
14 Court outlawed consent searches. The case was  
15 State versus Carty, C-A-R-T-Y. They outlawed them  
16 when no reasonable suspicions exists. In so  
17 doing, the Court noted, "widespread abuse of our  
18 existing law," cited to the interim report and the  
19 disparities that were occurring.

20 Today, after years of this federal  
21 monitoring of the Consent Decree, on the southern  
22 portion of the New Jersey Turnpike profiling  
23 continues unabated. African-Americans now make up  
24 a higher percentage of stops than they did before  
25 the Consent Decree began.

1                   Now, the reason for this is that the  
2                   Federal Consent Decree, while it mandated a number  
3                   of reforms, it didn't tell the whole story. I  
4                   know that the Committee has been concerned about  
5                   going beneath the surface. When it came to racial  
6                   profiling and looking at stops, the Federal  
7                   Consent Decree did not do that. It was  
8                   fundamentally flawed.

9                   In reviewing the stops, the federal  
10                  monitors determined whether there was a valid  
11                  reason for each stop. In other words, was a  
12                  person actually going over the speed limit.  
13                  Driving here, I went over the speed limit, as most  
14                  of us probably did on the New Jersey Turnpike.  
15                  That's not the question. What the question should  
16                  have been, not was, was the driver exceeding the  
17                  speed limit, but are African-American drivers on  
18                  the southern portion of the Turnpike stopped at  
19                  disproportionate rates from whites? And the  
20                  answer from the State's own information is that  
21                  they are. The Consent Decree never asked why is  
22                  this occurring. We have done so, and this  
23                  Committee must do so.

24                  When then Attorney General Verniero  
25                  acknowledged in '99 that profiling was occurring,

1 African-Americans made up 28.7 percent of all  
2 stops on the southern portion of the Turnpike, the  
3 Moorestown Barracks. In 2000, that percentage was  
4 at 29 percent. In 2004, it was up over  
5 30 percent. As of April 2005, the percentage was  
6 up to 30.8 percent. Also in April 2005 on the  
7 southern portion of the Turnpike, over half of all  
8 persons that troopers searched or forced to exit  
9 their vehicles, over half were African-American.  
10 And this is the State's own data.

11 What makes this most scary, which is  
12 what most makes us recognize that there's a  
13 problem here, is when you compare it to the  
14 northern portion of the Turnpike, the Newark  
15 Barracks. While the numbers are consistently  
16 around 30 percent or over 30 percent for the  
17 Moorestown Barracks, the southern portion of the  
18 Turnpike, they are consistently around 18 percent  
19 from the Newark Barracks, the northern portion of  
20 the Turnpike.

21 Now, it seems counter-intuitive to  
22 think that there are almost double the number of  
23 African-American drivers going through the  
24 Moorestown Barracks than the Newark Barracks. It  
25 simply does not make sense.

1                   In addition, when we look at  
2 searches, the percentage of people searched or  
3 forced to exit their vehicle from the Newark  
4 Barracks, it's less than a third. Again, from the  
5 Moorestown Barracks over half of all stops and  
6 searches or people being forced to exit their vehicles  
7 African-Americans.

8                   There was a study that some -- I  
9 believe the union, troopers union, tried to  
10 explain it away to say that African-Americans  
11 simply speed more. A lot of problems with this  
12 report. I don't cite them all here because the  
13 report itself is from Rutgers Newark policing.  
14 They admit, they acknowledge, that there were  
15 problems with that study, and it's essentially  
16 been rejected. And we have with us today Dr.  
17 Lamberth who will talk about a study that he did  
18 that shows that the actual number of drivers and  
19 speeders on the New Jersey Turnpike, including the  
20 southern portion of the New Jersey Turnpike, is  
21 about 18 percent, 18 to 19 percent. That's  
22 consistent with the stops on the northern portion  
23 of the Turnpike. The southern portion of the  
24 Turnpike is completely out of whack with that.

25                   So the question is, where do we go

1 from here? We have a few main recommendations.

2 Our first recommendation is to  
3 establish a strong permanent system for monitoring  
4 of police practices in New Jersey. And it's not  
5 the current Consent Decree. We cannot cling to a  
6 Consent Decree that hasn't accomplished its most  
7 fundamental reasons for being: Eradicating racial  
8 profiling on the Turnpike. Profiling on the  
9 southern portion of the Turnpike continues, in  
10 fact, appears to have even risen.

11 Rather, we need to see the Consent  
12 Decree replaced with a more efficient and  
13 productive method of independent monitoring and  
14 oversight. Some models work, some models don't.  
15 I understand you heard from Sam Walker this  
16 morning about a number of the models. We believe  
17 the best system for New Jersey would be a  
18 well-funded and well-staffed office of police  
19 oversight located within state government, perhaps  
20 established as an independent office or perhaps in  
21 but not of an agency or being independent.

22 One of the great benefits of having  
23 such a department, if it's given sufficient  
24 resources, would it also be able to monitor the  
25 actions not only the State Police, but the more

1 than 560 local police departments. The New Jersey  
2 office of the ACLU receives many, many more intakes  
3 regarding the local police misconduct and racial  
4 profiling at the local level than it does the  
5 State Police. But because there are so many  
6 independent local police departments, it's hard to  
7 show -- it's much harder to show a pattern of  
8 practice, but we know that it does exist. In  
9 fact, we have brought at least one lawsuit very  
10 recently because it was such an obvious situation  
11 where you had six boys, three white and three  
12 black. The three black boys were searched and  
13 ridiculed; the three white boys were told, "You go  
14 home. You don't need to see this." It's  
15 happening more than this one case. We don't have  
16 the resources to bring all of these cases and it's  
17 hard to get subjects in the case. It's happening  
18 all the time.

19 New Jersey needs to have faith and  
20 confidence in their police. They need it at the  
21 state level. They need it at the local level.  
22 They need to know that someone is watching out for  
23 them. And that can only be done through an  
24 independent monitoring.

25 Then our second recommendation is to

1 establish police professional licensing in New  
2 Jersey. I understand that you've heard a lot  
3 about that already, so I won't go into this, other  
4 than to say the ACLU strongly endorses it. And  
5 I'll be available questions if you have any on  
6 that.

7 Finally, just to say, we need the  
8 confidence of the New Jersey public, and that  
9 can't happen unless the public knows that someone  
10 is there watching, that the data is not only being  
11 reviewed internally, but externally. Thank you.

12 CHAIRMAN JOHNSON: Thank you, Mr.  
13 Barocas.

14 Dr. Lamberth.

15 DR. LAMBERTH: Thank you for having  
16 me here. I would like to talk with you just a bit  
17 about something that Mr. Barocas referred to, and  
18 that is a study that we have done on the New  
19 Jersey Turnpike. I should also say, just by  
20 manner of introduction, that I have been working  
21 on assessing whether racial profiling is going on  
22 now since 1993 and that we do this with police  
23 departments, we do it for civil rights groups, we  
24 do it for governmental agencies, and we have  
25 worked all over the country and have presently



1 started doing ethnic profiling in some European  
2 countries as well. We have a great deal of  
3 experience in doing this sort of assessment, and I  
4 wanted to lead up to what we had done here.

5 Last August and September, we were  
6 asked to determine whether racial profiling  
7 continued in the Moorestown Station area of the  
8 New Jersey Turnpike, which is Exit 1 to Exit 7A.  
9 And to do that, we did two different surveys of  
10 the Turnpike. One that was fashioned on the  
11 rolling survey, as we called it, that was done for  
12 the Soto case. To keep some sort of touch with  
13 that particular case, we did essentially the same  
14 survey. The vehicle that was involved drove 4  
15 miles an hour over the speed limit and counted  
16 every car that either they passed or that passed  
17 them and determined the percentage of people who  
18 were speeding, who were violating at least the  
19 speeding law or some other law that they might see  
20 while the car was in their view. They made 25  
21 runs on the survey. That is, they went from an  
22 exit, started at an exit, returned to that exit  
23 made a complete loop of the Turnpike from 1 to 7A  
24 25 different times between the dates of  
25 August 16th and August 28th on randomly selected

1 days and times of day, during both daylight and  
2 nighttime hours. That particular survey found  
3 that 19 percent of the violators were black.

4 The second survey was what when  
5 refer to as the radar survey. In that particular  
6 survey, a radar unit was mounted in a vehicle and  
7 the speed of every car it encountered was recorded  
8 as well as the race ethnicity of the driver.  
9 During this survey, the vehicle traveled at the  
10 speed limit, which was 65 miles an hour, except  
11 for speed reductions for construction, weather, or  
12 congestion, when the vehicle adhered to the posted  
13 speed limit. This particular survey included 40  
14 runs, again, of randomly selected times of the day  
15 and days of the week between August 27th and  
16 September 23, 2005, during both daylight and  
17 nighttime hours. And this particular survey found  
18 that 18.5 percent of those drivers speeding were  
19 black. And this is very close to the 19 percent  
20 that was found in the other survey, slightly below  
21 because the particular unit there was 65 miles an  
22 hour as opposed to 69 miles an hour.

23 Now, we then took the percentage of  
24 those people who were stopped by the Moorestown  
25 Barracks, as are reported in the published

1 semiannual reports of aggregate data, and we took  
2 the data from January 1, 2000 to April 30, 2000.  
3 These reports indicated that 30.8 percent of  
4 motorists stopped by the New Jersey State Police  
5 in the Moorestown Station were black. And as it  
6 turns out, the final report which was the 11th  
7 aggregate report also indicated that 30.8 percent  
8 of those people who were stopped were black and,  
9 therefore, we accepted the 30.8 figure in making  
10 our calculations. When the stops of black  
11 motorists are compared to either of the two  
12 benchmarks developed from the radar survey, there  
13 is a statistically significant level of  
14 over-stopping of black motorists.

15 Now, let me talk about the two  
16 benchmarks that we can determine, knowing the  
17 speed of every car that was encountered. There is  
18 one benchmark which is a comparison to every car  
19 that was violating a traffic law. This would be  
20 comparable to the particular study that was done  
21 in the Soto case. The other benchmark, because  
22 there had been claims that the reason the State  
23 Police stop more black motorists is that they are  
24 more likely to be speeding egregiously, and that  
25 has been defined as 15 miles an hour or more over

1 the speed limit. So we did a second benchmark  
2 which just compared the number of stops to the  
3 number of black motorists, the percentage of black  
4 motorists that were among those people who were  
5 speeding 15 miles an hour over the speed limit or  
6 more. Both of these analysis indicate that there  
7 is statistically significant very high levels of  
8 statistical significant over-stopping of black  
9 motorists.

10 Let me get a little dry for just a  
11 minute, and I apologize for doing this, but to  
12 make sure that it's on the record, we  
13 statisticians have to do things like this, so my  
14 apologies. The analysis that is usually relied  
15 upon is referred to as a standard deviation  
16 analysis. That is, the number of standard  
17 deviations that the observed event is over the  
18 expected event. By convention, when an observed  
19 outcome is more than 2 standard deviations from  
20 the expected value, which occurs 5 times in 100 by  
21 chance, statisticians generally declare that this  
22 finding is a statistically significant finding.  
23 Remember, 2 standard deviations.

24 When we compare the stops of black  
25 motorists by the Moorestown Station to the

1 benchmark of all motorists violating the speed  
2 laws, we find that the expected value is 16.1  
3 standard deviations from the observed value. Most  
4 tables of probabilities associated with the number  
5 of standard deviations only go to 4 or 5 standard  
6 deviations because it is so highly improbable to  
7 encountered larger values in statistical world.  
8 However, 16.1 standard deviations means that these  
9 results would occur less than about 1 time in a  
10 billion, with a "B," by chance. If we consider  
11 only those drivers who are the egregious speeders,  
12 that is, 15 miles an hour over the limit or more,  
13 and most of the time that's going to be 80 miles  
14 an hour or more in the southern section of the  
15 Turnpike, if we consider only those drivers, then  
16 we also find that there are far too many black  
17 motorists who are stopped. The number of standard  
18 deviations for this analysis is 5.6 standard  
19 deviations, in the neighborhood of less than 1 in  
20 1 million. That's with an "M." The other one was  
21 with a "B."

22 Now, in all probability, the  
23 analyses that we have presented are  
24 under-representations of the actual state of  
25 affairs because we have had only aggregate data

1 with which to compare the benchmarks that were  
2 developed. We are unable to determine where on  
3 the southern end of the Turnpike the stop took  
4 place. In the Soto case where we had data by mile  
5 marker, we found that there was a substantial  
6 elevation of stops of black motorists from Exits 3  
7 to 1, as compared to Exits 3 to 7A. The black  
8 motorists who were stopped between Exits 3 and 7A  
9 -- pardon me, from 7A to 1 were about somewhere in  
10 the neighborhood of 35 percent of those motorists  
11 were black. Between Exits 3 and 1, 46 percent of  
12 the motorists stopped were black, a substantial  
13 increase.

14 If that is still occurring, then our  
15 numbers are quite strong under-representations of  
16 the problem.

17 Again, considering data analyzed in  
18 the Soto case, specialized units of the New Jersey  
19 State Police, at that time there was a Radar Unit  
20 and something called a Tactical Patrol Unit. And  
21 these units stopped motorists at a more racially  
22 neutral level that is much closer to the benchmark  
23 that was established, particularly the Radar Unit.  
24 And as I understand it, there is no longer a Radar  
25 Unit but there are, at least the last time I

1 received information, Tactical Patrol Units.

2 Since the data that are aggregated,  
3 it is impossible for us to disaggregate data by  
4 unit and determine if, in deed, that is  
5 continuing. However, when I come to you today,  
6 what I am saying is that even if the aggregate  
7 data are exactly accurate, there is a strong  
8 over-stopping of black motorists on the southern  
9 end of the Turnpike. In short, there has not been  
10 a lot of change between 1993 and 2005. We did the  
11 study in 1993; we've repeated the study some  
12 12 years later, and we don't a big difference in  
13 what was going on and is going on.

14 I have not mentioned -- and I do  
15 know that my time is about gone. I have not  
16 mentioned what happens after the stop, although  
17 Mr. Barocas did. And that is certainly part of  
18 racial profiling. That even after too many black  
19 motorists have been stopped, even more are asked  
20 to exit the car or are subjected to a pat-down  
21 or -- and I'm told by my lawyer friends that's not  
22 really a search, but nevertheless it's a pat-down  
23 and other sorts of after-stop activities.

24 So I think what I would say to you  
25 is from a statistician's point of view and from a

1 study that we have done and present to you for  
2 your understanding of what is going on, there  
3 still appears to be strong evidence for the fact  
4 that too many black motorists relative to those  
5 who are either violating the law or egregiously  
6 violating the law, too many are being stopped.

7 Thank you.

8 CHAIRMAN JOHNSON: Thank you.

9 Mr. Buckman.

10 MR. BUCKMAN: Thank you. I  
11 appreciate the opportunity to speak today.

12 I guess I'm not one of Lamberth's  
13 friends, because I'm a lawyer and I do believe a  
14 pat-down search is a search. If you would take a  
15 look at my submission, I make a point in my  
16 submission of noting that even when the aggregate  
17 data has been released over the years, some  
18 license has been taken with that data to make the  
19 stop and search rates look a little bit better  
20 than they are because in releasing its data, the  
21 State broke down, quote/unquote, searches versus  
22 Terry stops or Terry pat-downs. If you were to  
23 compare what the State has admitted in their  
24 aggregate data or searches with Terry stops, you  
25 have a much higher search rate. And, again, as



1 Dr. Lamberth and Mr. Barocas have indicated, that  
2 is a primarily minority search.

3 I'm not going to concentrate on the  
4 statistics. I was involved in Soto. I'm, of  
5 course, troubled by the fact that 12 years after  
6 our first study in Soto, the stop rates remain  
7 essentially the same.

8 I've pointed out in my submission  
9 that there are many reasons why the southern end  
10 of the Turnpike remains problematic. There are  
11 many reasons historically why New Jersey State  
12 Police inappropriate activity have targeted the  
13 southern end of the Turnpike. There was extensive  
14 testimony in Soto as to why the southern end of  
15 the Turnpike is a target or a hot spot for  
16 profiling.

17 With the minimal amount of time that  
18 I have, I've promised the chairman that I'm just  
19 going to hit --

20 CHAIRMAN JOHNSON: Can I exercise a  
21 prerogative? Given that we got robust testimony  
22 shortly before you and we haven't had a chance to  
23 take a look at it, it may make sense for you to  
24 spend at least a little bit of time on the reasons  
25 that you identified in your testimony for the

1 searches, just to help us bring this --

2 MR. BUCKMAN: Absolutely.

3 CHAIRMAN JOHNSON: Not too much, but  
4 spend some time.

5 MR. BUCKMAN: I appreciate that. I  
6 had offered to present my testimony through Vulcan  
7 mind taps so that I wouldn't even have to talk at  
8 all, so I certainly appreciate giving me the  
9 opportunity.

10 CHAIRMAN JOHNSON: We just seem to  
11 be a few Vulcans short.

12 MR. BUCKMAN: Okay.

13 I have tried to prepare my  
14 submission in the form of a blueprint of what I  
15 would suggest that this committee do if they  
16 really want to get beneath the surface and explore  
17 this problem and investigate this problem. And in  
18 many ways, one of the touchstones is to be  
19 thoroughly familiar with the Soto case. Soto was  
20 not just about the statistics. Soto was about the  
21 culture of the State Police, about the training  
22 programs of the State Police, and about the habits  
23 of the State Police.

24 Historically, the southern end of  
25 the New Jersey Turnpike, particularly as it

1 relates to profiling, as we proved and as we have  
2 testimony in Soto was the epicenter of profiling  
3 because the Turnpike goes down to two lanes each  
4 direction in the southern end of the Turnpike  
5 shortly after the Moorestown Barracks. It's much  
6 more manageable to look at the identity and race  
7 of occupants of cars in that area. There are many  
8 lighted areas where race can easily be observed.  
9 There are many other ways in which a trooper can  
10 enhance illumination, such as through the troop  
11 car spotlight and that sort of thing, to look at  
12 the race of persons. It is also a prime spot for  
13 profiling because, in essence, the southern end of  
14 Turnpike requires, at least when people entering  
15 the Turnpike on the southern end off the Delaware  
16 Memorial Bridge, persons, of course, have slowed  
17 down. They've stopped at a toll. Troopers can  
18 park in the high-lighted toll sections and look at  
19 the race of occupants in the car. And lastly, of  
20 course, for those entering the Turnpike from the  
21 southern end, it is an opportunity to stop target  
22 persons who are essentially entering New Jersey  
23 from almost any state in the Union. So it is a  
24 very popular spot for, quote/unquote,  
25 interdiction-type activities.

1                   There was testimony in Soto indeed  
2                   that a specialized unit of New Jersey State Police  
3                   known as the Drug Interdiction Training Unit  
4                   literally parked gauntlet-style perpendicular to  
5                   the tollbooth's area coming off the Delaware  
6                   Memorial Bridge and watched as cars went by and  
7                   peeled off one after another, quote/unquote,  
8                   stopping the cars that they wanted to stop. And  
9                   just so that we're clear, when you're pulling out  
10                  of the Turnpike or the southern end of the  
11                  Turnpike tollbooth, while everybody on the  
12                  Turnpike is always committing an offense, there  
13                  are very few offense just pulling out of the  
14                  tollbooths. And yet, a lot of stops occurred  
15                  there. A lot of stops still occur there, as those  
16                  statistics indicate.

17                  If I were to go back again -- and I  
18                  want to highlight something that Dr. Lamberth  
19                  touched upon, which is also related to this issue.  
20                  Over the last years, contrary to what Soto teaches  
21                  us, when we have seen the aggregate data, the  
22                  aggregate data that has been released publicly  
23                  and, as I would assume, to you, does not break  
24                  down the stop rate and the data by unit. There  
25                  are numerous units of State Police officers

1 operating on the Turnpike at any given time.  
2 There is the general patrol trooper who has the  
3 most discretion and sadly has, at times, received  
4 the most racially charged and racially  
5 inappropriate training. There is -- at least  
6 today, there is Tac-Pat, which has a little less  
7 discretion based on their task. And there is the  
8 Construction Unit which patrols only areas where  
9 construction is happening and are tasked with  
10 stopping people who are endangering, essentially,  
11 workers.

12 So in Soto we compared the various  
13 units. And low and behold, as trooper discretion  
14 increased, stop rates of minorities dramatically  
15 increased. So if we have a 30 percent stop rate  
16 today of minorities, I would suggest to you that  
17 if you get data broken down by unit, it would not  
18 be unreasonable to expect that general patrol  
19 troopers stop rates will be significantly higher  
20 than 30 percent.

21 Another sub-study in Soto, again,  
22 talking about the historical significance of the  
23 southern end of the Turnpike, was a study of  
24 arrests for drunk driving, which was truly  
25 astounding. That study indicated that if you took

1 the State Police activity completely out of the  
2 mix, local departments and county sheriff units,  
3 et cetera, stopped African-Americans for DWI  
4 offenses less than their percentage in the  
5 population, approximately 10.4 percent. When you  
6 put the State Police into the mix, state-wide the  
7 statistics were 12.4 percent. When you took out  
8 the locals, the county sheriffs and the local  
9 departments, and just looked at State Police  
10 activity state-wide, the figure jumped up to  
11 16 percent. When you took out State Police  
12 activity with the exception of Troop D, which is  
13 the Turnpike, the rate of minority DWI stops  
14 jumped to 23 percent. And when you looked at the  
15 Turnpike south of Exit 4, the deep southern end of  
16 the Turnpike, the rates went almost as high as  
17 50 percent. There is a long history or phenomenon  
18 of troubling activity on the southern end of the  
19 Turnpike.

20 To flag other issues that I've  
21 brought to your attention, I have tried to cite to  
22 you chapter and verse resources that you might  
23 want to look at for a number of reasons. First of  
24 all -- and this goes directly, actually, to one of  
25 my conclusions because at the end of my report I

1 have 10 suggestions that you can consider.

2 CHAIRMAN JOHNSON: We might want to  
3 move to those.

4 MR. BUCKMAN: And I might only deal  
5 with only 1 or 2 or couple more because you can  
6 read them and go beneath the surface as you feel  
7 fit. But it seems to me philosophically the  
8 overriding question that jumps out at me with  
9 respect to this Commission is that if the State  
10 Police and the Attorney General's Office profess  
11 to desire reform and profess that they are proud  
12 of supposed reform, then why would anybody want to  
13 object to making permanent some of the mechanisms  
14 that have supposedly been in place and have been  
15 responsible for that reform?

16 So the notion of ending the Consent  
17 Decree or mechanisms or ideas embodied by the  
18 Consent Decree on its face has the opposition lip  
19 service of almost anyone. We shouldn't end these  
20 mechanisms because they must be kept in place.

21 One of the most important examples  
22 is that if we had no Consent Decree and if we  
23 don't make it permanent, the State and the State  
24 Police would be immediately free to remove mobile  
25 video recorders from the police cars. The MVRs

1 have been the truly independent audit of at least  
2 trooper-on-citizen encounters. And when you talk  
3 about local police departments, the same problem  
4 exists. And sadly, anecdotally, many local  
5 departments are taking MVRs out of their cars  
6 because the tapes have proved too problematic in  
7 showing abusive situations between police and  
8 citizen encounters. So that's just one stark  
9 example.

10 Secondly, as I've tried to point out  
11 in my submission, profiling never existed in a  
12 vacuum. Profiling is the result and the product  
13 of a very troubled organization with a very  
14 troubled culture. It is an organization that,  
15 among other things, is extremely hostile to its  
16 critics within. And if we cannot trust State  
17 Police officers or any other officer in any  
18 department to be able to come forward and inform  
19 us of problems, then we will never have  
20 transparency in evaluating police agencies. And  
21 yet the State Police has a long and very  
22 dysfunctional history of retaliation, biased  
23 discipline, and arbitrary discipline, particularly  
24 against critics. And I have laid out my concerns  
25 about the fact that the two issues go hand in



1 hand, that we not only have to keep certain  
2 aspects of the Consent Decree permanently in  
3 place, but we have to dig into the culture of the  
4 State Police and end this atmosphere of  
5 retaliation.

6 And a quick point on that. The  
7 Consent Decree requires that troopers come forward  
8 and report misconduct in connection with  
9 citizen-trooper encounters. And yet the reality  
10 is, based on my involvement with numerous  
11 whistleblowers in the State Police, that State  
12 Police officers know that their careers or  
13 possibly their very physical integrity is in  
14 danger should they come forward and report  
15 misconduct. They are two concepts at tension with  
16 one another. And if we don't cure them at the  
17 same time, we will never have that type of  
18 transparency.

19 Close to lastly, I have the --

20 CHAIRMAN JOHNSON: I hope it's  
21 pretty close to lastly.

22 MR. BUCKMAN: It's almost Vulcan  
23 close to lastly. It's going to go that quick.

24 CHAIRMAN JOHNSON: Good. Live long  
25 and prosper.

1 MR. BUCKMAN: Thank you, sir.

2 I have included Exhibit 2. And I  
3 want to be very upfront with you. Over the years,  
4 representing whistleblowers and being involved  
5 with racial profiling issues and issues that  
6 whistleblowers in the State Police have suffered  
7 from, I have been the recipient of anonymous  
8 documents from time to time. I received Exhibit 2  
9 in the mail in an envelope about two years ago  
10 with a short memo saying, "You might want to take  
11 a look at this." This is a document marked  
12 confidential that is very blunt about the State  
13 Police that was commissioned by Attorney General  
14 Farmer, if you believe it, and lays out the scope  
15 of the entire problem, in many ways, as to what  
16 we're looking at. And I say to you, I don't know  
17 if this is a genuine document. I received it  
18 anonymously. But if you want to go beneath the  
19 surface, I suggest to you to ask the Attorney  
20 General's Office and the State Police pointblank,  
21 "Is this a legitimate document?" If so, the next  
22 question arises, given all the testimony you have  
23 heard, why hasn't this been turned over to you?  
24 If it's a legitimate document, and it refers to  
25 nine Police Executive Research Forum studies of

1 the State Police from 1996 to 2001 which have  
2 generally been very, very unflattering, why have  
3 those documents not been turned over to you as  
4 well?

5 I am simply suggesting to you that I  
6 have laid out in my position paper documents and  
7 specific questions and specific items that you can  
8 ask for. And then the question remains, if that's  
9 the case, why haven't you been provided with them?

10 And last, and I mean last, I have  
11 advocated and many people have advocated for an  
12 independent oversight entity to audit problems in  
13 the State Police. I won't go into the problems  
14 that have to be audited, but I want to -- I can't  
15 say strongly as I can from my own experience, this  
16 agency cannot be the Office of the Attorney  
17 General. They have over 30 years totally  
18 abrogated their ability to supervise the State  
19 Police and their impartiality with respect to the  
20 State Police, as Exhibit 2 lays out.

21 Thank you.

22 CHAIRMAN JOHNSON: Thank you. Thank  
23 all of the panelists.

24 We're going to start our next round  
25 of questioning from our panelists, our members of

1 the Committee. We'll try to keep it to under five  
2 minutes per person because we have several other  
3 panels of witnesses this afternoon.

4 We'll start with Mr. Bembry.

5 MR. BEMBRY: Are either one of you  
6 advocating or asking us to consider a different  
7 mechanism which has already been in place and  
8 coordinated by the Feds, a different mechanism to  
9 determine or evaluate racial profiling in the  
10 State of New Jersey?

11 MR. BAROCAS: Absolutely. The  
12 problem with what the Federal Consent Decree did,  
13 is it did not go beneath the surface at all. It  
14 did not scratch the surface. What it simply  
15 looked at is, for each stop was there a valid  
16 reason. That doesn't answer the question.

17 Mr. Buckman was talking about when  
18 you have discretion, there may be hundreds of  
19 people at any given time frame that are violating  
20 the law that would be subject to being stopped.  
21 The question is, why are on the southern portion  
22 of the Turnpike the troopers choosing 30 percent  
23 of those people to be African-American when we  
24 know that 30 percent of the drivers on the  
25 Turnpike are not African-Americans, 30 percent of

1 the speeders on the southern portion of the  
2 Turnpike are not African-American. So something  
3 has to be different than the method that they  
4 used. You have to look, to some extent, at the  
5 aggregate data, at the data that there is. And  
6 say, this number keeps rising. This was a problem  
7 that Attorney General Verniero said this proves  
8 that racial profiling is real, not imagined. And  
9 yet that has not changed. And Feds did not even  
10 look at that. They just looked at each individual  
11 stop. It doesn't answer the question.

12 What the independent monitor has to  
13 do, and independent monitors have done this in  
14 other cities, Oakland, LA, and elsewhere, is to  
15 look at -- as Mr. Buckman was saying, look at the  
16 culture, look at what brings this about. And if  
17 you have questions about the culture, Mr. Buckman  
18 can go on and on for more than the five minutes of  
19 all of you about that with the number of people  
20 that he's represented and the whistleblowers and  
21 the like.

22 And the part of the problem with the  
23 federal government as well, number one, we know  
24 that they're not interested in doing this  
25 anymore. And I don't want someone to be doing

1 this who's not interested in doing it. So I would  
2 agree with the ending of the Federal Consent  
3 Decree, but replacing it with something better.

4 And further, we know from the  
5 testimony of troopers themselves that the -- and  
6 Mr. Buckman has documents towards this, that the  
7 federal government was part of the training that  
8 taught the New Jersey troopers to look at race as  
9 one of the factors for stopping people.

10 MR. BEMBRY: My second question is,  
11 you indicated that we should have an independent  
12 agency or entity to monitor the activities of  
13 State Police or law enforcement. However, you've  
14 suggested another entity contrary to the Attorney  
15 General's Office. Why would not the Attorney  
16 General's Office be the appropriate place or  
17 entity to monitor the activities of the State  
18 Police?

19 MR. BUCKMAN: Well, the Attorney  
20 General's Office has an abysmal record of  
21 monitoring the New Jersey State Police. I'll  
22 certainly take you back to State v. Soto. Here is  
23 the agency that should be responsible for the  
24 State Police who essentially hid every piece of  
25 significant and culpatory evidence from us during

1 that long litigation. We were repeatedly assured  
2 that certain very, very troubling items did not  
3 exist, and we only received those documents once  
4 we were able to finally independently prove their  
5 existence.

6 There is the symbiotic culture where  
7 although the Attorney General's Office is supposed  
8 to supervise the State Police, they seem to always  
9 backslide into this notion of protecting the State  
10 Police from embarrassment.

11 As Exhibit 2 says, for 30 years, for  
12 3 decades, every Attorney General has said that  
13 this is a very troubled organization and it's out  
14 of control. The question then, what arises as to  
15 what they have done over the last 30 years to get  
16 it into control. To this date, as of -- we know  
17 now, for instance, that even after Soto, even  
18 after three innocent men were shot on the  
19 Turnpike, that the Attorney General knew that  
20 profiling was going on and the extent and width  
21 and breadth of the Attorney General's knowledge of  
22 profiling was not revealed until Attorney General  
23 Farmer released some documents and until the  
24 Senate Judiciary Committee dug into it. So we  
25 have never been able to trust the Attorney

1 General's Office for transparency and for  
2 no-nonsense discipline.

3 I would note that whatever reform we  
4 have wrought in the State of New Jersey with  
5 respect to police or New Jersey State Police, it's  
6 never come from the Office of the Attorney  
7 General. It has come from outside entities like  
8 the litigation of Soto and like individual  
9 litigants and like the U.S. Department of Justice.  
10 They have an abysmal record. They've had enough  
11 time. We need somebody independent.

12 CHAIRMAN JOHNSON: Ms. Brown.

13 MS. BROWN: Thank you, Chair.

14 And thank you for that testimony.  
15 It's very sobering and troubling.

16 I'm wondering -- what I'm taking  
17 from this is that the information collected under  
18 the federal monitoring program tells a story, but  
19 not all of the story. And I wonder if you can  
20 give us some additional indicators that you would  
21 think if you were trying to identify the three or  
22 four specific data points to capture that would  
23 help us to understand how this really continues to  
24 play itself out.

25 MR. BUCKMAN: Well, first of all,



1 again, as one of my suggestions, we should make  
2 publicly available to the public, because it has  
3 always been outside entities that have brought  
4 about reform, et cetera, we should make aggregate  
5 data, we should codify the release of aggregate  
6 data, make it periodic and make the State Police  
7 and the Attorney General's Office break it down by  
8 unit of the State Police. That would help myself  
9 and Dr. Lamberth and the ACLU know what the true  
10 picture looks like.

11 Number 2, we need to look at the  
12 forest and not the tree. Everybody on the  
13 Turnpike is violating the law in some way. The  
14 question is, why are you pulling over only one  
15 group for violating the law? Sure, you look at a  
16 videotape and you see, quote/unquote, probable  
17 cause to make a stop. But you'd see probable  
18 cause to stop anybody on the Turnpike. You can't  
19 focus on the tree, you've got to focus on the  
20 forest. So that's why we need to look at the  
21 statistics.

22 That's the problem with the  
23 monitor's reports, is that they looked at the,  
24 quote/unquote, reason for the stop, and they said  
25 they were valid. I'm sure that they could validly

1 stop me on 295 on the way back to my office. The  
2 question is, why are they stopping so few of me on  
3 the way back to my office? So the monitors never  
4 looked at the forest, they looked at the tree.

5 Lastly, while the monitors dug into  
6 discipline, they only dug into discipline with  
7 respect to trooper-citizen encounters. We are not  
8 examining discipline generally in the State Police  
9 to get a handle on this notion of retaliation, to  
10 get a handle on making this an organization safe  
11 for people to come forward to say when there's  
12 misdeeds. Those are some of the high points that  
13 I would hit.

14 And secondly, I would hit them  
15 pointblank. Where are all these reports that  
16 you've had for the last 10 years that have really  
17 talked of a troubled organization? And why haven't  
18 they been provided to the public, to others in  
19 government, and to us?

20 DR. LAMBERTH: If I may say  
21 something. I think one thing which has amazed me  
22 is that the monitor has been monitoring for a long  
23 time and has never really performed the type of  
24 analysis to determine if too many of one group are  
25 being stopped. That analysis just plainly and

1 simply had not been done. And the independent  
2 entity should make sure that there is an analysis  
3 done, and it is an analysis that would include the  
4 not aggregate data but the disaggregated data so  
5 that you may look at the unit, you may look at the  
6 section of the Turnpike. Other than just 7A to 1,  
7 you may look at all of it and do an analysis and  
8 see if indeed there is one group or another that  
9 is being stopped too often, searched too often,  
10 asked to exit the vehicle too often, whatever  
11 might be the case.

12 MR. BUCKMAN: Lastly, I would add  
13 one other thing from a source in the State Police  
14 that shared this with me. During the period of  
15 this monitorship, unfortunately, the monitors gave  
16 the State -- very often, the State Police 30 days  
17 notice of the various barracks and places that  
18 they were going to audit. The State Police had a  
19 unit that they put together which went to these  
20 pre-announced barracks to make sure everything was  
21 in order and every "T" was crossed and every "I" was  
22 dotted, and then they made their examinations. If  
23 we're going to do random audits, let's just show  
24 up there and do audits.

25 MR. BAROCAS: Finally, I just wanted

1 to add that --

2 CHAIRMAN JOHNSON: Add quickly,  
3 because I'm going to have to really hold us to the  
4 time.

5 MR. BAROCAS: Yes. You mentioned  
6 what function. Mr. Buckman talked about the  
7 discipline process not only for citizens  
8 complaints but for disciplining troopers for  
9 internal issues and whistleblowing, that happens  
10 at the local level, too, tremendously. That has  
11 to be taken care of. I know we deal with it at  
12 the ACLU. We get complaints from Newark all the  
13 time. Cultures of corruption abusing the  
14 discipline process, not for appropriate  
15 discipline, but for retaliation. And that's why  
16 it's important that the independent monitor be not  
17 just State Police but for the local police as  
18 well.

19 CHAIRMAN JOHNSON: Thank you.

20 Ms. Carroll.

21 MS. CARROLL: If I'm hearing you  
22 correctly, gentlemen, are you saying you should  
23 remove the ability for a trooper and/or police  
24 officer to use any discretion?

25 MR. BUCKMAN: I'm certainly not.

1 DR. LAMBERTH: No.

2 MR. BAROCAS: No.

3 DR. LAMBERTH: Absolutely not.

4 MR. BUCKMAN: Certainly, discretion  
5 is fine to give somebody a warning and say,  
6 "Please slow down." But the unbridled discretion  
7 to consciously or unconsciously stop a particular  
8 group is troubling. And given the numerous  
9 studies that have been done that show what is not  
10 surprising, and that is that essentially all  
11 ethnic groups drive about the same and everybody's  
12 violating the law on the Turnpike, we should not  
13 see stop rates of minorities five times higher  
14 than Caucasians.

15 MR. BAROCAS: If a local business  
16 person wants to deny service to someone, they can  
17 perhaps do that for a number of reasons. One  
18 reason they can't use that discretion is race or  
19 religion. Lawyers can object to certain jurors  
20 for a number of reasons. They can't do it because  
21 of race or religion. The troopers, the State  
22 Police can use discretion for a number of reason,  
23 one reason they can't do it is race.

24 MS. CARROLL: Thank you.

25 CHAIRMAN JOHNSON: Mr. Donovan.

1 MR. DONOVAN: Thank you, Mr.  
2 Chairman.

3 Gentlemen, thank you for your  
4 testimony.

5 Mr. Barocas, just a quick question  
6 on licensing. I usually support licensing, but  
7 I'm assuming, like most professions, there would  
8 have to be someone who would enforce any  
9 complaints against the license. Would you  
10 recommend that this independent oversight group be  
11 the ones who are responsible for giving the  
12 license, monitoring, and disciplining?

13 MR. BAROCAS: Probably not. I mean,  
14 we have a system in place that licenses, dozens or  
15 even hundreds of different professions, from  
16 manicurists to barbers and registered nurses, and  
17 that's the function of certain groups within -- I  
18 think it's the Department of Health, perhaps. And  
19 it's appropriate. Basically, you don't need it to  
20 be the independent monitor to see who has  
21 complaints. It's really a best practices issue.  
22 It's ensuring -- I can't imagine that -- let's  
23 take from where I live. That Montclair would want  
24 to hire a police officer if they find out that, in  
25 fact, they were fired for misconduct from West

1 Orange. So it's a matter of licensing and then  
2 losing licenses for certain issues, whatever level  
3 we want to do it at, whether it's for significant  
4 convictions, whether it's for misconduct within  
5 offices. That can be all resolved and discussed  
6 and considered. But it's a way of tracking that  
7 so we don't have the rogue cop from one town going  
8 to another. I don't think that needs to be  
9 independent monitor. I think it should be done  
10 the same way that it is done with manicurists and  
11 barbers.

12 MR. DONOVAN: But most  
13 municipalities who have private investigation  
14 could root out some of the those issues. What  
15 you're recommending is something that's  
16 duplicative on the state level and also on the  
17 local level.

18 MR. BAROCAS: I don't think it's  
19 duplicative because, number one, especially when  
20 you're dealing with police officers, a lot of them  
21 never result in convictions. And instead, what  
22 they result in is they get fired. And most --  
23 almost every state in our nation has this. I  
24 believe there are only five or six states, New  
25 Jersey being one of them, that does not have this.

1 And it seems a little absurd that you have more  
2 protection against your local barber or manicurist  
3 than you do against the State Police or local  
4 police that have a lot of discretion regarding  
5 your person.

6 I lost my train of thought here for  
7 a second. Oh, I remember.

8 Most in the states that they have  
9 it, they find that most of the reasons that people  
10 fall under this, that they lose their license, are  
11 sexual misconduct. Either domestic violence or  
12 the trading sexual favors for women to get out of  
13 a ticket. These are things that don't show up in  
14 the criminal law that we see. Most often, simply,  
15 they get fired. But those are not people that we  
16 want to have hired, and I'm sure the police force  
17 for the towns would not want to hire these people  
18 when they find out that they've done it elsewhere.  
19 Licensing would ensure that the towns as well as  
20 the townspeople are protected.

21 MR. DONOVAN: Thank you.

22 CHAIRMAN JOHNSON: Reverend Floyd.

23 REVEREND FLOYD: Gentlemen, good  
24 afternoon. Glad to have you all here. I'm very  
25 delighted to hear your testimony. I'm excited to



1 hear your testimony because it's like being at a  
2 heavyweight prize fight. We've had very, very  
3 good presenters. It's like you have a bunch of  
4 championship fights and finally you get one fight  
5 where there's a knockout. The reason I'm saying  
6 this is because most of the presentations, in my  
7 opinion, have been so very favorable in terms of  
8 the response of the State Police concerning the  
9 Consent Decree.

10 I want to ask -- and any one of you  
11 can answer this question. I hope I make myself  
12 clear. What I get from your testimony is that the  
13 Consent Decree has not been totally fulfilled,  
14 especially with respect to what's been going on in  
15 the southern portion of the state. Am I correct  
16 with that assessment?

17 MR. BAROCAS: Absolutely.

18 REVEREND FLOYD: So then I would  
19 ask, is it in your professional opinion that the  
20 Consent Decree should not be lifted?

21 MR. BAROCAS: I think the current  
22 form of the Consent Decree -- I think the Consent  
23 Decree should be lifted.

24 REVEREND FLOYD: You think it should  
25 be lifted?

1 MR. BAROCAS: It should be lifted  
2 because it's not doing its job. It needs to be  
3 replaced by something better.

4 You're talking about a heavyweight  
5 fight. The knockout blow here, to me, is the  
6 State's own numbers. When it was at  
7 28-point-something percent in 1999, it was those  
8 numbers that led the then Attorney General to say,  
9 "I look at these numbers and I say racial  
10 profiling is real, not imagined." The numbers now  
11 are worse. It has not gotten any better. So if  
12 it was racial profiling back in 1999 when it was,  
13 I think, 28.7 percent, then it's racial profiling  
14 today when it's over 30 percent. That is a  
15 knockout blow. The federal government did not do  
16 its job because it do not scratch below the  
17 surface. It has no cares to do that job. It does  
18 not want to do it; it wants to see this lifted.  
19 We, as the State of New Jersey, need to replace it  
20 with something that does work.

21 REVEREND FLOYD: The surprise to me,  
22 then, is that your testimony, would not the MAPPS  
23 System have indicated that what you're saying is  
24 taking place?

25 You are familiar with the MAPPS

1 System, correct?

2 MR. BAROCAS: Yeah. But Bill is  
3 more so.

4 REVEREND FLOYD: Because I have not  
5 heard any testimony with respect that the MAPPS  
6 System that's been replaced by the State Police  
7 that would indicate that there's such aberrations  
8 as you are indicating in the southern portion of  
9 the State. I'm wondering how come I didn't hear  
10 it before.

11 MR. BUCKMAN: Again, the MAPPS  
12 System would look at trees, not the forest. I am  
13 troubled by what I've heard about the MAPPS System  
14 also particularly in terms of the component where  
15 videos from time to time are supposed to be viewed  
16 by supervisors, because I could share with you any  
17 number of abuse of videos that I have seen from  
18 these MVRs that were not the result of discipline.  
19 So I can't say exactly how the MAPPS System is  
20 being circumvented, but it is being circumvented  
21 to a great extent. It is not alerting ourselves  
22 to all of the problems out there, and it is  
23 certainly not showing us the forest as opposed to  
24 the trees.

25 Again, I would answer your question

1 a little bit differently than Mr. Barocas. If  
2 this Committee would not replace the Consent  
3 Decree with anything, then I'd rather have the  
4 Consent Decree stay. But in reality, some of the  
5 Consent Decree things need to be made permanent  
6 and other things need to be added to it. But the  
7 one thing we can't have is another vacuum for us  
8 to fall back into the culture of biased policing.

9 REVEREND FLOYD: Thank you.

10 CHAIRMAN JOHNSON: Mr. Huertas.

11 MR. HUERTAS: Thank you.

12 Thank you for your testimony. I  
13 thought you were talking about making two  
14 different things. What are you are saying is the  
15 Consent Decree currently does not measure what you  
16 believe is going on, which is racial profiling; is  
17 that correct?

18 DR. LAMBERTH: Yes. If I may answer  
19 that. Typically, the federal consent decrees do  
20 not require that the issue of racial profiling be  
21 measured. Rather, it is, are data to be  
22 collected, are they being collected? And if you  
23 go through all of those things, yes, the New  
24 Jersey State Police have collected these data. No  
25 one has analyzed them. And I must say that there

1 is at least one place I know, the City of  
2 Cincinnati, which has had great trouble with its  
3 police department, who when they went into a  
4 Consent Decree also hired someone to come in and  
5 analyze the data in addition to the Consent  
6 Decree.

7 MR. BAROCAS: The one thing I'd add,  
8 though, the numbers that I gave, those are the  
9 State's numbers. You know, the disparity between  
10 the southern portion of the Turnpike and the  
11 northern portion of the Turnpike that has been  
12 consistent since they were doing that, since '99,  
13 has always been consistent. Those are all the  
14 State's data. But as Dr. Lamberth said, the  
15 Federal Consent Decrees, they did not analyze the  
16 data.

17 MR. HUERTAS: Two more questions.  
18 One was, the composition of this independent  
19 agency, what would that be and where would it sit?  
20 Because -- and I'll give you my follow-up  
21 question. You noted in your testimony that you'd  
22 receive far more complaints from local police than  
23 you do from State Police at this time. Can you  
24 give me some idea as to how many complaints you  
25 receive, approximately?

1 MR. BAROCAS: I cannot off the top  
2 of my head, but I can have our manager look into  
3 that.

4 Just so you know, the problem is if  
5 we get three a year from Irvington, five a year  
6 from Newark, seven a year from East Orange, it's  
7 not in a way that we can really bring the lawsuit.  
8 The way that in Soto you had so much simply  
9 because the Turnpike is the most traveled road.  
10 You have the larger dataset to look at to really  
11 see the disparities. You can't see that  
12 currently.

13 I think there probably are ways of  
14 looking at it. I mean, we've had people contact  
15 us to say, "I just had a ticket in X Township, and  
16 I went to court there. And although the township  
17 is almost white, 90 percent of the people at court  
18 for the traffic violations were African-American  
19 or Hispanic."

20 There is a way to track it through  
21 the court system. I don't think it's currently  
22 done, but that's possible.

23 As far as where the independent  
24 agency lies, there are a number of different ways  
25 to do it. I don't think that I would be the best

1 person to discuss this. I think Sam Walker who we  
2 spoke with this morning would probably be better.  
3 Because, for example, it would be different if  
4 you're doing a city like Oakland versus an entire  
5 state. It might be different if you're doing the  
6 entire state and all the local towns together  
7 within one agency. An expert like him would be  
8 much better.

9 MR. HUERTAS: But you are  
10 recommending that this independent monitoring all  
11 law enforcement agencies in the State of New  
12 Jersey?

13 MR. BAROCAS: Absolutely. Because I  
14 think that the cultures that we see in the State  
15 Police that led to racial profiling we also see  
16 elsewhere. I work in Newark, so a lot of people  
17 come to us in Newark and we see that especially  
18 with the discipline system, absolutely.

19 MR. HUERTAS: Thank you.

20 MR. BUCKMAN: In my contact with the  
21 public, I certainly see plenty of examples of  
22 biased policing on the part of local departments.  
23 In my presentation, I put out there the idea, for  
24 instance -- it's very current in terms of our  
25 budget discussions in New Jersey right now -- why

1 not think in terms of telling local departments to  
2 stop their redundancy and the practice of each  
3 department having an Internal Affairs Department,  
4 why not regionalize, why not make the departments  
5 contribute to a regionalized Internal Affairs  
6 officer who is not beholden to his or her  
7 department?

8 I think there are any number of  
9 creative ways that we can think about,  
10 particularly with respect to local departments.

11 MR. HUERTAS: Thank you very much.

12 CHAIRMAN JOHNSON: Reverend Justice.

13 REVEREND JUSTICE: Thank you, Mr.  
14 Chair.

15 Thank you for your presentation.  
16 With regard to the IMT, given what you've  
17 indicated what the numbers are and all that good  
18 stuff, that they would not have taken into  
19 consideration, as you're saying, the importance of  
20 the analyzation of this issue that is so serious  
21 and heavy. I surely got your tree/forest analogy.  
22 Misrepresentation? What would you call it?

23 MR. BUCKMAN: Would I call it  
24 misrepresentation?

25 REVEREND JUSTICE: What --



1 MR. BUCKMAN: I would use another  
2 "M" word; maybe myopia, but I couldn't say a  
3 misrepresentation. That is, we've always in this  
4 issue of dealing with profiling dealt with this  
5 notion of the forest and the tree. And it depends  
6 on how you want to look at it. It is a bundle of  
7 symbiotic mechanisms in any police organization  
8 that contribute to this type of problem, the  
9 culture, the failure of management to ask, slice,  
10 dash, and chop the data the way they should, and  
11 the failure to, quote/unquote, go beneath the  
12 surface, as well as disciplinary systems.

13 REVEREND JUSTICE: I guess you would  
14 say too that -- this is rhetorical -- that the  
15 reform has not changed the culture?

16 MR. BUCKMAN: I would strongly  
17 suggest that. I would strongly suggest that.

18 CHAIRMAN JOHNSON: Thank you.

19 Mr. Khalaf.

20 MR. BUCKMAN: I would add that I  
21 think Exhibit 2, to the extent that you confirm  
22 that it is genuine, says it.

23 MR. KHALAF: I just have a couple  
24 questions here.

25 Out of curiosity, how did you

1 identify the drivers in your study as being black  
2 or being white?

3 Did you look at other ethnic groups  
4 besides African-Americans and whites?

5 DR. LAMBERTH: We identified them  
6 visually, just as the troopers would if indeed --  
7 as testimony came out in the Soto case, if it is  
8 occurring, then those drivers get identified  
9 visually. And, yes, we did identify other  
10 minorities. We did not report upon that because  
11 of the fact of, trying to remember, I think that  
12 there were much smaller numbers there.

13 MR. KHALAF: Were these other  
14 minorities reported at all?

15 DR. LAMBERTH: I don't think so. I  
16 apologize.

17 MR. BAROCAS: I will say I do have  
18 some of the numbers for other groups. For stops  
19 of Hispanics at the Moorestown -- from the  
20 Moorestown Barracks in 2005, it was 11.2 percent;  
21 Asian Indian, it was 2.7; other Asian, 5.5  
22 percent.

23 MR. KHALAF: Have you seen an uprise  
24 of complaints coming in, especially from the local  
25 police, regarding other minority groups besides

1 just African-American?

2 MR. BAROCAS: Yes. Obviously,  
3 post-September 11th we had many contacts from the  
4 Arab communities, Muslim communities, actually  
5 South Asian communities. And a lot it was in  
6 response to federal actions. The federal  
7 government interviewing people and some of the  
8 interviews asked about religion and asked about  
9 other people that they knew. So we did receive a  
10 number of complaints there.

11 And, yes, we received complaints on  
12 the local police level as well. Not only from  
13 African-Americans, but Hispanics and Arabs and  
14 South Asians as well.

15 MR. KHALAF: Besides the licensing,  
16 what other recommendation would you make in  
17 regards to the local police?

18 MR. BAROCAS: I think that the same  
19 concern that we've been raising and Mr. Buckman is  
20 raising regarding the discipline system. Really,  
21 that if I had one focus beyond your racial  
22 profiling issue regarding getting at the culture,  
23 that is one of the keys. And again, the one that  
24 I have the most experience with, perhaps because I  
25 work there, perhaps it's so large, is Newark. And

1 we see the same problem with discipline that we do  
2 at the state level. And that the independent  
3 monitor needs to review all those. I understand  
4 we have so many independent local police  
5 departments, perhaps that's part of the problem,  
6 is that we have so many people who have authority  
7 over a small area and there is no oversight. As  
8 Mr. Buckman was talking about, perhaps getting a  
9 more county-wide or at least banded together to  
10 get some more review rather than each independent  
11 township. But we do see that and that would be  
12 the focus, I would say, on the local level.

13 MR. KHALAF: Thank you.

14 CHAIRMAN JOHNSON: Mr. Susswein.

15 MR. SUSSWEIN: Thank you.

16 I just want to ask a very -- I know  
17 time is short. I want to go to a specific  
18 question to follow up on a point that I haven't  
19 heard before today.

20 Bill, you acknowledged that mobile  
21 video recorders are a powerful monitoring tool  
22 which may be one of the few points that I suspect  
23 State Police would agree with you today. My  
24 conversations with troopers at all ranks and also  
25 local police when they have the MVRs, they come to

1           rely upon them to protect them from false  
2           accusations.  Whatever initial resistance there  
3           might be, they tend to depend upon them.  In fact,  
4           my understanding, at least with State Police, is a  
5           trooper doesn't have to go out on the road if his  
6           or her MVR is malfunctioning.

7                        You said that there were departments  
8           that had eliminated the MVRs because of --  
9           ostensibly because the cameras put into view  
10          problematic behavior.

11                      Specifically, what departments in  
12          New Jersey discontinued their MVR program?

13                      MR. BUCKMAN:  Frankly, I can't  
14          answer that.  That was shared with me by a local  
15          police department client who spoke of his  
16          department and spoke with other neighboring  
17          departments that were eliminating MVRs.

18                      MR. SUSSWEIN:  So you're saying  
19          you're under some kind confidentiality --

20                      MR. BUCKMAN:  Yes.  Unfortunately, I  
21          can't tell you the specifics of that.

22                      But I would agree with you, and I  
23          think the MVR's protect everybody.  My only  
24          concern about MVRs is they don't go on soon  
25          enough.  They only go on when the lights go on.

1 They don't necessarily show the conduct of the  
2 police officer ahead of time in terms of the  
3 proper reason for the stop. But I'm not just some  
4 bleeding-heart liberal asking for these MVRs. In  
5 the dynamics of my office, because of the  
6 significant independent nature of the MVR, I say  
7 to my clients, "You know, there's probably an MVR.  
8 Now, it's going to show what happened. Before we  
9 get it, do you still stick by your story?"

10 So it protects everybody.

11 MR. SUSSWEIN: Thank you.

12 CHAIRMAN JOHNSON: Mr. Ortiz.

13 MR. ORTIZ: Thank you for your  
14 testimony. The question I had, you mentioned that  
15 with the monitors that there's advanced notice  
16 given to barracks before the monitors arrived and  
17 the State Police sort of an advanced team will go  
18 there. Would you tell us what this advanced team  
19 does? And does it have any impact on the results  
20 that the monitor may see? Is there any specific  
21 information you can share with us about that?

22 MR. BUCKMAN: Well, the specific  
23 information that I received is that there is a  
24 squad in the New Jersey State Police that responds  
25 to stations or barracks that the monitors have

1           said that they will be inspecting in the next  
2           30 days or 30 days hence. And they make sure that  
3           all the documentation is present, that the video  
4           recorders all seem appropriate and whatever else  
5           should be in order.

6                        It seems to me that an independent  
7           monitoring system, you don't -- you wouldn't give  
8           them 30 days notice of your visits. And if you  
9           are truly trying to reform an organization, one  
10          would think that even if such a squad existed that  
11          it would be generating a lot more discipline as a  
12          result of problems found at particular barracks  
13          than is indicated.

14                       MR. ORTIZ: Without this advanced  
15          notice, the results would be different, is that what  
16          you're saying?

17                       MR. BUCKMAN: You tell me that  
18          you're going to come to my office 30 days from  
19          now, it's going to be a lot cleaner.

20                       MR. ORTIZ: Mr. Barocas, with  
21          respect to the initiative with local levels, are  
22          there any -- and this may be difficult, but are  
23          there any patterns or trends that you're seeing?  
24          If so, is there any part of the State where it may  
25          be worse?

1 MR. BAROCAS: No. That's really the  
2 problem. Because we have over 500 different  
3 little local departments, there's not enough of a  
4 dataset to see impact. There may be a time where  
5 -- a year where I get six complaints from  
6 Irvington. At the same time I may get four  
7 complaints from Newark. The next year I may get  
8 seven complaints from Newark, three complaints  
9 from East Orange. There's not enough dataset,  
10 simply, to do it.

11 And a lot of this, I have to say, on  
12 the New Jersey Turnpike after the Soto case and  
13 after the interim report and after the ACLU  
14 brought a lawsuit on behalf of 12 individuals,  
15 people knew to contact us. People don't know  
16 always to contact us. But we assumed that the  
17 majority of the people are not contacting anyone.

18 But to answer your question, we do  
19 get complaints but not enough to show a pattern of  
20 practice. It's hard to find attorneys to take  
21 these cases because a lot of it is going to be a  
22 he-said/she-said type situation between the person  
23 that says, "I was stopped and racially profiled"  
24 or "I was beaten by the police." And police  
25 officers who says, "No, this never happened." So



1 it's hard to do. We're able to do it on the New  
2 Jersey Turnpike because of the extent of the  
3 dataset.

4 MR. ORTIZ: Just one follow-up. Do  
5 you find that the age of some officers specific or  
6 is it really a cultural thing specific to police  
7 departments.

8 MR. BAROCAS: We don't know because  
9 we don't have the data. I mean, this is part of  
10 the data that we're saying should be open to the  
11 public or especially to an independent monitor.  
12 If it is a few bad apples, it could very well be  
13 that.

14 But the public can't have confidence  
15 in the system unless they know what's going on.  
16 And openness is the greatest disinfectant. So if  
17 we would think that the police would want to open  
18 up the records to show, look, the majority of the  
19 people are good, but the data is not available to  
20 that extent at this point.

21 MR. ORTIZ: Thank you very much.

22 CHAIRMAN JOHNSON: Mr. Stier.

23 MR. STIER: Thank you.

24 We've heard a lot of very negative  
25 information about the State Police and all the

1 police -- the State Police under the Consent  
2 Decree and practices going on at the local level.

3 Is there any good news? Is there  
4 any police organization in New Jersey that you  
5 know of that's doing a good job, that is not  
6 acting in a biased way in the way they enforce the  
7 law?

8 MR. BAROCAS: Number 1, I assume  
9 that most are. And I assume that even in  
10 departments that have a lot of problems that most  
11 of the officers are, in fact, there to serve and  
12 protect us all. And that probably is true of the  
13 State Police as well. Again, you look at the  
14 disparity between Newark Barracks and Moorestown  
15 Barracks, and there's a vast disparity. There's  
16 something going on there. Where the Newark  
17 Barracks are stopping people at the rate that Dr.  
18 Lamberth report says is probably the percentage of  
19 African-Americans drivers who are speeders. But  
20 then why is the Moorestown Barracks stopping  
21 double that amount?

22 So clearly there are a lot of  
23 individuals and they're not -- I would even say  
24 the majority --

25 MR. STIER: I don't mean to cut you

1 off. Let's assume that the majority people are  
2 honest. I'm looking for an example, a benchmark  
3 that we can look to, a police department that has  
4 solved its problems, has a system in place to  
5 manage the way in which the law is enforced so  
6 that people are treated equally. So do you have  
7 an example for me?

8 MR. BAROCAS: I don't know that  
9 there is one in New Jersey that we can say they  
10 have the system in place to ensure that the  
11 problem doesn't happen. I imagine an expert like  
12 Sam Walker would be able to tell you nationwide  
13 where those exists. But I think licensing is a  
14 strong start to put the systems in place to ensure  
15 that --

16 MR. STIER: I understand. I don't  
17 want to consume too much time going over ground  
18 we've already covered.

19 Mr. Buckman, do you have an example  
20 of a police department?

21 MR. BUCKMAN: Again, I would just  
22 generally say that you've heard bad news because  
23 we're focussing on problems. And no matter --  
24 even if the problems were minuscule, biased  
25 policing is unacceptable in New Jersey, and we've

1 got to come up with systems to prevent it.

2 I can't tell you any specific  
3 department because the nature of my involvement in  
4 the departments is when I hear horrific stories.  
5 I could be specific with you in saying the  
6 departments that I'm very familiar with where I've  
7 never heard a complaint from. Where if I go in  
8 their building or go to the municipal court, I see  
9 people treated with dignity and that sort of  
10 thing. I'm reluctant to say names because I don't  
11 know exactly what's going on there. But are there  
12 departments that seem to be doing a good job  
13 because bad news is not seeping out? Absolutely.

14 MR. STIER: You said something a  
15 moment ago. I just want to make sure that we  
16 fully appreciate this. Your practice, I take it,  
17 is based on, in part anyway, representing  
18 individuals who feel aggrieved by police  
19 organizations, many of them State Police;  
20 sometimes they're troopers, sometimes they're  
21 members of the public.

22 MR. BUCKMAN: Yes, sir.

23 MR. STIER: So you're hearing what  
24 they have to tell you about their experiences,  
25 their perceptions, their knowledge. You're not

1 doing any sort of broad survey of the way the State  
2 Police operates? You're not speaking from that  
3 perspective, as Dr. Walker would, for example?

4 MR. BUCKMAN: I'm certainly not as  
5 smart as Dr. Walker.

6 MR. STIER: I'm not questioning  
7 anybody's intelligence. Please, hear me out. I  
8 just want to know what the basis is for the  
9 conclusions that you've presented to the  
10 Commission.

11 MR. BUCKMAN: The basis is documents  
12 that I've acquired over the years because of my  
13 involvement in these issues from Soto on up. I  
14 have maintained a fairly substantial store and  
15 library of documents, statistical and otherwise,  
16 training materials, internal memos that have been  
17 leaked to me and that sort of thing. So it's not  
18 just based on disgruntled troopers. It is based  
19 on the evidence that I've seen.

20 I can assure you that I've sent away  
21 as many troopers or laypersons or many more than I  
22 have taken on as clients because I said, "I'm  
23 sorry, I think that you've been treated  
24 appropriately."

25 MR. STIER: Let me ask you something

1 about -- something that I think I remember you  
2 saying during your initial statement. And that  
3 is, you refer to racially charged training; is  
4 that correct?

5 MR. BUCKMAN: Yes.

6 MR. STIER: Were you suggesting that  
7 that's still going on, or that was being done  
8 prior to the creation of the Consent Decree?

9 MR. BUCKMAN: Mostly prior to the  
10 creation of the Consent Decree. However -- and  
11 I've seen some good aspects of training in the  
12 wake of the Consent Decree. Again, it is whether  
13 or not management is actually reenforcing that  
14 training on the road.

15 Secondly, the problem that I  
16 sympathize with many state troopers with, is the  
17 fact that many of them for many years received  
18 very poor, racially charged training. And then  
19 they started getting this new training or some new  
20 aspects of training. But for whatever reason, the  
21 State Police never came forward and said, "You  
22 know what? We want to make something clear to  
23 you. This particular seminar you got pre-1999,  
24 this particular seminar you got pre-1999, this  
25 particular lesson you received from the Drug

1 Interdiction Training Unit or interdiction  
2 practices, that was a disservice to you. It was a  
3 mistake. Please forget it."

4 They're left somewhat in limbo by  
5 having received certain training and never being  
6 told that it's being completely countered.

7 The only other caveat that I have is  
8 something that I've placed in my materials, and  
9 that is, whether officially sanctioned or not, in  
10 the expectation that, quote/unquote, the Consent  
11 Decree will die, that unofficial forms of  
12 interdiction and training very much like training  
13 pre-1999 have been offered in the State Police  
14 recently, albeit, quote/unquote, unofficial. I've  
15 heard this from a number of sources, and it's  
16 troubling. It's as Exhibit 2 speaks,  
17 quote/unquote, the rubber band effect.

18 MR. STIER: May I ask you what you  
19 mean by "unofficially."

20 MR. BUCKMAN: Troopers gathering  
21 together to share techniques on, quote/unquote,  
22 interdiction, drug interdiction. Maybe not just  
23 gathering, maybe an announcement at this  
24 particular barracks conference room there will be  
25 a training on drug interdiction techniques, which

1 on the surface the term sounds appropriate but  
2 it is a key word for some very discredited  
3 training techniques that were very racially  
4 charged prior to 1999.

5 MR. STIER: Finally, is it your  
6 belief that no Attorney General, let's say, from  
7 1980 through the current administration and no  
8 superintendent of the State Police during that  
9 same period has attempted to address these issues  
10 of biased policing?

11 MR. BUCKMAN: I think that there  
12 have been attempts. They have been too little and  
13 too late and too anemic. Again, there is this  
14 fascinating cultural, I think, issue, particularly  
15 in the Attorney General's Office, as an  
16 undergraduate in sociology, where the office seems  
17 to revert to its conflicting role of protecting  
18 the State Police from embarrassment as opposed to  
19 actually supervising them when troubles arise.  
20 Now, when I talk about -- I'm referring to  
21 Exhibit 2. I have not been practicing law for  
22 three decades, thank God. But I can tell you from  
23 Soto on down since 1989, I have been very  
24 disappointed to see the response of our public  
25 officials to this problem. I know from the record



1 in Soto that we were lied to, that we were lied to  
2 by the Attorney General's Office. We know from  
3 the Senate judiciary hearings that we were lied to  
4 by the Attorney General's Office about when they  
5 knew stuff and how they knew it and that sort of  
6 thing. That doesn't come from me. That doesn't  
7 come from my opinion. It's a fascinating  
8 sociological phenomenon, but it's a fact. And I  
9 think some superintendents have tried to do some  
10 things but, again, much too little. And the  
11 culture in the organization very often pulls  
12 superintendents down because there are always  
13 these attempts to let certain people slide and not  
14 be disciplined and other people be disciplined, et  
15 cetera, et cetera.

16 MR. STIER: Thank you.

17 CHAIRMAN JOHNSON: Ms. Yang.

18 MS. YANG: Thank you Mr. Chairman.

19 Thank you, gentlemen, for your  
20 testimony.

21 There has been testimony from a few  
22 police organizations that diversifying the ranks  
23 of New Jersey State Police and local police  
24 department will be beneficial. In your opinion,  
25 would you find diversification would somehow

1 mitigate the problem you have with racial  
2 profiling?

3 MR. BUCKMAN: It couldn't hurt. I  
4 agree that it would be good. And that's one of  
5 the problems that we have with previous Consent  
6 Decrees and Attorney General supervision in this  
7 State. We had a Consent Decree with the Justice  
8 Department in 1975 to integrate the State Police with  
9 realistic goals. They were -- I don't think they  
10 were ever actually achieved, despite the  
11 diversified population we have in this State. And  
12 then when the Decree expired, they plummeted  
13 down. But certainly diversity is a wonderful  
14 thing and would be a wonderful thing. The problem  
15 -- you know, in the previous panel, I heard  
16 questions addressed to, well, how do we recruit  
17 more minorities and that sort of stuff. It's  
18 tough to recruit minorities into an organization  
19 that is very infamous for the way it treats  
20 minorities. So once again, there is going to be a  
21 symbiotic relationship between the culture,  
22 between the disciplinary systems and the  
23 promotional systems and the very important goal of  
24 diversifying this or any other police agency.

25 MS. YANG: Thank you.

1 CHAIRMAN JOHNSON: Thank you.

2 John Goldstein left, but left a  
3 question with me and I have some questions of my own.  
4 I will not take 10 minutes. So let me just move  
5 through this fairly quickly.

6 In Mr. Barocas, Mr. Ortiz asked you  
7 some questions about the number of complaints that  
8 the ACLU has received. And we are clearly not in  
9 a position to compel anybody to give us any  
10 information. But if the ACLU has compiled for the  
11 period from 1997 through the present the  
12 complaints that you've received about trooper  
13 conduct or misconduct in each of those years, that  
14 would be helpful to us as one more measure to look  
15 at to see the level of the problem. And  
16 obviously, since this is a self-reporting system  
17 and it's not a survey system, we would understand  
18 that it may not be wholly representative but it  
19 could give us a sense of what's going on. So if  
20 you do that, that would be helpful.

21 Dr. Lamberth, Mr. Khalaf asked you  
22 about the race of the drivers and how it was  
23 determined during the course of the survey. Were  
24 photographs taken of the drivers that were  
25 actually surveyed, or was this simply an on-site

1 identification by the surveyors of the race of the  
2 drivers?

3 DR. LAMBERTH: Photographs were not  
4 taken. Photographs are almost impossible to take  
5 of moving cars with a great deal of accuracy  
6 because of a variety of different weather  
7 conditions and the fact that you had one instance  
8 where the photo is taken, and it turns out --

9 CHAIRMAN JOHNSON: Unless you're  
10 using a video camera.

11 DR. LAMBERTH: Even if you use a  
12 video camera, that may work a little bit better,  
13 but we have found -- and let me assure you, we  
14 have tried and we have tried and we have tried to  
15 use photographs. We simply have a huge amount of  
16 missing data that we cannot identify people for  
17 one reason for another. So we do not use  
18 photographs. We use individuals who were there.  
19 And one of the things is that if you move just  
20 slightly one way or the other, you get a much better  
21 view of the person. And we had the people there  
22 who can actually make that movement and make that  
23 identification. Or more oftentimes, at least on  
24 the New Jersey Turnpike, we use people who were in  
25 automobiles themselves who are driving along and

1 having a car pass them or they are passing a car  
2 so that they have a longer period of time to  
3 actually look at that individual because they're  
4 both moving together.

5 CHAIRMAN JOHNSON: Now, with respect  
6 to the methodology that the surveyors used, I know  
7 the focus has been on the southern part of the  
8 Turnpike. Was there also tests done -- were there  
9 tests done as well on the northern end to see  
10 whether or not the data squared with some of the  
11 other things that you were seeing on the northern  
12 end?

13 DR. LAMBERTH: We did not do a  
14 survey on any portion in 2005. We had done a  
15 survey earlier, 2000, I think, 1999, 2000 in which  
16 the numbers, particularly in the Newark station  
17 squared much more with -- and I think Mr. Barocas  
18 was referring to the study that was done which  
19 indicated that in Newark the stops and the people  
20 violating the law, the percentages were very close  
21 to each other. The Cranberry Barracks, as I  
22 remember -- now I'm going off the top of my head  
23 -- was intermediate, but the real problem seemed to  
24 be Moorestown.

25 CHAIRMAN JOHNSON: Thank you.

1                   Now, this panel has many talents,  
2                   although I don't think we have any statisticians  
3                   on our panel. And as a result, we've actually  
4                   engaged -- we've been authorized to engage  
5                   experts. And we've asked Jeff Fagan, who you  
6                   may know from Columbia University, to assist this  
7                   panel in putting together a peer review team to  
8                   take a look at the work that you've done. Would  
9                   you be available to us once we've heard back from  
10                  Professor Fagan to discuss the results of the  
11                  peer review?

12                   DR. LAMBERTH: I would.

13                   CHAIRMAN JOHNSON: And also, you had  
14                   mentioned some of the data that have been used in  
15                   the monitors' reports was not reflective -- maybe  
16                   Mr. Buckman mentioned this -- of the ratio of  
17                   Terry stops to other sorts of stops. If you could  
18                   identify for us those pieces of the datasets that  
19                   are in the monitors' reports that you view as  
20                   problematic? And this is something you would also  
21                   submit for peer review, can you do that?

22                   MR. BUCKMAN: I'd be happy to point  
23                   out some examples for that.

24                   CHAIRMAN JOHNSON: And, Mr. Buckman,  
25                   with respect to the codification of certain

1 issues, you do understand that Colonel Fuentes has  
2 actually proposed to have legislation enacted that  
3 would codify many of the SOPs that have come out  
4 of the Consent Decree? Were you aware of that?

5 MR. BUCKMAN: I was aware that he's  
6 offered to do that. I mean, I would have to see  
7 the actual codification.

8 CHAIRMAN JOHNSON: Could you provide  
9 to the Committee those SOPs or procedures that you  
10 think -- that are in place now that you would like  
11 to see codified? That would be helpful to have  
12 your particular views.

13 MR. BUCKMAN: Yes, sir, I can do  
14 that. I think that other SOPs are necessary. I  
15 also make reference in my presentation to other  
16 codifications or statutes that should be enacted.  
17 I certainly know that Ms. Steinhagen, who I think  
18 is scheduled to testify at some point, has  
19 extensively investigated that issue in terms of  
20 specific procedures that really need to be in  
21 place. But I'm happy to help with that.

22 CHAIRMAN JOHNSON: This next  
23 question goes into the category of no good deed  
24 goes unpunished. You provided us with a report  
25 that you would like us to verify the authenticity

1 of and indicated in your testimony that you have  
2 other reports, documents, training materials, from  
3 the State Police. It would be helpful to us to  
4 see that. Obviously, we can't compel your  
5 testimony on that, but if you could provide that  
6 to us as well, that would be helpful for us to get  
7 a better picture of the sorts of issues that  
8 you've identified in your testimony.

9 MR. BUCKMAN: That's fine.

10 CHAIRMAN JOHNSON: The last thing is  
11 you indicated that you have information about a  
12 town with neighboring towns where they're getting  
13 ready to pull the mobile video recorders from the  
14 cars. And I understand that there's a client  
15 confidentiality issue with respect to that.  
16 Obviously, we don't want to infringe upon your  
17 relationship with your client. But it would be  
18 helpful to us to know that town and related towns.  
19 At the very least, if you could communicate to  
20 your client the desire for the Committee to know that  
21 information. And if there is a privilege,  
22 communicate that we'd be interested in actually  
23 seeing that material, and that privilege obviously  
24 can be waived by your client, if he or she --

25 MR. BUCKMAN: I will follow it up.





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C E R T I F I C A T E

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

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

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LISA C. BRADLEY, CSR, RPR  
CSR NO. 30XI00228700

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Transcript of 11-21-2006 Hearing Part 1 of 2.txt

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