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IN RE: :

NEW JERSEY ADVISORY COMMITTEE :

ON POLICE STANDARDS :

FIRST PUBLIC HEARING :

Lawrenceville Armory
151 Eggert Crossing Road
Lawrenceville, New Jersey 08648
Tuesday, October 10, 2006
9:35 a.m. to 5:05 p.m.

GUY J. RENZI & ASSOCIATES
GOLDEN CREST CORPORATE CENTER
2277 State Highway 33, Suite 410
Trenton, New Jersey 08690
609-989-9199 or 800-368-7652 (TOLL FREE)
www.renziassociates.com

1 B E F O R E:

2

3 JAMES JOHNSON, Chair

4 ELLEN BROWN

5 MICHELLE CARROLL

6 ED DAUBER

7 KEVIN DONOVAN

8 REVEREND REGINALD STYLE FLOYD

9 JONATHAN GOLDSTEIN

10 JAMES HARRIS

11 JEROME HARRIS

12 CARMELO HUERTAS

13 REVEREND STANLEY J. JUSTICE

14 SAM KHALAF

15 LIZA LOPEZ

16 ANNE MILGRAM

17 CARLOS ORTIZ

18 MICHAEL RAMBERT

19 MITCHELL SKLAR

20 ED STIER

21 SCOTT WEBER

22 THERESA YANG

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PAGE

Opening Remarks by James Johnson	4
Testimony of Colonel Rick Fuentes	9
Committee Member Questions	44
Testimony of the Independent Monitors, Dr. Jim Ginger and Mr. Al Rivas, Esq.	149
Committee Member Questions	159
Testimony of Acting Director Desha Jackson	234
Committee Member Questions	250
Adjournment	314

1 MR. JOHNSON: Good morning. If you
2 could all take your seats, please. Is our
3 reporter all set? Good morning, ladies and
4 gentlemen and members of the Committee. My name
5 is James Johnson, and it's my privilege to
6 welcome you to the first hearing of New Jersey's
7 Advisory Committee on Police Standards. Before
8 we begin, I'd like to provide some background,
9 much of which is already known to many of you in
10 this room.

11 In 1999 the State of New Jersey and
12 the United States Department of Justice entered
13 into a Consent Decree that was meant to eradicate
14 the problem of racial profiling within the State
15 Police, a practice that was found by the State
16 Police Review Team as real and not imagined. As a
17 result of that Consent Decree, the State Police
18 is operated under review by federal monitors and
19 has been required to implement, among other
20 things, significant, managerial and operational
21 reforms.

22 I believe that you will hear
23 throughout these proceedings a great deal of
24 information about the effort that has gone into
25 the reform. You will also learn of more than two

1 years of substantial compliance with the Decree.
2 Recently the Department of Justice has moved to
3 dismiss the Consent Decree, and that motion has
4 brought us to this point today. To determine
5 whether to join in the motion with the Department
6 of Justice, Governor Corzine established this
7 Committee and said, I believe that our system of
8 justice relies not only on arrests and
9 convictions, but also on people's faith and trust
10 in law enforcement.

11 This Committee is part of that
12 process. We have committed as a group to run a
13 process that is thorough, efficient and fair.
14 The Governor specifically asked for the
15 Committee's recommendation on three issues.
16 First, we've been asked to recommend whether New
17 Jersey should move to terminate the 1999 Federal
18 Consent Decree concerning the practice of racial
19 profiling by New Jersey State Police. Second, in
20 the event the Consent Decree is terminated, we
21 have been asked to make recommendations to ensure
22 the standards of conformance under the Decree are
23 sustained and even enhanced.

24 Finally, the Governor has asked for
25 this committee's recommendations on how the

1 programs developed by the New Jersey State Police
2 can assist other law enforcement agencies
3 throughout this state in preventing racial
4 profiling. To that end, the Governor has
5 appointed the Committee members here, we are 21
6 in all, representing a broad array of backgrounds
7 and perspectives on these issues. Already the
8 Committee has spent many hours reviewing
9 documents and receiving briefings on key issues
10 in order to discharge its responsibilities.

11 Today, I thank them all for giving
12 so generously their time in this effort.

13 Following this hearing we will continue to meet,
14 we will continue to take testimony and have open
15 discussion and debate among ourselves so that we
16 may arrive at the best informed and most durable
17 consensus possible. This is the first of three
18 proposed hearings. We may have additional
19 hearings if such are necessary.

20 As you can see from the hand out
21 that was available at the entrance, additional
22 hearings are scheduled for October 24th and
23 November 13th. Information submitted to the
24 Committee or discussed at these hearings will be
25 available to the public on the committee's web

1 site. The transcripts of these proceedings will
2 also be available on the web. We are asking
3 individuals who wish to offer testimony to let us
4 know.

5 Even if an individual cannot be fit
6 onto our hearing schedule, that person's written
7 testimony will be made part of the record of this
8 Committee's work and will be considered by us as
9 we deliberate. You can share your comments or
10 make a request to testify through our web site or
11 via mail to the Office of the Governor. Our web
12 site can be found at www.state.nj.us/acps.

13 Now, a couple of housekeeping
14 matters. We started at just after 9:30 and we
15 will continue until 11 o'clock when we will take
16 a 15 minute break. We will start again at 11:15
17 and continue until about 12:15. We'll break for
18 lunch and resume at 1 o'clock. Given the length
19 of the sessions, I don't expect that everyone
20 will be able to keep their seats, but I ask as
21 you move about the room, and if you anticipate
22 leaving the proceedings as you move about the
23 room, that you try to do so quietly. To minimize
24 disruption as well, please turn your cell phones
25 and pagers to silent mode now.

1 And now to the reason that we're
2 here. I would like to introduce today's panelists.
3 We'll hear testimony first from Colonel
4 Rick Fuentes, Superintendent of the New Jersey
5 State Police. Second we will hear from the court
6 appointed monitors, Dr. James Ginger and Alberto
7 Rivas about whom I'll talk a little bit more
8 later, and finally, you'll hear from Desha
9 Jackson who is the acting director of the Office
10 of State Police Affairs. On behalf of the
11 Committee, I'd like to sincerely thank all of the
12 panelists for their time and their testimony.

13 With that, let me introduce Colonel
14 Fuentes, and I would ask the Colonel to introduce
15 his team after I finish the introduction.
16 Colonel Fuentes was sworn in as superintendent of
17 the New Jersey State Police on June 2, 2003. He
18 has been a member of the State Police since 1978
19 and has served throughout the state including
20 assignments as a general road duty trooper in
21 central and southern New Jersey, and an
22 instructor at the Sea Girt Academy.

23 He has also been a supervisor with
24 the FBI, New Jersey State Police Joint Terrorism
25 Task Force, Narcotics Unit and the Street Gang

1 Unit. Prior to being named superintendent, he
2 was assigned chief of the Intelligence Bureau
3 overseeing nine units within the Intelligence
4 Section. Colonel Fuentes has been recognized by,
5 among others, the United States Department of
6 Justice, Drug Enforcement Administration and in
7 1993 he was co-recipient of the New Jersey State
8 Police Trooper of the Year Award.

9 The Colonel holds a Bachelor of
10 Science from Kean College of New Jersey, a
11 Master's Degree in Criminal Justice from John Jay
12 College of Criminal Justice and a Ph.D. in
13 Criminal Justice from the City University of New
14 York. Since June 2003, Colonel Fuentes has been
15 responsible for and instrumental in implementing
16 the directives of the Consent Decree. Colonel,
17 let's begin.

18 MR. FUENTES: Thank you, Chairman
19 Johnson, the distinguished members of this
20 Committee, for affording me the opportunity to
21 share my thoughts and perspectives on the
22 experiences of the New Jersey State Police as it
23 has evolved to embrace and ultimately exceed the
24 reforms which were set forth in the Federal
25 Consent Decree. I am both pleased and proud to

1 report that this is an account that includes many
2 positives that benefit each and every New Jersey
3 citizen on a daily basis.

4 I would like to introduce to the
5 Committee three individuals who accompany me at
6 this table and bring expert opinion to bear upon
7 several aspects of the Federal Consent Decree.
8 Captain Tom Flarity, executive officer of the
9 Division, Human Resources Section, and formerly
10 Commandant of our Training Academy. Captain Tim
11 Goss on the far end who is the Bureau Chief of
12 the Recruiting/EEO Bureau and also serves as our
13 Equal Employment Opportunity and Affirmative
14 Action Officer for the Division; and Lieutenant
15 Mike Schaller, Unit Head of the MAPPS Unit.

16 They are evidence of the fact that I
17 am a jack of all trades and a master of none.
18 They will be available to supplement my testimony
19 and offer the appropriate depth of inquiry that
20 the Committee may require. In December of 1999,
21 the State of New Jersey and the United States
22 Department of Justice entered into the existing
23 Consent Decree. The events leading up to the
24 Decree are well known to the public, the
25 Commission and the membership of the State

1 Police.

2 Implementation of the Decree was
3 ultimately undertaken involving many complex and
4 unique challenges from the design, implementation
5 and evaluation of unprecedented upgrades and
6 technology, training and accountability at all
7 levels of the organization. It is an interesting
8 footnote that the Decree of 1999 and the positive
9 impact it would have on the modernization of the
10 State Police occurred in a setting that did not
11 contemplate the catastrophic events in
12 neighboring New York City, Pennsylvania and
13 Virginia on September the 11th 2001.

14 Since that time, the State Police's
15 mission has necessarily expanded from a
16 traditional state law enforcement agency to an
17 agency that is responsible for investigating
18 terrorist activity as significant partners on the
19 FBI Joint Terrorism Task Force as well as for
20 mitigating incidents of mass destruction and
21 injury. The State of New Jersey presents a
22 multitude of public safety challenges arising
23 from its geography, population density and array
24 of critical infrastructure which includes major
25 transportation arteries, bridges, tunnels,

1 nuclear and chemical plants, casinos, stadiums
2 and schools.

3 It is within that environment that
4 the State Police must operate with unwavering
5 diligence and efficiency dealing with a broad
6 spectrum of unique challenges including
7 hurricanes, floods, blackouts, government shut
8 downs, terrorism and unprecedented gang violence.
9 In a time when every individual is touched by the
10 threat of terrorism, gangs and indiscriminate
11 shootings, the State Police has utilized the
12 Decree as a positive stimuli to evolve and
13 modernize into an effective law enforcement
14 agency that is delivering critical services at
15 unprecedented levels, grounded in best practices
16 and fully compliant with the constitutional
17 mandates and the tenets of the Consent Decree.

18 Compliance with the terms of the
19 Consent Decree has been achieved during a time
20 that has seen the ability of the State Police to
21 adapt and respond to a variety of law enforcement
22 needs. Facing the reality of fluctuating
23 terrorism threat levels, in the winter of 2004,
24 the State Police undertook the largest
25 reorganization in its 83 year history moving more

1 than a thousand troopers and support staff in
2 creating a Homeland Security Branch.

3 Housing the emergency management and
4 special operations sections, the homeland
5 security branch allows for the immediate,
6 seamless deployment of hundreds of troopers when
7 needed. This is accomplished in a manner which
8 does not negatively impact existing core
9 functions, such as general police and highway
10 patrol services. In the spring of 2004, the
11 State Police was a key participant in the federal
12 TOPOFF 3 exercise providing coordination for
13 federal, county and local agencies responding to
14 a simulated incident in New Jersey causing
15 widespread biochemical exposure and fatalities.

16 In the midst of this exercise, the
17 State Police was also responding to the first of
18 three major floods in the Delaware river basin
19 that caused extensive damage including to the
20 State Capital. In early 2005 the State Police
21 entered a new era of preparedness of the creation
22 of the Regional Operations and Intelligence
23 Center better known as The Rock. Grounded in
24 intelligence-led policing and leveraging advanced
25 technology, this center significantly enhances

1 situational awareness of activity in the state,
2 optimizing the tactical and strategic deployment
3 of available public safety resources to respond
4 and mitigate an emergency.

5 The State Police was the lead Law
6 Enforcement Agency involved in providing detailed
7 planning for fire protection, traffic, security
8 and emergency aid efforts at the 2005 PGA
9 Championship, with the national tournament
10 director stating that the 300 page plan designed
11 by the State Police was utilized as a guiding
12 document for a 2006 event held in Illinois. The
13 State Police is proud to have coordinated
14 Operation LEAD, a complex deployment of local,
15 county and state level assets, which provided
16 invaluable assistance to the city of New Orleans
17 in restoring order to the city in the wake of the
18 widespread devastation caused by Hurricane
19 Katrina.

20 The State Police is collaborating
21 with fellow law enforcement and social service
22 agencies in combating a rise in gang related
23 violence and shootings. State Police detectives
24 and uniformed troopers are at this very moment
25 working the streets of Camden, Irvington, Newark

1 and Trenton. The State Police is now working
2 hand in hand with a large number of Urban Centers
3 to implement a statewide antiviolence initiative.

4 Utilizing intelligence-led policing
5 strategies, and supported by State Police
6 criminalistics technology, Operation Cease Fire
7 seeks to prevent future violent crimes, primarily
8 shootings, by focusing on the apprehension and
9 conviction of violent, serial offenders, thus
10 seeking to disrupt the cycle of violence by
11 decreasing the likelihood of the next shooting.

12 Against this dynamic landscape we continued to
13 work aggressively alongside the members of the
14 Independent Monitoring Team called the IMT,
15 appointed by the United States District Court for
16 the District of New Jersey, to monitor the
17 progress and implementation of the Federal
18 Consent Decree through the filing of semi-annual
19 reports.

20 To comply with the mandates of the
21 Consent Decree, the State Police is required to
22 be in substantial compliance with the 124 tasks
23 of the Decree for four consecutive reporting
24 periods or 24 months. The State Police achieved
25 substantial compliance in the tenth IMT reporting

1 period, covering October 2003 through March 2004
2 achieving a greater than 95 percent compliance
3 rate for the Field Operation Section. This
4 greater than 95 percent compliance rate continued
5 for three consecutive reporting periods before
6 rising to 100 percent for two additional
7 reporting periods, or 30 consecutive months of
8 substantial compliance.

9 This type of compliance is in an
10 area identified by the IMT as involving some of
11 the most complex human interactions. In the 14th
12 Independent Monitor's Report submitted to the
13 Court in June 2006, the monitors again found the
14 State Police in complete compliance with each of
15 the tasks of the Decree. Specifically, the
16 report indicated that there were no Consent
17 Decree related errors during the reporting period
18 that were not first caught and corrected by
19 supervisory personnel.

20 The IMT's 14th report further noted
21 that the changes implemented over the last six
22 years have been accepted by the members of the
23 New Jersey State Police and have been
24 institutionalized in practice and policy. They
25 also noted that the New Jersey State Police have

1 embraced the Consent Decree as an effective
2 change mechanism, and have met the requirements
3 of the Decree in both letter and spirit. The
4 prospect of achieving 100 percent compliance rate
5 with the Decree in our line of work was thought by
6 some to be impossible, but it has been attained.

7 It is police work being carried out
8 at the highest level of competency and
9 professionalism, captured in both sight and sound
10 through in-car cameras. No individual is
11 perfect, nor is any law enforcement agency. The
12 compliance rates awarded to the State Police
13 demonstrate an organizational commitment and
14 ability to identify, rectify and learn from
15 issues which arise at either the individual or
16 broader level and execute these processes in a
17 timely and transparent manner which promotes
18 public confidence.

19 The 14th report clearly
20 demonstrates, through the impartial view of the
21 IMT, the sustainability of our reform efforts and
22 provides solid evidence of permanent change. It
23 should be noted that increasing compliance with
24 the Decree has not been accomplished through
25 diminished engagement in necessary proactive law

1 enforcement activities, a negative dynamic
2 referred to as de-policing. To the contrary, our
3 self generated public contacts have increased
4 alongside of our compliance rates.

5 Through the emphasis on increased
6 contacts and sound policing practices, New Jersey
7 State Troopers have significantly increased the
8 number of motor vehicles stopped, DWI arrests and
9 issuances of summonses and warnings. During the
10 12th monitoring period, there was a 55 percent
11 increase in the number of stops resulting in
12 motorists being asked to exit their vehicle,
13 being arrested or subject to a search, when
14 compared to the ninth monitoring period.

15 Each and every one of these
16 enumerated post-stop actions have undergone
17 exhaustive, multi level review through internal
18 supervisory oversight and additional scrutiny
19 from the IMT. Let me describe for a moment that
20 review and the process that is rooted in the
21 sergeant's front line supervisory review of the
22 patrol stop practices of the members of his or
23 her squad. Every motor vehicle stop, accident
24 investigation, pedestrian contact, virtually
25 every patrol related activity, generates dozens

1 of pieces of information that are gathered by our
2 operational dispatch operators and are stored in
3 our Computer Assisted Dispatch, or CAD.

4 Electronic reports produced by our
5 troopers at the end of each shift for post-stop
6 activities, such as exits from vehicles, frisks,
7 searches and arrests, are entered into our
8 Records Management System, or RMS. Information
9 from CAD and RMS is integrated into the
10 Management Awareness and Personnel Performance
11 System, or MAPPS. MAPPS is the system for
12 maintaining, retrieving and analyzing information
13 regarding the performance of members of the State
14 Police to identify, reward and promote
15 professionalism, civil rights integrity, best
16 practices, as well as to identify, intervene and
17 remediate potentially problematic behavior.

18 MAPPS is comprised of ten separate
19 modules that include information on motor vehicle
20 stop data, training, assignment history and
21 information on commendations, compliments,
22 discipline and interventions. MAPPS enables
23 squad supervisors, station commanders, regional
24 MAPPS coordinators, troop commanders, the MAPPS
25 unit, Office of the Superintendent, Office of

1 State Police Affairs and the IMT to
2 electronically navigate the MAPPS modules and
3 review relevant performance indicators and make
4 well informed decisions regarding the performance
5 and training needs of State Police personnel.

6 For purposes of the Consent Decree,
7 the most important source of information in MAPPS
8 is found in the Motor Vehicle Stop Data Module.
9 In this module, data appears in tables that
10 categorize number of stops, reason for stops,
11 outcome of stops and post-stop interactions.
12 Data is also displayed in scatter plots that
13 categorize number of stops by race of driver and
14 number of stops by gender of driver.

15 The viewing privileges of a squad
16 sergeant allows them to sift through MAPPS data
17 to compare individual trooper activity to similar
18 activities of other troopers on the same squad.
19 Station commanders can make similar comparison
20 between all the squads at a station. Appended to
21 this written statement that you possess is a
22 MAPPS generated scatter plot diagram. On this
23 diagram, you will see three horizontal lines.
24 The black line in the center is called the mean
25 line and represents the average percentage of the

1 peer group for a given activity.

2 For instance, stops of drivers by a
3 particular race, ethnicity or gender. The red
4 lines above and below the black line distinguish
5 the Upper Control Limit and Lower Control Limit
6 derived by using a set number of standard
7 deviations, a mathematically computed number that
8 measures variance from the mean or average. On a
9 scatter plot diagram, a trooper's motor vehicle
10 stop data that falls outside of two standard
11 deviations from the mean requires additional
12 inquiry and actions from a squad supervisor,
13 specifically, the submission of a report
14 detailing the sergeant's findings.

15 If you look at the attached scatter
16 plot diagram, there is the number of stops of
17 white motorists that lie outside the Lower
18 Control Limit. According to the scatter plot,
19 this trooper is determined to be stopping white
20 motorists in lesser proportion than the rest of
21 the members of his or her squad. Although
22 generating additional investigation from the
23 supervisor, it is important to understand that
24 this statistical disparity does not, in and of
25 itself, indicate that a trooper is engaged in a

1 practice of discrimination.

2 Every three months, as part of a
3 supervisor's quarterly evaluation of a trooper's
4 performance, and in addition to the supervisor
5 reviewing each member's stop data to identify
6 potential strengths and weaknesses in patrol
7 practices, MAPPS will send an alert and task to
8 the supervisor of a member whose motor vehicle
9 stop percentage was plotted outside the upper or
10 lower control limits, and who had 20 or more
11 stops for that particular demographic category on
12 a scatter plot diagram.

13 As a result of the MAPPS alert, the
14 supervisor will be tasked to review the member's
15 performance in the identified scatter plot
16 diagram and to complete a MAPPS Motor Vehicle
17 Stop Module Review Form also called an SP-632.
18 The supervisor will ensure the member is adhering
19 to the division's policy on patrol procedures and
20 searches and seizures which prohibits stops or
21 post-stop actions based upon race, ethnicity,
22 gender, national origin or stereotyping.

23 The results of the completed MAPPS
24 motor vehicle stop module review form will be
25 reviewed with the member during the quarterly

1 appraisal meeting which will also consist of a
2 review of all mobile video recording or MVR
3 contacts that the supervisor conducted during the
4 quarterly period. Typically, every month
5 supervisors in field operations conduct upwards
6 of 2,000 MVR reviews across the Division,
7 particularly in the Field Operations Section.

8 If a trooper's activity results in a
9 632 report being submitted for three or four
10 quarterly appraisal periods, an intense review of
11 the trooper's activity is generated at the squad
12 and station level, the MAPPS unit and OSPA. The
13 intense review of stop activity may also be
14 subject to review by our Risk Analysis Core Group
15 about whom I will now focus my remarks. Aside
16 from the State Police's responsibilities to
17 monitor, reward or remediate patrol stop
18 behavior, we also maintain a very pro active
19 stance towards risk management.

20 Operating beyond the mandates of the
21 Consent Decree, the State Police has established
22 the Risk Analysis Core Group to meet at least
23 quarterly and to conduct global trend analysis on
24 patrol stops, misconduct complaints and
25 disciplinary hearings, use of force, deployment

1 of canine and consent to search data, domestic
2 violence, outside litigation and all pertinent
3 data in MAPPS, CAD, RMS, human resources and
4 internal affairs. The core group, composed of
5 high ranking State Police members, analysts and
6 members of OSPA, also conducts an exhaustive
7 review of a full year's motor vehicle stop and
8 search data for a particular troop.

9 These reviews have been completed
10 for Troops A, B and C on a rolling calendar basis
11 beginning in January 2004. The IMT commented
12 that the State Police is the only law enforcement
13 agency in the country that completes this type of
14 intensive analysis as a matter of routine. It
15 should also be noted that trend analysis is not a
16 mandated task of the Consent Decree but is now
17 driven by State Police operating procedure. For
18 example, let us look at the core groups analysis
19 of vehicle searches.

20 The issue of much debate and
21 criticism before the Consent Decree, and more
22 specifically, a consent search where a motorist
23 gives permission to a law enforcement officer to
24 search a vehicle. On a continuum of discretion,
25 consent search requests employ the highest

1 discretion and search incidental to arrest
2 represent low discretion. That is where a
3 trooper must search the area of reach of a
4 motorist that has already been arrested. To gain
5 perspective on progress and reform in 1997 and
6 1998, there were 463 and 530 consent searches,
7 respectively, just on the New Jersey Turnpike.

8 There was little or no supervisory
9 oversight of those discretionary decisions to
10 search a vehicle, simply the submission of a
11 carbon copy of a consent to search form signed by
12 a motorist. In 2006, from January the 1st to
13 September the 30th, across the entire patrol
14 force, to include 28 stations and more than 1,800
15 uniform troopers, there were a total of 211
16 patrol related consent searches. That's 55 to 60
17 percent less the number of consent searches than
18 were conducted on the Turnpike alone in 1997 and
19 1998.

20 Let's drill down on these numbers
21 using core group analysis and look at the
22 Turnpike in 2006 where there are the largest
23 number of consent searches and disaggregate
24 behind those numbers. This year, to date, on the
25 New Jersey Turnpike, there have been 93 consent

1 searches, a number down approximately 500 percent
2 from 1997 and 1998 and let me actually clarify
3 that number. If you use proportional analysis
4 for a three quarter year period you would
5 actually have 93 searches being compared to 347
6 in 1997 and 397 in 1998.

7 Approximately, half or 47 of these
8 93 search requests involve the consent to search
9 on a vehicle where the motorist was already under
10 arrest because of a motor vehicle warrant, a look
11 out or BOLO, DWI, a plain view violation of a gun
12 or narcotics or a directed stop at the request of
13 a third party agency or investigative unit. An
14 additional 11 searches involved a credentialing
15 issue where driving and or vehicle documents were
16 not provided, documents were found to be
17 fraudulent or fictitious or where the driver's
18 license or registration were found to be
19 suspended.

20 In each and every search, before
21 permission was requested from the motorist, the
22 49 troopers who individually conducted these 93
23 searches were required to contact their
24 supervisor by radio and articulate their
25 reasonable suspicion to believe that the search

1 would produce evidence of criminal activity.
2 Only after supervisory approval was granted did
3 the process of request continue. Two reports are
4 generated by this single search.

5 A State Police Consent to Search
6 Form and a Motor Vehicle Stop Report. An entry
7 is also required on the handwritten log
8 maintained by every trooper to chronicle their
9 daily patrol activity. The MVR is then promptly
10 viewed by the trooper's immediate supervisor, and
11 subsequently viewed independently by the station
12 commander, Office of State Police Affairs, MAPPS
13 Unit and federal monitors for every consent
14 search.

15 Although it was determined by the
16 supervisors and OSPA that each one of these 93
17 consent searches were viewed as constitutional
18 and met the standard of proper legal authority,
19 squad supervisors noted 10 searches that required
20 incident specific counseling with the trooper who
21 conducted the search. Some of the reasons were
22 improper radio protocols, personal safety and
23 tactics, and minor procedural and training issues
24 that prompted the supervisor to issue verbal or
25 written counseling.

1 Each of these interventions were
2 noted in the MAPPS database and were, therefore,
3 accessible for consideration and inclusion in the
4 supervisor's quarterly and annual evaluations of
5 the trooper's performance. I believe that this
6 process is the virtual embodiment of
7 professionalism and reform in the State Police,
8 the recognition that individual troopers make
9 mistakes and that supervisors catch those
10 mistakes and quickly correct them.

11 In addition to the Turnpike, so far
12 in 2006, over a period of nine months, there have
13 been 21 consent searches in Troop A which is
14 South Jersey; 70 in Troop B which is North Jersey
15 and includes our Irvington Newark Anticrime
16 Partnership; 15 in Troop C, Central Jersey and
17 seven in Troop E, Garden State Parkway. There
18 are also five others in specialized patrol units.
19 That's 211 consent searches Division wide,
20 distributed within a population of well over a
21 half million motor vehicle contacts that include
22 motor vehicle stops, motorist aids and motor
23 vehicle accidents.

24 No matter how you view these
25 numbers, it is plain that at the highest levels

1 of discretion, searches conducted by our troopers
2 are low quantity and increasing quality, properly
3 balanced to preserve constitutional rights while
4 being attentive to a strong, statewide post 9-11
5 message to conduct aggressive traffic and
6 criminal enforcement. What the IMT has confirmed
7 is this. We have not gained compliance with the
8 Federal Consent Decree by nonaction.

9 We have gained compliance by the
10 utilization of strong policy requirements,
11 training based on comprehensive needs
12 assessments, and an organizational commitment to
13 accountability at all levels of the organization
14 from trooper through superintendent. Despite the
15 demands of aggressive traffic and criminal
16 enforcement, the State Police has not drifted
17 from our commitment to excellence and full
18 compliance with the Decree and the law.

19 Steps were taken to assure our
20 momentum, complacency or slippage was never an
21 option. The urgency of tackling added
22 responsibilities has not, nor will it, diminish
23 our commitment to our details. In light of the
24 widespread challenges faced by the State Police
25 in the past several years, the steady increase in

1 accountability and ultimate sustained compliance
2 with the terms of the Decree is a testament to
3 our steadfast belief in our reforms and the daily
4 practice of remaining true to them.

5 While the organization is proud of
6 our recent achievements, it is important to
7 explain, the Consent Decree was never viewed as a
8 hurdle to overcome. Rather, the Consent Decree
9 was viewed as a vehicle for us to embrace
10 organizational change, a baseline allowing us to
11 go beyond its parameters, and an opportunity to
12 adopt patterns and practices of sustained
13 excellence. The Decree and the changes
14 accompanying it have always been looked at as
15 building blocks for a solid foundation of
16 continued best practices.

17 This 360 degree approach includes
18 effective training programs, sound policies
19 guiding trooper conduct, supervisory and
20 management accountability, thorough and timely
21 investigation of citizen complaints and a cycle
22 of continual organizational analysis providing
23 constant feedback. These concepts have been
24 institutionalized both in policy and practice to
25 support our key objective, day in, day out

1 confidence and trust of the citizens of New
2 Jersey and all those traveling through our state.

3 The public's perception of a police
4 agency is based not only on personal interactions
5 and contacts, but on the knowledge that can only
6 come from organizational transparency. To that
7 regard, we have made great attempts to provide as
8 much information as possible to the public we
9 serve. We will continue to release aggregate
10 reports of data related to motor vehicle stops,
11 use of force, searches, arrests and citizen
12 complaints. We welcome the public's review of
13 these records and the dialogue it may stimulate.

14 We will continue to elicit feedback
15 from the community since we understand that
16 successful policing requires constant attention
17 to how we are perceived and understanding why.
18 Our current patrol and anti-crime initiatives in
19 the largest cities of New Jersey are a testament
20 that proper training, strong supervision and
21 sound policy development, coupled with continual
22 and open communication with the public are
23 paramount to our being able to complete our
24 mission and maintain public trust.

25 The confidence we have in

1 maintaining transparency and accountability is
2 borne from the knowledge that risk management is
3 being practiced at all levels of the organization
4 and the fact that there are multiple layers of
5 review in all facets of our work. These
6 principles are also embedded in the Management
7 Accountability Conferences held every month by
8 every section and troop commander in the State
9 Police.

10 Individual patrol and investigation
11 commanders are held accountable for the progress
12 of traffic statistics enforcement and anticrime
13 initiatives, highway safety, accident reduction
14 and criminal investigations. The data that are
15 released for public scrutiny are being analyzed
16 by supervisors in the field, commanders at the
17 local level as well as the executive staff.
18 Comprehensive and broad based trend analysis by
19 the core group and the information gathered at
20 the Management Accountability Conferences is
21 designed to ensure that we do not fall back or
22 remain stagnant, but continue to forge ahead by
23 way of continued self-assessment and
24 identification of issues or concerns at the
25 earliest stages.

1 The Risk Analysis Core Group,
2 Management Accountability Conferences, and other
3 internal review boards provide internal
4 mechanisms for oversight and audit and have
5 proven to be effective tools. The enhanced
6 internal communication achieved through
7 implementing a formal risk management process has
8 provided the ability to identify needs in a
9 timely manner, including the implementation of a
10 new policy, training on a particular topic, or
11 the formulation of a new strategic initiative.

12 We certainly hope that this
13 progressive approach to organizational change has
14 forged a path that finds us standing as a model
15 of police reform and a beacon to law enforcement
16 agencies hoping to promote best practices. We
17 have hosted a number of seminars and working
18 conferences for state, county and local law
19 enforcement agencies interested in learning more
20 about our current policies, information
21 databases, training programs, and early warning
22 systems.

23 Recently the International
24 Association of Chiefs of Police requested a
25 demonstration of MAPPS at a regional conference

1 held for police executives seeking to avoid
2 biased policing. Beyond MAPPs and the
3 implementation of a risk management process, the
4 Office of Professional Standards, OPS, housing
5 the Intake and Adjudication Bureau and Internal
6 Affairs Investigation Bureau, utilizes case
7 tracking software with early warning triggers
8 that provide another layer of oversight as well
9 as information necessary to better manage and
10 investigate citizen complaint investigations.

11 The method by which we accept
12 citizen complaints was expanded immensely in the
13 last few years, to include a 24 hour toll free
14 telephone hotline, a requirement that anonymous
15 complaints are thoroughly investigated and a
16 policy that our members are responsible for
17 carrying three copies of a form outlining the
18 complaint process with them at all times while on
19 duty.

20 While the Intake and Adjudication
21 Bureau is responsible for the intake,
22 classification and processing of all complaints
23 or allegations against State Police members, the
24 Internal Affairs Bureau conducts meaningful
25 reviews on members who have three or more

1 reportable incidents in a two year period and
2 investigate all allegations of criminality,
3 violations of the administrative rules or
4 violations of Civil Rights.

5 They also maintain a repository for
6 members involved in domestic violence and conduct
7 trend analysis and disciplinary records checks
8 for members being considered for promotion or
9 specialist selection. Although the Office of
10 Professional Standards was removed from the
11 Consent Decree in 2004 because of exemplary
12 performance, they continue to maintain those
13 performance levels through aggressive internal
14 audits and coordinate periodic inspections with
15 the Office of State Police Affairs.

16 In 2003 there were 386 reportable
17 incidents related to motor vehicle contacts
18 recorded by OPS, 156 for misconduct and 230
19 performance and administrative incidents. Many
20 of the performance and administrative incident
21 reports were generated internally by supervisors.
22 In 2006, with more than 400 new troopers added to
23 the ranks, our misconduct complaints are trending
24 down at a rate that will show a 13 percent drop
25 in misconduct complaints.

1 At the same time, performance and
2 administrative incidents are increasing, with a
3 significant amount of these complaints being
4 generated by the supervisors themselves. The
5 reason for increased complaints from supervisors
6 is apparent when one considers all of the changes
7 that have occurred. The cameras in our patrol
8 cars, field supervisors, upgraded training and
9 information systems for supervisors allowing them
10 to better supervise and mentor line personnel,
11 the transparency generated by providing data
12 regarding motor vehicle stops, searches, arrests,
13 and complaints, are all evidence that the State
14 Police has undergone a radical, unprecedented
15 transformation rooted in a strict process of
16 internal review that is unique to American law
17 enforcement.

18 Operating at full compliance with
19 the Consent Decree, the training academy has a
20 redesigned training program that focuses on
21 problem solving, with topics such as cultural
22 awareness, ethics and leadership woven throughout
23 the curriculum. Courses have been developed and
24 implemented for all supervisory levels, beginning
25 with patrol sergeants and including all ranks up

1 through lieutenant Colonel. Members receiving
2 promotions, and those filling the role of a
3 higher rank on an interim basis, are provided
4 rank specific instruction for that level upon
5 assuming their new command.

6 In order to maintain a consistent
7 understanding of organizational beliefs and
8 values, these advanced courses include curriculum
9 to reinforce those ideals being taught to our
10 newest troopers. In all, approximately 50
11 percent of current uniformed members have been
12 hired since we entered into the Consent Decree in
13 1999 and therefore, were trained from the start
14 in the new policies, directives and objectives.

15 Additionally, almost all of our
16 supervisors and managers have been promoted into
17 their current assignments since those reforms
18 have been implemented, so they too subscribe to
19 the current ideology in carrying out their
20 duties. The changes have not come quickly or
21 inexpensively. The determination to adopt an
22 approach that ensured substantive, lasting and
23 permanent organizational change and to resist an
24 attempt to gain compliance without true growth
25 has been rewarded.

1 The members of the New Jersey State
2 Police are proud of our many accomplishments in
3 the variety of services we provide, but none
4 surpass the pride in the thought of restoring the
5 public's faith in our work. We learned from the
6 past and we applied those lessons to the present.
7 We look forward to sustaining excellence in the
8 future by embracing present and emerging best
9 practices as a true learning organization.

10 We have arrived at that critical
11 juncture where a decision must be made as to how
12 the State Police sustains this hard earned
13 excellence, productivity and accountability as it
14 moves into the future. A core mission of this
15 Advisory Committee is to examine all relevant
16 facts, and recommend a sound strategy which
17 maintains the positive gains achieved through the
18 stimulus of the existing Decree.

19 The development of a post-Consent
20 Decree strategy must be thoughtfully constructed
21 to ensure we maintain a positive momentum while
22 properly balancing effective enforcement
23 strategies and philosophies with individual
24 rights. I would ask this Committee to consider a
25 broad and multi-faceted approach to ensuring the

1 reforms continue, therefore, creating a legacy
2 that the Committee can look back upon for years
3 to come with pride and satisfaction.

4 To this end, I would ask the
5 Committee to consider three recommendations for a
6 post-Consent Decree strategy for the State
7 Police. Number One, codification by passage of
8 permanent legislation of the reforms borne of the
9 Federal Consent Decree as they relate to the
10 essential systems and personnel which facilitate
11 the collection, analysis and publication of data
12 related to trooper performance and conduct.

13 Such legislation would carry greater
14 weight and legacy than any State Police standing
15 operating procedure, Attorney General's Directive
16 and Governor's Executive Order. Codification
17 would also mandate the continued funding of
18 critical reform-related technology systems such
19 as CAD, RMS, MAPPS and the DIVR program which is
20 what we're going into which is the Digital Mobile
21 Video Recorders as well as the standing protocols
22 for training and internal affairs.

23 Codification will guarantee, through
24 both statute and funding, that the critical
25 reforms presently in place sustain beyond the

1 individual tenure of any State Police
2 Superintendent, Attorney General or Governor. I
3 can tell you, very frankly, that if we cannot
4 build and sustain the technology that is the
5 essence of our progress under the Federal Consent
6 Decree, the reform process will begin to slip.

7 Two, I firmly believe that a
8 transition from monitorship to auditorship will
9 send a very positive message to the organization
10 and sustain the very highest standards of
11 accountability and oversight held throughout the
12 Federal Consent Decree. I believe that continued
13 auditing and review by independent entities,
14 separate and apart from the state law enforcement
15 hierarchy, will provide evidence that current
16 reforms have continued as the standard practice.

17 Furthermore, the review and dialogue
18 by these independent entities will provide the
19 State Police feedback from a fresh, yet
20 knowledgeable, perspective that will ensure
21 continued growth. To carry out auditorship, I
22 propose the establishment of a comprehensive,
23 long-term relationship with an institution of
24 higher learning, public policy group or
25 individual of impeccable academic credentials

1 grounded in police professionalism and reform.

2 An institute of higher learning, be
3 it the state university system or another
4 academic institution, would provide the State
5 Police with a force multiplier that would augment
6 our expertise and provide certain skills,
7 knowledge and competencies that we currently do
8 not have access to on a full-time basis. For
9 instance, scholars, researchers and their
10 assistants will be able to measure our progress,
11 assist us in analyzing our trends and assessing
12 our results, and completing publicly released
13 reports for review.

14 This practice is used by other State
15 Police agencies, facilitating an effective blend
16 of perspectives which promotes better
17 understanding and trust between law enforcement
18 and the community. To avoid any appearance of
19 ethical conflict, I would recommend that
20 negotiation and contract for an Independent
21 Auditor be handled through the New Jersey Office
22 of the Attorney General.

23 The last recommendation is the
24 creation of an office of auditing to be
25 positioned inside the State Police Office of

1 Professional Standards or Office of the
2 Superintendent. This function is in keeping with
3 the widespread corporate practice of internal
4 auditing. Staffing for the office of auditing
5 can be drawn from existing State Police resources
6 assigned to the Office of State Police Affairs,
7 who have accumulated valuable skill sets in
8 assisting in the oversight of the Federal Consent
9 Decree and the implementation of a broad base of
10 reforms that are rooted in best practices.

11 Beyond these three recommendations,
12 the State Police has already embarked upon a
13 post-Consent Decree initiative anchored in
14 national recognition of best practices
15 implemented under the Consent Decree. In April
16 of 1999, the New Jersey Legislative Black and
17 Latino Caucus held regional public hearings
18 concerning the issue of racial profiling.
19 Subsequently, in August of 1999, the Caucus
20 issued a report that included recommendations for
21 the future of the New Jersey State Police.

22 Several of the recommendations were
23 incorporated as tasks of the Consent Decree.
24 Another recommendation of the Caucus included the
25 State Police enrolling in a national

1 accreditation program, and independent oversight
2 and review of issues of race and gender
3 discrimination. In 2004 the State Police began
4 the process of seeking accreditation from the
5 nationally recognized Commission for the
6 accreditation of law enforcement agencies.

7 CALEA will audit and review
8 processes and procedures involving 459 law
9 enforcement standards in 38 chapters by subject
10 areas. The CALEA standards represent a new and
11 broader challenge for the State Police as they
12 touch upon sub-organizations, standards and
13 processes not otherwise affected by the Federal
14 Consent Decree. This is the untold success story
15 of the Consent Decree and its impact upon the
16 establishment of professionalism and reform in
17 the New Jersey State Police.

18 The current climate of excellence
19 has effectively synergized process into outputs,
20 enabling our troopers to be both efficient and
21 sound in their duties. Confident in their
22 training, mission and support, these troopers are
23 performing their critical mission of first
24 responder, and through the aforementioned public
25 contacts, serving as the first line of defense by

1 identifying and disrupting the illegal activities
2 of those who seek to do us harm, whether through
3 planting a bomb, shooting an innocent victim,
4 driving while intoxicated or abducting a child.

5 In light of these findings, I would
6 be remiss in not taking a moment to express my
7 admiration and respect for the men and women of
8 the New Jersey State Police who have served as
9 the key contributors and stakeholders in
10 achieving compliance with the Federal Consent
11 Decree. Policies can be written, procedures
12 implemented, and technology leveraged, but
13 special recognition is warranted for our road
14 troopers and their supervisors in the field who
15 have collectively embraced the reforms to
16 generate a climate of sustained excellence.

17 Thank you, Mr. Chairman. I'm
18 available for questions.

19 MR. JOHNSON: Thank you, Colonel
20 Fuentes. We're going to proceed with questions
21 from the members from the Committee now. We're
22 actually going to proceed in alphabetical order.
23 Each Committee member will have five minutes to
24 ask questions and obtain answers. We'll go
25 through as many rounds of questions as we need to

1 make sure that all of the Committee members have
2 their questions answered. If we don't finish and
3 there are more questions, will you be available
4 to the Committee on another occasion to discuss
5 this?

6 MR. FUENTES: Absolutely, sir.

7 MR. JOHNSON: We will start, I
8 believe the first on the alphabet that's
9 available is Michelle Carroll, President of
10 Survivors of the Triangle.

11 MS. CARROLL: Good morning. Thank
12 you. Colonel, what I would be interested in
13 knowing is the fact that you recommend a scholar
14 or a university or college to oversee the
15 auditing part of the way MAPPS is working, and
16 the MVR. Can you explain why you feel that would
17 be more beneficial than maintaining the Consent
18 Decree?

19 MR. FUENTES: Well, it's been very
20 successful in other agencies. I'll just use
21 Maryland and Washington State patrols as two
22 cases in point. These are, if you go with the
23 state institution or a college, these are
24 institutions that are embedded in the community.
25 They have impeccable credentials, and in the

1 academic world, impeccable credentials are
2 absolutely everything. I believe that having an
3 outside entity, also outside the Department of
4 Law and Public Safety, avoids any issue of
5 conflict.

6 The Office of State Police Affairs,
7 with whom I have enjoyed, and the Division has
8 enjoyed a tremendous amount of cooperation and
9 collaboration over the term of this Consent
10 Decree, is a unit that provides, in some
11 respects, prosecution, investigation, oversight
12 and is also my legal counsel. If you were to go
13 to any law firm and kind of talk about those all
14 being contained in one unit, certainly some of
15 those missions would appear to conflict with each
16 other.

17 What I propose is that after the
18 Consent Decree is completed that we go to an
19 independent outside entity who would not be
20 encumbered by any of those conflict issues that
21 might arise.

22 MS. CARROLL: Thank you.

23 MR. JOHNSON: Kevin Donovan,
24 Colonel, former FBI Special Agent in New York.

25 MR. DONOVAN: Thank you. Colonel,

1 my compliments to the State Police for embracing
2 the Consent Decree and moving forward. Over the
3 past few weeks we've seen some impressive
4 implementation of management procedures that I
5 think are very commendable, not only to you, but
6 also to your staff. You mentioned putting an
7 auditor position within the State Police. Unlike
8 internal audits that are used in corporate
9 America, there's no Board of Directors that you
10 would be reporting back to. Do you have any
11 ideas of how you would give some independence to
12 that auditing?

13 MR. FUENTES: Well, the independence
14 would be the complete access by the independent
15 auditor. The auditor position itself would not
16 and really should not be located inside the
17 Division. The purpose of the Office of Auditing
18 would be to continue to maintain and provide the
19 same data and accumulate the same type of
20 information that is now required by the federal
21 monitors.

22 Obviously, the people who know best
23 how to do that are our troopers and officers that
24 are located right now inside the Office of State
25 Police Affairs and who continue to do that every

1 day, but the independence itself comes from the
2 auditor, whoever that person might be in the plan
3 that I'm suggesting, and I would not pick that
4 auditor. That would be an auditor that would be
5 picked by the Attorney General's office.

6 MR. DONOVAN: Thank you.

7 MR. JOHNSON: Ed Dauber. I'm sorry,
8 I skipped you. Mr. Dauber.

9 MR. DAUBER: First of all, I want to
10 echo Kevin's comments complimenting the State
11 Police and your leadership and your commitment to
12 seeing that the corrective action was taken and
13 that it continues into the future. I did have a
14 question though in terms of a couple of things in
15 your testimony that seem to be, to me, a little
16 inconsistent. You point out that there was no
17 really de-policing as a result of the Consent
18 Decree and the steps that were taken to implement
19 it, and you point out that there was actually a
20 55 percent increase in the number of stops
21 between one period and the second monitoring
22 period.

23 On the other hand, you also
24 testified that on the New Jersey Turnpike, the
25 number of consent searches went down about 500

1 percent between 1997, 1998 and this year, and
2 that of those consent searches, some of them were
3 fairly sort of obvious ones, I guess, that would
4 be called for. And that of the 93, 10 of them
5 required incident specific counseling, and I'm
6 wondering if you could expound a little bit on
7 whether you do feel whether there's been any
8 deterrent to troopers from actually conducting
9 their investigations or their inquiries in a
10 proper way, but any detriment to law enforcement
11 activities in view of those statistics.

12 MR. FUENTES: Absolutely, sir. Let
13 me put the notion that de-policing in context
14 here and over the course of the Consent Decree --
15 as you might expect, when the Consent Decree was
16 imposed, all the activities dipped in the
17 organization, criminal investigations, traffic
18 enforcement. That is probably an understandable
19 reaction on the part of the people that are out
20 there doing the job on the highway. So in the
21 beginning there we did see a dip. By saying the
22 55 percent, I'm saying that this has been, and I
23 just used the ninth monitoring period I believe
24 with the 55 percent. We're the 12th. I'm not
25 sure.

1 MR. DAUBER: Ninth to 12.

2 MR. FUENTES: It has been steadily
3 increasing as troopers and supervisors became
4 more comfortable with the increasing, I might
5 add, scrutiny of the Consent Decree and with the
6 increasing technology that they had to deal with
7 it. Along side of that, and their comfort with
8 that, they were continuing to build their
9 activities. The notion of the 93 searches and
10 being down 500 percent I think is just good sound
11 law enforcement.

12 The process that we have right now
13 with multiple layers of review, with having the
14 road trooper who would like to make a consent
15 search, notify the supervisor and articulate the
16 reasonable suspicion to do that search, is just
17 plain good practice, and so we get less searches,
18 less fishing, if you want to look at it that way,
19 less searching, but the searches that we do are
20 of relatively high quality. They're not 100
21 percent. They're never going to be 100 percent.

22 But with the systems that are in
23 place, the supervisor can recognize a deficiency,
24 and he can look at the MVR, the mobile video
25 recording, on each one of these searches in view

1 from the time the trooper gets out of the car,
2 walks up to the car, engages in the dialogue with
3 the motorist and or the passenger, starts to
4 build reasonable suspicion by the scope of his
5 questioning, goes back, talks to the supervisor,
6 this is all on tape, it's all on audio, it's all
7 on video, so it really empowers the supervisor
8 tremendously to have input in what's being right
9 and what's being wrong.

10 I mean, granted in the moment it's
11 sometimes easy to forget stuff. It's the job of
12 the squad supervisor to make sure that that stop,
13 to make sure that that search, or any search, is
14 being conducted properly, and when they find even
15 minor infractions they will do verbal or written
16 counseling, which will go into the MAPPS data
17 base, will become part of the quarterly
18 evaluation and will be, quite frankly, very
19 instructive.

20 If we see a number of cases
21 happening around the Division, the Risk
22 Management Core Group that I described will get
23 together with the commanders and decide that we
24 may have a training issue, so we go back to the
25 training academy and we may instruct again on

1 consent searches or on inventory searches or on
2 probable cause searches, so it operates within a
3 mechanism that's very instructive to everybody
4 all along the way.

5 MR. JOHNSON: Thank you, Mr. Dauber.
6 Next we'll have Reverend Floyd, Reverend Reginald
7 Floyd.

8 MR. FLOYD: Good morning, Colonel.

9 MR. FUENTES: Good morning.

10 MR. FLOYD: I believe that the
11 Consent Decree has been a success, and as it's
12 been stated, is one of the reasons because of
13 your leadership. You have been a state trooper,
14 I believe since 1978, and when you joined it was
15 a different type of climate as compared to post,
16 or not yet post, but since the Consent Decree has
17 come into place. I would like to ask you, in
18 your own words, what do you think has been the
19 most important thing within the Consent Decree
20 that has caused a change in the organization?

21 MR. FUENTES: I would have to say
22 accountability. I would have to say the
23 critically central role of the squad supervisor.
24 We could have every trooper on the highway who is
25 abiding by the Consent Decree, but if the squad

1 supervisors don't do it, then we don't make any
2 progress under the Consent Decree. It's really
3 their adoption of the principals of the Consent
4 Decree and the utilization of the technology that
5 has made this successful.

6 It's not only the sergeants, but to
7 a greater extent, it is the squad supervisors who
8 now have the ability, whether they're sitting
9 inside a room with no windows, not to be blind to
10 the activities of their troopers on the road; and
11 incidentally, not just in a way that it's a
12 gotcha, but it also gives that supervisor the
13 ability to compliment when he sees very good
14 behavior by an individual member and then to
15 translate or move that behavior around to other
16 members of the squad.

17 MR. JOHNSON: Next we will hear from
18 James Harris who is the president of the NAACP.
19 In New Jersey. Mr. Harris.

20 MR. HARRIS: Thank you. Colonel,
21 thank you for your presentation and --

22 MR. JOHNSON: By the way, is the
23 microphone picking you up? Can you move the
24 microphone down so we don't lose any of this?

25 MR. HARRIS: I had an opportunity

1 well received in the Totowa headquarters to see
2 the MAPPs and it really is impressive and it has
3 a lot of information that can be used for
4 management. A couple of comments on your
5 statement. On page 19 at the top of the page it
6 said that the perception of the police agency is
7 based on personal interaction and contact, and
8 you think that the public has improved its
9 perception.

10 What do you base that on? And one
11 of the things that I'm aware of is that there's a
12 huge perception from the State Police by race.
13 African-Americans have a negative lower
14 appreciation of what police is doing,
15 particularly as we led up to that incident on the
16 Turnpike. What made you think that the
17 African-American community is better perceived in
18 the State Police now, before the Consent Decree?

19 MR. FUENTES: Well, I think there
20 was a perception of, if I can use the term rear
21 view mirror phenomenon, with the State Police
22 largely rooted in patrol functions, and what
23 we're seeing now in the State Police, and really
24 has been a fundamental change soon after the
25 Consent Decree was implemented in our urban

1 initiatives, our anticrime initiatives which have
2 moved hundreds of troopers into working in cities
3 on either a part-time or full-time basis anchored
4 in Camden, Irvington, Newark.

5 I think when you get to know us you
6 like us and I think when we get into the
7 community, we interact with the community. That
8 has been instrumental in causing, what I believe
9 to be, a sea change in some particularly urban
10 communities around the state and their attitudes
11 toward the State Police. I can represent that
12 maybe even better. In the Town Hall that I did
13 in Irvington, I think it was late 2004, and we
14 had been on patrol in Irvington about a year and
15 in the street gang unit, which I used to be a
16 unit leader of, we had been in Irvington for a
17 number of years helping them out with street
18 gangs.

19 And in that Town Hall, the very
20 first question I took was, is the reason you're
21 having a Town Hall because you're going to be
22 pulling the State Police out, so that was the
23 primary concern of the communities that they had
24 gotten very used to the State Police. They liked
25 the way the State Police interacted with urban

1 police departments and with the community, are
2 involved in community functions and then
3 translate that really everywhere else around the
4 state to include having a very robust community
5 policing functions located in my office that
6 interacts very, very closely to include the NAACP
7 and many other organizations to get a handle on
8 what fundamental concerns and issues might be --
9 and how we can quickly address those and I would
10 have to say that that was --

11 MR. HARRIS: Thank you. In your
12 report you talk about the importance of keeping
13 the funding resources there. How much do you
14 think it would cost on an annual basis to keep in
15 the system what we have right now?

16 MR. FUENTES: I don't know if I have
17 a specific figure. Maybe I can talk globally and
18 then just put out a couple of things. Over the
19 six years, the technological reforms in the State
20 Police have cost 36 to 40 million dollars. To
21 maintain systems generally requires 10 to 15
22 percent of the value of those systems on annual
23 maintenance, so obviously it's not that large a
24 figure, but I think we're talking about multi
25 millions, two, three.

1 I know that part of what the
2 Committee is going to address here is going to be
3 whether some of the systems or practices can be
4 exported to other police departments, and I was
5 actually given a couple of figures about that,
6 that for a department that has perhaps 50 members
7 or less, the cost of having a system which
8 doesn't totally replicate all of the computer
9 systems we have, but kind of like, you know, a
10 basic system, would probably run a police
11 department about \$50,000 a year.

12 If you get into departments that are
13 greater than 100, that amount probably goes from
14 50 to 150 because in larger departments you have
15 greater management systems, you have larger CAD
16 and RMS demands, so those reporting systems, which
17 generate more information and larger capacities,
18 so the price is going to go up, and since I know
19 that's certainly going to be a concern of police
20 chiefs, if they come and sit in this seat and say
21 well, we like what we hear, but can we afford
22 what we hear within the restrictions of a local
23 budget.

24 My concern is this, and I think I
25 said it kind of frankly, is that a lot of this is

1 going to rest on money and funding. We know how
2 to leverage the technology. We have to make sure
3 the technology does not fail. That is not going
4 to be an inexpensive proposition, but we're a
5 large organization with an incredible mission,
6 with rising expectations by the public and good
7 relationships with the community that we would
8 like to maintain. We would like to keep every
9 single one of these practices that I brought out
10 in my statement in place and so we ask the
11 Committee to please consider that, the funding
12 aspect of this, when it comes time to submit
13 recommendations to the governor.

14 MR. HARRIS: I appreciate you
15 addressing it that way. As you probably know,
16 there is a great deal of concern in the
17 African-American community that some of this
18 conformity is window dressing, and when the
19 monitors are gone, people are going to go back to
20 their old behavior, and I just wonder, in the
21 process of doing the Consent Decree, what has
22 been the disciplinary implications? Have any
23 troopers been disciplined? And if so, what type
24 of discipline has been imposed on those
25 individuals who didn't quite get it?

1 MR. FUENTES: Sure, absolutely. I
2 mean, I pointed out with the SP-632, and this is
3 where the technology and the behavior kind of
4 come together. Squad supervisors, who have
5 really the toughest job here, look at these
6 scatter plots, one of which you were given, and
7 make the determinations and comparisons, based
8 upon single troopers against their peers in the
9 station, to determine if their patrol stop
10 behaviors are really where they should be in the
11 overall outlook of the station.

12 If they fall outside of that, and
13 again, that disparity, as I pointed out, is not
14 any indication of discrimination and patrol
15 practices, but if it causes the squad sergeant to
16 ask the first question and it mandates him to do
17 a 632 where he engages in a discussion, he comes
18 up with a preliminary finding. If he can't come
19 up with a finding, if he can't figure out why
20 that's happening, then it gets bumped up the
21 chain. It will go to the station commander, it
22 will go to the regional MAPPS coordinator, and it
23 may ultimately come back to Mike here who stays
24 on top of the 632s.

25 When we get three out of four

1 quarterly periods where a trooper is knocked
2 outside of the scatter plot, for whatever the
3 reason, and incidentally, we counsel troopers for
4 not stopping enough minorities because they have
5 them fit into that two standard deviation that we
6 settled upon, but if you're out for three out of
7 those four periods, that's going to generate a
8 much more intensive review at a number of levels
9 especially to include Mike in the MAPPS unit and
10 the Office of State Police Affairs—

11 and as it comes to OPS, which does
12 recommend I impose discipline. Recommendations
13 on discipline come to me. If there are
14 reportable incidents of misconduct or
15 administrative or performance violations that go
16 to OPS over a two year period, then they conduct
17 a meaningful review where they actually get out
18 there and very intensively work with the squad
19 supervisor in attempting to make a determination
20 of how behavior can be changed. Where discipline
21 is warranted, that comes to me.

22 For performance and administrative
23 violations, those are usually minor. They're
24 handled at the station level. They involve
25 things like radio procedures, troopers may be

1 sent for additional training. They may be given
2 performance notices which is a written
3 counseling, you know, which is a negative. You
4 can also get a commendation which is a positive,
5 but there are these instructive mechanisms within
6 the disciplinary process that a trooper needs to
7 overcome, and if he doesn't, we'll increasingly
8 move to the center of the radar screen for
9 additional attention.

10 MR. HARRIS: Has any trooper been
11 disciplined either with loss of pay or job
12 during the course of this Decree?

13 MR. FUENTES: Oh, absolutely. I
14 mean, there's been terminations. I think there's
15 been terminations last year, maybe five, I
16 believe. Troopers were terminated because their
17 conduct was so egregious. There's been -- you
18 know, discipline runs from, as I pointed out, a
19 simple counseling, verbal or written, up to
20 suspension with or without loss of pay, up to
21 termination.

22 There is a process by which we go
23 through for that. There are rights that are
24 afforded to the trooper. There could be a
25 summary disciplinary hearing, there could be a

1 general disciplinary hearing. There are rights
2 that are granted to the trooper by the bargaining
3 units and also by having counsel, so there is a
4 process similar to outside the organization that
5 occurs. You just don't simply walk up to
6 somebody, tell them to empty their desk, or pack
7 their bags and escort them to the door. There is
8 a process where we very fairly address the issue.

9 MR. JOHNSON: Mr. Harris, you have
10 one more.

11 MR. HARRIS: Last question.
12 According to the latest report, the State Police
13 has had some difficulty improving its diversity
14 in the ranks. Do you think the
15 African-Americans, the minority community can
16 completely improve its confidence if the
17 diversity in the ranks is not improved?

18 MR. FUENTES: Well, actually, what a
19 lot of people don't know publicly is that when it
20 comes to the written exam, as part of the early
21 selection process, we actually bring 35 to 45
22 percent minority to take that exam, and that's
23 because of some tremendous recruiting efforts by
24 the Recruiting Bureau which is under the command
25 of this gentleman down the end, Captain Tim Goss,

1 and that's very good. We hit some stumbling
2 blocks which we are now beginning to overcome.

3 We lose a lot, out of all classes,
4 genders, race, ethnicity when they hit the
5 written exam, in some cases as much as 70, 75
6 percent of a demographic group may fail that exam
7 and we're working very, very closely with the
8 Attorney General's office right now, who's put
9 this in the center of their radar screen, to do
10 things like have an on-line personal history
11 questionnaire upfront before you go to this exam
12 that will mitigate people who come to the test
13 and won't pass it, or people that will get to the
14 background after you spent a lot of money and
15 don't pass it.

16 So we're trying to get out in front
17 of the written exam in bringing the candidates, a
18 diverse group of candidates, to take the written
19 exam who will come out of the written exam with a
20 passing, so actually our recruiting efforts are
21 pretty good, and what we're doing right now with
22 the Attorney General's office is working on the
23 written exam and working on the physical
24 qualification of the program and we're going to
25 be making some changes there that we think are

1 going to dramatically increase the population.

2 The other part is despite all of our
3 recruiting efforts, we see a loss in actually
4 showing up for the exam. That's not something we
5 can do a lot about. I mean, you have to want to
6 be in this job, and incidentally, I put the arm
7 on a lot of community members, with a lot of
8 members of a minority community, to please pick
9 out candidates and get them to the recruiting
10 process.

11 I mean, as good a job as recruiting
12 can do, we need the help of the community in
13 selecting people who want to be troopers, and who
14 those members of the community would like to see
15 become troopers, so this is really a community
16 Division partnership to help us bring a larger
17 pool of diverse candidates into the selection
18 process.

19 MR. HARRIS: You didn't answer the
20 question.

21 MR. JOHNSON: Thank you, Mr. Harris.
22 We're going to have a second round. Next we'll
23 have Mr. Carmelo Huertas who is a retired major
24 with the New Jersey State Police. Mr. Huertas.

25 MR. HUERTAS: Thank you for your

1 comments. I want to commend you and your
2 leadership staff for embracing the Consent
3 Decree. I gather from some of the questions,
4 that ability is going to be one of the questions
5 or concerns as the Division moves forward. The
6 IMT noted that the New Jersey State Police have
7 embraced the Consent Decree as an accepted tactic
8 change mechanism and that it met the requirements
9 of the Decree in both letter and spirit.

10 My question to you would be what
11 assurances can you give the citizens of this
12 state, and those that travel through our state,
13 that the State Police will continue to sustain
14 and perform these standards in light of possible
15 budget constraints, leadership changes and will
16 there be a slippage and reform in the attitude or
17 behavior of your personnel?

18 MR. FUENTES: The Consent Decree is
19 embodied in our Standard Operating Procedures in
20 about 36 of those SOPs. Control practices, the
21 way we do internal investigations, the way the
22 training is conducted, the way the searches are
23 conducted are all published and very instructive,
24 and are really the regulation of the Division and
25 that embodies the Consent Decree. When I say

1 codification, I don't just mean funding.

2 I mean to take those 36 SOPs, attach
3 them to a law or a bill and make them a law, and
4 that will guarantee the reforms. If you have
5 those in place, not to fund the technology behind
6 them is to doom that to failure, so it's a
7 combination of codifying both the Standard
8 Operating Procedures that are now in place and
9 were put in place as a result of the Consent
10 Decree, plus the funding equals sustainability.

11 MR. HUERTAS: One more question,
12 Colonel, and that will go to your proposal in
13 terms of having an independent monitoring entity
14 serve as an independent monitor. You said
15 that the OSPA has a conflict because of the
16 various classes that they represent. If their role
17 were redefined to serve as an IMT, do you see
18 that as a viable alternative in this process
19 other than as an independent outside agency?

20 MR. FUENTES: I think, you know,
21 obviously I can't just give an answer to that
22 knowing how that's going to be framed out, what
23 impact that has on my authority, what impact that
24 has on the State Police, to make sure that we can
25 continue to do effective proactive policing

1 operations, so I think as we move forward, the
2 Committee is going to get an understanding, an
3 idea of what they would like to propose.

4 I would hope, Mr. Chair, that I
5 could have some input into that so that I can
6 advise you of what impact those recommendations
7 might have inside the organization. I have
8 proposed that the auditorship be outside the
9 Department of Law and Public Safety which I think
10 guarantees the greatest impartial unbiased view
11 although the Attorney General's office has to
12 have the ability to monitor the auditor, for lack
13 of a better term, to make sure that what the
14 auditor is doing also provides the transparency
15 and that the auditor stays on track.

16 MR. JOHNSON: Thank you. We'll next
17 hear from Reverend Stanley Justice who is a
18 pastor at Mount Zion AME Church.

19 MR. JUSTICE: Thank you, Colonel,
20 for your report. Question, one of the
21 recommendations you included, you talked about,
22 is the codification of the 36 SOPs. Are you willing to
23 assist in championing the calls such that the
24 legislation or the lifting of the Consent Decree
25 be contingent upon the passing of the legislation?

1 MR. FUENTES: I think that, and I
2 might be incorrect, that Senator Gormley, and I
3 think there's actually other bills that are out
4 there right now, address legislating components
5 of the Consent Decree. I'm 100 percent in favor
6 of that. What I would suggest is that perhaps
7 one of those bills provides the frame work that
8 we can now attach to things that I've spoken
9 about and then move that forward. I don't think
10 we're starting from zero here. We might be
11 starting from 30 because some of the framework is
12 already out there in the legislature.

13 It just hasn't been brought before a
14 Committee. It hasn't been voted upon, so
15 absolutely what I said here today are the things
16 that I am championing, and I will continue to
17 champion. My legacy, and hopefully the gauntlet
18 that the future superintendents pick up, is that
19 these reforms will stay in place. All I'm saying
20 is let's make sure that that happens. Human
21 character is what it is. Let's make sure that
22 these standard operating procedures are in place
23 by law and funded so that they can continue to be
24 carried out.

25 MR. JUSTICE: So again, you don't

1 have a problem with the Consent Decree even
2 though you're saying there are already some moves
3 in place now to include, so you don't have a
4 problem with the legislation first and then the
5 Consent Decree?

6 MR. FUENTES: The Department of
7 Justice might have a problem with that. That's
8 something I think that you should perhaps address
9 to the federal monitors. Personally, I think
10 that we have served a term of the Federal Consent
11 Decree. On the heels of that, I would like to
12 see very, very speedy adoption of legislation that
13 would codify the things that I spoke about.

14 MR. JUSTICE: But if I'm not
15 mistaken, if the Department of Justice, aren't
16 they asking the State of New Jersey to consider
17 it, consider the lifting of the Consent Decree,
18 isn't that how it's --

19 MR. FUENTES: I believe in the
20 course of the mechanics of that, you would
21 probably want to discuss with the federal
22 monitors. I have a very good relationship with
23 the federal monitors. As a matter of fact,
24 tomorrow I'm engaging in an interview with them
25 on a 15th report. However, most of the

1 negotiation on this occurs between the federal
2 monitors and the Attorney General's office, so
3 it's probably a good question for the federal
4 monitors.

5 MR. JUSTICE: The other question is,
6 and when you mention that you had to counsel some
7 of the troopers with regard to their not having
8 stopped some, I think you said that.

9 MR. FUENTES: Yes.

10 MR. JUSTICE: Which would cause me
11 to ask this question. How are you sure then that
12 all that has been done, and I commend you, is not
13 as a result of new sophistication versus an
14 actual change? How are you --

15 MR. FUENTES: Well, we created the
16 ultimate system here to try and gauge individual
17 trooper behavior and to compare that to other
18 aggregate behavior either at the squad level or
19 at the station level. There are -- I mention
20 minorities. There are many dynamics and it's
21 blacks, whites, Hispanics, Asians are all the
22 type of things that you can do scatter plots on,
23 and the scatter plot I gave you, I believe it was
24 white motorists, is that a trooper is falling
25 outside the realm of the normal behavior, the

1 rest of the squad and the rest of the station on.

2 I mean, in terms of minorities,
3 perhaps the one thing we don't want is counting,
4 that people are counting their stops, so we want
5 them just to engage in fair law enforcement based
6 upon the violations that they see, so it doesn't
7 mean if they're low on stopping minorities, if
8 they're high on stopping on whites, that any of
9 that means something bad. It just means that the
10 supervisor has to notify the trooper that he's
11 falling outside and then he can kind of drill
12 down into each one of those motor vehicle stops
13 and also take a look at some of the behavior
14 through the mobile video recording, but this is
15 the system that we devised.

16 We think that it works. It's very,
17 very fair. It guarantees constitutionality and
18 patrol stop behavior, and it's a system I think
19 that we want to stay with.

20 MR. JUSTICE: At the commencement of
21 the institution of the reform, did any of the
22 troopers just quit, resign?

23 MR. FUENTES: No, we didn't see
24 that. This is actually an organization where
25 people like to stay in for 25 years and get their

1 pension and their benefits. We don't really see
2 a lot unless you're going to a different job or a
3 better job. I don't think there's any doubt that
4 there was a decrease in morale. You have to keep
5 in mind what it said in the interim in the final
6 reports which commended 99 percent of the
7 organization. You know, we said they did their
8 job in a perfectly acceptable way.

9 Everybody is subject to those
10 reforms after the Consent Decree, so we expect it
11 and we saw a dip in activity, but now, this has
12 all come back to a level that I think we're very
13 aggressively conducting traffic in criminal
14 enforcement in an environment that's a post 911
15 environment with a tremendous amount of gun
16 activity, gang activity and drug activity, and
17 I'm very satisfied with the performance of the
18 troopers who are engaging the public positively
19 as well as in motor vehicle stops while under a
20 lot of scrutiny in the course of their actions.

21 MR. JOHNSON: Thank you. Next we'll
22 hear from our next questioner, Sam Khalaf, from
23 the American Arab Antidiscrimination Committee.

24 MR. KHALAF: Good morning, Colonel.

25 MR. FUENTES: Good morning.

1 MR. KHALAF: Thank you for coming in
2 and presenting testimony for us. Colonel, as you
3 probably know, the New Jersey community of
4 Arab Americans, both Christian and Muslim, the
5 Muslim community as a whole has had great
6 concerns, if not downright fears, that profiling
7 is becoming more acceptable or permissible by law
8 enforcement, by politicians by some segments of
9 the public in light of all these antiterrorist
10 programs going on.

11 I want you, if you could, to talk to
12 us about some of the changes or modifications to
13 the monitoring problem that have been instituted
14 to maybe address some of this possible targeting
15 of Arab Americans.

16 MR. FUENTES: Number 1, that doesn't
17 happen. That's disparate treatment and if it
18 happens, then it's going to be addressed. If you
19 take a time when it appears that the allegations
20 are most prevalent during heightened security
21 levels, we operate with the Office of State
22 Police Affairs. If we have to man traffic posts
23 at tunnels or bridges, we have to check cars or
24 check individuals, it's done on a random basis.

25 It cannot be done on a basis which

1 selects race, gender, class, religion, whatever
2 the case, so we're very sensitive, even when we
3 go into security initiatives, about not crossing
4 the line. I've also been asked, well, if you
5 monitor stops among blacks, whites, Hispanics and
6 Asians, why not Arab Americans? And really, when
7 you think about that, it seems to bring about the
8 idea that a trooper has to engage in a decision
9 making process on a stop that would cause him to
10 ask some potentially embarrassing questions of
11 the motorist or the passenger; that he would have
12 to use a drop down menu in picking out whether a
13 member, either a member of the Muslim world, or
14 you're not or you're a Christian.

15 These are actually issues that drift
16 over into religious values, but perhaps even more
17 importantly, is that we're getting into an area
18 where we're asking questions that the federal
19 government would not allow on a mortgage
20 application, so we have to be very, very
21 circumspect as we continue to subdivide, you
22 know, some of these categories. The best thing
23 that we can do is the most fundamental thing that
24 we can do. You cannot stop a vehicle, you can
25 not engage in post-stop actions if it has

1 anything to do with race, class, gender,
2 ethnicity or stereotype, and that's the
3 fundamental rule that we follow.

4 MR. KHALAF: Along those lines of
5 Arab Americans, what is your understanding of how
6 they are described on a police officer list? Are
7 they described as White Caucasian, others?

8 MR. FUENTES: I think they're
9 described as white Caucasian.

10 MR. KHALAF: In your opinion, would
11 that somehow skew the numbers on the scatter
12 charts that you --

13 MR. FUENTES: No, because the
14 presumption you're making is that you're stopping
15 a person in the first place because they're Arab,
16 and that's not the case, and if it was the case,
17 I would have to say, even pop out on the white
18 motorist scatter plot that you have, so that
19 hasn't happened and I just don't think it's a
20 good idea to keep differentiating and dividing on
21 these scatter plots.

22 MR. KHALAF: One last question. On
23 page 15 of your testimony, you've described stops
24 which are directed at the request of third party
25 agency or investigative units. What are some

1 examples of a third party agency? Can you give
2 us an example?

3 MR. FUENTES: Yeah, absolutely. The
4 DEA does a narcotics investigation on -- they
5 have a car that they believe has drugs in the
6 car, in the trunk. That's called a directed
7 stop. At the request of DEA it is noted. The
8 trooper will make that stop and he uses the
9 probable cause applied by that third party agency
10 to conduct a search. It's called a directed
11 stop. It's not a stop that's generated by the
12 discretion of the trooper. It's generated by the
13 third party agency or an investigating unit in
14 the State Police that supplies the information by
15 which the trooper can take a post-stop action.

16 MR. KHALAF: So that trooper is
17 relying on information --

18 MR. FUENTES: From the outside.

19 MR. JOHNSON: Thanks. I believe I
20 saw Liza Lopez. Miss Lopez.

21 MS. LOPEZ: Good morning, Colonel
22 Fuentes.

23 MR. FUENTES: Good morning.

24 MS. LOPEZ: On page 16 of your
25 testimony, you state that in 2006, there were 21

1 consent searches and you gave us, I guess five
2 different troops or units, but that doesn't add
3 up to 211. Am I correct in assuming that the
4 other stops were on the Turnpike?

5 MR. FUENTES: Yeah, I think if you
6 add -- please excuse my mathematics, 93, 21, 70
7 15, seven and five.

8 MS. LOPEZ: Okay. So outside of
9 those, which I believe are approximately 118, are
10 Turnpike stops?

11 MR. FUENTES: 93 are Turnpike stops,
12 and what I've described here is just giving you
13 an idea, and this is just over the nine months of
14 2006, the consent searches activity in the other
15 troops as well.

16 MS. LOPEZ: Okay. Now, I see that
17 troop, I believe it's B, has the majority of the
18 consent searches. Can you just tell me what
19 territory that covers?

20 MR. FUENTES: That covers, I guess
21 to put it in perspective, everything north and
22 west of Newark. It also covers our Anticrime
23 partnership where we have approximately 40 to 50
24 troopers that are working in Irvington and in the
25 Vailsburg section of Newark. All of that

1 activity gets fed into this data as well.

2 MS. LOPEZ: Okay. What about the
3 Turnpike stops, do you have any information with
4 regard to the geographic location?

5 MR. FUENTES: They're spread
6 throughout the Turnpike. I don't have the MAPPS
7 on that. I'd be glad to provide one through the
8 chair if you do need one. About 49 troopers, I
9 believe I said 49 troopers conducted those 93
10 searches. About half of those searches occurred
11 subsequent to an arrest. A motorist had already
12 been arrested and the trooper extended beyond
13 what we call an Eckel search which is a wingspan
14 search in requesting a consent to get access to
15 the rest of the interior of the vehicle.

16 That accounts for 47, and 11 is
17 where we had credentialing issues that brought
18 about consent searches, not with a driver's
19 license, but registration and insurance or it
20 could have involved a driver's license in terms
21 of suspended, vehicle impoundment, those types of
22 issues as well, so that adds up to, here I go
23 again, 58 searches out of 93. That involved
24 post-stop actions that have relatively low
25 discretion, so the remainder are those consent

1 searches that are based upon the high discretion
2 of the trooper's decision and the reasonable
3 articulable suspicion that he has to use as a
4 basis for that consent to search.

5 MS. LOPEZ: And do you have data
6 with regard to the outcome of those searches?

7 MR. FUENTES: Absolutely. We have
8 data on literally everything.

9 MS. LOPEZ: Could you share that
10 with us?

11 MR. FUENTES: Sure, absolutely.

12 MS. LOPEZ: Great. My last question
13 is, how do you view the distinction between the
14 monitorship and an auditorship as you spell out
15 in your closing statement?

16 MR. FUENTES: Well, the monitorship
17 obviously is something we associate -- the
18 monitors, it's kind of a term that goes to the
19 Federal Consent Decree. I think auditorship is,
20 and it kind of is in keeping with the more
21 corporate view of doing things at Division
22 headquarters. The auditor is in acceptance of a
23 more corporate view of how we should continue to
24 do internal managerial audits and review, and
25 that's why I use the term auditor. I think it's

1 a more -- it's a term that's more grounded in a
2 post-Consent Decree strategy rather than the
3 monitorship which is associated with the Federal
4 Consent Decree.

5 MS. LOPEZ: Thank you.

6 MR. JOHNSON: I think at this stage,
7 we will take our break. And we'll be back --
8 it's a little bit after 11 now. We will be back
9 at 11:20. Thank you.

10 (Whereupon a break was taken.)

11 MR. JOHNSON: Our next Committee
12 member is Anne Milgram who is the first Assistant
13 Attorney General.

14 MS. MILGRAM: Good afternoon.
15 Colonel, I would echo what the --

16 MR. JOHNSON: There's one thing I
17 would raise for the benefit of the reporter, if
18 you can move the microphone as closely as
19 possible. She's working hard, and she's doing a
20 great job, but she needs to hear us a little bit
21 better. Thank you.

22 MS. MILGRAM: In the eight months
23 that I've been in the Attorney General's office,
24 I've had, I think a unique opportunity to have a
25 lot of conversations about progress in the State

1 Police under the Consent Decree, and I would very
2 much echo what the other Committee members have
3 said which is that the success has truly been
4 phenomenal, and much of that success is
5 attributed to, I believe, your personal leadership
6 and the leadership of your senior management, so
7 on behalf of the Attorney General's office, I
8 thank you and I would also thank the Committee,
9 the Commission.

10 I think what we've been looking at
11 is to sort of take a 30,000 foot view. We've
12 been looking at how do we get out of this in a
13 way or how do we move beyond this in a way that
14 sustains, what I think, are phenomenal results.
15 We began to look a little bit at Pittsburgh,
16 Steubenville, Ohio, and I think that those are
17 very much cautionary tales. Those are police
18 departments that have come out of Consent
19 Decrees and have not been able to sustain, what I
20 believe, were good reforms, so I'm grateful for
21 your recommendations, and I look forward to
22 working with you as we go forward.

23 Just a couple of quick questions.
24 The first question I would ask you, the way I've
25 sort of seen the Consent Decree is really having

1 three parts. One significant part has been the
2 State Police and leadership, and as you
3 discussed, the accountability of the sergeant.
4 The second part I would put in a category of the
5 IMT, which is the federal consent decree
6 monitors. It's come up a number of times in the
7 years to review those issues before. And the third
8 would be the Office of State Police Affairs. And
9 is that a fair assessment to say that those are
10 three?

11 MR. FUENTES: Absolutely.

12 MS. MILGRAM: I've seen, and you can
13 correct me if you think this is unfair, but I
14 have seen the first part as being very much
15 internal to the State Police, the leadership and
16 the accountability within your branch. The
17 second piece, the IMT, I've seen is very much to
18 the Court and Department of Justice, so they come
19 in as monitors but they have that additional
20 Court and the United States Department of Justice.

21 The third part is the Attorney
22 General's office which is also, I would say, an
23 external department, and so I notice in your
24 recommendations you've got the first part, I
25 think the leadership and the funding which are

1 critical, but I guess I have some questions for
2 you about the Office of State Police Affairs and
3 what you have liked about working with the Office
4 of State Police Affairs, what role you can say
5 positively in working through the Consent Decree
6 and also any sort of negative thoughts you have
7 or things that you haven't liked, just so I can
8 understand that third prong.

9 I see the first prong is
10 codification. Your suggestion is to codify your
11 IMT, you want to switch it to an auditorship. I
12 have some questions about what the hope is there,
13 but I'll leave that for now. The third piece is
14 the OSPA, and I guess if you can help me
15 understand that piece a bit more.

16 MR. FUENTES: Well, OSPA was
17 carrying out a federal mandate which was part of
18 the original Consent Decree, and I have to tell
19 you, I guess I'm probably repeating myself in
20 saying I have a very good relationship. I have a
21 number of troopers that are over there and have
22 labored hard and long, along with the other
23 members of the Office of State Police Affairs, in
24 being very, very helpful in helping us to bring
25 about the success I have described, and I

1 absolutely consider them a partner and I agree
2 with oversight.

3 So I think that there needs to be
4 something, but I think we need to break with the
5 system that's in place right now and embark on a
6 new system that considers where we've gotten to
7 along with the codification and move to an
8 auditing process that allows for a similar review
9 of the data inside the State Police and continue
10 transparency. I believe that that can be
11 accomplished effectively, and not to be
12 economical about this, but probably at a lower
13 cost.

14 I suspect that in the end, and I'm
15 just guessing at this, but in the end, the
16 exportation, some of these systems to local or
17 county police departments or whoever may want to
18 tap into those systems, would require a mechanism
19 that understands how they were implemented in the
20 State Police and how they can be brought outside
21 the State Police to another agency. That's
22 always been a skill when it comes to police
23 department audits.

24 That's always occurred inside the
25 Attorney General's office, and it seems to me to

1 be a very, very good productive future mission
2 for the Office of State Police Affairs. Having
3 said that, it kind of puts us on the path of both
4 having new and exciting missions post-Consent
5 Decree. I would like to look at the Attorney
6 General's office as having the ability to oversee
7 an auditor and very much in a way that I've
8 recommended this. I think it's a process that
9 would be a morale builder for the State Police,
10 for the troopers that have labored very, very
11 hard.

12 Quite frankly they may not perceive
13 the continued use of OSPA as oversight, as being
14 any recognition of any improvement at all on
15 their part; that in fact it would be considered a
16 State Consent Decree. I tried to include in my
17 plan appropriate oversight and guarantees that
18 the reforms will be sustained while at the same
19 time, you know, give the credit for the job
20 that's been done.

21 MS. MILGRAM: If I can follow up
22 briefly, Jim?

23 MR. JOHNSON: Sure.

24 MS. MILGRAM: And I appreciate that,
25 and I think I can tell how hard and how much

1 effort went into your prepared remarks and also
2 into the recommendations which I think reflect
3 what, to me, are the three main risks in going
4 forward. One is leadership, two is money and
5 three is sort of checks and balances I call it,
6 some form of external oversight which I think the
7 public and the state and the State Police as well
8 have already embraced and adopted.

9 Let's talk about the audit piece
10 just for a second, and I don't have, I know the
11 auditors have been used in other police
12 departments so I know this is not a foreign
13 concept. How frequently would you envision the
14 auditor coming in? What would be the public
15 nature? Would the auditor issue reports? Do you
16 envision seeing something that was in the
17 sheriff's department as a special counsel issue
18 and sort of report four times a year? Give us a
19 sense of that process.

20 MR. FUENTES: Sure, I would like to
21 see the auditor, whether it's a team or whether
22 it's an individual, come in along the same lines
23 as the monitor on a semi-annual basis. I think
24 they should produce a report, that that report
25 should be sent to the Attorney General's office,

1 and the Attorney General's office should continue
2 to submit the reports to the public as they have
3 up to this point on the Consent Decree.

4 MS. MILGRAM: I'm going to yield to
5 Carlos. Thank you.

6 MR. JOHNSON: Our next Committee
7 member will be Carlos Ortiz, former Assistant
8 Attorney General.

9 MR. ORTIZ: Colonel, I also want to
10 thank you for your comments and I want to echo
11 the comments of my colleagues here today on the
12 great job that you have done and your team has
13 done in implementing the terms of the Decree.

14 (At which point Miss Milgram exits
15 the Hearing.)

16 MR. ORTIZ: I guess picking up on
17 what Anne said, there have been other departments
18 that have been on monitors and then have come off
19 monitors and I'm wondering, in preparing your
20 recommendations, have you, in your team, studied
21 what happened good and bad in Pittsburgh,
22 Steubenville, and any lessons learned that you
23 can apply to what we're going through here?

24 MR. FUENTES: Those lessons learned
25 actually framed my recommendations. Pittsburgh,

1 and there's one other city --

2 MR. ORTIZ: Steubenville?

3 MR. FUENTES: Yes, Steubenville.

4 There was a continued, some pattern of continued
5 oversight, which I embodied in the auditor and
6 there was never any guarantee other than what
7 might be internally called the rules and regs of
8 that organization to make sure that nobody
9 slipped on that, and what happened is there was a
10 change of mayor administration in Pittsburgh who
11 brought in a new police chief who may have had
12 different ideas.

13 My point is that it's human
14 character. We need to take away some discretion
15 here from the superintendent, from the Attorney
16 General, and perhaps I should say the governor.
17 I'm not going to put my hand over the microphone,
18 but I mean that in a very good way. We need to
19 give everybody a peace of mind that nobody can
20 step in and really roll back the reform process.
21 I don't think that that occurred in Pittsburgh.
22 I'm not absolutely sure about Steubenville, but I
23 was sensitive to Pittsburgh.

24 I did in fact know the last police
25 chief who implemented the reforms under the

1 Consent Decree and brought the Pittsburgh Police
2 Department to the point where they were able to
3 execute the Consent Decree.

4 MR. ORTIZ: And that's where the
5 codification of the terms says that is the most
6 important part.

7 MR. FUENTES: Yes, sir.

8 MR. ORTIZ: Thank you.

9 MR. JOHNSON: Michael Rambert who is
10 counsel at Parker McCay and president of the
11 Garden State Bar Association.

12 MR. JOHNSON: Colonel, I want to ask
13 you about your leadership in adhering to the
14 Consent Decree. My question has to do with the
15 audit, and it's obviously going to cost
16 something, and I'm just wondering, even with the
17 codification, the legislature, there have been
18 many things that they have to fund, whether
19 funding will be cut in the future, you don't have
20 a crystal ball, but that is a concern of mine,
21 that if you get all of this in place, then that's
22 how we get funding. Also with respect to
23 auditing, are there any steps or any thoughts
24 about applying that to local police? Because I
25 believe there is an issue there with respect to

1 profiling.

2 MR. FUENTES: Well, I'm not sure
3 what policies are in place for local or county
4 police departments around the state. You would
5 certainly always be willing to work with those
6 departments, to resolve whatever needs
7 assessments they have by the chief or the sheriff
8 in helping them carry out, you know, what they
9 view as their objectives in their department.

10 There hasn't been, up to this point,
11 any imposition of those reforms on the police
12 departments and I mean, clearly we're all sitting
13 here making a decision as to whether the reforms
14 were successfully implemented and will have the
15 same ability in the provisions, so until this
16 Committee makes a decision on that, it's probably
17 a bit premature to export those, and I would hope
18 that this Committee believes, as I do, that these
19 reforms do have sustainability provided that the
20 things that I recommended are carried out.
21 Because it's going to be very difficult to
22 validate them going to other departments, if in
23 fact they're viewed by this Committee of not
24 having taken hold and not having sustainability.

25 So I look forward to working with

1 the ICP, State Chief of Police in New Jersey and
2 whatever their needs are, and we, quite frankly,
3 and I mentioned in my statement that we already
4 discussed some of those mechanisms with some
5 local departments, and we are going to be
6 available to assist them in any way that they
7 need.

8 MR. RAMBERT: Just one follow up
9 question. What percentage are the costs and
10 monitoring of the entire State Police budget?

11 MR. FUENTES: I believe we do pay
12 for the entire monitoring process.

13 MR. RAMBERT: What percentage of
14 your budget is it?

15 MR. FUENTES: You may have stumped
16 me, sir. I'm not absolutely sure. Can I get you
17 an answer on that? \$600,000 a year.

18 MR. RAMBERT: Thank you.

19 MR. JOHNSON: Thank you. We're
20 going to go back in order. I believe Jonathan
21 Goldstein is here. Jonathan Goldstein is a
22 partner at Goldstein and Segal, and he's a former
23 United States Attorney for New Jersey.

24 MR. GOLDSTEIN: Thank you, Jim.
25 Good morning, Colonel.

1 MR. FUENTES: Good morning.

2 MR. GOLDSTEIN: I want to put my
3 thoughts as well to thank you for the work you've
4 done, your leadership, and I think the people of
5 the state can be very proud in trying to deal
6 with this issue. Having said that, I think my
7 concern, and I share -- some of the members of
8 the Commission share this concern, we want to see
9 this go forward to future years, and we would all
10 like to say that whoever succeeds you will be
11 every bit as fine a man as you have been and will
12 continue all of your reform efforts, but there
13 are never guarantees and you have recognized that
14 in the proposal that you have made.

15 The one issue that I think concerns
16 me is how to do either the monitoring part or the
17 auditing part of this and whether it is best to
18 be in the State Police or best to be somewhere
19 outside of the State Police and whether it should
20 be the Attorney General's office or in some third
21 independent place. My question, at least
22 initially to you, is what other thoughts have you
23 had when you were preparing all of this? I'm
24 sure you gave consideration to other departments,
25 to other institutions, to other methodologies

1 besides just having the auditing function in the
2 State Police itself.

3 How can we pick some independent
4 body, independent institution that would not be
5 within the State Police to either do auditing, if
6 that's a word that is easier to take, monitoring,
7 which I guess is a word you do not like. I get
8 the sense that there is some resistance to the
9 Office of State Police in the Attorney General's
10 office. What other ways can we give
11 consideration to, other than what you are
12 suggesting and what I believe OSPA is going to
13 suggest when they come here this afternoon?

14 MR. FUENTES: I mean, I'll use the
15 case in point and I believe everybody may have
16 read the report, I'm not sure, by Dr. Sam Walker
17 who is one of those individuals I described as
18 having impeccable academic credentials and
19 probably one of the single most authorities on
20 police professionalism and reform in the United
21 States. To have auditorship involving someone
22 like Dr. Walker, or as I mentioned a public
23 policy group or an academic institution is, I
24 think a way of selfishly allowing us access to
25 scholars, researchers and analysts to continue to

1 produce transparent product that we have up to
2 this point, and that's why I suggested that.

3 You know, again, when I talk about
4 OSPA, I need to frame my remarks. We're talking
5 about the future. We're not talking about the
6 present. We're not talking about the past, and I
7 have enjoyed a tremendous relationship with them.
8 Once this ceases, if I can be frank, once this
9 ceases to be an unfunded mandate post Federal
10 Consent Decree, then within the department there
11 is competition for scarcity of resources whether
12 it's funding, whether it's logistics, and I just
13 believe that oversight would be better served
14 politically, ethically in the post-consent Decree
15 era to being done outside of the Department of
16 Law and Public Safety with it being orchestrated
17 or contracted by the Office of the Attorney
18 General.

19 I'm removing the State Police from
20 having the auditorship be located inside the
21 organization and kind of pushing it out to a
22 contractor with the Attorney General's office
23 who, I would ask to basically do the types of
24 things that are going on right now with the
25 monitors, and since we have the expertise to put

1 all of these records together for review, I would
2 use those State Police personnel to form that
3 Office of Auditing to keep gathering those
4 statistics as we do very much right now.

5 MR. GOLDSTEIN: It's always very
6 important where you place these institutions.
7 I'm not sure I fully understand what the
8 suggestion is. If I hear you clearly, you don't
9 want this to be within Law and Public Safety.
10 That's within the Attorney General's office. On
11 the other hand, I think you're saying that you
12 want this institution to be separate to report to
13 the AG.

14 MR. FUENTES: Well, I just don't
15 think, sir, if I may, that that report, that
16 person should be contracted by me, that that
17 report should come back to me again. I'm trying
18 in every way possible to make this as transparent
19 and impartial and as unbiased as possible, so I'm
20 suggesting that an independent auditor can be
21 contracted by the Attorney General's office, can
22 conduct an unbiased, impartial review
23 semi-annually of the State Police and then
24 provide that information back to the Attorney
25 General in the form of a report that can be

1 released through the Attorney General's office to
2 the public.

3 MR. GOLDSTEIN: Why can't that
4 contracting organization or individual, group of
5 people report directly to the AG and not to the
6 State Police? Why couldn't that group report to
7 the AG? The AG, at the end of the day, is
8 responsible for all law enforcement in the state.
9 The AG is going to be held responsible if we ever
10 go back to the problems we've had in the past.

11 Why can't that institution or group,
12 academics, university, whoever it's going to be,
13 why shouldn't the Attorney General be the one who
14 hires them, has a report coming back to the
15 Attorney General even with State Police, their
16 input and so forth, the Attorney General pays for
17 it, the Attorney General has to have funds
18 available to pay for it? Why shouldn't it work
19 that way rather than through the State Police or the
20 AG is contracted for but not really being in
21 charge of it?

22 MR. FUENTES: I agree with you, sir.
23 That's the way it should be. The State Police
24 should actually be in the role, if I'm using the
25 right term, I apologize if I'm not, a third party

1 client in this, and in some respects they're a
2 third party client in the Federal Consent Decree.
3 The only difference here is that the Attorney
4 General's role stays somewhat intact in their
5 relationship to the independent auditor, as the
6 relationship now exists to the federal monitor,
7 that ultimately the Attorney General gets these
8 reports and are responsible for putting them out
9 to the public.

10 The change being that the
11 independent auditor lies outside of the Department
12 of Law and Public Safety in the audits that they
13 do and then provide that information to the
14 Attorney General, so the State Police per se is
15 not involved in that process in any other way but
16 providing the information that the auditor needs
17 to do this business.

18 MR. GOLDSTEIN: One other brief
19 question. Where would this group lie? If
20 they're outside the Attorney General's office or
21 outside the State Police, where do they lie, who
22 are they responsible to, who do they have to look
23 to, who supervises them?

24 MR. FUENTES: Well, the AG's
25 office would be responsible for the selection

1 process. I'm kind of giving descriptions of
2 entities, individuals, small groups like public
3 policy groups, Manhattan Institute, Vera
4 Institute, whatever the case, academic
5 institutions either in New Jersey, outside of New
6 Jersey. This is a system that I've seen work in
7 places like Washington State and, you know, down
8 in Maryland, with a great deal of success, and
9 I'm convinced that that is a very good working
10 model.

11 I'm giving it an extra layer of
12 impartiality by saying that contract should not
13 be with me or the Division. It should be with
14 the Attorney General as a reporting mechanism.
15 Outside of getting data on a semi-annual basis
16 from us would be to construct a report and then
17 give that report to the Attorney General.

18 MR. GOLDSTEIN: Thank you very much.

19 MR. JOHNSON: Thanks. We are again
20 departing from our order somewhat. Ellen Brown.
21 Miss Ellen Brown, the New Jersey Institute for
22 Social Justice.

23 MS. BROWN: Thanks very much, Mr.
24 Chair, and thank you Colonel Fuentes for your
25 remarks. I've had a chance to review quickly

1 your testimony, and I think one of the things
2 that we heard from the monitors when they came
3 and provided us with information, they were so
4 complimentary of your leadership and important
5 role that you have played in the reforms that we've
6 seen to date. I have two questions, one
7 clarifying and one that is unfair.

8 The clarifying question, I'm still
9 not sure that I get the difference that you are
10 trying to lay out between the monitoring and
11 auditing or whether it's just semantics. I tend
12 to think of auditing as something that happens
13 after the fact and may be more difficult to
14 incorporate change as opposed to monitoring, but
15 is there any substance in the difference that
16 you're talking about?

17 MR. FUENTES: I think that that's
18 true. If this Committee believes, as I do, that
19 the systems that are put into place guarantee
20 nondiscriminatory patrol practices, that's the
21 preempt. That's the in advance of the stock, the
22 processes that are in place. I believe that
23 those systems are sound, so what we now need is
24 somebody to come in and audit the product of
25 those systems and the outcomes, the stop

1 outcomes, the search outcomes, the process and
2 procedural outcomes that, as we evolve, new
3 regulations produce.

4 So that would be the difference
5 between an auditor and a monitor in my
6 estimation. Perhaps the radical thing that I'm
7 proposing here is that it should be outside the
8 Department of Law and Public Safety but reporting
9 and contracted through the office of the Attorney
10 General, but it had to be outside of the
11 Department of Law and Public Safety institution
12 group or individual.

13 MS. BROWN: And now for the second
14 question which I'd like to get your sense of the
15 time frame that we're working with. We have two
16 and-a-half years that we're looking at where the
17 department has achieved the compliance levels
18 that are very impressive, but I'm wondering is
19 two years enough. Why should we be comfortable
20 with that performance over that period of time
21 given the long history of concerns that we've had
22 prior and whether or not that mirrors the amount
23 of time taken to institute sort of deep reforms
24 and changes in the department in other
25 circumstances? Maybe you can give us an example.

1 MR. FUENTES: I'm not a stickler on
2 detail, but it's been two and-a-half years. This
3 is a whole new day and very positive in the
4 organization. The system that we now use was
5 never available, was never there during the time
6 when it was of the greatest concern by the
7 community, by the citizens of New Jersey about
8 patrol stop practices with the State Police. The
9 Consent Decree has obviously been a critical
10 component in helping to bring about that
11 effective change mechanism that has been totally
12 adopted by everybody, troopers on the road to
13 squad supervisors all across the Division, the
14 commanders up to and including the
15 superintendent.

16 So I think that kind of embodies
17 where we are right now and there is a primary
18 difference to insure that we're not back prior to
19 1999. We're at 2006, and I'm kind of looking and
20 facing this way and looking forward. I'm not
21 looking back anymore. I don't really get a lot
22 of innovation if I look backward or looking to
23 the present, what we're doing, and we're looking
24 forward.

25 MS. BROWN: Thank you.

1 MR. JOHNSON: Thank you. Let's see.
2 We've got Ed Stier, I believe. I'm skipping
3 Mitchell Sklar. Let's go to Ed Stier, who seems
4 to be ready, of Stier Anderson, formal federal
5 and New Jersey state prosecutor.

6 MR. STIER: Good afternoon, Colonel.
7 I, like everybody else, have been extraordinarily
8 impressed by the responsiveness of the State
9 Police to what could have been disastrous to the
10 organization, to its morale, its effectiveness,
11 but the State Police has turned it into a
12 positive by improving the organization, making
13 the State Police more effective and accountable
14 to the public and I want to commend you
15 personally, your staff and the entire
16 organization.

17 I've seen it before in the State
18 Police. State Police is an organization who has
19 enormous pride in the capacity to use its
20 discipline, to reform itself quickly, so I don't
21 think -- I'm not surprised that you've been able
22 to do it within two years or two and-a-half
23 years, whatever it is. I'm concerned about two
24 issues going forward and I'd like you to address
25 them. Let me see if I can describe them. One is

1 the phenomenon of overkill in response to a
2 problem.

3 There's been an enormous amount of
4 attention focused on the needs of the State
5 Police. The State Police has responded in a very
6 creative way. I took a look at the MAPPS system,
7 a small glimpse at it the other day and was very
8 impressed by it and I'm also impressed by its
9 complexity. I'm impressed by the amount of time
10 that the organization devotes to utilizing it and
11 I'm concerned that going forward, unless there's
12 some refinement in the way it's used, if it
13 continues to grow in complexity and absorbs as
14 much time and resources as it has, I'm concerned
15 that once the focus moves away from the Consent
16 Decree, that maybe it will fall into its use,
17 maybe people will regard it as unnecessary layers
18 of oversight and find ways to circumvent.

19 I've seen that happen in
20 organizations over and over again, and the
21 question is, how do you guard against overkill?
22 The second problem I'm concerned about is the
23 tendency of all police organizations, including
24 the State Police, for insularity. The pride that
25 the State Police has in itself is commendable,

1 but if the connections that have been developed
2 between the State Police and the Attorney
3 General, who is ultimately accountable for the
4 entire development of Law and Public Safety, if
5 those connections are weakened or severed and the
6 State Police drifts toward insularity again, I'm
7 concerned about the consequences of that.

8 And I'm not sure that auditing by an
9 outside third party is adequate to maintain the
10 linkages between the Attorney General and the
11 State Police on an ongoing basis you have to have
12 in order to sustain the level of commitment of
13 the entire department to the kinds of reforms
14 that you've been so successful in making.

15 MR. FUENTES: Well, on the second
16 first, I think the way you overcome that is you
17 have to reduce the level of discretion in a
18 superintendent to drift or to slip away from the
19 reform process. I'm a very loyal soldier to the
20 Attorney General but I can't speak for
21 predecessors or successors when it comes to the
22 issue. But one thing has to be for sure is that
23 the reforms and the way that they're implemented
24 now have to keep going.

25 We, in the decision, myself in my

1 role, have to try and make sure that that becomes
2 a legacy for us and that it becomes an easier
3 thing to do for a future superintendent. Maybe
4 to some extent because he or she had no choice,
5 but that those reforms will live on. About
6 insularity, I haven't really -- a lot of what I
7 see in the State Police right now is, to tell you
8 the truth, quite the opposite. I've seen dynamic
9 relationships with the community, with the
10 Attorney General's office.

11 And I can't speak for the past, but
12 I submit, may not have existed in the past as
13 they have now, so unlike you, I would want to
14 certainly not guard against that. As to your
15 first question about overkill, if you look at the
16 MAPPS system, all the things, and you did look at
17 the MAPPS system, what MAPPS does a great job of
18 doing is aggregating data, but aggregating tables
19 and graphs and getting snapshots, but trend
20 analysis kind of humanizes it a little bit and
21 really gives supervisors, commanders the ability
22 to effect changes in behavior and award positive
23 behavior and we now produce Task 50 reports where
24 the risk analysis core group looks at every troop
25 as I mentioned in my remarks.

1 Every three months they look at a
2 new troop and they take a year's data and they
3 kind of break down the searches. That is kind of
4 cumbersome because we're extending beyond what
5 MAPPS has the capability of, and now we're
6 disaggregating data that we aggregated, and much
7 of that has to be done by hand, but I think it's
8 a good thing and it does get done by hand and it
9 allows us to embark upon things that we need to
10 change in the organization.

11 Right now we're purchasing a new CAD
12 system completely modernized which is going to do
13 things like automate patrol cars so the trooper
14 can sit at a computer or they get computers in
15 their cars to be able to make their entries
16 on-line. It's going to give us another piece of
17 data that maybe when we do one of these reports,
18 we don't have to go into the files or go into
19 back rooms and start pulling out pieces of paper
20 and patrol logs, so the concept of overkill, when
21 you said it, I kind of felt a little bad that we
22 seem to be moving in that direction, but I think
23 that's all good.

24 I think that instead of having to
25 disaggregate data to come up with trend analysis,

1 that we ought to be aggregating new pieces of
2 data and doing it in a way that's less intensive in
3 terms of labor, to be able to produce quicker
4 products that are much more incisive that can be
5 done by hand, so perhaps that could be perceived
6 as overkill, but it's actually helping us to do
7 things a lot better and a lot quicker.

8 MR. STIER: Thank you.

9 MR. JOHNSON: Thank you. Our next
10 Committee member to question will be Mitchell
11 Sklar who is the executive director of the New
12 Jersey State Association of Chiefs of Police.

13 MR. SKLAR: Good morning, Colonel.
14 Great to see you again. At the risk of piling on
15 the phrase, I want to extend my admiration to you
16 and your staff on what you have done over the
17 past couple years. I have a couple of questions,
18 one broader, one more specific. The broader
19 question, you talked about the importance of
20 codifying the SOPs that are in place to insure
21 future compliance. You talked about the absolute
22 critical funding.

23 I guess the third leg of that stool
24 is something I know you share is the
25 irreplaceable foundation of leadership in the

1 police organization. Can you tell us what you
2 and your Division have done and are doing to
3 prepare and create future leaders in the Division
4 as committed to the process and to the outcome as
5 you and your current staff have been?

6 MR. FUENTES: Well, the best thing I
7 can do is create the next, and I've tried to in
8 this job. In my job, your legacy is the leaders
9 that you produce in the organization and carry on
10 after you and continue to carry out the influence
11 that you put on the organization, and I believe
12 that we have, in my command staff, who a lot of
13 the members of the Committee have acknowledged,
14 has embodied that leadership potential to
15 basically take my job when the time to take my
16 job is there.

17 What I need to do, and something
18 that I brought up throughout my testimony here,
19 is to make sure that that leadership can
20 concentrate on issues other than worrying about
21 funding to sustain the reform, and other than
22 worrying that somehow the reforms can erode and
23 that is, again, the codification and the funding
24 aspects of what I proposed in my recommendations.
25 I consider those my legacy. Everybody has worked

1 very, very hard up to this point to put these
2 ducks in a line, if you want to look at it that
3 way.

4 And none of us here wants to see
5 this retreat, slip, go by the wayside, and so for
6 that reason, we need to give future leaders of
7 this organization, which are in the organization
8 right now, the ability through codification and
9 funding to be able to take the organization even
10 farther. I mean, we consider that the Consent
11 Decree is a floor. It's not a ceiling. It's a
12 base line. It's something that we build upon.
13 CALEA is an example of that. There are going to
14 be other initiatives that we're going to engage
15 in, in the upcoming years that we're going to
16 build upon the blocks that have been put in place
17 by the Consent Decree.

18 That's going to be the
19 responsibility of the future leaders in this
20 organization, but we need to give them the
21 framework with the codification and with the
22 funding to have the freedom to do that.

23 MR. SKLAR: Thank you. And I have
24 more of a narrative question. Going back to your
25 testimony, you talked about in the Office of

1 Professional Standards you have case tracking
2 software that has early warning triggers. Can
3 you explain what are the red flags, what type of
4 indicators does the red flag use and how that
5 works in the whole process of your future idea of
6 auditing as opposed to monitoring?

7 MR. FUENTES: The OPS meets in MAPPS
8 and does it in a very strong way. There is a
9 solid linkage to MAPPS and what we call the
10 disciplinary module that's in there, and in that,
11 supervisors can get access to discipline that has
12 occurred with the individual member and that can
13 be factored into a quarterly appraisal or another
14 annual, an annual report that the supervisor has
15 to do with every individual member on his or her
16 squad, so that linkage is already there, and as I
17 pointed out with the performance of the
18 administrative complaints, a lot of those come
19 from supervisors.

20 They go to OPS, and if they're
21 minor, they're referred back to the station for
22 the station commander or appointee of the station
23 to actually run those complaints down and then
24 they come back to OPS and they get approved, so
25 it's really, in some respects, it's an

1 indistinguishable partnership between OPS and
2 MAPPS in the stations that didn't really exist
3 before. MAPPS became kind of the juncture box
4 between the station and the Office of
5 Professional Standards so that supervisors could
6 understand what discipline was occurring perhaps
7 outside, you know, the squad, if it was an off
8 duty event, if it was a domestic violence event,
9 whatever the case may be, so those are the
10 linkages that exist right now.

11 MR. SKLAR: Thank you.

12 MR. JOHNSON: Thank you. Scott
13 Weber, a partner at Patton and Boggs and also has
14 had a little bit of experience with this issue
15 here in the state.

16 (At which time Miss Lopez exits the
17 hearing.)

18 MR. WEBER: Colonel, let me also
19 echo the sentiments of my other Committee members
20 in complimenting you and your leadership team on
21 really doing a tremendous job in the last five
22 years. You are all to be commended for your
23 work, and the organization, and it's really
24 wonderful to see. If you take a look back at the
25 history of racial profiling, especially within

1 the state, people initially were focused on stop
2 data, and then towards the late 90s and early
3 2000 it became apparent that really the consent
4 search data is what bore out whether the State
5 Police or whether the trooper was engaged in
6 selective processing.

7 I had an opportunity to take a look
8 at the MAPPS system in action and thought it was
9 very, very impressive. I did ask some questions
10 during the demonstration, and the individual who
11 gave me the demonstration explained that the
12 consent search data that's analyzed within MAPPS
13 relates to consent searches in which a motorist
14 is actually providing their consent, but there is
15 not an analysis done of motorists who refuse to
16 provide a consent, and I was wondering whether
17 there are any plans in place now or whether
18 there's another way, through the CAD system or
19 some other way, that the State Police tracks when
20 motorists refuse their consent, and then conduct
21 an analysis of that to see whether there is still
22 a disproportionate number of minority motorists
23 who are being asked for consent.

24 MR. FUENTES: If there's a refusal
25 to consent to a search, there is an entry on that

1 made in CAD. At that point, the trooper will
2 have already contacted the supervisor to discuss
3 reasonable articulate suspicion for wanting to do
4 it. It's already gone into the CAD system. What
5 is not generated is the detailed motor vehicle
6 stop report, if there is a refusal, and the
7 motorist goes on. In some cases, the articulable
8 suspicion may be so strong that the trooper will
9 request a canine.

10 Within a reasonable amount of time,
11 that canine has to get to that car so we don't
12 have an undue detention issue and that may
13 actually build, you know, into the consent
14 search, actually probable search. Because if a
15 dog hits, you get a scent, then they can do a
16 search. So there is notification of that, but
17 you are bringing up the vulnerability that we're
18 trying to address right now, in the new CAD
19 system, is that we do need to drill, I think go
20 the extra step on the refusals and the actual
21 consents that are embodied, the highest
22 discretionary decisions by the trooper.

23 Keeping in mind that all of these
24 consent searches are past the muster,
25 constitution compliant, legal authority in place

1 to make the request, reasonable articulable
2 suspicion there in every single case by a
3 multilayered review process, but we have data
4 now, so we're looking to try and find ways,
5 whether it's the supervisor is very engaged right
6 now in this process, but maybe establishing
7 uniformity with a check list that allows for a
8 uniform interpretation of reasonable articulable
9 suspicion. These are things that we're now
10 moving forward with in addition to training
11 issues.

12 If we see stops that may be
13 elongated, if we see stops where find rates could
14 be better, or excuse me, searches to find rates
15 could be better, this may result in a training
16 issue. We've got to bring everybody back in.
17 We've got to talk about some issues. There's got
18 to be more training, and those are the types of
19 things that can be implemented above and beyond
20 what the MAPPS data tells us.

21 MR. WEBER: If there's anything this
22 Committee can help you with vis-a-vis our
23 recommendations that would help address the issue
24 of actually analyzing and then using data for
25 that analysis as far as consent issues, I know I

1 would welcome, and I'm sure my Committee members
2 would welcome, any additional input on that.

3 MR. FUENTES: Right now, that
4 analytical component you're talking about is
5 located in Lieutenant Schaller's unit which is
6 the MAPPS unit. They do the analysis for the
7 periodic reviews of the troops. They, in a lot
8 of cases, become the trigger mechanism to talk to
9 particular squad supervisors when they see things
10 that need to be changed, that need to be
11 effected. Keeping in mind that six or seven
12 years ago, we would sit at this table and I would
13 have no idea how to answer half of the questions
14 that I've been asked.

15 The fact is, is that now I can
16 engage in stimulating dialogue with this
17 Committee about these issues, and I may not have
18 all the answers, but the answers that we don't
19 have are the ones that we already know the
20 questions and we're trying to broaden our ability
21 to be able to come up with that information such
22 as the new CAD and the things that we're trying
23 to put into the new CAD system that makes it
24 easier incidentally for the trooper and the
25 supervisor to do their job, and gives us more

1 information to make sure that there are no local
2 issues and that there are no suspended issues.

3 MR. WEBER: I appreciate that. Just
4 a couple of other quick questions. Am I to
5 understand that by virtue of your recommendation
6 for an auditorship, as opposed to a monitorship,
7 which would be a separate organization, that the
8 Attorney General's office would contract and then
9 they would report to the AG's office, that
10 assuming the Consent Decree was dissolved, post
11 that solution, there would no longer be a role
12 for the Office of State Police Affairs?

13 MR. FUENTES: Perhaps not in its
14 present form. I think that's probably a given
15 here. I discussed this with the previous
16 director of OSPA who has since retired. This is
17 an enormous productive mission for, I think for
18 what is now OSPA, to carry out what reforms that
19 local and county PDs may want to incorporate,
20 and, you know, that is something that I simply
21 bring to this Committee as a suggestion embedded
22 in the recommendations that I've made.

23 MR. WEBER: One final question. You
24 had, during your testimony, mentioned CALEA and
25 the State Police efforts to seek CALEA

1 certification and juxtapose that against your
2 testimony about the Consent Decree being the
3 bottom. You're looking to go above that. Has
4 the State Police conducted any analysis to
5 compare the 459 CALEA standards against the
6 standards that you have developed as a result of
7 the Consent Decree to determine whether the State
8 Police is above the CALEA standards or whether
9 they're below some of the CALEA standards?

10 MR. FUENTES: I think with the
11 reforms that have occurred under the Consent
12 Decree, we're above the CALEA standards on
13 control practices and gathering data and analysis
14 of that data. We didn't have a blue print that
15 we could go to another city to pick up and design
16 MAPPS. Those types of systems were designed by
17 us for the Consent Decree which is why there's so
18 much interest in it nationally, but CALEA
19 broadens out in the 400 some odd tasks,
20 everything from how you store socks in the
21 warehouse.

22 I mean, it gets into the most minute
23 administrative processes in the State Police,
24 things that have nothing to do with the Federal
25 Consent Decree, and what CALEA is going to do is

1 now look at those processes, so this is where we
2 use the reforms we've built but now we broaden
3 out reforms and professionalism and
4 administrative efficiency into the rest of the
5 organization.

6 MR. WEBER: Thank you, Colonel.

7 MR. FUENTES: You're welcome.

8 MR. JOHNSON: I'd like to call on
9 Theresa Yang, Esquire, who is the president of
10 the Asian Pacific American Lawyers Association.

11 MS. YANG: Thank you. Actually, I'm
12 just the past president.

13 MR. JOHNSON: But still number one
14 in our hearts.

15 MS. YANG: Good afternoon, Colonel,
16 Captain, Captain and Lieutenant. Thank you for
17 joining us today. I just wanted to say, since I
18 was a prosecutor in 1994, it's been a pleasure
19 and great to see how far the State Police has
20 come. I was impressed then and more impressed by
21 your diligence and continued hard work for
22 achieving what was put into the Consent Decree.
23 I guess I just had a clarification question.

24 Colonel, throughout your testimony,
25 you mention all the benefits. I believe maybe my

1 colleagues share this as well that maybe the
2 Consent Decree wasn't such a negative vehicle
3 that you were able to implement CAD, MAPPS, and
4 with that, Colonel, would you say, is this an
5 accurate statement that you would like that to
6 continue, the implementation of CAD and MAPPS and
7 that it's positive, and also the supervisor
8 agrees, am I to understand that what's in place
9 now you'd like to see continue; is that correct?

10 MR. FUENTES: Absolutely. In the
11 form it is right now as a base line, but to be
12 technically improved as the needs of the
13 organization go above and beyond what the reforms
14 are right now. I've also often called the
15 Consent Decree the trooper's best friend, and
16 I'll just take in car cameras as a case in point.
17 They were -- in 1999, I believe they were very
18 suddenly put into the cars and generated, I
19 believe -- and probably anybody you would ask
20 here had a great deal of mistrust.

21 Those cameras have overcome the
22 allegations against troopers in, I would have to
23 say, conservatively a couple of hundred
24 misconduct cases that were sent to OPS, and in
25 the Intake and Adjudication Bureau they put that

1 MVR up there and they take a look at it and they
2 resolve the issue right there, so you will not
3 see a trooper, they're not supposed to anyway,
4 but when that camera runs out, that camera has
5 become, in many ways, a security blanket for them
6 as an assurance, not just to protect the public,
7 but to insure themselves they're trying to show
8 that they're doing their job correctly and the
9 camera, the video and the audio are certainly the
10 best evidence for that.

11 So we're comfortable with the
12 reforms. Our activity shows that. There is no
13 slacking of activity. We're carrying out all of
14 these missions around the state, whether it's
15 Homeland Security, fighting gangs, trying to stop
16 shootings along with our fellow police chiefs in
17 the city, continuing to move forward with the
18 reforms.

19 All of that is going on in
20 overlapping missions, and so I'm very happy with
21 the way that the organization is running, and as
22 I pointed out in my last paragraph and I
23 mentioned to somebody, if you can see farther
24 than any other person it's because you're
25 standing on the shoulder of giants, and it's the

1 troopers in this organization that have brought
2 this organization forward adopting the reforms
3 implemented and are now using the reforms every
4 day.

5 MS. YANG: And just one final
6 question, Colonel. As with any system, you're
7 going to see weaknesses, points that can be
8 improved, and I think my colleague may have even
9 touched upon one of them, Mr. Weber, but is
10 somebody actually keeping a list of weaknesses or
11 computer glitches in your organization that if we
12 as a Committee can help you and say, okay, I
13 actually need \$20,000 to correct this, is there
14 such a person, or can something like that be
15 monitored to help your organization continue with
16 the hard work?

17 MR. FUENTES: Probably some of the
18 busiest people in our organization are those in
19 information and technology who are getting
20 constant phone calls that they're trying to enter
21 reports in RMS and they can't get the computers
22 to work. We suffer the same technical glitches
23 that everybody else does in virtually every other
24 administration. We have a very robust technology
25 component in our organization that not only

1 develops new technology such as MAPPS but
2 maintains the technology and improves the
3 technology that's in place.

4 So keeping in mind under the Federal
5 Consent Decree when we lose data, we lose the
6 ability to show progress, so we kind of jump on
7 technological glitches whether they're computers,
8 whether they're radio communications. MAPPS, you
9 know, these are systems that are, because they
10 are designed by people, they're fundamentally, I
11 guess they're basically imperfect, so you have to
12 keep evolving them, keep watching them, make sure
13 they can keep up with the capacity of information
14 you need to put into them.

15 MS. YANG: Thank you, Colonel.

16 MR. JOHNSON: Thank you. At the end
17 of this round, I get to ask a few follow up
18 questions to many of the terrific questions that
19 have been posed by members of the Committee, and
20 at the outset, I want to thank you for the candor
21 and the level of preparation that you've
22 demonstrated in responding to the committee's
23 questions.

24 First, as to sustainability, we've
25 talked a great deal about the larger, sometimes

1 even bureaucratic, issues related to
2 sustainability, whether or not a particular
3 office of monitors would be in the State Police
4 or auditors were outside, and I'd like to talk
5 about it from a different angle which is the
6 angle of what goes on in the field. My sense is
7 there are two things that would tend to undercut
8 the sustainability of this.

9 One might be the challenge, the time
10 that's involved that may be drawn from other
11 things to fulfill the requirements of the current
12 system, and the other is safety issues. My sense
13 is there is some concern, at least some of the
14 requirements might raise safety issues, and I'm
15 just posing those two things. Do you see those
16 as potential problems going forward where either
17 folks might consider it just takes too much time
18 to comply with this, and once there's a new
19 superintendent there might be a reluctance to
20 continue to comply with the systems?

21 And secondly, whether or not anyone
22 has raised the significant safety issues that
23 have been posed by the system.

24 MR. FUENTES: I can tell you that as
25 this system was implemented and evolved, there

1 were a lot of speed bumps. I'll just use a case
2 in point. We weren't allowed initially to frisk
3 somebody that were being put into the police
4 vehicle to take them somewhere. Now that
5 presents an inherent safety risk to the trooper,
6 and that was overcome and that was overcome in
7 cooperation and collaboration with the federal
8 monitors, so you're absolutely right, everything
9 that we view, we view from the standpoint of
10 trooper safety.

11 The one thing that we have to guard
12 against, and it's always a concern, when the
13 trooper gets out of the car, that he's looking
14 back to make sure that the camera is on and that
15 the audio is working rather than concentrating on
16 the person that he or she is stopping. That's an
17 enormous concern, and one of the ways we get
18 around that is to keep bettering the technology,
19 so it takes the pressure off the trooper and puts
20 it onto the system, and we are moving in that
21 direction with things like the digital MVRs which
22 will require little or no work on the part of the
23 trooper.

24 That will just uplink to a station
25 when the car is in the area. It will put

1 everything on a web based application for the
2 sergent to know, instead of looking at a tape to
3 try and pick out an MV stop, he can select a CAD
4 number assigned to that stop and go right to it,
5 so those are the types of -- incidentally, I
6 might have answered your first question trying to
7 answer the second, is that it's the challenge of
8 the Consent Decree that may take away from the
9 proactive law enforcement mission.

10 We're trying to find a way and
11 that's a constant evolving, very dynamic thing
12 that we're constantly looking at, how to bring us
13 together to be what the public expects us to be
14 in terms of aggressive traffic and aggressive
15 criminal enforcement, while at the same time,
16 making sure under the reforms that we're doing
17 our job in a constitutionally compliant way that
18 keeps our troopers safe. That is something that
19 is looked at every single time. It's looked at
20 by us. It's looked at by the bargaining units.

21 We're very sensitive to their
22 concerns, and in some cases their advocacy has
23 brought about some changes related to safety that
24 weren't initially picked up, so that's a very
25 collaborative advocacy with us to make sure that

1 we keep our troopers safe.

2 MR. JOHNSON: Next issue goes to
3 confidence, confidence building and we've heard
4 from a number of members of the Committee about
5 the need to maintain, and in some instances,
6 enhance confidence of the community. I'd like to
7 actually go back to Mr. Khalaf's question about
8 whether or not the system, the data that's input,
9 actually keeps track of those stops of citizens
10 of Middle East origin. As I remember your
11 response, it doesn't right now but there may be
12 ways for it to be tracked.

13 They're tracked white Caucasian and
14 there may be bump ups. Given that we are in a
15 world that is concerned post 911 with greater
16 enforcement in the antiterrorist area, and the
17 fact that some communities are maybe more
18 vulnerable to enforcement activity as a result of
19 profiling, it may make sense, from a managerial
20 perspective, to at least pursue the pros and cons
21 of trying to track that information going
22 forward.

23 You had pointed out some
24 difficulties in keeping that information or at
25 least trying to identify people as either Arab

1 American or from the Middle East or Muslim, but
2 there may be ways to do it so that as we continue
3 to try to move forward with a law enforcement
4 that is operating in an above board way, when it
5 comes time to answer the questions, what are you
6 doing with respect to the Arab American
7 community, there will be data actually that one
8 can point to.

9 MR. FUENTES: If this is admissible
10 to you, sir, can we put together a report for
11 you, for this Committee with the pros and cons?

12 MR. JOHNSON: Yes.

13 MR. FUENTES: I would like to enlist
14 the experts who sit all around me here in this
15 room in doing that rather than just --

16 MR. JOHNSON: In fact, I would
17 actually prefer that because this is an issue
18 that is sufficiently nuanced and complicated that
19 for us to try to resolve this sitting in this
20 room, we can make a stab at it, but it's not
21 going to be resolved here.

22 MR. FUENTES: Absolutely. I will
23 get some people to put their heads together and
24 come up with some recommendations.

25 MR. JOHNSON: Thanks. Then the last

1 issue is on the statewide issues. Obviously, the
2 mandate of this Committee goes beyond the state
3 troopers and we will be looking at
4 municipalities. One of the issues is going to be
5 the cost to any particular municipality of
6 putting a system like this, like the MAPPS system
7 in place. Can you help us identify efficiencies
8 so perhaps we wouldn't have a MAPPS system for
9 each particular municipality, but perhaps a
10 regionally based system? I don't know whether or
11 not something like that would work, but would you
12 be willing to explore that possibility?

13 MR. FUENTES: Absolutely. With
14 MAPPS anything is possible. MAPPS is a system
15 of components and feeder systems which can be,
16 some could be parallel, some could be pulled
17 apart and the system can actually be, in some
18 respects, redesigned to fit the needs of a local
19 and county police department. I don't know what
20 those particular needs may be. It may be that a
21 police department would want to gather
22 statistics, so the motor vehicle stop data module
23 in MAPPS would be a tremendous value.

24 In some police departments, they may
25 worry about misconduct in the police department

1 and complaints and those modules, performance
2 modules and discipline in MAPPS may be appealing
3 to them, but some basic software package, you
4 know, that they could use, and believe me, I'm on
5 the very edge of my knowledge right now, but the
6 long answer, I guess to your short question, is
7 that, yes, that can be done. We have the
8 technical team to be able to work with any police
9 department with this Committee in designing a
10 recommendation as to how that can be used along
11 with best practices.

12 It's not all technology. It's what
13 best practices, maybe on the books as well that
14 might be of some import. We learn from police
15 departments and I think police departments learn
16 from us, and it's that exchange of information
17 that kind of synergizes a good product of law
18 enforcement so we'll absolutely be glad to do
19 that.

20 MR. JOHNSON: Thank you. We
21 finished our first round and we're a little bit
22 behind schedule but what I'd like to do is ask
23 the panel if you could stay for at least
24 another -- see if we can start the second round,
25 if there are additional questions, follow up

1 questions, and stay for another 15 minutes, if
2 that's appropriate, before breaking for lunch.
3 Are there questions for the second round which
4 might be the lightening round? Why don't we
5 start in order, Miss Carroll.

6 MS. CARROLL: Colonel, quickly, I
7 would like to know, if in fact legislation is not
8 passed for budgeting, because as much as we can
9 make recommendations, that doesn't mean that
10 they're going to be followed. Do you feel there
11 are enough checks and balances in the system
12 that's in place to maintain the Consent Decree
13 as it stands today?

14 MR. FUENTES: I do, but I think it
15 puts enormous pressure on the supervisors to have
16 to do things sight unseen. I mean, we talk about
17 the transparency of the organization to the
18 public, but we need to have the transparency of
19 the squad to the sergeant, and the transparency
20 of the squad to the sergeant or to the station
21 commander or to MAPPS or to OSPA, as it is right
22 now, is based upon the technology and I can't
23 envision not having that technology.

24 I can't be more emphatic about that,
25 that as we move forward, no matter what the

1 recommendation of this Committee to the governor,
2 that it has to include a continued maintenance of
3 the systems that we have now and the evolution of
4 those systems as they get aged.

5 MR. JOHNSON: Reverend Floyd.

6 MR. FLOYD: Yes, Colonel, it appears
7 clearly from the record that you are a change
8 agent and this may seem like a simplistic
9 question, but I want to ask you, prior to the
10 Consent Decree did you notice any racial
11 profiling issues within the organization?

12 MR. FUENTES: I don't think that
13 there is any doubt that there were discriminatory
14 patrol practices. It was well documented in the
15 interim report. It was well documented in the
16 final report. Sadly, that had to occur against
17 the backdrop of so many troopers that were doing
18 their job in a very, very constitutional and very
19 effective way for the citizens of this state, and
20 they were brought into this as a result of their
21 affiliation to the organization.

22 And so, you know, we have to be
23 mindful of the past and the history, but there is
24 a lot of promise in the future here, and that's
25 where I'm really directing my attention right

1 now. I can say that a lot of people don't think
2 about the past, that we think about what we're
3 doing now and what we're going to be doing for
4 the future.

5 MR. FLOYD: Another question. I
6 would like for you to answer this in a
7 nonprofessional way. How do you feel now about
8 your organization since the Consent Decree, you,
9 how do you feel about it?

10 MR. FUENTES: Well, I feel like I've
11 only been sitting in this seat for 10 minutes, so
12 I guess that kind of echos my feelings. I like
13 talking about this organization. I am constantly
14 amazed with what I see as the progress in this
15 organization. It's involved a lot of outside
16 partners. It's involved federal monitors. It's
17 involved the Office of State Police Affairs.
18 It's involved the Attorney General's office, but
19 the key to it all are the road troopers and the
20 supervisors who have gotten the message and have
21 implemented it in what they do every single day.

22 I, from a personal standpoint, I
23 couldn't be happier with the way the organization
24 is, and if I left today, I feel that things have
25 gone exactly the way I have wanted them to.

1 MR. JOHNSON: Thanks. Before we go
2 to Mr. Harris, I see Jerome Harris down at the
3 end, and Mr. Harris is, among other things, chair
4 of the Black Issues Conference. Do you have any
5 questions, or should I circle back around? We'll
6 go to the other Mr. Harris.

7 MR. JAMES HARRIS: When I looked at
8 the MAPPS system, there's a lot of data, and I
9 wondered how much time was spent in looking at
10 that system as opposed to out there on the road
11 actually seeing what people actually do? There
12 is a lot of data, but data can be manipulated,
13 stuff happens and in knowing how the State of New
14 Jersey is and let me just say that I'm constantly
15 reminded that New Jersey is one of the most
16 racially segregated states in the country.

17 And if I recall, the original, going
18 way back, the original problem on the Turnpike
19 was in the southern part of the Turnpike where
20 the racial diversity isn't nearly as prevalent as
21 in the northern part of the state, so my question
22 is the training at the academy, what is the
23 racial profile of the folks who are doing the
24 teaching, what does the cavity look like and what
25 is the interface with the MAPPS systems of

1 actually seeing that trooper on the ground
2 actually interacting with personnel? And that's
3 at every level because it seems to me, the
4 sergeant has a tremendous amount of
5 responsibility to review the tapes and then go
6 out and actually see how individuals are
7 performing.

8 MR. FUENTES: You're really asking a
9 question here I think about the training bureau
10 and some of the preservice training that goes on
11 which is where we take somebody and mold them to
12 be a trooper. Those type of issues are under the
13 Consent Decree, and again, 50 percent of our
14 uniform patrol force have come out after 1999.
15 They are taught under the principals of the
16 Federal Consent Decree. That teaching has
17 infused itself throughout the rest of the
18 Division, but our training bureau has a very good
19 way of approaching this.

20 Number one, all of the curricula are
21 approved by the Attorney General's office that
22 are taught. They have a seven step training
23 cycle which kind of in the beginning, the first
24 step is to look at what the end goal is and then
25 to have an evaluation, I'm leaving out some of

1 the other steps, but step seven is to go out and
2 actually see if the training that was implemented
3 actually evoked the reaction that you want in the
4 field, and so there is a tremendous interaction
5 right now.

6 As a matter of fact, there are field
7 training officers who are assigned to each one of
8 the troops to look at what's going on in that
9 particular troop, the Turnpike, the Parkway, A, B
10 or C, to see if things that are happening that
11 generate training issues, and then to go back to
12 the academy and actually have in-service when
13 you're already on the organization, you go back
14 annually for an in-service, some is on-line and
15 some is physically back at the academy, and the
16 curriculum is kind of for that day, for that
17 in-service, based upon what those field training
18 officers and the rest of the academy staff see as
19 issues that need to be discussed or retrained.

20 If you heard before, we had kind of
21 silos in the organization, Office of Professional
22 Standards, field operations, training, the walls
23 between those groups and the organization are no
24 longer there. What's done in the training
25 academy has a great deal of impact on what goes

1 on in field operations. What OPS does has a
2 great deal of impact on what the squad supervisor
3 is going to say, let's say in his quarterly
4 appraisal or annual evaluation of the member, so
5 all of these different components of the
6 organization are now linked together and consult
7 each other to come up with the right answer.

8 MR. HARRIS: And I want to go back
9 to that question that you didn't answer my first
10 time. Do you believe that the confidence of the
11 African-American community and the minority
12 community can be enhanced without the diversity
13 in the ranks?

14 MR. FUENTES: No, you need the
15 diversity in the ranks, and the reason I didn't
16 get to the answer that you needed is a lot of
17 that involves a good recruiter working along side
18 the community to bring members of the minority
19 community into the organization. Once they get
20 into the organization, they have very good
21 careers, and I have to tell you straight up, I do
22 not promote anybody or put anybody in a position
23 based upon race, gender, ethnicity.

24 Having said that, the command staff
25 is very diversified. Our population right now,

1 percentage within the organization, is about one
2 fifth. It should be much more than that, but
3 again, we go back to a recruiting issue. All of
4 my command staff has been promoted by me with
5 exception of one lieutenant Colonel. In terms of
6 females, I think 15 percent of them have been
7 promoted once. 30 percent have been promoted
8 twice, or 15 percent have been promoted twice, 30
9 percent have been promoted once.

10 That type of natural growth inside
11 the organization is happening. It's happening
12 for minorities, but it's not happening for
13 minorities because they're minorities. It's
14 happening because they're good at their job and
15 they have a great role and they're very
16 representative within the command staff ranks in
17 particular. I have a female who is in charge of
18 all of the 1,800 troopers that I've been talking
19 about. We have the first female commandant of
20 the academy.

21 We have troop commanders, and it's
22 the same thing for other minority groups, so
23 we're very proud of our diversity in our
24 organization. I don't put a number on it. I
25 don't say I want to get to 25 percent, or I want

1 to get to 30 percent. The bottom line is we
2 ought to be aggressively recruiting and then
3 offering the proper monitoring, as we do for
4 everybody in the organization, to advance
5 everybody's career.

6 MR. JOHNSON: Thank you. I just
7 want to take a quick hand count. How many -- we
8 have Reverend Justice, Mr. Stier and Mr. Harris.

9 MR. HUERTAS: Colonel, I guess in
10 Mr. Harris's question, which has to do with
11 training and recruitment, but more importantly,
12 as the global approach that the State Police has
13 taken in order to reach out to minority
14 communities in order to build a better
15 relationship, not only in terms of policing but
16 understanding how the police and how the State
17 Police work, what steps has the Division taken to
18 mend those fences in a sense of to bring the
19 community in line or to reach out to the
20 community and forge a better work relationship?

21 MR. FUENTES: I have a major who is
22 in charge of recruiting police who actually works
23 in the Office of the Superintendent, so those
24 recruitings are in the office of the
25 superintendent, so I identify these as key issues

1 and nobody tiptoes by my door without me thinking
2 there's something wrong and I need to call them
3 in and talk about it. Many members I think of
4 minority groups have met Major Wendy Galloway.

5 She has done a tremendous job in
6 working with a minority community in helping to
7 bring issues from that community to us so we can
8 act upon them and also to create opportunities
9 for the State Police to interact more with the
10 communities. The Camden Anticrime partnership,
11 the Irvington Newark Anticrime Partnership have
12 done as much as anything else, brought community
13 and the State Police together in ways that I
14 never could have envisioned or expected.

15 We still maintain very robust
16 relationships with the Arab American groups. I'm
17 about to meet with many of the leaders of the
18 Arab American groups in New Jersey to embark them
19 on a CERT program, Community Emergency Response
20 Team which is not taking anything. It's giving
21 something back to the community, to empower the
22 communities to be the first responders, so those
23 are the types of things that we're working on,
24 and selfishly we're making ourselves known to
25 those communities, same thing with the aging

1 community.

2 So we're doing projects and
3 initiatives with the communities to make
4 ourselves known so that maybe those communities
5 will say, hey, this is a good job, being a state
6 trooper.

7 MR. JOHNSON: Thank you. And we
8 have three more questions, and I would say that
9 this will not be our last chance to speak with
10 Colonel Fuentes, so if we can keep them quick.
11 Reverend Justice.

12 MR. JUSTICE: When you consider
13 local law enforcement, aside from money, I know
14 that could be a problem, but with regard to the
15 institution of let's say MAPPs within the context
16 of local law, what do you see as some of the
17 other challenges that you would face?

18 MR. JOHNSON: Well, I'm only going
19 to use ourselves as history on this. I really
20 don't have anybody else to go to especially when
21 it comes to MAPPs. I think whenever a police
22 leader poses that type of technological oversight
23 and accountability into an organization, it's
24 going to naturally, in the beginning, there's
25 going to be challenges to that. There's either

1 going to be morale issues, and really the real
2 cause of that is a misunderstanding early on of
3 what those systems can do for you as a police
4 officer in the local or county department.

5 I look at that, Reverend, as a
6 challenge that we overcame. I anticipate that if
7 part of MAPPS can be used, and I know that some
8 of the members of this Committee who came and
9 viewed MAPPS, actually viewed it with the hope
10 that they could take MAPPS to the local
11 department in the city that they lived in, so
12 that, I would see as a challenge that's going to
13 be one of acceptance, but the message has to come
14 down from the police chief, from the sheriff, to
15 say that this is something good.

16 Here is where it's been used, it's
17 worked and we're going to use part of this system
18 to make us better at the way we do our job and
19 the way we get along with the community.

20 MR. JOHNSON: Thank you. Mr. Stier.

21 MR. STIER: Colonel, I want to go
22 back to something that you said in your, I think
23 it was in response to a question, and that is in
24 a continuing role for the Office of State Police
25 Affairs, would your judgment be viewed by the

1 organization as an extension of the Consent
2 Decree or the Consent Decree in some other form?
3 Would you tell us, what specifically, the Office
4 of State Police Affairs does now that, if
5 continued, would suggest to the State Police that
6 the Consent Decree has been extended?

7 MR. FUENTES: Well, it's probably
8 mostly perceptual when I talk about morale, but
9 nothing would significantly change. What would
10 be the process of accommodation, of rewards, of
11 recognition for good performance, if what came
12 out, and I'm going to be very frank here, if what
13 came out of this Committee was that the way
14 things are shouldn't change with the exception of
15 the Department of Justice leaving, it would
16 appear as if the State of New Jersey does not
17 believe that we have the ability in any aspect to
18 be able to utilize and continue with these
19 reforms semi independently.

20 What I'm suggesting here calls for
21 oversight. It calls for a different type of
22 oversight, but it calls for, it calls for
23 oversight, and that's one of the reasons as it
24 relates to perception and morale, and I think
25 I've given one or two other reasons to other

1 questions, I think.

2 MR. JOHNSON: Thank you. Mr.
3 Harris.

4 MR. JEROME HARRIS. This question
5 may have been asked in a different fashion. What
6 specific lessons that come from your experiences
7 in Irvington, in Camden and in the other
8 communities, in view of your own organizational
9 change that had to be made, what specific lessons
10 can you provide or share with this Committee that
11 we need to pay particular attention to in trying
12 to change the behaviors of local police
13 departments?

14 MR. FUENTES: Well, I can just
15 relate to, sir, as it pertains to the State
16 Police, but I feel more and more than anything
17 else about the importance of community, and I'll
18 use the importance of the community and the
19 involvement with the police in mitigating
20 community concerns such as crime. I'll use as a
21 case in point, Operation Cease Fire which is the
22 new initiative that's being put out in 10 cities.
23 Cease fire in its fundamental form will not be
24 successful if the community does not buy into it.

25 If the community itself does not

1 exert pressure on those who would fire a gun, and
2 if the community does not work alongside the
3 police department in making sure that the police
4 department has sufficient information to be able
5 to take those who would pull the trigger off the
6 street. I learned a long time ago when I ran a
7 street gang unit that if I came into a city and
8 did an initiative without having community
9 contacts beyond the mayor, okay, the community
10 activist organizations, the block associations,
11 if I did not sit down with them first and explain
12 what we were doing there, that it just didn't
13 have an impact upon the community and morale of
14 the community.

15 And in fact, in some cases,
16 generated poor press, so I kind of learned the
17 hard way and this is going back 10 years. I
18 learned the hard way that you have to be very
19 engaged in the community in modern day law
20 enforcement and if you are insular, if you are
21 isolated from the community, you will not succeed
22 as an organization.

23 MR. HARRIS: I agree with you 100
24 percent and I've seen it, observing it in Camden,
25 in Irvington, but my question really speaks to

1 changing the culture procedure and behavior of
2 the operating police departments. What are the
3 things that we need to take a look at? And some
4 of the suggestions are that technical assistance
5 be provided, that departments be asked to
6 participate, volunteer, not state mandated set of
7 standards.

8 I'm just curious in terms of what
9 you know about local policing and what you've
10 experienced in the changes of State Police. What
11 are the curricular exercises and information
12 technology that we're clear on, what critical
13 areas should be looked at?

14 MR. FUENTES: When you talk about
15 culture change, I think you're talking about the
16 adoption of reform. You can have all this great
17 technology, and if you just don't use it, nothing
18 happens. A change in culture in the State Police
19 involves the institutionalization in the reforms
20 and day to day control practices and in the way
21 the supervisors do things. That's a culture
22 change. That's a change in the way that you do
23 your job and the environment has changed in the
24 way that you do your job.

25 That's not going to be an easy thing

1 for a local police department because it wasn't
2 an easy thing for us, so what I'm doing is I'm
3 actually extrapolating our early attitude on this
4 as to what would be the application to a police
5 department. To be honest with you, I don't know
6 enough internally about any particular police
7 department to cast any kind of criticism. As a
8 matter of fact, most of my relationships with
9 police departments are very good and involve
10 Anticrime partnerships and other initiatives.

11 But it's going to be up to the
12 police chief and the community and the political
13 establishment in the cities or the towns to make
14 a decision on whether they want to take a step
15 further on something and whether they want to
16 fund it. There has to be a commitment on the
17 part of the locality to fund the things that
18 we're suggesting. Otherwise, you'll leave the
19 police department in a lurch with a bunch of
20 systems, so you know it really has to be
21 complementary once again with the police and the
22 community working together, not apart.

23 MR. HARRIS: Thank you.

24 MR. JOHNSON: Thank you. Colonel
25 Fuentes, thank you for your testimony today.

1 Thank you for your leadership, and we're looking
2 forward to working with you going forward and
3 also to Captain Flarity and Captain Goss and
4 Lieutenant Schaller. We thank you. We look
5 forward to working with you. We will resume at
6 1:20 this afternoon.

7 (Whereupon a break was taken.)

8 MR. JOHNSON: Good afternoon, we're
9 ready to resume with as much as the Committee as
10 we can muster. Good afternoon. This begins the
11 second part of today's session of the Advisory
12 Committee on Police Standards. Our witnesses
13 this afternoon will be the monitors, Dr. James
14 Ginger and Mr. Alberto Rivas. Dr. Ginger is one
15 of the two independent monitors appointed
16 pursuant to the 1999 Federal Consent Decree.

17 He is chief executive officer of
18 Public Management Resources in San Antonio,
19 Texas. He's an associate professor of Criminal
20 Justice and director of the Center for Justice
21 Policy at Saint Mary's University. Dr. Ginger is
22 also a former police officer and former police
23 manager. He has developed much of the
24 methodology considered to be among the Best
25 Practices in monitoring of police departments,

1 and in addition to his position as a monitor for
2 the New Jersey State Police, he also served as an
3 independent auditor pursuant to a Consent Decree
4 involving the city of Pittsburgh.

5 He holds a Bachelor's degree in law
6 enforcement and sociology and a Master's degree
7 in justice administration all from the University
8 of Evansville and he also holds a Ph.D. in public
9 administration from the Center for Public
10 Administration of Policy at Virginia, Polytechnic
11 Institute and State University. He is joined on
12 the panel by his colleague in this effort, Mr.
13 Alberto Rivas, who is a lawyer and a partner with
14 the firm of Light, DePalma, Greenberg, Rivas,
15 LLC.

16 He served as a federal prosecutor in
17 the United States Attorney's Office for the
18 District of New Jersey for nine years including
19 three years as a deputy chief in the Criminal
20 division. Mr. Rivas has also been an adjunct
21 professor at Rutgers University School of Law in
22 Newark, and in 1999 served as special counsel to
23 the New Jersey Senate Judiciary Committee. Mr.
24 Rivas graduated in 1982 from Princeton University
25 and in 1985 from Rutgers University School of

1 Law.

2 The monitors are, even as we speak,
3 in the middle of a field visit and we have agreed
4 to hold the record open so we can obtain their
5 written testimony based on the most current
6 information which will enable us to finish our
7 work with a higher degree of confidence that the
8 data at hand will reflect the facts as we are to
9 consider them. Dr. Ginger, Mr. Rivas, please
10 proceed.

11 DR. GINGER: Thank you, Mr.
12 Chairman. Just to correct the record, I'm no
13 longer with Saint Mary's University in San
14 Antonio, a minor thing.

15 MR. JOHNSON: That would be a
16 battlefield demotion.

17 DR. GINGER: What Al and I thought
18 we would do this afternoon is give you a brief
19 history of police consent decrees in general, a
20 brief history of the New Jersey State Police
21 Consent Decree, and obviously, answer any
22 questions that the Commission may have. Police
23 consent decrees have been around for a very short
24 period of time, less than a decade basically from
25 1987 to current. The first milestone was 1994

1 when the U.S. Congress passed statutory authority
2 for the federal government to intervene and the
3 police operations in management practices.

4 Three years later they were ready
5 with their first Decree in Pittsburgh,
6 Pennsylvania. My company developed the
7 methodology and was selected as the auditor for
8 that project based on a joint recommendation
9 between the United States Department of Justice
10 and the City of Pittsburgh. As part of that
11 first process, we were responsible for
12 developing, in effect, standards and practice for
13 police monitoring, and that was 1997. That
14 project ended successfully seven years later.

15 1997 in Pittsburgh, we developed
16 operational definitions of compliance for the
17 first time in police monitoring practices and
18 identified data sources, data collection methods,
19 methods of analysis and a major method that has
20 since become almost universal in these projects
21 across the United States establishing a standard
22 of 95 percent compliance for agencies to be held
23 in compliance with given tasks.

24 We also developed characteristics of
25 compliance definitions that have been carried

1 over to most existing consent decrees and
2 Memoranda of Understanding that the United States
3 Justice Department enters into with police
4 agencies throughout the United States. Those
5 characteristics included specificity, an ability
6 to measure quantitatively what was being proposed
7 as a standard or a practice. Those
8 characteristics also included specific
9 articulation for the parties--consensus building
10 among the parties.

11 Parties being the agency entered in
12 the Decree, the United States Department of
13 Justice, the Court and the monitors or the
14 auditors. They were also related specific Decree
15 elements. Every major was related to a specific
16 element of the Decree or a specific requirement
17 of the Decree and they were designed to be
18 trackable over time so that the agency and the
19 Court and the public could get some understanding
20 of what type of progress was being made.

21 Also in 1997, some overarching
22 characteristics were established among the
23 parties. The first being consensus that the
24 monitors and the parties and the courts would
25 agree to the monitoring process. In some cases,

1 it took as long as a year to get agreement to
2 that, but it moved the process fairly smartly
3 once that agreement was reached. Transparency,
4 which included the parties to get a copy of the
5 report to review it and comment on it before it
6 was filed with the Court, and that's another
7 characteristic that has been transferred from the
8 early projects to almost every project that is
9 currently under way under 14 141.

10 As I mentioned earlier, analytic
11 methods were divulged to parties and project
12 compliance phases were identified, Phase 1, Phase
13 2, Phase 3, or in the case of New Jersey, Phase 1
14 and Phase 2. In 1998, the second Decree was
15 adopted in Steubenville, Ohio. The methodologies
16 that were used in Pittsburgh were transferred,
17 for the most part, over to that project. Chief
18 Charles Reynolds monitored that project and it
19 has since come to successful conclusion. In 1999
20 the New Jersey State Police agreed to a Consent
21 Decree.

22 Al Rivas and myself adapted the
23 original methodology from Pittsburgh to New
24 Jersey including all of the characteristics,
25 consensus, transparency review and comment, et

1 cetera. We also added Chief Charles Reynolds to
2 the team so that the folks that were working in
3 New Jersey, the team that was here was the most
4 experienced consent monitoring team there was in
5 the United States. We had both folks with
6 previous experience in another similar process on
7 the team.

8 In 2000, my company was contracted
9 by the Los Angeles Police Department and the
10 United States Department of Justice to develop
11 the monitoring methodology for the LAPD Consent
12 Decree. That was approximately a year long
13 process, and the monitor there is still using
14 that methodology in terms of compliance with
15 LAPD. 2001 to 2004, there were consent decrees
16 or Memoranda of Understanding developed in 16 or
17 other agencies depending on how you want to
18 count them. Those included Oakland, Detroit;
19 Riverside, California; Montgomery County,
20 Maryland; the Metropolitan Department of Police
21 in Washington, D.C.

22 Most of the methodologies for those
23 projects were adapted from those used in
24 Pittsburgh Bureau Police, New Jersey State Police
25 and the LAPD. Also in 2001 the Police Assessment

1 Resource Center was established by the Bureau of
2 Justice Assistance as a support center for future
3 monitors and PARC asked Charles Reynolds and
4 myself to serve as a resource to the development
5 of their strategic plan and development plan for
6 the agency.

7 In 2006 we find the New Jersey State
8 Police in compliance after seven years, and that
9 brings us to Al's discussion of the history of
10 this particular project, New Jersey State Police.

11 MR. RIVAS: Good afternoon. By way
12 of background, the members of the independent
13 monitoring team wants to present the Commission a
14 short synopsis of the history of our involvement
15 in the New Jersey Consent Decree. As you know,
16 the Consent Decree was pursuant to negotiation by
17 representatives of the State of New Jersey and
18 members of the United States Department of
19 Justice. The primary focus of the Decree was the
20 execution of motor vehicle stops.

21 The Decree came in the aftermath of
22 the Attorney General finding that some members of
23 the New Jersey State Police had engaged in the
24 practice of racial profiling in conducting motor
25 vehicle stops. Once the Decree was entered into

1 by state and federal government, it was incumbent
2 on the parties to translate the terms of the
3 Decree to effect the criteria that could be
4 defined, measured and analyzed.

5 The independent monitoring team met
6 with the parties and undertook the arduous
7 process of transforming each element of the
8 Decree into specific tasks that were susceptible
9 of being measured in an objective manner. To
10 that end, a monitoring team devised Phase 1 and
11 Phase 2 criteria. Phase 1 involved the creation
12 of administrative procedures aimed at
13 implementing the terms of the Consent Decree.

14 As defined in our report, Phase 1
15 entails the creation of policy procedure rule
16 regulation, directive or command to comply as
17 required by the specific text of the Decree.
18 Phase 2 compliance as defined dealt with the
19 actual implementation of performance in
20 accordance with applicable policy in the day to
21 day operations of New Jersey State Police.

22 We looked at training, supervision,
23 audit, inspection and discipline, with respect to
24 Phase 2 compliance, as appropriate to a specific
25 task under scrutiny. To the extent that the

1 monitoring team felt that training, supervision,
2 audit, inspection, discipline could be improved,
3 the monitoring team would provide comments or
4 suggestions. However, the team was scrupulous in
5 not directing supervisors of the State Police on
6 how to operate the State Police.

7 We were not substitutes for the
8 actual leadership of the New Jersey State Police.
9 The goal of devising Phase 1 and Phase 2
10 monitoring process was to come up with criteria
11 that could be measured objectively and factually.
12 Setting a bench mark for review, the parties
13 agreed that in order to be in compliance with the
14 task and the Decree, the New Jersey State Police
15 had to have a greater than 94 percent compliance
16 rate.

17 The monitoring team also agreed that
18 if an error was identified and corrected by New
19 Jersey State Police supervisors, before the
20 monitoring team discovered it, the New Jersey
21 State Police would not be charged with the error.
22 Understanding that the Consent Decree involved
23 human interaction, the monitoring team attempted
24 to conduct its review as objectively as possible.
25 Things were either done or not done in accordance

1 with the terms of the Consent Decree. Some of
2 the items in the Consent Decree were fairly
3 concrete.

4 For example, did a trooper call in a
5 stop? Did a trooper provide operational dispatch
6 with the necessary information about the driver?

7 Other items of the Decree were less concrete.

8 For example, Task 28 required that a trooper can
9 request consent to search only upon existence of
10 reasonable suspicion. Troopers were required to
11 produce a narrative in their report that could be
12 reviewed to determine whether reasonable
13 suspicion was present at the time the decision to
14 request consent was made.

15 In review of compliance of this task
16 the monitoring team required a check list.
17 During the first year the monitoring team
18 conducted four site visits. Thereafter, we
19 conducted two site visits a year. During the
20 initial site visit, members of the monitoring
21 team would review motor vehicle stops and
22 associated activities, training, MAPPS and the
23 Office of Professional Standards.

24 With respect to motor vehicle stops,
25 the monitoring team, during each visit,

1 alternated between Troop D and E. Troop D is the
2 troop responsible for the Turnpike. Troop E is
3 responsible for the Parkway. In addition to
4 visiting the stations of one of these two toll
5 roads, the monitoring team would also conduct
6 site visits for either Troops A, B or C. Prior
7 to the monitoring visit we would randomly request
8 information for motor vehicle stops that
9 implicated the issues set forth in the Consent
10 Decree.

11 These information polls involve flow
12 charts, reports, both of the stop itself and of
13 any ancillary activities associated with the
14 motor vehicle stop such as search report or drunk
15 driving report and video tapes of the stop
16 itself. Tapes would be reviewed at the station
17 to determine if stop procedures met with the
18 requirements of the Consent Decree. At the
19 beginning of this process, the monitoring team
20 also reviewed stops immediately after the subject
21 stop to determine if it complied with the Consent
22 Decree.

23 This information would be collected
24 and tabulated and the results would be set forth
25 in our monitoring report. You will find, if you

1 review the entire history of the monitoring
2 report, that at the beginning of the process, and
3 for the first couple of years, the New Jersey
4 State Police was not found in substantial
5 compliance of the requirements of the Consent
6 Decree. All those shortcomings were pointed out
7 and set forth in our reports.

8 Alternatively, when the New Jersey
9 State Police was in compliance with the Consent
10 Decree we made sure to point that out as well,
11 but it should not be forgotten that the Consent
12 Decree ushered in a new era for the New Jersey
13 State Police and represented a change in how New
14 Jersey State Police previously operated. The
15 requirements of the Consent Decree resulted in
16 greater transparency to the operations of the New
17 Jersey State Police resulting in increased
18 accountability and more active management. Thank
19 you.

20 MR. JOHNSON: Thank you. I think
21 what we'll do this afternoon, we will again have
22 each member of the Committee ask five minutes
23 worth of -- each will have a five minute
24 intervention for questions and answers, and we'll
25 start actually from the left side, from Theresa

1 Yang.

2 MS. YANG: Hello, Mr. Rivas, Mr.
3 Ginger. Thank you for joining us. Since I have
4 prior knowledge of having -- we've already sat
5 together before, I still have a question for the
6 two of you. When you were doing the monitoring,
7 what were your biggest challenges? And from a
8 professional opinion, do you see a difference
9 between the monitoring and the auditing as
10 opposed to a future resolution to the profiling
11 in the state? So you can answer however way you
12 wish.

13 MR. RIVAS: With respect to the
14 Colonel, I have not been made privy, I don't know
15 if Jim has either. We have not seen the
16 proposal, so we can't comment on the particular
17 proposal. In terms of our greatest challenge,
18 what I will say is throughout this process, even
19 in the beginning when the State Police was not in
20 compliance, they were very accommodating and
21 helpful to us and gave us everything that we
22 required.

23 So there was never a point where we
24 felt we were butting heads with members of the
25 State Police with regard to the kinds of

1 information that we were seeking and what we
2 wanted, so there was not any great difficulty in
3 terms of carrying out the actual monitoring
4 process itself.

5 MS. YANG: Can I just, as far as can
6 you give me an example of something that they
7 cooperated with the both of you on?

8 DR. GINGER: Well, I would say that
9 we had two major hurdles to get over in this
10 process. One was administrative and one was
11 operational. The administrative issues really
12 dealt with the negotiation between the monitors,
13 the State and Justice, of those measures of
14 compliance. It was a very complex, arduous
15 oftentimes contentious process, and contentious
16 in a good way. It was debate, not arguing. So
17 it wasn't that the state wasn't cooperating.

18 It was the state was doing as good a
19 job as it could do in building an ally to task
20 and make sure that what we were proposing could
21 actually be quantifiably measured, and that
22 simply takes a lot of time and it takes a lot of
23 effort. The second piece was the re-engagement of
24 supervisors within New Jersey State Police. It's
25 been my experience in the 30 years or so that

1 I've been doing this work that police agencies
2 don't work well unless their first line
3 supervisors are directly engaged in the day to
4 day of the operations agency.

5 So when that process came along, it
6 evolved as it always does. It doesn't happen
7 overnight, but one of the reasons that Al and I
8 pushed the idea of catching errors before we tell
9 you which reports we want to review, catch it and
10 correct it, it doesn't count as an error because
11 that was the mechanism we were using to get
12 supervisors involved, and I think it's resulted
13 in a successful process.

14 MS. YANG: Okay. I'm going to take
15 a step back and just ask you if both of you, in
16 your professional opinion, are you in favor of
17 monitoring at the same level, or would you make
18 any modifications and would it be the same review
19 process level as it was when you were doing this
20 monitoring for -- would you advocate something on
21 a semiannual basis, annual basis, every two years
22 and why?

23 DR. GINGER: Well, my recommendation
24 would be, and I try not to make recommendations.
25 It is actually our job not to, but you're asking

1 specifically and we'll give you a specific
2 response. It would be incredibly costly for the
3 state to maintain a monitoring process as it
4 exists right now. The original project was for
5 care and feeding of six people over a five year
6 period. It was, in my mind, very expensive and
7 I'm sure the state would agree with that.
8 Secondly, as difficult as this is to say, the
9 Decree was a weigh in.

10 It was a point along the way for New
11 Jersey State Police, and they are transitioning
12 daily well beyond what the requirements of the
13 Decree are in terms of their operations,
14 supervision and management practices. Having
15 said all of that, some form of review is probably
16 meaningful and probably necessary, and I think I
17 mentioned to you in our last visit that some form
18 of IG, Inspector General's process, I think is
19 necessary in every agency, even small ones and
20 there can be debate about where that should be
21 and what it should look like.

22 But I don't think there is any
23 question that it's necessary, so whether it's
24 semiannual or annual, really wouldn't make any
25 difference in terms of cost. You're paying

1 basically the same amount per piece, and over a
2 year's period you're going to look at the same
3 number of records, so unless you're engaging
4 someone who has to travel large distances, that
5 probably isn't an issue. I favor more frequently
6 as opposed to less frequent because you have a
7 tendency to pick up errors in the process of that practice
8 more quickly and give the organization time to
9 adapt to it.

10 It also sends, for example, two
11 learning points a year to the organization as
12 opposed to one per year, and if you design it so
13 it does not have an exorbitant cost in the two
14 per year, that's probably preferred. I think
15 even the Colonel would agree that some form of
16 independent review is important to him because if
17 say it's a non-acclulturated (ph) set of eyes that
18 you simply can't have from inside the
19 organization, it's an external working point and it's
20 helpful.

21 MS. YANG: Thank you.

22 MR. JOHNSON: Mr. Weber.

23 MR. WEBER: Thank you. Dr. Ginger,
24 Mr. Rivas, thank you for your testimony today and
25 for all the work over the years. I have a few

1 questions following up on your testimony and the
2 testimony of Colonel Fuentes. Realizing that you
3 need to balance sustainability with increasing
4 the public's confidence in the organization as
5 well as rewarding the organization for their
6 positive change and helping the organization
7 improve morale, how do you suggest that the
8 Consent Decree is dissolved? What structure do
9 you think would work that would balance all of
10 those, not competing interests, but complimentary
11 interests?

12 MR. RIVAS: Well, the Consent Decree
13 has in its own formulation a process of
14 dissolution which requires that both parties make
15 an application to the district Court seeking the
16 dissolution. To the second part of your
17 question, it's akin to what I think Dr. Ginger
18 has already answered. I mean, some sort of
19 review is appropriate, but going to the specifics
20 as to what exactly you guys should be doing, I
21 don't know that we're in a position to give you
22 the nuts and bolts of how to do it.

23 There should be some type of review.
24 It probably should take place more than once a
25 year, but that kind of specific detail that I

1 think is implied in your question, it's a policy
2 question and I don't know that we're in a
3 position to give you the answer that you're
4 looking for.

5 MR. WEBER: Putting the nuts and
6 bolts aside, let's take big picture, big
7 organization, we've heard different suggestions.
8 We've heard a suggestion that maybe the Office of
9 State Police Affairs in place has the monitoring
10 responsibility and role that you all have played
11 into that. We've heard there is no longer a need
12 for the OSPA and instead you want to hire what's
13 akin to an auditor, the Attorney General, or hire
14 an auditor from an outside organization that
15 would then report to the Attorney General.

16 There is some concern expressed
17 about possible conflicts of interest in the
18 current structure in the OSPA both in and out of the
19 Attorney General's office. Very broad concept,
20 and I'm going to try desperately to nail you down
21 to something. What structure do you think in
22 concept, or what structures do you think could
23 work?

24 DR. GINGER: I would recommend that
25 you take a step back from this issue, and based

1 on my knowledge, one of the problems we may have
2 is there is already encounter data and proposals
3 out there for the next Phase. I would suggest
4 that we step back and identify what your
5 strategic goals are for that agency,
6 what
7 your operational goals are for that function and
8 what your objectives are for that function.

9 As might be the case, one of the
10 strategic goals for that audit function is to
11 make sure that there's no loss of political will
12 or there's no loss of funding, then that would
13 mitigate for a specific, or one or two specific
14 types of structure, so where the organization
15 goes, who its people are and what its charter is,
16 should be directly related to strategic goals,
17 operational goals and objectives, and I truly
18 believe if you take that step back and
19 independently look at what it is you expect from
20 that function, that the location and the staffing
21 will almost fall out of that process.

22 I've used it before. It's a very
23 effective tool, so to me, rather than my
24 making a recommendation, Al is much more familiar
25 with New Jersey than I am. I basically know how

1 to get here and how to get to troop stations, and
2 on a good day I know how to get to headquarters.
3 But you know much more about the State of New
4 Jersey, what the potential benefits and deficits
5 of a given structure might be, so as much as I
6 understand you, I can't make that recommendation.
7 I really believe that we're the wrong people to
8 give it to you.

9 I think you folks might be the right
10 people to get it down and to make a
11 determination. I know that New Jersey State
12 Police are interested in the answer to that
13 question. There are probably other folks that
14 are just as interested in bringing those parties
15 together and identifying needs, strategic goals,
16 operational goals and objectives that will go a
17 long way towards eliminating some proposals and
18 surfacing evidence.

19 MR. WEBER: Mr. Chairman, if I may,
20 just one more question.

21 MR. JOHNSON: Sure.

22 MR. WEBER: I asked Colonel Fuentes
23 during his testimony about the MAPPS system and
24 consent search data because, as we all know,
25 consent search data is really the heart of

1 proving whether selective prosecution of racial
2 profiling exists. My understanding of MAPPS is
3 that the consent search data that is within the
4 system relates to instances where you have a
5 motorist that consents to the search but there is
6 not any tracking of those motorists who refuse
7 consent, and Colonel Fuentes had explained that
8 that is basically another module or another data
9 point that we're looking to put into the system.

10 So I wanted to find out from the
11 both of you, because you've been in the weeds on
12 MAPPS, whether your understanding is the same
13 that the refusals on the request for consent
14 search are tracked. And if they are, whether you
15 have had any cause for concern when you reviewed
16 that, and if they're not, whether that is
17 something that should be tracked.

18 MR. RIVAS: I don't know if you're
19 aware, but when the members of the State Police
20 request a consent to search, he or she has a form
21 that has to be filled out so both consents that
22 are granted and consents that are denied are
23 noted on that form, so there is a trail or a
24 record, as it were, of consents that have been
25 granted and consents that have been denied.

1 MR. WEBER: But my understanding is
2 the ones that have been denied are not actually
3 tracked in MAPPS and you therefore cannot
4 extrapolate out statistics to show X number of
5 Hispanic drivers or Y number of African-American
6 drivers refuse consent and then compare that to
7 the overall pool.

8 DR. GINGER: I think you're correct
9 with the MAPPS system itself but there's an
10 associated set of software that allows data to be
11 drawn out from the original database, and just as
12 an example, that's one of the things that we're
13 doing right now in this cycle. We're looking at
14 denied or declined request for consent searches,
15 so it's possible to get that information. It
16 also brings up another issue about maintaining
17 the Consent Decree or moving on.

18 And when Al and I come to monitor
19 this Consent Decree, we're specifically focused
20 on the elements of the Decree as the parties have
21 agreed to, and to be quite honest with you, a lot
22 of those things that we need to know simply
23 weren't anticipated when the Decree was written
24 probably back in 1997 or 1998 as it is done when
25 the development process was started. A classic

1 example of that is the reason for the stop which
2 in the system now is articulated as basically
3 moving and non.

4 A good audit process has much more
5 information -- the information is available. It
6 just needs to be pulled out of the system and
7 massaged on a routine basis, and that's an
8 example of where, as hard as it is for me to say,
9 and as hard as it is for somebody to believe the
10 Decree really gets in the way, you get a much
11 more effective audit process if the Decree were
12 replaced with those types of things we know
13 you're interested in, for example, length of stop
14 compared to the reason for the stop compared to
15 the reason for the request for consent.

16 Those are important variables that
17 weren't even envisioned in the development of the
18 Decree which is what Al and I are here to work
19 with, so we're sort of working -- in a sense, it's
20 not that the Decree is not worthwhile or worthy
21 of the effort we put into it, but we've grown
22 past it in our understanding of the way police
23 work on the streets of New Jersey or on the road
24 in New Jersey, so you're correct, that requires
25 an extra step. It requires more software. It

1 requires some more analysis, and in some cases,
2 it requires literally going through the records,
3 hard copy records.

4 MR. WEBER: Thank you.

5 MR. JOHNSON: Thank you, Mr. Weber.
6 Mr. Sklar.

7 MR. SKLAR: Good afternoon. You had
8 mentioned that early on in the process the
9 Division was not in compliance. Can you explain
10 factors in your mind that brought the compliance
11 to the point that they're here now seeking the
12 application to be dismissed?

13 MR. RIVAS: One of the factors was
14 the leadership. The current leadership made it
15 a high priority for the agency to come into
16 compliance. I don't think that was necessarily
17 true with some of the predecessors, and in coming
18 up with that as his objective, he drills that
19 order down through the troops, and the one thing
20 that the troops are very good at, they will do
21 whatever it is that you tell them to do.

22 Whatever it is that you tell them to
23 do, they'll do it and they will do it
24 exceptionally. That's the one thing that I've
25 been impressed with. These guys and gals will do

1 whatever it is they want, and so this Colonel
2 said we're going to be in compliance with the
3 Consent Decree and he made that the mission of
4 the agency, communicated that to his officers,
5 his staff, particularly his front line
6 supervisors, and as Jim referred to earlier, the
7 key to compliance here was having your sergeants
8 be engaged.

9 You have to understand, prior to
10 1999, when troopers went on the road, they went
11 on the road, nobody had any idea what they were
12 doing, but now you have video cameras. You have
13 tools that a supervisor can actually sit down and
14 review what a trooper has done on the road during
15 his shift and sergeants were required to do that,
16 and in so doing that, they came into compliance
17 with the requirements of the Consent Decree.

18 DR. GINGER: And I would add to
19 that, that early on the process was considered to
20 be adversarial. With the advent of Colonel Fuentes
21 and his command staff, it literally turned into a
22 partnership between United States Department of
23 Justice and New Jersey State Police, the AG's
24 office and the monitors, and that's when the real
25 progress started to be made, and that's a

1 difference in perspective. It's a difference in
2 vision. It's a difference in leadership and it
3 truly made all the difference.

4 MR. SKLAR: Thank you.

5 MR. JOHNSON: Mr. Stier.

6 MR. STIER: A couple of questions.

7 In listening to the testimony and observing what
8 we can see from what's happening in the State
9 Police, my impression is that there's been a
10 fundamental philosophical change in the
11 relationship between the organization and the
12 individual trooper. Years ago, a trooper was
13 trained to be completely self-reliant, given a
14 mission, sent out on the road and his job was to
15 bring back results. How he would achieve those
16 results was up to him and his resourcefulness, and
17 nobody looked very closely over his shoulder.

18 Today, it seems to me that the
19 organization or relationship between the trooper
20 and the organization has changed fundamentally so
21 that there is almost a team out there on the road
22 even though the trooper is the point person on
23 patrol. He's being observed and is accountable
24 for everything that he or she does. Do you agree
25 with me there was a fundamental philosophical change in

1 that relationship?

2 DR. GINGER: I think we do. I think
3 that has been very recent in the last three years
4 or so, but more importantly, along with that
5 fundamental shift and the shift in the quantity
6 and the quality of supervision is the fact that
7 it's not a punitive system. It's designed to
8 correct errors. It's not designed to punish and
9 that makes a huge difference, so what has
10 happened in the last three years or so is that
11 the New Jersey State Police has transitioned from
12 the traditional style of organization to a
13 learning organization.

14 And they literally learn daily based
15 on supervisory review of video tapes and reports
16 and management practices and a whole host of
17 learning points that have been established in
18 their organization.

19 MR. STIER: One more question. The
20 work that State Police has done, and what you
21 have shaped is a remarkable change in behavior,
22 but the problems that led to the Consent Decree
23 were problems in attitude, problems in
24 perception, assumptions that manifested
25 themselves in terms of biases and stereotypes.

1 Do you think that there's been a change in
2 attitude as well as a change in behavior, or are
3 we in the process of transition from changes in
4 behavior to changes in attitude, is it really
5 important to think about changes in attitude as
6 the ultimate goal of your work?

7 DR. GINGER: I think based on my
8 observations, and based on 30 years experience
9 doing this type of work, I think there's been a
10 change in both attitude and behavior. Al and I
11 are here to take care of the behavior piece, but
12 I can tell you, the only way to take care of the
13 attitude piece is through leadership. Even the
14 types of things that we do, in some cases, won't
15 take care of the attitude stuff, so it's sort of
16 a bifurcated process.

17 You can take care of behavior and
18 that has to be the first line of defense with the
19 supervisory system, the management review systems
20 that are in place, both as a result of the Decree
21 and also as a result of Colonel Fuentes'
22 leadership, and then the leadership issue simply
23 becomes that vision of values and driving it down
24 to the organization which is, quite frankly, not
25 mentioned in the Decree anywhere because, in the

1 first place, it's very difficult to quantify
2 that, and in the second place, it would have been
3 very difficult for us to report on changes in
4 leadership.

5 Having said that, there is no
6 question in my mind that leadership has changed a
7 great deal for the better in New Jersey State
8 Police over the last few years, and that's not
9 just at the very top level of the organization.
10 Al and I get in contact every time we come up
11 with troopers, all the way up to the top of
12 the agency, and change is attitude throughout the
13 organization. Can I quantify it for you? Only
14 through behavior.

15 MR. RIVAS: And just as an addendum
16 to that, since the Consent Decree went into
17 effect in 1999 you have, essentially, two thirds
18 of the State Police has been transformed. People
19 that are here now were not there prior to and so
20 you have, particularly among the younger
21 troopers, troopers that have been trained in the
22 new set of values in how to perform their job, so
23 what you do have is people that have been trained
24 differently, for lack of a better word, than the
25 old guard who was trained prior to 1999.

1 MR. STIER: Thank you.

2 MR. JOHNSON: Thank you, Mr. Stier.
3 Mr. Rambert.

4 MR. RAMBERT: In a previous session
5 you noted that you had competent accuracy of
6 information derived from MAPPS system in data.
7 Could you give us a percentage of how confident
8 you feel in the data and the MAPPS system?

9 DR. GINGER: Well, I would say,
10 based on my experience, that the data in the
11 MAPPS system are 95 percent plus accurate, and
12 probably closer to 100 percent accurate as
13 opposed to inaccurate. One of the things
14 that we routinely do when we come up here is we
15 see a police report, package of reports and some of
16 those can be 100 pages that detail the actions of
17 an individual incident.

18 We note the things that should be
19 included in MAPPS, for example, a performance
20 notice, accommodation, counseling, verbal
21 counseling and then we'll go to the MAPPS system
22 and make sure it's in there, and we found that to
23 be better than 98 percent accurate, almost from
24 day one when we started testing the operational
25 MAPPS process, MAPPS was not, it was on line but

1 not operational for a long time.

2 They were spending the time making
3 sure they got all the bugs ironed out and the
4 data they recorded were included in the places
5 where they were supposed be, so from that
6 standpoint, the data that is supposed to be
7 there, is there and was reflected in the
8 reports as related in the course of daily
9 business records that the New Jersey State Police
10 generate, so in terms of accuracy to the
11 individual data point, they're very accurate.

12 And we've not run across any issues
13 where items that should have been, that were
14 indicated by hard copy report as being in the
15 MAPPS system, were not in the MAPPS system. We
16 have run across instances where supervisory
17 follow up should have been included, the
18 counseling of the trooper and a supervisor
19 because both made a mistake and we might find one
20 or the other and we called them in our reports
21 over the years. Those even were not below the 95
22 percent level. In other words, 95 percent of what
23 should have been there, we found.

24 MR. RAMBERT: One last brief
25 question. You mentioned earlier that the system

1 was rather expensive to continue, and I believe
2 earlier I asked Colonel Fuentes the cost of
3 monitors and I believe he gave a figure of
4 \$600,000, and I would think that one lawsuit
5 would far exceed that, \$600,000. Plus, in order
6 to have the public have confidence in the state
7 troopers, I think \$600,000 is probably a small
8 figure.

9 MR. RIVAS: In those terms, you're
10 right, but that's a question of political will.
11 Is the state willing to fund the agency to the
12 level so that it prevents the kind of issue that
13 you're alluding to? But that's a question that
14 this Commission should grapple with and make sure
15 that funding levels are maintained so that the
16 State Police can review itself and be subject to
17 audit, however that audit function is being done.

18 As Jim alluded to in the last
19 session, when people are looking for things to
20 cut, the first things that are cut would be the
21 easiest thing unless it's spelled out. It's
22 always a question of political will with respect
23 to maintaining to do the job that you wanted to
24 do.

25 DR. GINGER: And I'll reiterate what

1 I said the last time that we met. I've looked at
2 virtually every Consent Decree and memoranda of
3 agreement or understanding that is out there
4 right now, and all of them have one of three
5 characteristics. The agencies were either
6 abandoned by their legislatures in terms of
7 codifying the appropriate statutes and providing
8 appropriate funding for the agency to keep up
9 their work; or

10 the agencies were abandoned by their
11 leaders. Leaders got tired. They just didn't
12 engage the way they should have. The third is
13 they experienced both. And so to that extent
14 I do agree with you. Funding the cost of this,
15 probably at this stage of the game, is less than
16 600,000 a year. It gets easier as you go with
17 the learning curve like you do with every
18 project. It's minimal compared to what you could
19 lose in a civil suit.

20 A city in Pennsylvania, Bethlehem, a
21 couple years ago lost 8 million dollars in one
22 incident, but don't let -- and I would implore
23 the State of New Jersey, particularly this
24 Commission, don't let that 600,000, if that's
25 what you decide to do, don't let it affect the

1 funding levels of the agency because we fought as
2 monitors, we fought to get that training academy
3 up to adequate staffing levels. It was not easy.
4 It took years to get there.

5 It can drop back in months, and so I
6 think if there's any caveat from the other 19
7 agencies that are out there, some of them already
8 situated, it is to insure that we have excellent
9 leadership in the organization. We have that
10 now. There is no doubt in my mind. Do what you
11 need to do to make sure that that continues, and
12 make sure the legislative commitment is there
13 both in terms of statutory requirements and maybe
14 statutory restrictions.

15 MR. JOHNSON: Thank you. Mr. Ortiz.

16 MR. ORTIZ: I want to thank you
17 again for your testimony today and for your
18 service. As part of his recommendation, Colonel
19 Fuentes mentioned a move from monitorship to
20 auditorship. You mentioned possibly an
21 independent auditor. What criteria are you
22 hesitant to recommend? What criteria should we
23 look for in determining the background of future
24 services? For example, you both have backgrounds
25 in law enforcement. How helpful was that in

1 performing your service?

2 MR. RIVAS: I think extremely
3 helpful because it's an understanding, a base
4 line understanding, if you will, of how the
5 organization operates. Its procedures and its
6 practices, and I think whoever you're going to
7 hire to review has to have the ability to have an
8 understanding of the organization, what are its
9 missions, what are its issues, what's involved,
10 and be able to analyze the process with that
11 information, so there are a couple different sources where
12 that comes from, but it clearly has to be someone
13 that has an understanding of law enforcement,
14 however they obtain it.

15 DR. GINGER: And I would agree. I
16 think there's another essential skill, and that
17 is that the individual has spent some time on the
18 other side. He needs to know what he or she
19 sees. He needs to know or she needs to see when
20 the wool is about to be pulled, and I'm not
21 suggesting that New Jersey State Police under the
22 current leadership, they're going to try to do
23 that. We found them to be anything but. They're
24 very open.

25 If we have a discussion with them

1 about a problem and they see it, they understand
2 it. They resolve it, but that may not always be
3 the case, so there needs to be an understanding
4 of law enforcement but also a healthy respect for
5 it in how assistance can be manipulated if one so
6 desires in sort of not making things as obvious
7 as they might be. You have to have an individual
8 that has a good solid understanding of
9 leadership, management, supervision, systems
10 operations, operations systems, those sorts of
11 things.

12 And I think somewhere in that staff
13 there needs to be a good statistician who can
14 make sure, when the auditor is going to call the
15 ball on an issue, that they're doing so from a
16 solid background.

17 MR. ORTIZ: Thank you.

18 MR. JOHNSON: Thank you. Reverend
19 Justice.

20 MR. JUSTICE: Thank you for coming.
21 Question, in I think Los Angeles and Washington
22 and Oakland, at one point some of the elements of
23 the Consent Decree were similar to New Jersey
24 State Police. Do you feel that with the systems
25 that they use to meet the requirements, was it

1 that MAPPS methodology to get to satisfy the
2 Consent Decree was not as well put together, or
3 was it implementation? You did mention some
4 other things. Is MAPPS the best system?

5 DR. GINGER: As it stands right now,
6 in my mind, as familiar as I am with the other
7 systems that are being developed, MAPPS offers
8 the best probability for finding errors and
9 correcting them of all systems that we have
10 currently operational. That includes Pittsburgh
11 Bureau of Police which at the time was probably
12 the best that there was around.

13 If you'll give me a moment, I'll
14 share something that when New Jersey State Police
15 came to Pittsburgh and saw what Pittsburgh called
16 the COMPSTAR Process which is where once every
17 three months the entire command staff has a
18 meeting. It lasts about eight hours, and they
19 talk about personnel issues, who needs to be
20 transferred, who needs to be retrained. It was
21 really a wide ranging discussion.

22 New Jersey State Police came down
23 and saw that and their comment to me before they
24 left was this is a great system, but I can tell
25 you there is no way that we're ever going to

1 cooperate like that, and here we are five years
2 later and they have superseded what we saw in
3 Pittsburgh. TEAMS II in LA is really not even
4 on-line yet and the other systems that are being
5 developed essentially aren't as comprehensive or
6 as flexible as MAPPS is.

7 But having said that, that goes back
8 to the issue of funding. If we just turn off the
9 switch on MAPPS today and just let it operate the
10 way it operates, you'll lose efficacy in the
11 system over a period of time because problems
12 change from month to month, quarter to quarter,
13 year to year, and so the data that you need to
14 collect, in order to monitor those problems,
15 change which involves writing new programs, new
16 data access protocols, those sorts of things, so
17 as good as MAPPS is, it's not finished and it
18 should never be finished.

19 There should almost be a line item
20 in the budget someplace for system improvements,
21 and I didn't hear the presentation on MAPPS this
22 morning, so I'm not sure what they told you, but
23 my guess is they would tell you the same thing if
24 we asked them, that it's a great system. As it
25 stands right now, it's probably the best in the

1 country, but if we leave it that way for two
2 years, there will be better systems out there,
3 and the agency will not be as well served.

4 MR. JOHNSON: Thank you. Mr.
5 Huertas.

6 MR. HUERTAS: Thank you. I just
7 have a couple questions. You have monitored the
8 State Police since the inception of the Consent
9 Decree?

10 DR. GINGER: That's correct.

11 MR. HUERTAS: Has the State Police
12 just met the requirements of the Consent Decree,
13 or have they gone beyond the requirements of the
14 Consent Decree?

15 MR. RIVAS: I can tell you that
16 under the current leadership, their mantra was
17 the Consent Decree was just a floor of what they
18 wanted to do, and that they wanted to exceed and
19 expand beyond whatever the requirements of the
20 Consent Decree, and that's been the objective of
21 this particular leadership that they have tried
22 to expand above and beyond the required form in
23 the Consent Decree.

24 DR. GINGER: And they've not only
25 tried to achieve that goal, they are doing things

1 now in management, in automated information
2 systems, in supervision, in leadership training
3 that were not required by the Decree that are
4 well beyond, and that says as much for the
5 commitment of the organization as anything else --
6 that they're able to supercede those
7 requirements. And again, a lot of those
8 requirements were exceeded because it was what
9 was needed to get the job done, but they far
10 exceed the requirements of the Decree.

11 MR. HUERTAS: That leads me to my
12 next question. If the Consent Decree is
13 dissolved, do you believe the State Police will
14 continue to be in compliance, or continue with
15 the progress they have made, and if so, what
16 would be necessary in order to monitor that type
17 of progress?

18 MR. RIVAS: Well, one of the things
19 that has been done is many of the requirements of
20 the Consent Decree have been incorporated in the
21 SOPs in the organization. It's not just a
22 document from the outside, but it has been made
23 part of their internal procedures. To the extent
24 that they keep those operating procedures intact
25 and don't amend them, then the elements of the

1 Consent Decree will continue to go on long after
2 the Decree is extinguished.

3 DR. GINGER: It brings up the mantra
4 of organizational change in large
5 organizations, that the only thing that's
6 constant in organizations, like the New Jersey
7 State Police, is constant change. The
8 organization will change from where it is today.
9 As much as we would like to not see it happen,
10 Colonel Fuentes will eventually decide that he's
11 going to move on, either retire or move on to
12 something else.

13 It's critical, those are critical
14 junctures in an organization's life cycle, and if
15 we want continued success, the selection of that
16 successor is a critical event, and if you look at
17 what happened in Pittsburgh where Chief McNeely,
18 who was the reason that change occurred in
19 Pittsburgh, it was by his will alone and the
20 requirements of the Consent Decree that that
21 change was made.

22 I'm not sure what's going to happen.
23 We'll see. Time will tell, but the decisions
24 about executive leadership in an agency like the
25 New Jersey State Police are critical, so I think

1 the Commission needs to understand that we know
2 that those intersections are going to come.
3 There will be, I guarantee you, a budget crisis,
4 if there isn't already, and how we decide to
5 treat New Jersey State Police, whether it be
6 through cutting staffing, cutting training, not
7 taking this year's installment on MAPPS
8 improvement, those will have long term effects on
9 the agency, and it's as Al said earlier, it's a
10 question of political will how the state responds
11 to those events.

12 MR. JOHNSON: Mr. Jerome Harris.

13 MR. JEROME HARRIS: Thank you,
14 gentlemen. In tracking your earlier
15 presentation, it appears that this science, the
16 technology of monitoring and consent decrees and
17 memoranda agreement is about 10 years old, right?

18 DR. GINGER: Correct.

19 MR. HARRIS: So we have a young
20 science here?

21 DR. GINGER: Exactly.

22 MR. HARRIS: And you're kind of on
23 the cutting edge, so just a couple of questions.
24 You commented that there were a number of areas
25 that became critical for compliance and change in

1 the organization that were not incorporated or
2 anticipated in the Consent Decree when it was
3 written because people couldn't. From your
4 experience in the past 10 years, are there
5 situations which might have warranted an
6 extension of a Consent Decree with additional
7 items being put in it because of what you learned
8 over time?

9 DR. GINGER: I think Los Angeles is
10 a classic example of just such a situation.
11 These decrees are written with a five year shelf
12 life and they get extended and Los Angeles was
13 just extended. Cincinnati is another classic
14 example where the way the Decree was written,
15 either positively or negatively affected the
16 ability of having a successful Decree process.
17 For example, Cincinnati was written, depending on
18 how you read it, as a three or four party Decree
19 as opposed to a two party Decree, the state or
20 the city and Justice.

21 That brought folks in for the
22 process that had opposing philosophies of
23 policing and how it should work without the
24 ability of a monitoring team to sort of translate
25 between the two. Los Angeles's Decree, even

1 though I advised them based upon my experience in
2 New Jersey that there were some things that
3 needed to be changed, the parties couldn't come
4 to an agreement on what needed to be changed, and
5 as luck would have it, those are some of the
6 things that are creating the difficulty right
7 now with teams.

8 They didn't put the right data in
9 and they didn't get the right data out, so the
10 answer to that question is yes, and Los Angeles
11 has just been extended. Cincinnati, if it hasn't
12 been, will be, and honestly a lot of these other
13 projects are in trouble. Pittsburgh,
14 Steubenville and New Jersey are really about the
15 only three real success stories right now.

16 MR. HARRIS: And the other areas you
17 comment consistently about is the importance of
18 leadership and the success of the partnership,
19 and you pointed out that the current team
20 representatives, I think you said, went from somewhat
21 adversarial to partnership, which accounts for the
22 tremendous progress you made. What's been the
23 role of the Attorney General in that leadership
24 responsibility?

25 MR. RIVAS: I think, well, we've had

1 three attorney generals in the process, three or
2 four, and I think all of them wanted to see
3 compliance as quickly as possible and tried to work
4 to obtain that goal, but if the person who is in
5 charge of the actual organization is not on the
6 same page, it makes it very difficult or made it
7 very difficult in order to achieve goals. You
8 have the head of the State Police, and the
9 Attorney General may not have always seen eye to
10 eye as to the performance of the Consent Decree.

11 But I can tell you, since Colonel
12 Fuentes has been in, and I don't know if he was
13 there with Samson. Certainly he was there with
14 Harvey, clearly they saw eye to eye that this was
15 something that they wanted to see achieved and
16 see adopted to the Consent Decree, so there
17 clearly was a collaborative effort between that
18 particular Attorney General and that particular
19 superintendent.

20 MR. HARRIS: So would it be
21 important for us to clearly understand what the
22 current AG's position or feelings on this in
23 terms of making our recommendation in your
24 opinion?

25 MR. RIVAS: It would be my

1 impression that getting feedback from the current
2 Attorney General would be critical as to how he
3 sees or what his plan is with respect to the
4 State Police and the role, what he wants to see
5 done in his office because the State Police comes
6 under his jurisdiction, but again, knowing the
7 assistant Attorney General, I have no doubt that
8 his goal is to see the State Police move forward
9 and continue with successful operation.

10 MR. HARRIS: Thank you.

11 MR. JOHNSON: Mr. James Harris.

12 MR. JAMES HARRIS: Thank you very
13 much for your presentation today. You know, this
14 whole issue came about because of race, and in
15 your presentation, I don't hear much mention of
16 race. What role does race play in the type of
17 transformation that we're talking about? What
18 role does it play in terms of the diversity of
19 the people in the force and who is involved in
20 the conversations to try and come up with some
21 type of agreement?

22 Because if it hadn't been for the
23 shooting and the issue that proceeded that, we
24 probably wouldn't be here today, but race matters
25 a great deal in New Jersey, so what role does

1 race play in good policing and transforming the
2 New Jersey State Police? Which by the way, said
3 it was doing an excellent job seven years ago.

4 MR. RIVAS: Well, I think what you
5 have now, you have the tools within the State
6 Police that, as I stated before, in 1999 when the
7 trooper went out and was on the road, there was
8 no accountability, there was no review, there was
9 no way of checking the accuracy of patrol charge,
10 things of that sort.

11 Today you have the management of the
12 New Jersey State Police, have those tools
13 available to them so they can keep track and they
14 can analyze and they can see individual troopers,
15 they can see individual squads, they can see
16 stations and see what kind of stops they're
17 making, who they're stopping and they have the
18 ability to delve into the numbers in a way that
19 did not exist prior to 1999 to determine whether
20 or not there is a problem.

21 And I can tell you that we've looked
22 to see whether or not there is disparate policing
23 and is it a disproportionate number of people
24 being stopped. Our reports, we have not seen a
25 disproportionate number of people being stopped that

1 we believe is based on race, so that's the best
2 way I can put it.

3 DR. GINGER: Let me add a caveat.
4 If you're familiar with our reports, a lot of the
5 field operations pieces are structured around
6 race based reporting, reporting the number of
7 blacks, whites, Hispanics, Asians, Indians that
8 are subjected to certain types of post-stop
9 activity. I'm not so concerned about
10 disproportionate in number. The standards that
11 I've established is that in similar situations
12 people are treated similarly.

13 Where my antenna go up or when I
14 see, even though the number may be greater,
15 blacks treated differently than whites, Hispanics
16 being treated differently than blacks and then I
17 need an answer to that question as to why that's
18 occurring. If everyone who fails to produce a
19 driver's license and insurance and registration
20 upon request is treated the same way, then as
21 long as those ways are constitutional and within
22 policy, then we're okay.

23 Where problems can arise, and they
24 haven't in any of my reports, is when you have
25 similarly situated groups that are treated

1 dissimilarly, so that's really how we monitor the
2 process. They have to be constitutional actions,
3 they have to be actions within policy, and then
4 similarly situated groups need to be treated
5 similarly. It is not a question of wrong
6 numbers, and we have seen numbers go up and
7 go down by race or ethnicity, and that's okay.
8 It may not be great but it's okay, as long as we
9 don't see that disparate treatment, so that's
10 really what we're looking for.

11 MR. HARRIS: Which raises the other
12 follow up question. In your research, have you
13 found that different people of different races
14 expect the same or different behavior from police
15 personnel, State Police? But more specifically,
16 in the State of New Jersey, do you think that the
17 perception of State Police behavior has
18 significantly changed from seven years ago?

19 MR. RIVAS: I don't think I can
20 answer that particular question. I can tell you
21 that no one is happy being stopped. It doesn't
22 matter who you are, if you're stopped, you're an
23 unhappy camper, but as Jim alluded to, as long as
24 the person is treated appropriately for that
25 stop, if it's a drunk, he's taken away, given a

1 sobriety test, locked up. If someone doesn't
2 produce a registration, you know, consistent
3 behavior. The behavior has been consistent
4 across the board.

5 DR. GINGER: And one other element
6 is, another thing that Al and I look for is we
7 review these hundreds of tapes, that if someone
8 objects to a way he or she is being handled by
9 the New Jersey state policy, policy requires a
10 New Jersey State Police Complaint and Comment
11 Form be provided, so we look to make sure that
12 occurs. It's one of the things that we need to
13 note and as of late -- and early on, that was a
14 very difficult hurdle to get over, but as of
15 late, that is provided either at the moment by
16 the trooper to whom the individual is
17 complaining -- I don't like the way you're
18 handling me, or it occurs later by a supervisor
19 or a senior trooper at the same time.

20 So the New Jersey State Police have
21 managed that data intake piece, if you're not
22 happy, here is a form, let us know why you're not
23 happy. In a lot of cases that tends to defuse
24 verbal interaction and verbal difficulties, so
25 Al's exactly right, nobody is really happy about

1 it, but those who voice, even voice a concern or
2 a complaint are provided a data intake form so
3 that the State Police can find out exactly what
4 it is they're objecting to.

5 MR. HARRIS: Why was it a big hurdle
6 in the beginning?

7 DR. GINGER: It was a new system.
8 This is a very large organization, 2700 people
9 when we started. 3100 or so now and you can
10 imagine, knowing what we know about managing our
11 small organizations, how hard it is to make
12 change in those relatively small organizations.
13 That's a major hurdle both in terms of getting
14 the training out there to let people know that
15 that's what they're expected to do, more
16 importantly, getting supervisors to catch the
17 behavior when it does occur, and it just simply
18 took time.

19 The wise monitor knows that this
20 five year life cycle is probably barely enough,
21 and in fact, every Consent Decree has gone over
22 the time budget. There's never been one that's
23 been terminated at the five year level so far.

24 MR. HARRIS: Thank you.

25 MR. JOHNSON: Mr. Goldstein.

1 MR. GOLDSTEIN: Thank you. First, I
2 want to thank you on behalf of all of us for the
3 excellent work you've done. Our job I think is
4 to institutionalize the change and to make
5 recommendations so that what has been
6 accomplished will continue to be accomplished in
7 the future, and if I hear you correctly, one of
8 the reasons why things have gone so well and why
9 public policy now is being implemented in a
10 correct manner is because of the current
11 leadership of the State Police, and when you
12 spoke a moment ago, perhaps when you talked about
13 Steubenville and Pittsburgh and said they were
14 success stories, perhaps you misspoke because
15 they may have been temporarily, but then they
16 reverted back to the way they were.

17 We clearly do not want to have that
18 situation here in New Jersey, so we're striving
19 to try to find the mechanism of what we can do in
20 order to avoid that. Among the things that we
21 talked about here this morning, particularly with
22 Colonel Fuentes this morning, was clearly his
23 desire to be out of the supervision of OSP. I'm
24 not sure of all the reasons for that, part of it
25 may be psychological, part of it may be

1 philosophical, part of it may be that he wants to
2 be rewarded for what he's done, which he does
3 deserve but what functions did you work with,
4 with all these people and help us understand
5 this.

6 What functions does OSPA do in the
7 monitoring system of the State Police that are
8 important and maybe we should give consideration
9 to continue in some form?

10 MR. RIVAS: Well, one of the things
11 OSPA reviews is Internal Affairs files, in
12 order to see that complaints are timely
13 investigated, that they're investigated properly,
14 that there is a resolution that's based on the
15 evidence that's obtained. There is a whole
16 procedure that has to be followed in analyzing the
17 Internal Affairs file. I think that's a critical
18 element. I think you want to make sure that the
19 New Jersey State Police continues to be
20 responsive and function. They review tapes as
21 well as we do. They review supervisory tapes.
22 In many ways it kind of mirrors some of the
23 things that we do.

24 MR. GOLDSTEIN: Are they giving real
25 time direction and instructions to the troopers

1 out on the Turnpike or out on the Parkway?

2 MR. RIVAS: No.

3 MR. GOLDSTEIN: This is all after
4 the fact?

5 MR. RIVAS: Yes.

6 DR. GINGER: But there is some
7 proactive. OSPA will engage in training for
8 example, and then there is the post incident
9 reviews, but OSPA -- by the way, we need to all
10 understand that there are several troopers and
11 State Police personnel that are an integral
12 part of that process because they have that
13 operational understanding which is critical for
14 the review, but as they do those reviews, those
15 reviews become the learning points for the
16 organization, so those reviews generally are done
17 at the stations.

18 They're not done at OSPA offices.
19 The supervisor involved or the personnel who made
20 the stop, or who were participating in the stop
21 are usually there to see that review and that
22 becomes a learning point. Office of State Police
23 Affairs, as it exists right now, is every bit as
24 good as we are, for the most part, at calling a
25 ball when they see it. That probably is received

1 better from the organization because it's a New
2 Jersey State Police captain or a sergent --

3 MR. GOLDSTEIN: It doesn't appear
4 that way. That's why I asked you the question.

5 DR. GINGER: Well, it's been my
6 experience. Obviously, I didn't hear the
7 testimony earlier this morning, but those are, by
8 the time we get on site, remember, we visit every
9 six months, 100 percent of the critical incidents
10 have been reviewed both by field supervisor
11 personnel and State Police OSPA personnel
12 including, over the last few visits, legal staff
13 from OSPA, so that review process is a learning
14 point for supervisory and management staff as
15 they move forward in their operations.

16 MR. GOLDSTEIN: Let me just follow
17 up. OSPA is going to be here later today and
18 they're going to argue for expanding their role.
19 I'm not sure how far they wish to expand it, but
20 on the other hand, I heard clearly today from
21 Colonel Fuentes that he would like to eliminate
22 that role but move it internally to the State
23 Police and perhaps have a Division of Auditing
24 for this new group. I know you fellows don't
25 want to make any recommendation, but you have the

1 most experience hands on of anybody in this room,
2 so we need your help. What's your take on all
3 this, what's your best sense? You were giving us
4 advice. Give us your best advice as to what we
5 should recommend.

6 DR. GINGER: Well, I don't think --
7 where the office, where the function is located,
8 is as important as its charter. That would be my
9 first piece of advice, and I'll go back to what
10 Al and I said earlier. It's not so much where
11 should we put this place, but where to start.
12 Where to start is strategic goals, operational
13 goals and objectives and based on that, where
14 should we put it. The first question, if I were
15 advising the Committee, and I'll stalwartly try not
16 to do that unless asked. --

17 MR. GOLDSTEIN: I'm asking you as
18 directly as I know how.

19 DR. GINGER: My advice would be
20 identify the function, what is it we want these
21 folks to do. If we want them to continue to
22 provide learning points for the organization,
23 then it's pretty clear to me, we need somebody
24 who is familiar with New Jersey State Police
25 SOPs, we need somebody who is familiar with New

1 Jersey State Police history, tradition,
2 leadership values, et cetera.

3 We also need somebody who is
4 intimately familiar with what I call street law,
5 the law of law enforcement on the road, on the
6 street, search and seizure, frisk, asking people
7 to exit the vehicle, when reasonable articulable
8 suspicion is available, to request a consent
9 search. That is an essential quality, so if you
10 articulate a function, this is what we want these
11 folks to do and we want them to continue to
12 service an oversight and learning point process
13 for the New Jersey State Police, in stating it, it
14 becomes evident, not who but what, and honestly,
15 I think as you think through this, where it will
16 become evident as well, and I really hate to
17 dodge the question, but I am an infant in my
18 understanding of New Jersey's state politics and
19 processes.

20 MR. GOLDSTEIN: You have a
21 colleague. Maybe he can help.

22 DR. GINGER: Al is very --

23 MR. GOLDSTEIN: Al, what's your best
24 advice?

25 MR. RIVAS: I would echo a lot of

1 what Jim has said. I think what hasn't been
2 determined is exactly what's going to be
3 examined. Are roads stops going to be reviewed
4 on a periodic basis? Are Internal Affairs files
5 going to be reviewed on some sort of basis -- and
6 training? And I think that unless that criteria
7 has been predetermined, I think it's almost
8 impossible because the job can be done equally,
9 as in OSPA or Internal Affairs, provided that the
10 right people are in the right spot.

11 Again, it's not a question of where
12 you're putting this on the table of organization,
13 who are we going to put in there and what
14 expertise are they going to have in terms of
15 conducting reviews and providing the
16 understanding to what the State Police would have
17 done well, would they have not done well and to
18 what extent are you going to ask these people to
19 publicize what their findings, what kind of
20 reports and information can be put out there on
21 whatever schedule has been determined, and so
22 it's a question of more I think who than where.

23 MR. GOLDSTEIN: Just one last
24 question. If you take the other suggestion as
25 well and have an outside firm, company,

1 professionals, academics, university
2 institutions, if you have them come in
3 semiannually, quarterly, annually to review all
4 of this, do you need this first function at all
5 you've just been talking about, or would that
6 auditing on a somewhat periodic basis suffice?

7 MR. RIVAS: As Jim alluded to, there
8 is greater lapse time if you have once a year,
9 twice a year as opposed to having a system that
10 can review things on a monthly -- the internal
11 system would be much more nimble in terms of
12 analyzing and responding and providing, as Jim
13 referred to, learning points than the outside.
14 The outside will come in and they may find it and
15 report it but the problem may have been going on
16 for a couple of months before it's actually
17 identified. You want to make sure the ship is
18 staying on a straight line. It's harder to
19 change after it turns.

20 DR. GINGER: That brings up another
21 issue. Let me add one point. There are several
22 models out there that address what it is that the
23 Commission is wrestling with right now and one is
24 an internal review process that is audited
25 regularly. Another one you just alluded to which

1 is we're going to outsource this whole thing to
2 an academic institution or a research corporation
3 or whatever.

4 The latter tends to be, as Al just
5 mentioned, tends to be less nimble because the
6 organization gets feedback after it's been
7 through a large number of filters instead of what
8 we're getting right now, the organization gets
9 feedback almost immediately both at the
10 supervisor level and at the leadership level, so
11 again, it's an issue of what is it we're trying
12 to accomplish.

13 That should be the driving force,
14 and honestly, I believe as you pursue that, all
15 these OSPA versus NJSP versus out source fall
16 away, it will become crystal clear what is best
17 for the State of New Jersey, and my guess is the
18 consensus will develop quickly if you look at it
19 through those lenses.

20 MR. JOHNSON: Thank you very much,
21 gentlemen.

22 MR. FLOYD: I'm going to ride the
23 same horse that Mr. Goldstein has been on.
24 First, I want to applaud you two for the success
25 that you have been having, but I look at the

1 Consent Decree as being very positive in so much
2 as we have moved away from those issues that are
3 disturbing to our society. The success, I think
4 we attribute to the independent monitors, we've
5 attributed to the current leadership of the
6 State Police as well as to OSPA.

7 Now, let's look at we're in a
8 post-Consent Decree era and we have the political
9 will and we have the money, but let's look at
10 independent monitors versus OSPA. If you had to
11 choose one, what would you choose? Which one do
12 you think is most important in this era, or do we
13 need to have both of them? Because we're having
14 success, and obviously it's because of OSPA, the
15 current leadership and the monitors.

16 DR. GINGER: Well, never answer a
17 question by asking another question, but what are
18 your goals? Do you want to maintain a status
19 quo? I assume not. Do you want to continue
20 improvement? I assume so. Now, I'm starting to
21 sound like Donald Rumsfeld.

22 MR. JOHNSON: Okay. You can stop
23 there.

24 DR. GINGER: One of the things that
25 Al and I did leave the New Jersey State Police

1 with, and it wasn't something that we created.
2 It was something that we suggested to them, and
3 as they often do, they recognize a good idea when
4 they see it. We left them with a seven step
5 development process. It starts out with needs
6 assessment and works all the way through planning,
7 development, delivery, evaluation, and at the end
8 of that process, evaluation says, okay, it
9 basically serves as the needs assessment for the
10 next iteration and that is where I recommend that
11 you start. Your goals are different from what
12 they were when Al and I came here.

13 Al and I came here to count, to add,
14 subtract, multiply, divide and report. Now,
15 you're talking about systems improvement. You're
16 talking about plan change. Your goals have
17 changed, and my assumption is, and it's not good
18 for me to make assumptions, they're often wrong,
19 but you want to improve, not just maintain the
20 status quo, and if that's the process, that seven
21 step development cycle is a good tool to use and
22 it's --

23 MR. FLOYD: But let me pose the
24 question differently. Like if I were speaking to
25 my congregation, the goal is to eliminate racial

1 profiling, be objective, 100 percent compliant in
2 the State Police, narrowing it down that way.
3 Then I pose to you, we have the independent
4 monitors and we have independent monitors and we
5 have OSPA, and this type of scenario, do you
6 think we need both of them, both, or one or the
7 other?

8 DR. GINGER: My assessment, based on
9 what I know about other projects, this project
10 and 30 years of doing this, is that you want to
11 maintain some form of immediate audit review of
12 interactions on the street. Remember, the goal
13 is to make sure that similarly situated groups of
14 people are similarly treated. That's really the
15 overarching goal of this new Phase. It's a goal
16 of the old Phase, so there is no way of doing
17 that without near immediate review at a
18 supervisory level.

19 That means to continue for all of
20 the criticals. If you have a consent request or
21 if you have a use of force or a canine
22 deployment, you'd probably have to look at it.
23 There are ways to statistically sample that pool,
24 but there are so few of them, it probably doesn't
25 make sense to do that, take almost all of them,

1 subject those to an immediate supervisory review,
2 which will by the way result in fewer and fewer
3 and fewer self-corrections mainly because the
4 system is a learning system, it teaches itself to
5 do things in the right way as it stands right
6 now.

7 Subject that process to what is now
8 the OSPA review. Whatever you call it, it might
9 be an internal NJSP, it might be an OSPA or it
10 might be an independent set of eyes, and I think
11 some form of independence is important, and then
12 subject that to a third layer which is truly an
13 audit which is to make sure you were supposed to
14 sample this way, you did. You were supposed to
15 review this way, you did. You were supposed to
16 make known to the organization the results of
17 your review in this way and you did.

18 That audit function becomes much
19 cheaper than a monitoring function because
20 basically, you take the intensity that Al and I
21 have to bring when we come every six months, and
22 you replace that with a, I hate to say with a box
23 check, but here are the standards, did you meet
24 them, here are the standards, did you meet them,
25 and it becomes much less intense as long as you

1 have good audit trails, and as we mentioned
2 earlier, we make sure our data is accurate and is
3 high in integrity and that should be part of the
4 audit process as well.

5 So if you do that, if you take that
6 seven step development cycle, what it eventually
7 leads to is a spiral because you improve with
8 every iteration and it serves as learning points
9 for the organization, which I know the Colonel is
10 anxious to keep, but that would be the overall
11 design of a good process, not the best but a good
12 process and there are folks who can articulate
13 another process as probably working fully as well.

14 MR. JOHNSON: Thank you. Mr.
15 Donovan.

16 MR. DONOVAN: Afternoon, gentlemen.
17 Congratulations on the job that you've done and
18 moving forward with the consent decree. I just
19 have one question. I think, Dr. Ginger, you
20 mentioned that it's unusual for the police
21 department to come out of a Consent Decree in under
22 five years.

23 DR. GINGER: Correct.

24 MR. DONOVAN: Using the Los Angeles
25 department, can you draw an analogy as to what

1 makes the LA Police Department so difficult to move
2 forward? Is it a lack of a political will, is it
3 what we have here, the difference in the ability
4 to move forward with leadership? Just to
5 understand how they can't move forward, but the
6 State Police can move forward.

7 DR. GINGER: As a matter of fact, I
8 can, based on experience. I was asked to be part
9 of the monitoring team in Los Angeles and I
10 declined, and the main reason I declined is
11 because the decision making process in Los
12 Angeles is designed for failure. In order to get
13 an affirmative decision on a police related
14 policy, you need approval from the mayor's
15 office. You need approval from a chief
16 legislative analyst.

17 You need approval from city council,
18 you need approval from the inspector general.
19 You need approval from the police chief, and I'm
20 sorry, I'm missing one, there were six separate
21 elements. They all had to say yes before you
22 could make a change. That's pretty difficult,
23 and experience has shown it's virtually
24 impossible to make and sustain a long term
25 organizational change in a system that is that

1 decision point dependant, so that's one reason.

2 The other reason was that New Jersey
3 came to the conclusion earlier that Los Angeles,
4 that it took viewing the Consent Decree as a
5 baseline as opposed to a goal, so that moved New
6 Jersey along quite a bit quicker. There are
7 other elements that are probably too esoteric,
8 and I'll get myself in trouble.

9 MR. DONOVAN: The Colonel has said
10 that codification would make a big difference.
11 Is that the key to moving forward to trying to
12 make sure the implementation of all these
13 findings, all of these efforts are long lasting
14 and to make sure that the political process you
15 just explained in LA is not present here?

16 DR. GINGER: I think Al and I are in
17 agreement that codification is important as long
18 as it doesn't become stagnation, but it is
19 important to give to the organization the
20 latitude to make good decisions, to develop
21 systems that identify if bad decisions are made,
22 to make that a learning point, not a punishment
23 point, but a learning point and to make sure that
24 the funding levels stay adequate. And they don't
25 have to be better than anyone in the country.

1 They simply need to be adequate, and
2 then to make sure that there is a clear line of
3 communication of the results of that to the
4 public, and that may be one of the most critical --
5 and I think I mentioned in our last visit, I
6 worked with the chief in Pittsburgh, seeing the
7 future, trying to get him to agree to specific
8 reporting elements as a post Decree response.
9 He, for whatever reason, didn't feel comfortable
10 with that.

11 They weren't established, and as a
12 result, change can happen without the public
13 knowing, and I think that's the best prophylactic
14 for protection of a good organization -- that
15 the public has insight, has obviously not
16 confidential information but certain reporting
17 points, sort of the canaries in the mind shaft so
18 to speak that will let us know if things are
19 going awry.

20 MR. JOHNSON: Mr. Dauber.

21 MR. DAUBER: Thank you. I join in
22 thanking both of you for the work that you've
23 done. What I take away from the colloquy that
24 you had with John and the Reverend is that what
25 you really feel would work the best is to have a

1 process where there is a mechanism where, as you
2 put it, your immediate review that would have
3 participating in it lawyers on the one hand, who
4 are familiar with legal type issues, and
5 supervisory State Police officers and that that
6 group should have some kind of independence
7 whether they're located in some unit of the State
8 Police or whether they're located at the Attorney
9 General's office or elsewhere.

10 That's sort of what you see as being
11 effective here. I know you weren't here for the
12 Colonel's testimony, but one comment that the
13 Colonel made was that he thought that if this
14 function were located in OSPA, that it might be
15 viewed internally in the State Police as really
16 not amounting to an end of the consent order, and
17 sort of got from that, that maybe he felt that
18 would create some kind of negative morale issue.
19 Do you have any insights that you could share
20 with us about that?

21 DR. GINGER: Well, I have some
22 insights on leadership in general and how that
23 process would play to an organization and the
24 people who populate the organization. One of the
25 tenets of leadership is if you make an

1 arrangement with personnel and give them an end
2 goal, that there is some acknowledgment or
3 recognition that that goal has been met. So I
4 think, and obviously I think everyone in this
5 room knows that Colonel Fuentes knows his
6 organization much better than Al and I do, but
7 from a general standpoint, that's a tenet of
8 leadership, good leadership, effective leadership
9 is that you make the agreements and then you
10 honor the agreements.

11 So I'm sure that's where the Colonel
12 is coming from when he talks about a continuation
13 of some form of monitoring that is akin to what
14 the monitors do, and I think we've discussed a
15 couple of different methodologies that allow the
16 agency to say to its people, and make no mistake
17 about it, the men and women of New Jersey State
18 Police have worked incredibly hard over the last
19 few years to make this happen and they deserve a
20 great deal of credit, not just the Colonel and
21 his staff.

22 It's the whole organization led by
23 extremely competent leaders. There does need be
24 a recognition or acknowledgment of that. Beyond
25 that, it's incumbent upon decision makers at the

1 state level to make adult decisions about what
2 needs to continue, but I don't think -- in fact,
3 I know it's not a good idea to simply assume
4 we're done here, let's move on to Phase 2 without
5 understanding the commitment, the work that's
6 gone into getting the State Police where they are
7 today and a lot of it came from inside. In fact,
8 99.9 percent came from inside.

9 Obviously, there was a legislative
10 commitment for funding or it wouldn't have
11 happened, but somewhere along the line that
12 acknowledgment needs to be made. That is not to
13 say that we need to pull the plug and move forth
14 and prosper because I think we've learned in
15 other places that that may not be a good idea.

16 MR. DAUBER: Another charge in the
17 Commission is to make recommendations as to how
18 this kind of effort can be implemented with local
19 police departments in New Jersey. Based on your
20 experience, not just with the State Police, but
21 generally, what kind of suggestions could you
22 give us in terms of that?

23 MR. RIVAS: In terms of there have
24 been, I think most police departments have placed
25 cameras in their cars, but I think that's been

1 the extent of what they've done. There should be
2 some sort of process either at the municipal
3 level or county level or state level that
4 requires them to do the kinds of things that the
5 State Police are doing. It's just periodically
6 review those tapes, review the interactions
7 that locals have, have some sort of policy with
8 regard to retention, engage in immediate
9 correctional training of police officers that
10 they see the practices of the local police
11 officers are being, you know, the local police
12 departments are pretty much -- this was 1999, you
13 know, they send out their officers and there's no
14 kind of supervisory review.

15 Well, the technology and tools are
16 out there and they're in the cars because I see
17 the cars with the cameras all the time and doubly
18 I'm hearing that there are films in the car and
19 nobody is reviewing the films, so that first baby
20 step has been taken but it should be the
21 commission's requirements to force additional
22 steps at least at the basic level, and what it
23 does is what Mr. Rambert referred to earlier, it
24 helps to inoculate and protect the
25 municipalities.

1 I was a town attorney so I
2 understand the liability issues that are involved
3 in these type of issues, so there is a wide
4 fertile field to be mined with respect to being
5 gained in reviewing local police departments and
6 at least starting with incremental steps with
7 some of them in trying to get them to engage in a
8 more proactive supervision of their officers and
9 so doing the training and correcting any obvious
10 deficiencies that may exist.

11 DR. GINGER: There are some elements
12 that are almost directly portable. The
13 supervisory component in the training academy for
14 example. Remember, what got most of those
15 municipal agencies in the problems they're in,
16 they were abandoned be their legislatures, they
17 were abandoned by their leaders or both. It's
18 exactly what got New Jersey State Police in its
19 trouble, so that will be an issue, but you can
20 somewhat attenuate those issue with good
21 training, and a lot of that stuff has been
22 developed already.

23 It is not just suitable for New
24 Jersey State Police. It is suitable for any
25 police supervisor. Same would be true for middle

1 management training, almost directly portable.
2 There are other things that are less portable,
3 but the standards that have been established for
4 Office of Professional Standards, OPS, with a few
5 exceptions are almost directly portable, the tape
6 review process Al has dealt with, and dealt with
7 exceptionally well, it's amazing to me that you --
8 you're spending money to get the video cameras,
9 you don't put tapes in the cars, or you spend the
10 money and get the video cameras, you put tapes in
11 the cars but you don't review them, so there is a
12 lot that can be handed over and it would do a great
13 service to municipal and township departments, I
14 think, to do that.

15 MR. JOHNSON: Ms. Carroll.

16 MS. CARROLL: Good afternoon. Along
17 those lines, do you think MAPPS would be one of
18 the best adaptable vehicles to get the municipal
19 and local police departments up to or close to
20 what the State Police have achieved to date?

21 DR. GINGER: The concept is a good
22 concept, but remember, MAPPS is a proprietary
23 piece of software, so as you try to port that
24 over, somebody has to write a check. It also
25 comes with a pretty intense hardware bill because

1 to make it work, there has to be a PC basically
2 on every supervisor's desk or some similar type
3 of arrangement. The concept is a good concept.

4 My guess is you're probably looking
5 at, and this may be something the state wants to
6 pursue, but a "MAPPS-Light" that is less expensive,
7 it comes with less hardware, overhead price tag
8 on it and then becomes part of that training
9 process as you try to move that out in the field.
10 So in answer to your question, in concept, yes,
11 but in reality it gets to be fairly complex and
12 costly.

13 MS. CARROLL: I have one other
14 question. You said that in the monitoring, that
15 the State Police went beyond the Decree in some
16 of their tasks and you mentioned specifically
17 management and some of the training. Could you
18 elaborate a little bit more about the training
19 that they went over and above?

20 DR. GINGER: Well, our standard, and
21 this is important for the Commission to know, our
22 standard was reasonable because we couldn't
23 require the state to do an excellent job. We
24 could encourage it. In many cases we were well
25 received and we did that, but we couldn't require

1 it. So as a classic example in training, we
2 suggested to them that seven step development
3 process under the assumption that they would go
4 through it once and it would inform changes and
5 training across the curriculum.

6 I think at this stage they have been
7 through it eight or nine times, and it's unit
8 specific, so if you have a course in street law,
9 that will get almost an annual one. In some
10 cases more often if a problem pops up, that is
11 sort of a first resort, so training has become --
12 has much more than met the standards. It is an
13 excellent academy, and it continues to be based
14 on everything I've heard from staff people that
15 were out there.

16 I haven't been out there this trip,
17 but our folks have been out there. They're still
18 using the seven step process. They're
19 innovating, and they continue to document their
20 programs well and evaluate their programs, so I
21 mean, they went from the standard training
22 technique, lecture and video, films and that sort
23 of thing to (inaudible) based learning. That
24 transition occurred as a result of the Consent
25 Decree. Interesting anecdote, and most of you

1 probably know when the New Jersey State Police
2 was first formed, they went to the Royal Canadian
3 Police and asked the question how can we do this.

4 A few years ago the royal Canadian
5 police came here and asked folks at the training
6 academy, how can we do this. So that is kind of an
7 interesting anecdote -- how far they've come in
8 training and it is across the board, almost
9 without exception, their training programs out
10 there are well above reasonable.

11 MS. CARROLL: Thank you.

12 MR. JOHNSON: Thanks. I think I am
13 the last questioner who stands between us and the
14 short break, so I'll try to be quick. My
15 question relates to sustainability and it really
16 covers three areas. One is leadership. The
17 other is adaptability and final is training. On
18 the leadership issue you mentioned a couple of
19 times that leadership has been very important
20 but you also discussed the importance of line
21 supervisors, and I think it would be helpful if
22 you identified what steps have been taken to
23 engage line supervisors and others in the
24 organization. If they were line supervisors
25 they'd also play a leadership role. What steps

1 have been taken to engage those leaders and what
2 risks there are to disengage those leaders going
3 forward?

4 DR. GINGER: Excellent question.
5 I'll take the first hit at it and Al will
6 probably have some comments as well. If you're a
7 supervisor in New Jersey State Police you cannot
8 avoid doing your job now. That was not always
9 the case. So the day to day work loads of the
10 New Jersey State Police road sergent for
11 example, is really driven by the MAPPS system,
12 and currently, those processes are reviewed by
13 State Police personnel.

14 They're reviewed by OSPA personnel,
15 and in the case of all critical events, and a
16 large number of noncritical events, they're
17 reviewed by the monitors. It's pretty difficult
18 to hide right now. In response to the last part
19 of your question, disengagement, it will be
20 difficult for them to disengage as long as those
21 systems are in place, but to the extent that we
22 do away with one or two or three or four levels
23 with that after-action review, then the odds of
24 disengagement will be greater. I'm not sure if I
25 answered it well enough.

1 MR. RIVAS: In terms of engagement,
2 what has occurred in the leadership is the
3 positions have been created, so there's an
4 opportunity to move up, so that obviously
5 energizes and engages troopers knowing there's an
6 opportunity to move up in the organization. Of
7 course, when you move up you have to be watchful
8 because, as Jim said, the work load now is
9 tremendous.

10 We now have patrol supervisors who
11 are actually on the road on a regular basis which
12 means the sergeants have to get out of their
13 offices, get off their desk and had to do what
14 needed to be done in terms of actually engaging
15 and following their jobs out to the streets and
16 then engaging in the review process. I mean, the
17 review process, I don't know how many of you have
18 reviewed tapes. I strongly recommend the
19 opportunity to review tapes.

20 It is a very laborious time lagging
21 process because these tapes are in real time so
22 you have to sit down and review a 30-40 minute
23 stop of tapes. It takes 30-40 minutes to review
24 that stop and go through it and that's a lot of
25 video tape that as a sergeant you have to review

1 in order to get through your squad and hit the
2 numbers that you are being required to hit.
3 There's an accountability now you need to do X, Y
4 and Z.

5 Previously, annual performance
6 reviews, I think you had to do two reports a year
7 or one quarterly. It was a much less onerous
8 management system. Now, it's completely
9 different, and with accountability the lieutenant
10 is going to get briefed why, and people have to
11 be moved, people are moved, and what that does is
12 it gives an incentive to the folks who do the job
13 that has to be done.

14 MR. JOHNSON: Are the increased
15 supervisory requirements, for instance, the need
16 to review tapes, could that act as a disincentive
17 for engagement? Given that is more laborious,
18 could that create a disincentive, and if so, are
19 there ways to address that?

20 MR. RIVAS: There are, and I think
21 we mentioned last time we're thinking about
22 making, reducing the actual number of tapes to
23 review, developing categories of tapes we need to
24 review. If you have a brand new trooper you want
25 to review his or her tapes more often. If you

1 have a problem trooper, you want to review his or
2 her tapes more.

3 If you have a trooper that every
4 time you review his or her tape, you have
5 some problem, then you can lessen the amount, and
6 so I think the agency now -- and this is part of
7 the self reflection that's ongoing in the State
8 Police, you know, they have seen the work load
9 they've put on the sergeants and now they're
10 deciding, okay, maybe this is not the best way to
11 do it. How can we do this in a smarter, more
12 efficient way and yet not lose what we're trying
13 to accomplish and they're going through that
14 process internally as we speak to come up with a
15 system that doesn't result in the disincentivizing.

16 MR. JOHNSON: Moving next to
17 adaptability. If Mr. Khalaf was here, my sense
18 is that -- he's a member of our Committee who
19 raised the question about the ability for the
20 systems to actually record data on Arab Americans
21 or those of Middle Eastern descent who are
22 stopped. The system doesn't currently do that
23 and there may be reasons for that. Colonel
24 Fuentes, he's going to send me a report and he's
25 going to think about it a little bit more, but if

1 one of our concerns is dealing with the potential
2 issue of profiling of Arab Americans, what are
3 your views of what the system was to do to try to
4 capture that data?

5 DR. GINGER: Well, the system needs
6 to be flexible enough. That's one of the reasons
7 we made the comment we made about continuing
8 funding for MAPPS. That system will need to be
9 changed every other year or maybe every year or
10 maybe several times a year, but it will need to
11 be changed. This is a classic example. Problem
12 issues, learning points can't always be
13 anticipated in advance and you need to have the
14 ability to work those into an analytic system.

15 The system, as it stands rights now,
16 can do that. It's the old adage you can do
17 anything if you have enough money. It's a matter
18 of adding another response to a data field and
19 then fishing that through the entire analytic
20 system of MAPPS. It's not impossible. It's not
21 even difficult, but somewhere along the line
22 somebody needs to write a check to get that done.

23 It's probably our argument that that
24 needs to be available to the organization
25 annually as the Colonel and his command staff

1 find new problems that they want to pay attention
2 to, and they will, if they have a learning
3 organization, and learning organizations are
4 consistently thirsty for information, so the
5 system will need to remain adaptable and as it
6 stands right now, it is adaptable.

7 MR. JOHNSON: Last question. You
8 identify training as being very important to the
9 success of the organization. That's a two
10 parter. Part A, what do you see as the risks to
11 maintain that high level of training standard and
12 part B is even though it is at that level in your
13 view, what would you see as enhancements that the
14 organization can benefit from?

15 DR. GINGER: Well, I'll take first
16 crack. The first risk is staffing. We've
17 already talked about the normal life cycle. You
18 staff up, you meet your goals, you staff down,
19 you start losing ability, so that's the first
20 risk. The second risk is isolation and this is a
21 refunding issue. The easiest way to get isolated
22 is to go nowhere, don't go to conferences, don't
23 go to continuing education, don't get your
24 trainers retrained and recertified, so that's the
25 second risk that relates directly to will and to

1 money.

2 Quite frankly, knowing what we know
3 about the organization right now, it's more of an
4 an issue of money than it's going to be an issue
5 of will, but we don't know when that might
6 change. There's possibly a third risk of
7 complacency, but I don't see that in the
8 organization as it stands now. We can't predict
9 three, four, five years in the future.

10 Enhancements at this point, there are some
11 processes engaged in right now that get NJSP
12 trainees into discussions and common training
13 events with business trainers.

14 Folks that go for management
15 training at GE are getting a lot of the same
16 stuff that needs to be given to managers here, so
17 I would think that is one enhancement--that we try
18 to interweave the law enforcement practices
19 training with best practices in business like
20 General Electric or Westinghouse or Bayer or
21 whoever happens to be in the New Jersey area that
22 makes it available, and there are a number of
23 excellent training opportunities for managers
24 outside the State of New Jersey. That's an issue
25 of breaking up the isolation and also an issue of

1 money.

2 MR. JOHNSON: Thank you. I think at
3 this stage, we will take a break. What I'd ask,
4 there may be some other questions from the
5 Committee and we have yet to see the report that
6 you get to finish because you're in the middle of
7 your field review, so what I propose is we get
8 your report, that we hold the questions, and
9 we'll probably submit them to you in writing to
10 get responses on that, and then if you can make
11 yourselves available to us, if necessary, to meet
12 again. Otherwise, we'll fill out the record on
13 paper.

14 Thank you. Thank you for your work
15 over the last years and thank you for your
16 testimony today, so why don't we take a 10 minute
17 break by my watch it's 3:15, and we'll get
18 started at 3:25. Thank you all.

19 (Whereupon a break was taken.)

20 MR. JOHNSON: Thank you all. If you
21 could please take your seats. We're going to
22 start with our last segment of today's hearing
23 with representatives of State Police Affairs led
24 by Desha L. Jackson who is the acting director.
25 Miss Jackson was the deputy director of that

1 operation from 2004 until very recently. She has
2 been closely involved with implementing all
3 aspects of the Consent Decree concerning the
4 OSPA, including coordinating with the independent
5 auditors, auditing trooper performance of the
6 requirements of the Consent Decree, reviewing
7 misconduct investigations and auditing the State
8 Police use of enforcement data.

9 She holds a Bachelor's degree from
10 Drew University and a law degree from Stetson
11 University College of Law. Miss Jackson, the
12 floor is yours and if you could introduce your
13 team, we'd appreciate that.

14 MS. JACKSON: Sure. Good afternoon,
15 Mr. Johnson. Good afternoon, members of the
16 Committee. I am here with Dr. Mary Eckert who is
17 our social scientist, and the chief in our unit,
18 Investigator Mannie Quinoa.

19 MR. JOHNSON: You may want to pull
20 the microphone a little bit closer to you so that
21 you don't have to lean as far. Thank you.

22 MS. JACKSON: I recognize that I
23 come after lunch and come after a couple of
24 speakers so I'm going to try to truncate a little
25 bit, but I will be reading and kind of skipping

1 through the testimony you were already provided.

2 I just want to thank you for giving me the
3 opportunity to testify on behalf of my office.

4 I have provided a couple of
5 documents, I think that you have, which is our
6 OSPA report which I saw was given out, our
7 mission statement, as well as the Attorney
8 General's Administrative Directive that I believe
9 everyone has. It is my understanding that the
10 progress report link is on line, as well as you
11 may not have the aggregate data report, but we
12 can provide that to you.

13 That's another report that our
14 office has and I have also provided a copy of the
15 report from the Police Institute regarding stop
16 data which I thought would be very informative
17 for members of the Committee. It kind of gives
18 all the information about dealing with stops that
19 there is to know including the two surveys. Law
20 enforcement provides an essential service to our
21 society.

22 Their function is important and
23 meaningful to the citizens of the State of New
24 Jersey. Law enforcement officers hold a
25 tremendous amount of power and discretion. The

1 use of this power should be discharged fairly and
2 without bias. Racial profiling harms society
3 because it is not effective law enforcement. The
4 racial profiling allegations in New Jersey led to
5 the decline of the public's confidence in the New
6 Jersey State Police and mistrust of their
7 abilities to discharge their law enforcement
8 duties in a constitutional, constructive and
9 credible manner.

10 The Consent Decree was created to
11 address the systematic problem of racial
12 profiling in New Jersey. Racial profiling or
13 racially influenced policing is the illegal use
14 of race or ethnicity as a factor in law
15 enforcement decisions. Since the implementation
16 of the Decree, an adoption of the reform there
17 has been an improvement in how the New Jersey
18 State Police handles issues administratively as
19 well as improvement in the performance of their
20 law enforcement duties.

21 The Office of State Police Affairs
22 was instrumental in brokering the process by
23 which the reforms were made and assisting in
24 bringing them into compliance with the Decree.
25 Our mission in the Office of State Police Affairs

1 is to insure implementation of the remedial steps
2 and actions contained in the interim and final
3 reports of the State Police review team, to
4 insure implementation of the terms of the Decree
5 and to facilitate achievement, a full compliance
6 with the Decree.

7 To that end, this office is
8 dedicated to the establishment of the environment
9 within the New Jersey State Police that prohibits
10 and discourages unlawful use of race or ethnicity
11 in policing decisions and encourages the
12 protection of all citizens, constitutional rights
13 and legislative mandates. Our office was created
14 prior to the signing of the Decree as a new unit
15 within the office of the Attorney General, New
16 Jersey Department of Law Division of Law and
17 Public Safety,

18 headed by an assistant Attorney
19 General or director in charge reported to the AG.
20 With the signing of the Consent Decree in '99,
21 the unit became responsible for ensuring, not
22 only the implementation of remedial steps and
23 actions described in the interim and final
24 reports, but also the implementation of the terms
25 of the Decree. Furthermore, through the Decree,

1 paragraph 110 of the Consent Decree, the Office
2 of State Police Affairs provides coordination
3 with the independent monitors, as you are aware,
4 and the United States concerning the State
5 Police and matters related to the Decree.

6 Our duties have included in the
7 past, and some are still included, auditing the
8 manner in which the state receives, investigates
9 and adjudicates misconduct allegations, auditing
10 the State Police's use of the management
11 awareness data and auditing state trooper
12 performance of motor vehicle stop requirements
13 discussed in the Decree. We are also responsible
14 for submitting a status report on the progress of
15 the New Jersey State Police delineating all steps
16 taken during the prior six month reporting period
17 to comply with the provisions of the Consent
18 Decree.

19 In addition to a status report, we
20 submit an aggregate data report including
21 aggregate statistics on the New Jersey State
22 Police traffic enforcement activities and
23 procedures broken down by each New Jersey State
24 Police station and the race or ethnicity of the
25 civilians involved. The office is also

1 responsible for providing technical assistance
2 and training regarding Consent Decree matters and
3 takes on additional responsibilities from time to
4 time that's given to us by the Attorney General.

5 The current staffing includes myself
6 as a director, two attorneys, a chief
7 investigator, four investigators, one social
8 scientist and two support staff. The staff is
9 assigned by the director with the approval of the
10 Attorney General. Our staff also includes a
11 captain of the State Police and two sergeants
12 first class who act as liaisons between the New
13 Jersey State Police and the OSPA and the
14 assistant for reviewing motor vehicle reporting
15 for procedural and constitutional issues.

16 Our attorneys have background in
17 labor and employment as well as administrative
18 matters and criminal prosecutions. Our
19 investigators are from Division of Criminal
20 Justice, State Commission of Investigation, Essex
21 County Prosecutor's Office, Trenton Police
22 Department as well as the New Jersey State
23 Police, and our social scientist holds a Ph.D. in
24 sociology and has experience in policy and applied
25 research including extensive experience in the

1 development of operational policies, of database
2 content to carry them out, and of operational
3 reporting protocols.

4 As far as our oversight
5 responsibilities, we have a lot of contact with
6 the State Police as you can imagine. In all
7 instances, OSPA openly receives and processes
8 concerns and or suggestions in order to make a
9 fair assessment in all situations. However, our
10 decisions are void of influence and partiality.
11 The Office of State Police Affairs acts
12 independently and seeks advice and direction from
13 the Attorney General when appropriate. Our
14 budget is basically not within our control.

15 Our budget is controlled by the
16 Department of Law and Public Safety, Finance and
17 Facility Management which is located in our
18 department. We call them the third floor.
19 That's what they're called, the people on the
20 third floor. Our budget is contained within the
21 Department of Law and Public Safety appropriation
22 and is subject to the legislative budget process.
23 We deal with many types of information in the
24 course of our work, and depending on what the
25 issue is, we use our vast resources including

1 investigative, legal and analytical resources to
2 address specific oversight issues.

3 Our authority to obtain information
4 that was asked is contained in paragraph 113 of
5 the Consent Decree. It gives OSPA full and
6 unrestricted access to all State Police staff,
7 facilities and documents, including databases,
8 that the office deems necessary to carry out its
9 function. Of course if we had more resources, we
10 can enhance our capabilities. That goes without
11 saying. However, we are able to meet our
12 responsibilities with the resources that we have.

13 In performing our monitoring
14 function, we have the social scientist whose role
15 is really to monitor the MAPPS system which is
16 set up to comply with paragraph 40 of the Decree.
17 She provides technical assistance with regards to
18 policy and analytic issues for MAPPS. Our legal
19 staff provides advice to the State Police in
20 conjunction with and on a case by case basis with
21 the Division of Criminal Justice and the Division
22 of Law regarding a wide range of matters which
23 include matters from civil, administrative and
24 criminal issues as well as use of force, search
25 and seizure and equal protection issues.

1 The OSPA ensures successful
2 collaboration with the Office of Professional
3 Standards on a myriad of State Police internal
4 investigations and administrative matters. Our
5 office participates with the Office of
6 Professional Standards from the beginning of the
7 case really until the end of the case. We
8 partner with the staff to ensure that the
9 investigations reveal a preponderance of evidence
10 against the member sufficient to sustain
11 contemplated disciplinary charges.

12 Our partnership also includes
13 counsel regarding investigative techniques,
14 review of internal investigations, review
15 concerning the evidence required or produced
16 during the investigation and cosigning on the legal
17 sufficiency of all investigative processes.

18 After the review process is complete, the
19 complaint is forwarded to the superintendent for
20 him to determine what, if any, charges will be
21 brought against the member of the New Jersey
22 State Police.

23 The investigative staff is
24 responsible for auditing the Office of
25 Professional Standards and its internal process.

1 In addition to that, they audit the toll free hot
2 line and the investigative staff is also tasked
3 with conducting internal investigations of New
4 Jersey State Police personnel brought by a
5 civilian or members of the New Jersey State
6 Police when a conflict exists.

7 The civilian complaint process is an
8 important area of responsibility for the Office
9 of State Police Affairs. It is to make sure that
10 civilian complaint review process is adequately
11 addressed. We perform 100 percent reviews of all
12 closed misconduct allegations for investigative
13 efficiency or allegations related to racial
14 profiling and or disparate treatment, excessive
15 use of force, illegal search and seizure or
16 domestic violence.

17 A 10 percent random sample of the
18 remaining closed misconduct cases is also
19 conducted. The office ensures the proper
20 classification as to performance or misconduct
21 based issues and their administrative
22 disposition. Again, our office reviews the 24-
23 hour toll free hotline to ensure proper
24 classification of citizens complaints. The
25 office ensures that citizen complaints are open,

1 and citizens are being treated with dignity and
2 respect, their complaints are not being
3 discouraged and that all necessary information is
4 obtained.

5 We also send out surveys to contact
6 motorists who were subject to a motor vehicle stop
7 enforcement action or procedures during that
8 stop. Those results of those surveys are sent to
9 the federal monitors. If the motorist tells us
10 that they have had a dissatisfactory experience
11 with the State Police, we will send them a
12 compliment or complaint form that they can return
13 to us or the Office of Professional Standards.

14 An investigation at that point may
15 ensue and if there is a violation of the criminal
16 law that appears we provide it to DCJ, which is
17 the Division of Criminal Justice, and of course,
18 if they find that there is no criminal violation,
19 they will forward that complaint back to the
20 Office of Professional Standards.

21 Pursuant to the Attorney General
22 Administrative Executive Directive 2006-1,
23 executed by former Attorney General Peter Harvey,
24 upon the dissolution of the Consent Decree the
25 Office of State Police Affairs is to continue to

1 assist the Attorney General in coordinating all
2 of the law enforcement activities of the State
3 Police, including but not limited to, the academy
4 training, the oversight functions, ethics and
5 leadership training, assisting in the
6 coordination of the superintendent's disciplinary
7 functions relative to trooper misconduct and
8 advising on constitutional law pertaining to
9 search and seizure, equal protection and cultural
10 and diversity initiatives.

11 The intent of this directive is that
12 the office provide assistance to the Attorney
13 General in supervising and implementing the
14 reform recommendations, remedial steps and
15 actions noted in the interim final reports. In
16 memorializing the continued constructive
17 oversight of the office, AG Harvey committed to
18 ensuring compliance with the spirit of the
19 Decree.

20 Our office believes that continued
21 constructive oversight of the New Jersey State
22 Police is both necessary and proper as a way to
23 ensure that the reforms are further
24 institutionalized. Oversight would not only be
25 consistent with the recommendations of the final

1 report, it would also enhance public confidence
2 in the New Jersey State Police and would act as a
3 guarantor against slippage from the current
4 reforms in the spirit of the Decree.

5 To that end, some codification of
6 the reforms in the spirit of the Decree may be
7 advisable. The legislation should include a
8 provision for funding of the technology and
9 personnel needed to keep the reforms in place.
10 The legislation should consider the following
11 principals of the Consent Decree. Contact with
12 the public should be appropriate and documented
13 and routinely supervised. Timely and accurate
14 data must be maintained for informed supervision
15 and management.

16 Mandates for review of individual
17 and aggregated information by supervisors and
18 managers are necessary to promote accountability
19 up the chain and permit the management awareness
20 system to identify members or units that require
21 intervention. When misconduct is alleged, of
22 course this should be a proper process for intake
23 classification, investigative findings and
24 adjudication.

25 Training is intrinsic to the

1 development of the sound and constitutional
2 police practices and thus should be reviewed and
3 modified according to relevancy and training
4 needs identified by the New Jersey State Police.
5 And finally, mandates for continued oversight and
6 public disclosure of aggregate data will insure
7 transparency and public confidence in the reform
8 process.

9 (At which point Miss Milgram returns
10 to the Hearing.)

11 MS. JACKSON: In addition to the
12 above we recognize that the Committee is also
13 considering to make recommendations with regard
14 to municipal police, and of course we would
15 suggest that we be, the office or the Attorney
16 General, be given the charge that he or she is
17 the top law enforcement official in the state and
18 is actually overall the county prosecutor's
19 office and thereby all the local police stations,
20 and we find that there is sufficient authority
21 for this defined in the Criminal Justice Act of
22 1970 as well as many cases, so we're asking for
23 that recommendation from the Committee.

24 We think that our office is
25 sufficient in dealing with the issues that have

1 been raised with regard to municipal police, that
2 we can work with the county prosecutor's offices
3 as well as the Local Internal Affairs Office and
4 our Prosecutor Police Bureau regarding these
5 types of matters, and what we are looking at of
6 course is we would envision that different
7 departments would probably request assistance and
8 so we would be there to give them technical
9 assistance in their training as well as Internal
10 Affairs unit.

11 In addition to that, if the AG
12 identified a particular problem department, that
13 we would be sent there to maybe investigate along
14 with whatever the AG deems necessary, so of
15 course, if that particular task was given to the
16 AG or was requested of by the governor, we would
17 need more resources and that would include
18 funding as well as more staff. The Office of
19 State Police Affairs professional and
20 credentialed staff are uniquely experienced to
21 provide continued oversight.

22 The State Police is part of the
23 Department of Law and Public Safety and reports
24 to the Attorney General. As the controversial
25 history of racial profiling has vividly taught

1 us, the Attorney General is ultimately
2 responsible for the performance of the State
3 Police. Thus, it is only logical that the
4 Attorney General should have in place a mechanism
5 to ensure that he or she properly discharges the
6 responsibility of supervising the State Police.

7 The point that I am making here is
8 that law enforcement did not and cannot achieve
9 the success alone. The oversight process
10 assisted in the State Police's ability to
11 prevail. Future oversight would guarantee
12 continued compliance with the reforms and would
13 go a long way in continuing the path of gaining
14 the trust of, not only the diverse communities
15 who are directly affected by racial profiling,
16 but all people who drive on our highways and are
17 subject to law enforcement action by the State
18 Police.

19 One of the other concerns is that
20 under the current leadership, the State Police is
21 doing very well. What happens if there is a new
22 leader of the State Police? This is why an
23 oversight office would be extremely helpful.
24 Should there be a change in leadership, the
25 office's duties would remain the same. The

1 office would be able to guide and give technical
2 assistance to any superintendent of the State
3 Police.

4 The Attorney General directive keeps
5 the Office of State Police Affairs alive
6 post-Consent Decree for the reasons stated above.
7 Codification would further enhance the Office of
8 State Police Affairs' authority. These reforms
9 allow for meaningful supervisory reviews,
10 relevant training and process to review the
11 training, ensures that every complaint is
12 investigated and data regarding who is being
13 stopped, why they are being stopped and post-stop
14 actions among other data is collected.

15 As public servants, I believe we
16 have an obligation to ensure, to the best of our
17 ability, that the public is being protected and
18 served in a way that is free from bias. Thank
19 you.

20 MR. JOHNSON: Thank you, Miss
21 Jackson. We are going to follow the same
22 procedure this afternoon as we did earlier today
23 with each member of the Committee asking
24 questions and hearing answers for about five
25 minutes, and we will start with Miss Carroll.

1 MS. CARROLL: Good afternoon, Miss
2 Jackson.

3 MS. JACKSON: Good afternoon.

4 MS. CARROLL: The Office of State
5 Police Affairs has been a big topic of
6 discussion, and everybody seems to have a
7 different opinion as to what your status should
8 or shouldn't be. In your view, post-Consent
9 Decree, if it's dissolved, do you feel that the
10 Office of State Police Affairs should both advise
11 the State Police in their behavior and review
12 their discretion and also monitor that as well?
13 Am I correct in understanding both of those
14 tasks?

15 MS. JACKSON: When you say advise, I
16 do not believe that we should have the function
17 that the Division of Law already has. The
18 Division of Law in our department is the -- are
19 the lawyers for every single agency throughout
20 the state. I think that our office should deal
21 with the specific issues that come up in
22 monitoring because we would be that office
23 dealing with equal protection, search and seizure
24 issues. I think we should stick to the
25 expertise. Any other legal issues, any other

1 advice should come from the Division of Law. We
2 should be a monitoring office. That should be
3 our function.

4 MS. CARROLL: To monitor and not to
5 audit?

6 MS. JACKSON: Yes, I see a
7 distinction between monitoring and auditing and
8 I'm glad you brought that up. To me, auditing is
9 "everything is being done, now we're going to come
10 in and take a look to see if you did what's
11 right." Monitoring is more of a day to day
12 immediate response to what's going on and that's
13 what we provide now and I argue that we should
14 keep doing that.

15 MS. CARROLL: Thank you.

16 MR. JOHNSON: Mr. Dauber.

17 MR. DAUBER: Thank you. I want to
18 thank the office, as we thanked the others here
19 today, for their work during the time in the
20 Consent Decree up until now. Following up on the
21 question that was just asked, if you feel that
22 you should be continuing in the monitoring role,
23 you've had troopers assigned as liaisons to your
24 office who we understand have been an integral
25 part of that. Do you think that should continue

1 as part of your continued monitoring and would it
2 be necessary for that to continue for you to
3 perform your job effectively?

4 MS. JACKSON: I think it would be
5 necessary to have a partner from the State
6 Police. I do not believe it's necessary to have
7 troopers in the unit. I think that you can -- I
8 know, based on what I heard, and there may be
9 some suggestion from the superintendent to have
10 an office of the auditing or some kind of office
11 with this Division and I don't believe we need
12 troopers right there in the unit to review. I
13 think we can still do the reviews together. It's
14 just they would be liaisons coming from the State
15 Police as opposed to assigned to this unit which
16 I believe belongs in the Attorney General's office
17 as opposed to the State Police.

18 MR. DAUBER: The Colonel raised a
19 potential issue of a morale problem in terms of
20 how the troopers would react to this function
21 being continued in the Attorney General's office
22 as opposed to his proposal of an internal unit
23 and an auditing function which would be
24 contracted for by the Attorney General's office
25 which would report to the Attorney General's

1 office. What are your thoughts about that
2 potential morale issue and what effect that would
3 have?

4 MS. JACKSON: Honestly, my focus,
5 while I understand where the Colonel is coming
6 from and I believe that he should be thinking of
7 things like that because that is indicative of a
8 good leader, my focus has not been on trooper
9 morale but on the public confidence, so I focus
10 on that aspect and say, well, we have an
11 organization that's been around since 1921.

12 They've been involved in the Consent
13 Decree for seven year with regard to issue
14 allegations that were made which we don't know
15 how long the actual behavior was going on, so I'm
16 not looking at trooper morale. I would think
17 that trooper morale is always going to be high as
18 long as they're doing the best job that they can,
19 that the reforms are working. I don't think any
20 troopers out there want to be known, or like the
21 fact, that they're under this or the reasons why
22 they're under it, but I can't answer the question
23 as to is it a concern of mine.

24 I don't think that it would
25 appropriately be -- I know it's a concern, but

1 it's not an appropriate concern for us. I see us
2 more as the office that represents the public and
3 the Attorney General, so I don't have a clear
4 answer, but I can understand why you would be
5 concerned.

6 MR. DAUBER: My final question for
7 that, with regard to the local law enforcement,
8 do you see the Attorney General's office, whether
9 through OSPA or otherwise, engaging in a
10 monitoring function or just in a catalytic
11 function to get them to improve their own efforts
12 in this area?

13 MS. JACKSON: Well, I think we can
14 perform both, but I think the answer to that
15 question is what is needed by a particular local
16 law enforcement agency. I think that we should
17 have the ability to perform both. There are some
18 local law enforcement agencies that I think all
19 of us can say have some serious issues that we
20 know of right off the top of our head. There are
21 others who do not. There are some who are
22 implementing some reforms on their own.

23 So I think whatever the law
24 enforcement agency calls for, we should be
25 prepared to respond because the AG, being the

1 chief law enforcement officer, has an interest in
2 monitoring an agency which has systemic problems
3 for many, many years as well as assisting
4 agencies technically in bringing them to the same
5 level as the State Police.

6 MR. JOHNSON: Mr. Donovan.

7 MR. DONOVAN: Miss Jackson,
8 congratulations again on the efforts that you
9 have done in working through the Consent Decree.
10 I think your organization has done a great job
11 along with the State Police. I have a question
12 about the oversight that you had proposed for
13 municipal police departments. I would believe
14 that the prosecutor's office would probably be
15 opposed to this suggestion especially if the
16 title of your office is Office of State Police
17 Affairs. How would you work through some of the
18 issues of the prosecutor's office, what your
19 function would be versus what the chief law
20 enforcement officer of the town would do?

21 MS. JACKSON: It's my understanding,
22 and I would say I would want to leave that up to
23 the Attorney General in how he wants to work out
24 those issues, but it's my understanding, being a
25 former county prosecutor, that county prosecutors

1 do deal with Internal Affairs issues, but they
2 don't deal with the pattern and practice kind of
3 cases and equal protection issues that we're
4 talking about.

5 If it's a lawsuit, it's civil
6 normally, and I'm pretty sure that at this point,
7 and maybe I'm not aware of it, that there are no
8 county prosecutors actually dealing with the
9 reform issue in bringing the municipal agencies.
10 I think they're kind of doing it on their own and
11 maybe in conjunction by letting people know, hey,
12 we have cameras in the car but they don't tape,
13 and these other issues -- so there is no real --
14 in what we see in one person, one entity to
15 bringing all of this together and making it
16 happen in a uniform manner.

17 So I would think that it would not
18 be just the AG alone but it would be a
19 partnership with the AG, the county prosecutor,
20 the local IAs. I think it would have to be a
21 partnership because they're there dealing with
22 the day to day issues, so they're going to know,
23 well, in my county Town X has X, Y and Z issues
24 and bringing that forth whether it be a
25 Commission, a Task Force, the Office of Police

1 Affairs, maybe we change the name, so I believe
2 it would be a partnership.

3 MR. DONOVAN: Doesn't the Attorney
4 General's office now monitor the pattern and
5 practices throughout the state?

6 MS. JACKSON: I don't know if we
7 monitor pattern and practices throughout the
8 state. I believe that if there are issues that
9 come up, yes, we do respond. We have a
10 department or a unit within the Division of
11 Criminal Justice called Prosecutor and Police
12 Bureaus and that's why I mentioned them because
13 their sole function is dealing with the police
14 departments and all the county prosecutor's
15 office on a regular basis, but I'm not sure if AG
16 Oppenheim, who is in charge of that unit, is
17 actively going out to monitor.

18 I think it's more of a reactionary
19 unit and my boss, First Assistant Anne Milgram is
20 here so I'm looking at her to see whether I'm
21 off, but it's my understanding it's more of a
22 reactionary than a proactive kind of movement to
23 deal with these issues.

24 MR. DONOVAN: Wouldn't it make more
25 sense to empower that entity to do exactly what

1 you suggest?

2 MS. JACKSON: That could be the
3 answer. What our suggestion is, it should be in
4 our office, and that's why I mentioned all those
5 different entities because we need to bring it
6 together, and the AG is the person to do that
7 because you have our office, you have
8 prosecutors, police, you have county prosecutors.
9 Who is the one person that's in common? That's
10 the AG.

11 MR. FLOYD: Good afternoon, Miss
12 Jackson and to your staff, very fine presentation
13 and certainly we in the Committee appreciate all
14 that you all are doing. I'd ask the question, if
15 OSPA were not in place, who would prosecute
16 troopers for violations of any rules and
17 regulations?

18 MS. JACKSON: I don't know. That
19 would be up to the AG, whether it be a DAG in the
20 Division of Law or whether it be a DAG in the
21 Division of Criminal Justice. It would be some
22 AG somewhere.

23 MR. FLOYD: Prior to the Consent
24 Decree, who had that function?

25 MS. JACKSON: It was a myriad of

1 DAGs. They came from different places. I think
2 two of them were from the Division of Criminal
3 Justice from what I understand. It wasn't
4 anything that was kind of in one place. They
5 were kind of working in another unit and actually
6 processing these cases as a side line thing.

7 MR. FLOYD: And I also understand
8 that OPS was audited by your office, and prior to
9 the Consent Decree, who did that function? Did
10 anybody at all audit?

11 MS. JACKSON: I do not believe
12 anyone audited. That was one of the issues.

13 MR. JOHNSON: Mr. Goldstein.

14 MR. GOLDSTEIN: Good afternoon.

15 MS. JACKSON: Good afternoon.

16 MR. GOLDSTEIN: I would like to add
17 my congratulations to you and your staff as well.
18 I'm not sure I understand exactly what you do as
19 far as monitoring what the State Police does out
20 there on the Turnpike and the Parkway. Is your
21 function real time, is it some time after a stop
22 is made, is it after someone makes a complaint?
23 How do you function, what's your role?

24 MS. JACKSON: Well, there's a couple
25 of ways. We get complaints in. People call us.

1 We send out the compliment/complaint form and we
2 start the process that way. If there is an issue
3 in the field, that is, a station, that station will
4 call up the captain who is, in my unit, Captain
5 Chris O'Shea. They will send out a trooper to
6 review the particular tape, whatever the issue
7 is. If there is a legal issue that they have,
8 they will contact my office, DAG Linda Alexander,
9 who is here and we will take care of that issue
10 right away.

11 Sometimes there are questions on
12 cases. With regards to reviewing the tapes, if
13 there's an issue, let's say with a particular
14 issue that supervisor has who watches a tape and
15 says, uh, oh, there's something going on here,
16 that tape will be before the Colonel within 24
17 hours, or even a shorter time than that. We will
18 also have an opportunity to review that tape and
19 we wait until the process takes its place.

20 That process is either going
21 criminal, if there's a criminal investigation, or
22 the Office of Professional Standards handling it,
23 so the question is, is there real time monitoring
24 going on? Yes, because things that happen, they
25 can pick up the phone and call us and we can go

1 out that day or the next day after something
2 happens, and the same thing goes for the academy.

3 We review all lesson plans for the
4 academy, so every lesson plan that they're being
5 taught, we review, and if there are issues that
6 come up during or right after the training, or
7 before the training, we're there to answer those
8 questions.

9 MR. GOLDSTEIN: You probably are
10 aware that Colonel Fuentes strongly urges us to
11 recommend that your functions, the function you
12 just described, be transferred to the State
13 Police and set up in a new unit within the State
14 Police. Is there a reason not to follow that
15 recommendation?

16 MS. JACKSON: Well, I'm going to
17 disagree with the recommendation not because I'm
18 trying to keep a job.

19 MR. GOLDSTEIN: I want to understand
20 from a practical standpoint because we have until
21 the end of the day to make a recommendation. Why
22 should we agree with that recommendation?

23 MS. JACKSON: It's not necessarily
24 that I would disagree with the Colonel having
25 some sort of office. What my concern would be is

1 if there is a concern about public confidence, if
2 there's a concern about independence, if there's
3 a concern about whether the numbers, if there's
4 any issues with numbers, then it would seem to me
5 just far fetched to put the reviewing office in
6 the State Police because, you're not getting the
7 independence.

8 You're not getting -- the public
9 could still have the same concern that the State
10 Police is reviewing themselves and now we're
11 going to have somebody from the outside who comes
12 twice a year who is not here for the every day
13 things that go on who doesn't understand which
14 tape belongs where, why this is being given to
15 this person, who was transferred where. All of
16 these things come into play and we know that
17 about the State Police, and I don't want to say I
18 guess I don't think it would be appropriate to
19 say that you shouldn't trust the State Police.

20 That's not what I'm saying at all.
21 I think that though there is a certain level of
22 confidence and a certain level of, well, are we
23 making them watch themselves, and I think we're
24 trying to get away from that. I think that the
25 idea and the success of what has happened is that

1 someone else was watching too. That's where the
2 success happened. It wasn't just them alone.

3 They're doing it. They've been very successful.

4 They've worked very hard, but
5 someone else is always there to kind of look, so
6 if we put it there, who else is looking? But
7 someone every six months, and I don't think that
8 will keep the reforms at the level that they are.

9 MR. GOLDSTEIN: My last question to
10 you, if at the end of the day it's not inside the
11 State Police and it's not you because there may
12 be some kind of conflict or try to resolve
13 everybody's needs there, who could perform that
14 function, that independent function and where
15 would you place that group of people?

16 MS. JACKSON: I mean, it's not
17 something --

18 MR. GOLDSTEIN: I'm not trying to
19 talk you out of a job.

20 MS. JACKSON: Right. I know. I
21 have to pay my rent, excuse me. But I don't know
22 if I really have an opinion. Outside of the AG's
23 office and outside of State Police, I mean, if we
24 were to place someone who did day to day
25 monitoring, is that your question?

1 MR. GOLDSTEIN: Or perhaps within
2 the AG's office but not in OPSA.

3 MS. JACKSON: I don't know if it
4 would be the Division of Criminal Justice. I'm
5 not sure if that particular unit should report to
6 the governor, if you're looking for other places
7 for this day to day unit to report to. It could
8 be that they report to the governor. It could be
9 another Division. I think that if the issue or
10 concern is you're too close or how can you have
11 two different, you have a Division, two different
12 divisions, one is monitored from the other, then
13 you would have to get out of the department and
14 then you would be talking about the governor or
15 some other department, state department, or the
16 actual unit to report to, but I don't think
17 that's prudent because the AG is the law
18 enforcement arm, so I think that someone needs to
19 report to the AG.

20 MR. GOLDSTEIN: Thank you.

21 MR. JOHNSON: Mr. Harris.

22 MR. JAMES HARRIS: Good afternoon.

23 MS. JACKSON: Good afternoon.

24 MR. HARRIS: Thank you for your
25 presentation. As I'm listening to the

1 presentation, it occurs to me that you're in the
2 Attorney General's office.

3 MS. JACKSON: Yes.

4 MR. HARRIS: The State Police is in
5 the Attorney General's office.

6 MS. JACKSON: Yes.

7 MR. HARRIS: And you said something
8 that kind of struck me. You said that you know
9 there are some issues out there with some of the
10 local police. I was of the impression that the
11 Attorney General, the last Attorney General
12 mandated that all of the local police forces go
13 through training about racial profiling. Am I
14 incorrect?

15 MS. JACKSON: Yes, you are correct.
16 Attorney General Harvey.

17 MR. HARRIS: So if we know that
18 something is happening out there that needs to be
19 fixed, why isn't it being fixed?

20 MS. JACKSON: That's a question that
21 you will have to ask the Attorney General.

22 MR. HARRIS: Are we saying that
23 there is no authority, or there's no budget, or
24 are we saying there's no resources to do it?
25 Because it seems to me that if we know there are

1 some issues out there, that somebody from the
2 Attorney General office ought to be proactively
3 dealing with the issues.

4 MS. JACKSON: I think that there
5 are -- I think the Attorney General is aware of
6 the issues. I think the Division of Criminal
7 Justice, Prosecutor and Police Bureau does deal
8 with some of the other issues as well as other
9 people in the Division of Criminal Justice. What
10 I'm talking about is more of a uniform effort to
11 monitor and or investigate particular issues. I
12 don't think that there is absolutely nothing
13 going on, no. There's contact, but as for, is
14 there authority, yes, is there funding, I don't
15 know.

16 That's for the governor and the
17 legislature and the AG, but I think that there
18 are people dealing with the issues. This is not
19 a uniform effort into what we're putting forth to
20 deal with this particular issue which is pattern
21 and practice issues and racial profiling.

22 MR. HARRIS: Given the discussion
23 now is about whether or not the federal monitors should be
24 sent home or sent some place or the interaction
25 with the State Police should be reduced, what do

1 you think is the appropriate balance between
2 folks who are not on the state payroll and who do
3 not report ultimately to the governor versus
4 folks who are on the payroll? What is the
5 balance in your opinion?

6 MS. JACKSON: You mean with regard
7 to if we had both monitoring?

8 MR. HARRIS: Well, what I've heard
9 today from most folks is that there needs to be
10 some independence, and when I think of
11 independence, I mean somebody who doesn't collect
12 a state pay check on a regular basis who doesn't
13 have to depend on the State of New Jersey to pay
14 the rent, and then there are those folks who do
15 have to depend on it.

16 So I'm just wondering what do you
17 think is a reasonable balance between the
18 independent monitoring, or auditors as the case
19 may be. Because we've gotten into a discussion
20 as to whether they should be monitors or whether
21 they should be auditors, but my impression is
22 that the recommendation is that all of that
23 should be external to the state government pay
24 check system. What do you think is a reasonable
25 balance?

1 MS. JACKSON: I can start it off for
2 you. I would think that we would have -- see,
3 again, the distinction between monitoring and
4 auditing. I think that the monitoring should
5 stay within the state. I don't see that there's
6 an issue with an office like ours doing the day
7 to day activity because of our expertise as well
8 as understanding the State Police and that we are
9 both reporting to the law enforcement. I don't
10 see any issues with that. I think that if you
11 had an independent auditor, which is what that
12 person is, which I believe is kind of like what
13 the federal monitors do.

14 They're coming in twice a year,
15 three times a year to look at what's being done,
16 to review, to make sure that our office is doing
17 what we're supposed to do, to make sure that the
18 State Police is following their SOPs and their
19 reforms, so I believe that the balance would be
20 us being the day to day people and the auditor
21 coming to look at us as well as the State Police.

22 MR. QUINOA: That's where I was
23 going. Any state agency, okay, can do the job.
24 I think it's the public trust is where you have
25 to go to make sure that the public has enough

1 confidence and the job is being done by whatever
2 agency it is, whether it's OSPA, Criminal
3 Justice, inspector.

4 I think as I stated when we met last
5 time, I think the best thing to do is to have an
6 independent monitor, auditor, whatever you want
7 to do, come in just like independent monitors do
8 now, take a look at what State Police is doing,
9 but also take a look at what OSPA is doing or
10 whatever office it is.

11 First of all, I think you should get
12 rid of the name Office of State Police Affairs.
13 They've earned their dues. It's got to be
14 renamed to something else because that stigma
15 will always attach, but besides that, it's the
16 independent auditor that comes in to look at this
17 agency to see what kind of job they're doing with
18 local State Police, whatever it is. That is
19 where you built the confidence in the public in
20 my opinion, and I wanted to get to the local. If
21 there are issues out there, I think that's what
22 this Committee is about. I think it's to put
23 something in place.

24 I don't think there is something
25 really in place right now other than the obvious

1 real crime that's committed out there whether it
2 is a beating or whatever of a motorist, then it
3 rises to the level of a local police chief taking
4 action with the prosecutor and so forth. I think
5 this Committee, I think what they have to put in
6 place is some sort of mechanism to actually go
7 out and do the same thing that was done with the
8 State Police seven years ago. It started the
9 same way. It's a learning curve. I read the
10 testimony today. It's a learning curve.

11 First you put in the cameras, then
12 the film and all that and you have to -- there
13 has to be a -- I think everyone testified this
14 morning that State Police should turn around with
15 the Superintendent Fuentes when there was a
16 complete buy in and that's why they reached the
17 success that they reached. There's no question
18 about that. It's the same thing, whatever office
19 it is. Whether it's the Office of State Police
20 Affairs, but that is what it is currently right
21 now, whatever office it is, you have to go out
22 and sell it.

23 Just like the independent monitors
24 sold it to the State Police, you have to sell it
25 to the police department and the prosecutor's

1 office. Look, we're not there to say I gotcha.
2 When I first came on this job, when they did
3 monitoring, the independent monitoring always had
4 this, it's a gotcha. That was terrible. There
5 was no gotcha. It was mistakes. They were
6 corrected. It's the same thing that we have to
7 do with the local police departments. Let's go
8 out there. We can help you. We can reestablish
9 Office of Internal Affairs.

10 We can help you with that. We can
11 help you set up how to review videos, the MVRs.
12 We can do all this. We can't go out there and
13 say, we are the monitors, it's not going to work
14 that way. You have to have the buy in, and right
15 now there is nothing in place and that's what the
16 governor is trying to do, put something in place
17 to deal with the local police department, and
18 when something does come up, give the decision
19 the same ability that they have right now with
20 the State Police, the same ability, and you'd be
21 surprised by how good that works, but you have to
22 do that at the local level.

23 MR. HARRIS: My other question is,
24 same question that I've been asking all day, is
25 it possible that a minority community can have

1 confidence in a police force that's not diverse?

2 MS. JACKSON: That's a very
3 difficult question to answer. I think I want to
4 say yes, but I know that there's an effort or
5 there has been an effort, I remember as recently.
6 I'm not sure what's going on now, but as recently
7 as AG Harvey, to recruit more minorities. It is
8 my understanding that there is something like 400
9 or 500 Hispanics and African-American troopers.
10 I'm not sure if I'm right about that, but I think
11 it's about 500 African-Americans out of 3100,
12 while it could be better, but I think that you
13 could.

14 I don't know if it has to do with
15 the race of the law enforcement officer or the
16 job that they are doing. To have public
17 confidence, it doesn't matter about race of the
18 trooper because it could be a black trooper who
19 is pulling over a black person because they think
20 because they're black they must have drugs. That
21 to me is not what the issue is about. I think
22 it's more about the job that they're doing and
23 all the rules, the rules, the Standard Operating
24 Procedures and the process and the reforms that
25 are color blind.

1 And if you follow those rules and
2 you don't use race illegally, then you are doing
3 your job, and I think that a citizen in the State
4 of New Jersey picks that up in a white trooper as long as
5 they're doing their job and not considering race
6 illegally as much as they could in a Hispanic or
7 African-American.

8 MR. HARRIS: How would you reconcile
9 the fact that the perception within the
10 African-American and Hispanic communities of racial
11 profiling is polar to that of white citizens in
12 the state?

13 MS. JACKSON: Well, I think the
14 issue is an issue because it has affected our
15 communities in that way. I mean, we were the
16 people who were being stopped because we were
17 black and Hispanic. We were the people being
18 stopped, oh, you must have drugs, so of course,
19 it's going to take us a little bit longer time
20 than seven years when the organization has been
21 around since 1921 to really get over that.

22 I'm not going to sit here and give
23 my community an out. I don't think that anyone
24 here would disagree that we're hurt by that, so I
25 mean, it's going to take some time for us to

1 heal, and I'm speaking not as director of Police
2 State Affairs but as an African-American female
3 and as a past president of an African-American
4 legal organization. That, to me, I don't think
5 anyone would disagree. It's just not going to
6 happen in seven years when you've been around for
7 over 100. It's just not. It will take time.

8 MR. JOHNSON: Okay. I'm going to
9 have to turn it over to the next Mr. Harris.

10 MR. JEROME HARRIS: Thank you.
11 Director Jackson, it appears from the description
12 of the monitors and from your testimony that the
13 Office of State Police Affairs has kind of been a
14 redundant unit, a redundancy of what the monitors
15 are doing, building most likely a learning
16 component for the Attorney General for what's
17 going on, and any change, it would appear to me,
18 that having redundancy available as a transition,
19 for whatever happens afterwards in terms of
20 whether there is additional auditing, monitoring
21 going on in a day to day basis in the State
22 Police unit itself becomes important.

23 Could you envision a situation that
24 perhaps the model like you're suggesting be put
25 in place for a period of time to see how the

1 state police's own monitoring is going on and how
2 the shift in change in the Attorney General's
3 office alignment is taking hold maybe a
4 transition period, how would that sound to you?

5 MS. JACKSON: Are you asking me
6 would I envision allowing the State Police to
7 monitor themselves? Is that the question, for a
8 period of time?

9 MR. HARRIS: For a period of time
10 with OSPA being in place. What I see going on
11 here is that OSPA has been there, while the
12 monitors are there, the monitors go away. The
13 State Police put in place an evaluation self
14 learning system, but the office remains
15 appropriately, still in place for a period of
16 time to make certain that the sustainability and
17 the new issues that come up that need to be
18 integrated into the activity of assessing.

19 MS. JACKSON: If you're asking
20 me -- well, the first question, I do not have an
21 issue with the Colonel, the State Police having
22 their own office within to collect their
23 statistics and to do their own operating. The
24 second part of that with regard to us being
25 around, is sort of what I envision what you're

1 saying, is kind of a stepped down process. It is
2 my understanding that there are other police
3 departments that have reforms and have monitors
4 and that when the monitoring went away, the
5 reforms kind of slipped.

6 My concern would be that if there's
7 no one watching, not that the State Police are
8 not doing the greatest job that they can right
9 now, they are, but if there is no one watching,
10 why is it that if we learned in the past from
11 other police agencies where no one is watching
12 reforms go away, why would that not be a lesson
13 for us now here? So it would be hard for me to
14 agree because of the fact that we have that
15 information out there that we should step down
16 and eventually be gone and they would monitor
17 themselves.

18 Now, if there was proof, certainly
19 that reforms were maintained by other law
20 enforcement agencies who are just as many law
21 enforcement officers for a long period of time,
22 then I would agree with you, a step down process.
23 Now, if you're talking step down every 10 years,
24 I don't know what your time period is, maybe. I
25 don't know if the issue is -- and I throw that

1 out there. The issue may be that there is no one
2 watching but it may be funding. It may be the
3 legislators letting go.

4 Maybe if they had funding in their
5 legislation, none of this would be necessary, but
6 who knows because we've seen nothing but the
7 opposite happen, so my answer is right now I
8 could not agree with a step down process because
9 I'm just not sure where the reforms -- and my
10 concern is the public's confidence and that the
11 reforms are sustained, and I believe by having
12 our office around those reforms will remain.

13 MR. HARRIS: On the other side of
14 that, assuming that you continue in the role of
15 monitoring and interfacing with the State Police
16 around profiling issues and concerns and becoming
17 involved with the local police, what size
18 operation do you need to do that?

19 MS. JACKSON: Well, it hasn't been
20 discussed in detail. I think that's something
21 you would have to sit down -- but I would think
22 you definitely need more lawyers. We only have
23 five investigators right now. We probably need
24 about 10, 10 or 15, depending on how you're going
25 to set up the office. Are you going to set it up

1 in regions? I would imagine that the AG at least
2 would want two or three attorneys assigned to
3 each region of the state, two or three
4 investigators assigned to each region of the
5 state.

6 We have about 500 municipalities
7 throughout the state. Now, we're not going to be
8 dealing with all of them at any one particular
9 juncture, so if you look at it that way, we're
10 talking about three or four attorneys for the
11 three regions. That's 12 attorneys, maybe 12 or
12 so investigators, so you have enough to go out
13 and deal with the different -- as well as the
14 social science staff would have to be expanded,
15 at least three or four people I would say, if
16 you're going to be dealing with potentially all,
17 but I would see us dealing with more, you know,
18 20 departments or so at a time.

19 MR. JOHNSON: We're going to move
20 on. Mr. Huertas.

21 MR. HUERTAS: I'm totally confused.
22 Let me ask you, first of all, thank you for
23 coming and thank you for your testimony. If
24 there is a dissolution of the Consent Decree your
25 role would basically be turned back to what it

1 used to be in terms of to assist the attorneys
2 coordinating all the law enforcement activity in
3 the State Police including but not limited to the
4 cabinets (inaudible) ethics. Is that correct?

5 MS. JACKSON: Yes, if the Attorney
6 General's Administrative Directive is still
7 followed. That's an Administrative Directive,
8 and it's my understanding that an Attorney
9 General could rescind that directive. That was a
10 directive that was signed in place by Peter
11 Harvey.

12 MR. HUERTAS: If there was a
13 dissolution of the Consent Decree and there was
14 no OSPA, your role would return to that
15 directive. Additionally, I think you mentioned
16 earlier that the roles -- currently some of the
17 roles that your office performed were performed
18 by the AG's office previously in terms of
19 representation of troopers, and those are, I
20 would imagine, are still in existence. I did
21 have just a couple of questions so bear with me
22 because I'm still confused here so don't mind me.

23 MS. JACKSON: That's okay. Go right
24 ahead.

25 MR. HUERTAS: You talked about the

1 independence of the public and a confidence. If
2 there was an independent office that was always
3 reviewing, that would review the reforms and
4 continue to review the reforms that the State
5 Police achieved, and you said you have no
6 problems with the State Police collecting that
7 data and providing that data to the third party,
8 that would be an independent.

9 That's similar to the proposal that
10 Colonel Fuentes spoke about today which was to
11 have an internal process by which he would
12 collect data, monitor that and provide that data
13 almost to an independent monitor to come in twice
14 a year, whatever time he decided, so you would
15 have really no objections to that process?

16 MS. JACKSON: As long as our office
17 was around.

18 MR. HUERTAS: And I anticipated you
19 saying that, and I would ask you, why would you
20 your office be necessary in order to insure --
21 what are you insuring, the collection of the
22 information from the State Police, or are you
23 insuring the accuracy of the information from the
24 monitors?

25 MS. JACKSON: The issue is the

1 distinction between auditing and monitoring. Our
2 office right now responds immediately, daily. As
3 you know, you were a former major in the State
4 Police, there are 3,100 troopers, 4,000 people in
5 the Division. They are on major highways as you
6 know. Things happen every day. Trooper issues
7 come up with regard to troopers on the road every
8 day. We are there to respond immediately. We
9 are there to make sure that the reforms and the
10 proper SOPs, if there are questions with regard
11 to our specific task in the Consent Decree, we
12 respond immediately.

13 To me, I would expect that the
14 public would want that kind of continued service.
15 We make sure that, and in an auditor, someone
16 coming in afterwards to make sure that the
17 numbers are kept correctly, to make sure that the
18 SOPs are complied with or reviewing videos,
19 that's fine, sure. If that's what the Colonel is
20 proposing, to have an office and to correct
21 numbers, that's fine, but I'm talking about the
22 day to day issues that come up and an auditor
23 coming in to check on us.

24 I think that's the better proposal.
25 I don't think it should be about the Colonel and

1 the State Police wanting to collect numbers and
2 go out and review their own tapes. They can do
3 that in conjunction with us like we do with them.
4 They just don't have to be assigned to our
5 office.

6 MR. HUERTAS: So what you're telling
7 me is that any issue that comes up, that came up
8 previously to the federal monitors and the OSPA, the
9 Attorney General office never responded to those
10 issues.

11 MS. JACKSON: I don't know how they
12 dealt with the issues before the Consent Decree
13 was formed.

14 MR. HUERTAS: I'm sure that they
15 did. The other question that I had, in terms of
16 the law enforcement, the application of the
17 collection, whether it's auditing or monitoring
18 to the local law enforcement, would that be on a
19 voluntary basis, would that be on a mandated
20 basis? And the sub part of that is has there
21 been any collection of data from law enforcement
22 data since 1999 or 2000 in terms of profiling, in
23 terms of racially influenced policing at all?

24 MS. JACKSON: The answer to your
25 second question is I don't know, and the answer

1 to your first question is, I want to make sure I
2 understand your first question, you're asking how
3 it would work with municipalities?

4 MR. HUERTAS: That is correct.

5 MS. JACKSON: I think it could be
6 two fold. As I stated before, someone else had
7 asked this question, it would be a monitoring
8 function as well as a technical assistance. They
9 could ask us to come in and help, or if there is
10 a problem agency, I think it's the AG's
11 obligation and duty to go in there and see what's
12 going on, so if you get in the city of Newark you
13 have 1200 police officers or 1500 police
14 officers, and you have four or five different
15 districts and you have numerous complaints about
16 a particular police department, a particular
17 district, then I think it would be incumbent upon
18 the Attorney General, if his phone is ringing off
19 the hook, but there is no other district, then to
20 go there, not that there are any problems there,
21 but just one example, so I don't think that the
22 AG should be limited to one function as it should
23 just be monitoring or volunteer. I think it
24 should be both.

25 MR. HUERTAS: Thank you very much.

1 MR. JOHNSON: Reverend Justice.

2 MR. JUSTICE: Miss Jackson, thank
3 you for your presentation and to your staff.

4 MS. JACKSON: You're welcome.

5 MR. JUSTICE: I applaud your concern
6 for both effective law enforcement and your
7 continued concern with public confidence. Do you
8 feel that it has gotten better in as much again
9 as you report? And we all know there was a
10 decline. Do you feel that it has gotten better
11 is one. Two, is what were some of the
12 challenges, hurdles as it relates to insuring the
13 implementation of remediation and action being
14 taken by the state troopers?

15 MS. JACKSON: Well, I've been in
16 this unit for four years, had an opportunity to
17 talk to many people. I think that Camden and
18 Irvington are good things for the State Police.
19 I think it gives these guys a chance to get
20 involved, kind of local policing which is not
21 what they do on a regular basis except for the
22 general policing troopers. So I think if you
23 talk to those people in those environments, some
24 of them will tell you that they enjoy having the
25 State Police around and that they've made a

1 difference.

2 And I think that that goes a long
3 way and I've always thought since I started in
4 this job that one of the problems with being a
5 trooper is that your contact is mostly negative
6 contact with the public. Because you're stopping
7 them on the Turnpike, you're stopping them on
8 295, you're stopping them on I95, you're not
9 really coming in, and while the State Police have
10 the Trooper Youth Week, they have community
11 programs that they do, it's not like they're
12 located in a town, you know, where you're dealing
13 with the folks one on one all the time and you
14 can get involved with all the local clubs and the
15 churches and everything.

16 So that was one of the issues, and I
17 think that they have thought about that
18 thoroughly. There have been troopers on the
19 Turnpike, at the rest stops there talking to
20 people, they give out information. They've been
21 involved with Trooper Youth Week. They have been
22 involved with Noble and programs with the state,
23 so I think that that continued community
24 involvement with the State Police is an excellent
25 thing and has to continue in order for them to

1 kind of change the mind set of these are big bad
2 dudes on the Turnpike who just stop them and
3 people thinking it's because of their race.

4 That's the answer to your first
5 question, so I think it has changed in some
6 instances and others it hasn't, and I want to
7 make sure that I'm clear on your second question.

8 You want to know about hurdles that we've had.
9 Well, I've been in the unit for four years. It's
10 been around for over seven. I cannot speak to
11 what happened at the beginning while I know, as
12 Dr. Ginger has said, there were some difficulties
13 with hashing out some of the details of how
14 things are going, as well as arguing really over
15 numbers and issues that would come up in the
16 reports.

17 Outside of that, the issues that we
18 see, some of our systemic issues that we've put
19 in our report such as authority, and I guess this
20 would be the issue that a lot of the members of
21 the Committee have been bringing up is that we
22 report to the AG so does the Division head of the
23 State Police. Who has the hammer? I mean,
24 that's been an issue. Who has the hammer? We
25 have acted independently, to my knowledge. We

1 consult with the AG.

2 Sometimes the AG tells us what to
3 do. Sometimes the AG tells the Colonel what to
4 do. But when we tell them that we are
5 recommending a particular change for them or we
6 are recommending that something happen and then
7 we get into an argument where they don't want to
8 change it, who has the hammer? That's an issue.
9 Who is going to say the buck stops here? It
10 should be maybe the AG who says the buck stops,
11 but it's a problem, and it's a problem that has
12 occurred between my office and the State Police
13 on a couple of occasions.

14 We try to work together. We don't
15 always agree and I think that people expect that
16 we shouldn't always agree, but that's a
17 particular issue that needs to be addressed and
18 that's something that I've seen in the last
19 couple of years.

20 MR. JOHNSON: Miss Milgram.

21 MS. Milgram: Very briefly, I thank
22 you for your testimony and also on behalf of the
23 Attorney General's office I thanked the Colonel I
24 would also thank you, and I have been impressed
25 as well with the professionalism and dedication

1 with which you have all approached your work and
2 I'm grateful for that.

3 Just a few quick things, and I would
4 start by touching on the pattern and practice
5 issue because I think we're a little like apples
6 and oranges on what the state role is and I'll do
7 it through asking questions to the extent that we
8 can do that. Is it fair to say that the State of
9 New Jersey does not have a pattern and practice
10 statute?

11 MS. JACKSON: Yes.

12 MS. Milgram: And is it fair to also
13 say that the Consent Decree came about through
14 the Federal Department of Justice, the Federal
15 Pattern and Practice Statute?

16 MS. JACKSON: Yes.

17 MS. Milgram: So the Attorney
18 General does however go in and supercede police
19 departments, correct?

20 MS. JACKSON: Yes.

21 MS. Milgram: But that's a different
22 power?

23 MS. JACKSON: Yes.

24 MS. Milgram: What I would say, in
25 terms of local police departments, have you

1 provided technical assistance to local law
2 enforcement already?

3 MS. JACKSON: Yes, Gloucester
4 County, I believe it was. I think Dr. Eckert was
5 there.

6 MS. Milgram: What sort of
7 assistance did you provide?

8 DR. ECKERT: We gave a presentation
9 on the Consent Decree and some of the issues
10 involved with it. We then developed some
11 basically Standard Operating Procedures that were
12 reviewed by our office.

13 MS. Milgram: How did you get
14 involved in that process?

15 DR. ECKERT: Through contact with
16 the county prosecutor who was helping, I think it
17 was the instigation of it was actually the Chief
18 of Police itself, but the county police tried to
19 organize it.

20 MS. Milgram: So you were invited
21 in?

22 DR. ECKERT: Yes.

23 MS. Milgram: And I pose this to you
24 as a real question, isn't it preferable for the
25 state to provide a support role to local police

1 departments? Essentially, go in and do technical
2 assistance and advice to some extent when
3 invited? The difficulty with the Consent Decree
4 is you have a plaintiff and a defendant
5 adversarialness, and to me, going forward, I
6 think the goal would be to work with local police
7 departments hand in hand to help them surmount
8 what are the hurdles, leadership, money,
9 technical support, that kind of stuff.

10 MS. JACKSON: I 100 percent agree
11 with you. I'm not proposing that the AG go in
12 and be gang busters to local police departments.
13 However, what I'm proposing is that if there is a
14 problem, it should be that people want us there.
15 There should be that buy in that everybody talks
16 about. The next step is what if there is a local
17 department that is a real problem, that has a
18 history of having problems, shouldn't the AG be
19 able to have a role?

20 I believe that the AG should be able
21 to have a role if that means going in and
22 investigating and working with the county
23 prosecutor, working with the local whoever. We
24 should have that role or that ability if
25 necessary for the worst case scenario.

1 MS. Milgram: Just to step back, if
2 there is an issue with State Police, if there is
3 any concern or issue that is raised, how do you
4 find out about that right now, the way the
5 current system works?

6 MS. JACKSON: Right now, it's one of
7 several ways. Tom Gilbert will call our office.
8 The Colonel will call our office. Someone out in
9 the field, a station commander will call our
10 office or contact Captain O'Shea or contact Linda
11 Alexander. We have a DAG, Phillip Dowdell who is
12 over in the Office of Professional Standards
13 almost every day. He sits there and sits back at
14 the Justice Complex and they'll tell him, so it's
15 really a flow of information. Everyone knows our
16 office number, and as for outside citizens, they
17 contact our office also and tell us.

18 MS. Milgram: What do you do with
19 the information that you get?

20 MS. JACKSON: Depending on what it
21 is, if it's a citizen complaint, we send a form
22 out. They fill out the form. We get it back.
23 Depending on what happens, if it's a complaint
24 that a trooper did something wrong, we send it
25 over to the Office of Professional Standards for

1 them to handle it. Unless if it's being
2 investigated by the prosecutors office, then that
3 process takes place.

4 If it's a compliment, then I believe
5 we send out a letter that I sign off on basically
6 thanking you for complimenting the trooper, kind
7 of a standard letter, so it depends on what the
8 information is. If it's not something that
9 shouldn't be handled by our office, we forward it
10 to the Division of Criminal Justice, we forward
11 it to the Division of Law, we forward it upstairs
12 if it's something of a high profile or sensitive
13 nature.

14 MR. JOHNSON: Mr. Sklar.

15 MR. SKLAR: Thank you, Mr. Chairman.
16 Good afternoon.

17 MS. JACKSON: Good afternoon.

18 MR. SKLAR: Most of the issues and
19 questions that I had have been answered down the
20 line, but I have a few things to bring up.
21 Looking over your written testimony, I'm not sure
22 if you mentioned everything in your oral
23 testimony. You mentioned in your written
24 submission that the OSPA is responsible for
25 giving guidance to police departments in the

1 areas of constitutionally based policing and
2 equal protection.

3 We are locally deficient in police
4 legal advisors at a local level, that's the role
5 you're talking about here, I assume, providing
6 that type of advice. We simply don't have that.
7 My question is, is your office seeking to assume
8 that role for all police in the state? Are they
9 immediate real time legal police, legal advisors
10 for the supervisors?

11 MS. JACKSON: It depends on the
12 staff. It would be nice to have that. I think
13 that would probably be good whether it would be
14 our office. I'm seeking to address the fact that
15 those types of issues are going to be the issues
16 that our office will deal with on a regular basis
17 with regard to local law enforcement. If you
18 have the staff, if you have two to three or four
19 attorneys assigned to each region, I would think
20 that we would be able to address things real
21 time.

22 MR. SKLAR: You're very optimistic.

23 MS. JACKSON: I try to be very
24 optimistic.

25 MR. SKLAR: I think the staff would

1 have to be expeditious --

2 MS. JACKSON: Sure. I think we
3 would be working with locals. We would work with
4 the county prosecutors. We would work with
5 people who are there, so even if you had one or
6 two or four attorneys assigned in a region, 100
7 or 75 local agencies, people would call the real
8 time issues. We would call the prosecutors, hey,
9 there is X, Y and Z going on. Again, it would
10 not just be our office. It would be a
11 collaboration. It has to be.

12 MR. QUINOA: We're not asking to
13 replace the current system in place right now.
14 The local police department, if they have an
15 issue, they call the prosecutor's office and if
16 they have someone on stand by, we advise the
17 local police. We're not talking about those
18 types of issues. We're talking about global
19 issues, then we're asked if you could help out.

20 Your regular questions, the best
21 practices, take the local prosecutor's office,
22 they have an assistant prosecutor stand by, they
23 answer those questions that involve your regular
24 questions through the investigation so we're not
25 asking to replace that.

1 MR. SKLAR: You're seeking to
2 augment it in some way?

3 MS. JACKSON: Right, with those
4 particular issues in mind. Again, I'm not
5 talking about taking issues from an AP who is on
6 search warrant duty. That's their job. This is
7 equal protection, search and seizure issues,
8 things surrounding this particular issue of
9 racial profiling pattern and practice issues.
10 That's what we're looking to augment.

11 MR. SKLAR: I think your estimates
12 of staff are very optimistic.

13 MS. JACKSON: Again, that is nothing
14 that is set in stone. I was asked. I never
15 really thought about it. Knowing that, that's a
16 decision for the AG and the governor.

17 MR. SKLAR: And lastly, in your
18 statement, I think in your oral testimony, you
19 talked about your office would investigate police
20 departments. What would trigger such an
21 investigation?

22 MS. JACKSON: If it was called upon.
23 If there -- it would be two fold. It could be
24 that there is a rogue police department out there
25 that has some really serious issues that keeps

1 coming up in the news or keeps having problems,
2 citizens are complaining. Every day you're
3 seeing something in the newspaper about this
4 particular police department. There's a police
5 director that keeps getting talked about, he has
6 10 million complaints. Well, you know, maybe the
7 AG may want to get involved.

8 MR. SKLAR: He's just the middle
9 man.

10 MS. JACKSON: He can do that.

11 MR. SKLAR: It isn't their
12 responsibility.

13 MS. JACKSON: It is their
14 responsibility. What we're suggesting --

15 MR. JOHNSON: As a favor to the
16 reporter and the rest of us listening, one person
17 asks and one person answer and let's give .2
18 seconds in between.

19 MS. JACKSON: Sure. You can do
20 that, and it is done. It's not a uniform system,
21 and that's what we're trying to get across here.
22 It's not that we don't have things in place.
23 We're talking about a uniform system that deals
24 with particular issues that have come up with
25 regard to racial profiling, racial profiling,

1 racial profiling.

2 MR. SKLAR: Thank you.

3 MR. JOHNSON: Mr. Weber.

4 MR. WEBER: Thank you. Director
5 Jackson, one of the things that became very clear
6 during the (inaudible) of racial profiling was
7 that it wasn't just a State Police issue, and
8 having gone through that investigation from
9 cradle to grave, it became very clear from the
10 evidence that we obtained that it was both the
11 State Police as well as the AG's office issue,
12 and I think now looking forward, in my opinion,
13 what we have here is a maturation issue.

14 The AG's office has matured in some
15 respects in the way that it provided oversight to
16 the State Police, and the State Police has
17 matured in the way it was dealing with troopers
18 who engaged in (inaudible) so aren't we at a
19 stage now where the State Police have
20 demonstrated and the monitors have confirmed that
21 they have sufficiently matured their organization
22 to address the issues of racial profiling? And
23 similarly, the AG's office needs to mature and
24 how does our organization need to change as a
25 result of the State Police changes?

1 MS. JACKSON: I agree with you. I
2 think that they have complied with the task of
3 the Decree. I believe that the State Police had
4 adopted in some form the spirit of the Decree in
5 that, in my mind, when I say spirit of the
6 Decree, I mean that they are taking the reforms
7 and adopting them to an organization and
8 institutionalizing them into their organization.

9 For example, how many tapes should a
10 sergeant review, and how can we make that fit so
11 that sergeant can still do his job, but yet he
12 can still review our troopers to make sure that
13 we don't have behavior going on or violations. I
14 think you're right, but my concern is that
15 history has taught us based on the reforms that
16 police departments who have these reforms have
17 not maintained the reforms once all of this has
18 gone away.

19 Now, I'm not saying that the New
20 Jersey State Police would be the same as other
21 police departments. I'm not saying that, but I
22 do believe that the monitoring process had a lot
23 to do with keeping the State Police on that same
24 wave length as high as they've gone 100 percent.
25 If someone is there reviewing what you're doing,

1 I think that makes a difference in what you do,
2 not saying that if someone wasn't there, they
3 wouldn't do it. We don't know that, and that's a
4 decision for you to make, but we do have history
5 in other police departments that have had reforms
6 and no one is watching.

7 MR. WEBER: I guess my problem,
8 Director Jackson, is I don't think anybody is
9 advocating to get rid of oversight. Nobody on
10 this Committee is saying that. I think what
11 we're trying to do is we're trying to mature the
12 process, and the way to do that -- you at OSPA
13 have done a wonderful job and when I think about
14 what the Attorney General's office oversight
15 pre-Consent Decree to racial profiling versus
16 what the OSPA does now, it's leaps and bounds in
17 improvement.

18 So the issue is why not take your
19 expertise that you have developed over the years,
20 make it available to augment municipal police
21 departments as part of our charter, but then also
22 give the State Police its due because it has
23 matured and figure out a way to have that
24 auditorship? And I think you're not really
25 understanding, and I don't mean that

1 disrespectfully, what Colonel Fuentes has
2 suggested. What he suggested is what happens in
3 corporate America every day.

4 You have an audit Committee that's
5 part of the Board of Directors. The New Jersey
6 State Police should have their own internal audit
7 Committee. As the issue, they can present those
8 issues to the leadership just like an Audit
9 Committee would present to the Board of
10 Directors. You also have your outside auditors, Price
11 Waterhouse Cooper, whoever it is, that comes in every
12 year and provides an audit of the organization.
13 You would do the same thing here.

14 You would hire an outside auditor,
15 or the Attorney General's office would hire that
16 auditor, they would come in on an annual basis or
17 come in every six months to conduct that audit,
18 so it seems to me that we've told the
19 organization you need to change and they've now
20 changed and to not allow for a change in the
21 procedures of oversight, you're basically going
22 to disenfranchise the organization. Why should
23 we do anything?

24 You held out for us, you need to
25 embrace the Consent Decree, the Decree was

1 embraced. The monitors talked about how the
2 State Police went above and beyond the
3 requirements of the Consent Decree, so I don't
4 think anybody thinks that you should walk away
5 from it.

6 MS. JACKSON: No, I do understand
7 where the Colonel is coming from and what you're
8 saying. I just don't agree with it. I don't
9 agree. I agree that the State Police have done a
10 great job in instituting the reforms, that
11 they've worked very hard to get to this point.
12 It's been seven years. They've been around since
13 1921. I'm talking about real time partnership
14 that we have to continue. Again, I know the
15 Colonel and some people are concerned with
16 trooper morale. I think that morale, in my
17 sense, and I can't answer the question because
18 that's not really my major concern.

19 My major concern is public
20 confidence. My major concern is preventing the
21 past, and my major concern is preserving the
22 reforms, and in order to do that, based on
23 everything that I know, we need to still be here
24 for real time review. Auditing, having someone
25 to audit and review that within the State Police

1 is fine, and I've heard of this before and that's
2 one thing I do understand. I just disagree, and
3 regardless of trying to say thank you for doing a
4 great job, again, that is not my major concern.

5 Again, public confidence, preventing
6 the past and preserving the reforms are what my
7 major issues are, and I believe that the only way
8 to do that is to continue to have real time
9 monitoring from an office like ours wherever you
10 want to put it.

11 MR. WEBER: Isn't OPS responsible
12 for that? You previously testified that you've
13 got at least one AG full-time in OPS. If there's
14 a real time problem today, Lieutenant Colonel
15 Gilbert is going to tell OPS, Lieutenant Colonel
16 Gilbert, as long as OSPA is around, is going to
17 tell OSPA, but if you have Attorney Generals
18 present in the Office of Professional Standards,
19 shouldn't that be from a standpoint, you know,
20 the place that you go to when there is a real
21 time problem?

22 MS. JACKSON: No, because that --
23 OPS is a particular type, they deal with Internal
24 Affairs issues and problems with troopers.
25 That's not saying that the motor vehicle

1 recording that's being reviewed and they see a
2 particular issue with the constitutional, maybe
3 not a constitutional basis, maybe he's not
4 following Standard Operating Procedures, and how
5 that's going to be reviewed or an issue out there
6 with regard to a legal issue that's raised based
7 on some troopers who are down in Port Norris who
8 needs that information.

9 I don't think that's dealing
10 specifically with racial profiling, dealing
11 specifically with the issue, and I say that
12 because I don't want us to take away from the
13 Division of Law what they do. They advise on
14 everything. We are dealing with a particular
15 issue. OPS deals with Internal Affairs. They
16 have an investigatory process. That's one place
17 where we get information from, so I don't want to
18 mistake, I don't think that everything should go
19 there, just have the DAG there and that will
20 solve the problem.

21 That won't solve the problem because
22 that's one place and we're only dealing with --
23 and sometimes people don't get charged at all.
24 It's not even a matter of it's coming from IA
25 because it's not an issue for the person to get

1 charged. It may be corrective action, which is
2 not disciplined. It may be training. We may see
3 something that, hey, this is the first time this
4 trooper is on the road, it's the first time he's
5 done this, and now we think that everyone should
6 get trained because we've seen it maybe two or
7 three times so it may not go to OPS.

8 It may be something that comes up,
9 and the only way we're going to get that is if we
10 have a partnership with the State Police. The
11 difference that I'm talking about is the troopers
12 can be in that auditing unit and we can still do
13 the same thing we do now.

14 MR. JOHNSON: Miss Yang.

15 MS. YANG: Good afternoon, Director
16 Jackson. Thank you to you and your staff for
17 being here again with us. As you know, we're an
18 Advisory Committee. We have to make
19 recommendations by the close of this year and
20 understandably today we focused on the State
21 Police. I'm a little concerned about the local
22 law enforcement because it's so decentralized.
23 You've got many that are involved. This is my
24 own concoction. The Office of Local Police
25 Affairs, is that a possibility?

1 You were created as a response to
2 the Consent Decree and perhaps you can't answer
3 this for me, Director Jackson, but how can we go
4 about creating it? Is it legislative? Is it
5 something that you would suggest because you feel
6 it has been so effective for monitoring for the
7 activities of the State Police?

8 MS. JACKSON: My chief would like to
9 answer, but yes, I don't know if it necessarily
10 has to be legislative. It could be, but I think
11 we have a lot of it in place right now with the
12 Criminal Justice Act, the fact that the
13 prosecutors fall under, being the Attorney
14 General already and the municipal police fall
15 under that, so I think we already have the
16 mechanisms.

17 I think the standardization of that
18 particular process needs to be worked out.
19 Whether it's codified in a reform, it could be,
20 or if it's something that's a directive by the AG
21 because the AG can then direct, this is how it's
22 going to go with regard to these issues, so it
23 could be either or.

24 MS. YANG: Is it that each county is
25 responsible for the local -- let's say Piscataway

1 falls under Middlesex. They enter into --

2 MS. JACKSON: Exactly.

3 MS. YANG: They have their own
4 system, so there is not one office that responds
5 to except for the county prosecutor's office.

6 MS. JACKSON: Right. Unless the
7 case may be taken out of there and given to the
8 Division of Criminal Justice. You have to
9 remember, the Division of Criminal Justice can
10 take any case from the local prosecutor's office
11 in the interest of the state, the people of the
12 State of New Jersey. That is the DCJ and that's
13 what they do. We can go in and say we're going
14 to prosecute this particular case because of X, Y
15 and Z reason.

16 It's in the interest of the state,
17 so right now we already have a process within
18 which the AG can take cases from the county
19 prosecutor's offices, so what we're just
20 suggesting is really formalizing the process for
21 this particular issue.

22 MS. YANG: I have one more question.
23 Since today was the focus on the State Police,
24 being that you've been deputy director, acting
25 director, you did mention that one of your

1 concerns was the staff. Take the OSPA and say
2 the decision is to leave you in fact the way you
3 are, what other major change reforms do you see
4 should be in place to make it more of an
5 effective office in the oversight of the State
6 Police besides the staff increase?

7 MS. JACKSON: Money. Money is
8 always an issue. Really it's money, it's
9 staffing. I think those are the two major, major
10 issues because we just need the staff to continue
11 what we do, and if we have an expanded role with
12 the local police department, we'll need more
13 people to look at statistics and to analyze
14 what's going on. We'll need more investigators
15 to review the tapes, and depending on what
16 process, because if they go digital, that may
17 change how we would do our job, so those are the
18 two things.

19 MS. YANG: Thank you very much.

20 MR. JOHNSON: Miss Jackson, first,
21 thank you for your testimony and your candor
22 today, but also I know I've been in positions
23 where I've had to act and then testify shortly
24 thereafter, and I know it's not easy, so we
25 appreciate that in your preparation today as well

1 as your whole team's work over the last seven years
2 to work with the State Police. I have a number
3 of questions, some of which I will read to you,
4 and then because I asked Colonel Fuentes for more,
5 I'll ask the same of you.

6 But there are a couple of issues
7 that, first of all, you discussed, not in order
8 of preference, but in order that I recall them.
9 You discussed disputes during the reporting
10 process and I want to make clear when we're
11 looking at the reports now and we're looking at
12 the numbers. Are those numbers that you agree
13 with in the various reports, do you support those
14 numbers?

15 MS. JACKSON: Yes.

16 MR. JOHNSON: You said there were
17 issues under the general subject heading of who
18 has the hammer. There were issues of dispute
19 between the Office of State Police Affairs and the State
20 Police. Were those issues that were brought to
21 the attention of the monitors?

22 MS. JACKSON: No, they were brought
23 to the attention of the AG if necessary. Well,
24 actually the director.

25 MR. JOHNSON: Were those issues that

1 dealt with the Consent Decree?

2 MS. JACKSON: Sometimes they were
3 issues that dealt with the Consent Decree. It
4 would be access to issue or dispute information
5 over an IA file that was reviewed.

6 MR. JOHNSON: Were there any that
7 had an impact of the quality of the reporting
8 that the monitors were able to give?

9 MS. JACKSON: No.

10 MR. JOHNSON: As a follow up to
11 that, I think it would be helpful for us to
12 understand in a little bit greater detail what
13 the nature of those disputes are, but I would ask
14 you, because it's late and it's a question that's
15 going to require some research. They are my own
16 particular views that are limits to what any
17 government agency can do or take on and there
18 seems to be a lot you've testified that you're
19 willing to take on.

20 In a world where you're going to be
21 asked to make a recommendation to the governor
22 about not only what to do with respect to the
23 whole system and State Police, but also with
24 respect to local police forces, municipal police
25 forces, county police forces, no single office

1 may be able to take on all of these tasks, so
2 what I would like you to answer is, and we'll be
3 taking testimony again, this is not a get back to
4 me tomorrow sort of response.

5 But I would like you to answer what
6 makes sense from the perspective of OSPA going
7 forward to be doing, given that we have heard
8 from the monitors that there has been progress on
9 the State Police side and we have a much less
10 clear window of what's going on. Because at some
11 stage, unless your staff is going to be
12 quadrupled, somebody is going to have to make a
13 choice. What those choices should be, it would
14 be helpful to have that particular perspective.

15 As I heard in your testimony, and it
16 happened from time to time, there was an either
17 or quality to it. There was a point where it was
18 either your office continues or there would be an
19 auditor that shows up once, maybe twice a year.
20 Could you report back on how it would be if there
21 was a monthly reporting to a monthly auditor's
22 relationship? Or say auditors within the Office
23 of State Police Affairs with a different name and
24 a broader mandate but there is a monthly
25 reporting from the State Police with your office

1 continuing with the oversight responsibilities
2 that it's exercised.

3 But it's not complete abandonment of
4 your office, either into your office, not real
5 time, but it may free your team up to do some
6 other things because the pie may not expand, and
7 then as to, I would like you to address here the
8 question of the strategic assistance that your
9 office gives. The reason I ask that question is
10 that we asked the State Police, we've asked
11 Colonel Fuentes, we've asked Dr. Ginger and Al
12 Rivas about the absence of a way to account for
13 police interaction with Arab Americans, and that
14 seems to be almost a strategic issue. Does your
15 office play a role in trying to identify
16 strategic issues like that, and was this an issue
17 that you have raised before?

18 MS. JACKSON: Say that again.

19 MR. JOHNSON: As we've seen Arab
20 Americans, there's not a category on the incident
21 reports, on any of the reporting logs for Arab
22 Americans. They're classified, as we understand
23 it, as white or Caucasian. Given that there is a
24 concern about profiling of people of Middle
25 Eastern decent, and the question is why isn't

1 that particular number being looked at? And if
2 not, why is that sort of a question, not a
3 question, that would have been asked or properly
4 asked by an officer like the Office of State
5 Police Affairs?

6 MS. JACKSON: I want to say that was
7 not contemplated in the Consent Decree, and I
8 know Dr. Eckert has a response, a quick one.

9 DR. ECKERT: The documentation
10 required by the Decree did not recognize Arab
11 Americans, so all the record reporting systems
12 were brought on what the requirements of what the
13 Decree were.

14 MR. JOHNSON: But going forward, is
15 this the sort of thing that you envision?

16 MS. JACKSON: Yes.

17 MR. JOHNSON: Word for word?
18 Because strategically, it may be a place where
19 you can play a role that's very different from
20 something that's like reviewing the lesson plans.

21 If there are other questions, we
22 don't have time for a second round, but if there
23 are other questions, we can make sure that the
24 public has access to them. The Committee can
25 pull together those questions and we can post

1 them on the web site and we can send them to you.
2 We appreciate your time. We've gone somewhat
3 over, but I think it's time well spent, and we
4 thank all of you for your attendance and to
5 everyone who stuck through us to the end.

6 (AT WHICH TIME THE HEARING ADJOURNED
7 at 5:05 p.m.)

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C E R T I F I C A T E

I, LAUREN BUTTERFIELD, a Certified Shorthand Reporter and Notary Public of the State of New Jersey, do hereby certify the foregoing to be a true and accurate transcript of my original stenographic notes taken at the time and place hereinbefore set forth.

LAUREN BUTTERFIELD, CSR

Dated: October 16, 2006

10/10/2006 Hearing - 10/10/06

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\$20,000 [121:13]
\$50,000 [57:11]
\$600,000 [91:17] [180:4,5,7]

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.2 [297:17]

 0

08648 [1:14]
08690 [1:23]

 1

1 [7:18] [73:16] [152:12,13] [155:10,11,14] [156:9]
1,800 [25:14] [137:18]
1:20 [147:6]
10 [1:15] [27:19] [49:4] [56:21] [132:11] [143:22] [144:17] [190:17] [191:4] [233:16] [243:17] [277:23] [278:24] [297:6]
100 [16:6] [17:4] [50:20,21] [57:13] [68:5] [144:23] [178:12,16] [203:9] [211:1] [243:11] [275:7] [291:10] [295:6] [299:24]
11 [7:15] [26:14] [78:16] [80:8]
11:15 [7:16]
11:20 [80:9]
110 [238:1]
113 [241:4]
118 [77:9]
11th [11:13]
12 [50:1] [279:11]
12:15 [7:17]
1200 [284:13]
124 [15:22]
12th [18:10] [49:24]
13 [35:24]
13th [6:23]
14 [152:9]
141 [152:9]
149 [3:6]
14th [16:11,20] [17:19]
15 [7:16] [28:16] [56:21] [75:23] [77:7] [130:1] [137:6,8] [278:24]
150 [57:14]
1500 [284:13]
151 [1:13]
156 [35:18]
159 [3:8]
15th [69:25]
16 [76:24] [153:16] [315:17]
17 [153:17]
19 [54:5] [182:6]
1921 [254:11] [274:21] [302:13]
1970 [247:22]

1978 [8:18] [52:14]
1982 [148:24]
1985 [148:25]
1987 [149:25]
1993 [9:7]
1994 [118:18] [149:25]
1997 [25:5,18] [26:2,6] [49:1] [150:13,15] [151:21] [170:24]
1998 [25:6,19] [26:2,6] [49:1] [152:14] [170:24]
1999 [4:11] [5:17] [10:20] [11:8] [37:13] [42:16,19] [101:19] [119:17] [134:14] [147:16] [148:22] [152:19] [173:10] [177:17,25] [195:6,19] [220:12] [283:22]
1st [25:12]

 2

2 [8:17] [152:13,14] [155:11,18,24] [156:9] [219:4]
2,000 [23:6]
20 [22:10] [279:18]
2000 [112:3] [153:8] [283:22]
2001 [11:13] [153:15,25]
2003 [8:17] [9:14] [16:1] [35:16]
2004 [12:23] [13:10] [16:1] [24:11] [35:11] [43:3] [55:13] [153:15] [234:1]
2005 [13:20] [14:8]
2006 [1:15] [14:12] [16:13] [25:12,22] [28:12] [35:22] [76:25] [77:14] [101:19] [154:7] [244:22] [315:17]
20061 [244:22]
2006-1 [244:22]
21 [6:5] [28:13] [76:25] [77:6]
211 [25:15] [28:19] [77:3]
2277 [1:22]
230 [35:18]
24 [15:24] [34:13] [243:22] [261:16]
24th [6:22]
25 [71:25] [137:25]
250 [3:10]
2700 [199:8]
28 [25:14] [157:8]
295 [286:8]

 3

3 [13:12] [152:13]
3,100 [282:4]
3:15 [233:17]
3:25 [233:18]
30 [16:7] [68:11] [137:7,8] [138:1] [161:25] [176:8] [211:10] [227:22,23]
30,000 [81:11]
300 [14:10]
3040 [227:22,23]
30-40 [227:22,23]

30th [25:13]
3100 [199:9] [273:11]
314 [3:11]
33 [1:22]
347 [26:5]
35 [62:21]
36 [56:20] [65:20] [66:2] [67:22]
360 [30:17]
368 [1:24]
38 [43:9]
386 [35:16]
397 [26:6]

 4

4 [3:3]
4,000 [282:4]
40 [56:20] [77:23] [241:16]
400 [35:22] [117:19] [273:8]
410 [1:22]
44 [3:5]
45 [62:21]
459 [43:8] [117:5]
463 [25:6]
47 [26:7] [78:16]
49 [26:22] [78:8,9]

 5

5:05 [1:16] [314:7]
50 [37:10] [57:6,14] [77:23] [105:23] [134:13]
500 [26:1] [48:25] [50:10] [273:9,11] [279:6]
530 [25:6]
55 [18:10] [25:16] [48:20] [49:22,24]
58 [78:23]

 6

60 [25:16]
600,000 [181:16,24]
609 [1:24]
6099899199 [1:24]
609-989-9199 [1:24]
632 [23:9] [59:17]
632s [59:24]

 7

70 [28:14] [63:5] [77:6]
75 [63:5] [295:7]

 8

8 [181:21]
800 [1:24]
8003687652 [1:24]
800-368-7652 [1:24]
83 [12:25]

 9

9 [3:4] [29:4]

9:30 [7:14]
9:35 [1:16]
90s [112:2]
911 [29:4] [72:14] [126:15]
9-11 [29:4]
93 [25:25] [26:5,8,22] [27:16] [49:4] [50:9] [77:6,11] [78:9,23]
94 [156:15]
95 [16:2,4] [150:22] [178:11] [179:21,22]
98 [178:23]
989 [1:24]
99 [72:6] [237:20]
99.9 [219:8]

 A

a.m [1:16]
abandoned [181:6,10] [221:16,17]
abandonment [312:3]
abducting [44:4]
abiding [52:25]
abilities [236:7]
ability [12:20] [17:14] [33:8] [53:8,13] [65:4] [67:12] [85:6] [90:15] [105:21] [109:8] [115:20] [122:6] [142:17] [151:5] [183:7] [191:16,24] [195:18] [214:3] [229:19] [230:14] [231:19] [249:10] [250:17] [255:17] [272:19,20] [291:24]
able [7:20] [31:23] [41:10] [81:19] [89:2] [102:21] [106:15] [107:3] [109:9] [115:21] [119:3] [129:8] [142:18] [144:4] [183:10] [188:6] [241:11] [250:1] [291:19,20] [294:20] [310:8] [311:1]
above [21:4] [114:19] [117:3,8,12] [119:13] [127:4] [187:22] [223:19] [225:10] [247:12] [250:6] [302:2]
absence [312:12]
absolute [107:21]
absolutely [45:6] [46:2] [49:12] [59:1] [61:13] [68:15] [76:3] [79:7,11] [82:11] [84:1] [88:22] [91:16] [119:10] [124:8] [127:22] [128:13] [129:18] [267:12]
absorbs [103:13]
academic [40:25] [41:4] [46:1] [93:18,23] [98:4] [208:2]
academics [96:12] [207:1]
academy [8:22] [10:10] [36:19] [51:25] [133:22] [135:12,15,18,25] [137:20] [182:2] [221:13] [224:13] [225:6] [245:3] [262:2,4]
accept [34:11]

acceptable [72:8] [73:7]
acceptance [79:22] [141:13]
accepted [16:22] [65:7]
access [41:8] [47:14] [78:14]
 [93:24] [110:11] [186:16]
 [241:6] [310:4] [313:24]
accessible [28:3]
accident [18:23] [32:13]
accidents [28:23]
accommodating [160:20]
accommodation [142:10]
 [178:20]
accompany [10:5]
accompanying [30:14]
accomplish [208:12] [229:
 13]
accomplished [13:7] [17:24]
 [84:11] [200:6]
accomplishments [38:2]
accordance [155:20] [156:
 25]
according [21:18] [62:12]
 [247:3]
account [10:1] [312:12]
accountability [11:6] [29:13]
 [30:1,20] [32:1,7,20] [33:2]
 [38:13] [40:11] [52:22]
 [82:3,16] [140:23] [159:18]
 [195:8] [228:3,9] [246:18]
accountable [32:11] [102:13]
 [104:3] [174:23]
accounts [78:16] [192:21]
accreditation [43:1,4,6]
accumulate [47:19]
accumulated [42:7]
accuracy [178:5] [179:10]
 [195:9] [281:23]
accurate [119:5] [178:11,12
 ,23] [179:11] [213:2] [246:13]
 [315:7]
achieve [174:15] [187:25]
 [193:7] [249:8]
achieved [12:19] [15:24]
 [33:6] [38:17] [100:17]
 [193:15] [222:20] [281:5]
achievement [237:5]
achievements [30:6]
achieving [16:2] [17:4]
 [44:10] [118:22]
acknowledged [108:13]
acknowledgment [218:2,24]
 [219:12]
across [23:6] [25:13] [101:13]
 [150:21] [179:12,16] [198:
 4] [224:5] [225:8] [297:21]
act [139:8] [228:16] [239:12]
 [246:2] [247:21] [306:12]
 [308:23]
acted [287:25]
acting [3:9] [8:9] [233:24]
 [307:24]
action [10:14] [48:12] [76:15]
 [112:8] [244:7] [249:17]
 [271:4] [285:13] [305:1]
actions [18:16] [21:12]
 [22:21] [72:20] [74:25]
 [78:24] [178:16] [197:2,3]
 [237:2,23] [245:15] [250:14]
active [23:18] [159:18]
actively [258:17]
activist [144:10]
activities [18:1] [19:6]
 [20:18] [44:1] [49:11,16]
 [50:9] [53:10] [157:22]
 [158:13] [238:22] [245:2]
 [306:7]
activity [11:18] [14:1] [18:25]
 [20:17] [21:1] [23:8,11,13]
 [27:1,9] [72:11,16] [77:14]
 [78:1] [120:12,13] [126:18]
 [196:9] [269:7] [276:18]
 [280:2]
acts [240:11]
actual [70:14] [113:20]
 [155:19] [156:8] [161:3]
 [193:5] [228:22] [254:15]
 [265:16]
actually [26:2,5] [44:22]
 [48:19] [49:8] [57:5] [60:17]
 [62:18,21] [63:20] [64:3]
 [68:3] [71:24] [74:15]
 [87:25] [96:24] [107:6]
 [110:23] [112:14] [113:13,14]
 [114:24] [118:11] [121:10,13]
 [126:7,9] [127:7,17] [128:17]
 [133:11] [134:1,2,6] [135:2
 ,3,12] [138:22] [141:9]
 [146:3] [159:25] [161:21]
 [162:25] [170:2] [173:13]
 [207:16] [227:11,14] [229:
 20] [247:18] [257:8] [260:5]
 [271:6] [290:17] [309:24]
adage [230:16]
adapt [12:21] [164:9]
adaptability [225:17] [229:
 17]
adaptable [222:18] [231:5,6]
adapted [152:22] [153:23]
add [50:5] [77:2,6] [173:18]
 [196:3] [207:21] [210:13]
 [260:16]
added [29:21] [35:22] [153:
 1]
addendum [177:15]
adding [230:18]
addition [22:4] [28:11]
 [114:10] [148:1] [158:3]
 [238:19] [243:1] [247:11]
 [248:11]
additional [6:18,21] [16:6]
 [18:18] [21:11,22] [26:14]
 [61:1,9] [82:19] [115:2]
 [129:25] [191:6] [220:21]
 [239:3] [275:20]
additionally [37:15] [280:15]
address [56:9] [57:2] [62:8]
 [68:4] [69:8] [73:14] [102:24]
 [113:18] [114:23] [207:22]
 [228:19] [236:11] [241:2]
 [294:14,20] [298:22] [312:
 7]
addressed [73:18] [243:11]
 [288:17]
addressing [58:15]
adds [78:22]
adequate [104:9] [182:3]
 [215:24] [216:1]
adequately [243:10]
adhering [22:18] [89:13]
adjourned [314:6]
adjournment [3:11]
adjudicates [238:9]
adjudication [34:5,20]
 [119:25] [246:24]
adjunct [148:20]
administration [9:6] [88:10]
 [121:24] [148:7,9,10]
administrative [35:3,19,20]
 [36:2] [60:15,22] [110:18]
 [117:23] [118:4] [155:12]
 [161:10,11] [235:8] [239:17]
 [241:23] [242:4] [243:21]
 [244:22] [280:6,7]
administratively [236:18]
admiration [44:7] [107:15]
admissible [127:9]
adopt [30:12] [37:21]
adopted [86:8] [101:12]
 [152:15] [193:16] [299:4]
adopting [121:2] [299:7]
adoption [53:3] [69:12]
 [145:16] [236:16]
adult [219:1]
advance [99:21] [138:4]
 [230:13]
advanced [13:24] [37:8]
advent [173:20]
adversarial [173:20] [192:21]
adversarialness [291:5]
advice [204:4,9,19] [205:24]
 [240:12] [241:19] [252:1]
 [291:2] [294:6]
advisable [246:7]
advise [67:6] [251:10,15]
 [295:16] [304:13]
advised [192:1]
advising [204:15] [245:8]
advisors [294:4,9]
advisory [1:6] [4:7] [38:15]
 [147:11] [305:18]
advocacy [125:22,25]
advocate [162:20]
advocating [300:9]
affairs [8:10] [20:1] [24:4]
 [27:12] [34:6,24] [35:15]
 [39:22] [42:6] [46:6] [47:25]
 [60:10] [73:22] [82:8]
 [83:2,4,23] [85:2] [116:12]
 [132:17] [141:25] [142:4]
 [166:9] [201:11,17] [202:23]
 [206:4,9] [233:23] [236:21
 ,25] [238:2] [240:11] [243:9]
 [244:25] [248:3,10,19]
 [250:5,8] [251:5,10] [256:17]
 [257:1] [258:1] [270:12]
 [271:20] [272:9] [275:2,13]
 [303:24] [304:15] [305:25]
 [309:19] [311:23] [313:5]
affect [181:25]
affected [43:13] [191:15]
 [249:15] [274:14]
affiliation [131:21]
affirmative [10:13] [214:13]
afford [57:21]
afforded [61:24]
affording [9:20]
aforementioned [43:24]
african [54:13,17] [58:17]
 [62:15] [136:11] [170:5]
 [273:9,11] [274:7,10]
 [275:2,3]
africanamerican [54:17]
 [58:17] [136:11] [170:5]
 [273:9] [274:7,10] [275:2,3]
african-american [54:17]
 [58:17] [136:11] [170:5]
 [273:9] [274:7,10] [275:2,3]
africanamericans [54:13]
 [62:15] [273:11]
african-americans [54:13]
 [62:15] [273:11]
afteraction [226:23]
after-action [226:23]
aftermath [154:21]
afternoon [80:14] [93:13]
 [102:6] [118:15] [147:6,8,10
 ,13] [149:18] [154:11]
 [159:21] [172:7] [213:16]
 [222:16] [234:14,15] [250:
 22] [251:1,3] [259:11]
 [260:14,15] [265:22,23]
 [293:16,17] [305:15]
afterwards [275:19] [282:16]
ag [95:13] [96:5,7,9,20]
 [237:19] [245:17] [248:11,14
 ,16] [255:25] [257:18,19]
 [258:15] [259:6,10,19,22]
 [265:17,19] [267:17] [273:
 7] [279:1] [284:22] [287:22]
 [288:1,2,3,10] [291:11,18,20]
 [296:16] [297:7] [303:13]
 [306:20,21] [307:18] [309:
 23]
again [7:16] [16:13] [51:25]
 [59:13] [68:25] [78:23]
 [94:3] [95:17] [98:19]
 [103:20] [104:6] [107:14]
 [108:23] [134:13] [137:3]
 [146:21] [159:21] [182:17]
 [188:7] [194:6] [206:11]
 [208:11] [233:12] [243:22]
 [256:8] [269:3] [285:8]
 [295:9] [296:4,13] [302:14]
 [303:4,5] [305:17] [311:3]
 [312:18]
against [15:12] [34:23]
 [59:8] [103:21] [105:14]
 [117:1,5] [119:22] [124:12]
 [131:16] [242:10,21] [246:
 3]
aged [131:4]
agencies [6:2] [13:13]
 [14:22] [33:16,19] [41:15]
 [43:6] [45:20] [150:22]

[151:4] [153:17] [162:1]
 [181:5,10] [182:7] [221:15]
 [255:18] [256:4] [257:9]
 [277:11,20] [295:7]
agency [11:16,17] [12:14]
 [14:6] [17:11] [24:13]
 [26:13] [31:4] [54:6] [66:19]
 [75:25] [76:1,9,13] [84:21]
 [151:11,18] [154:6] [162:4]
 [163:19] [167:5] [172:15]
 [173:4] [177:12] [180:11]
 [181:8] [182:1] [187:3]
 [189:24] [190:9] [218:16]
 [229:6] [251:19] [255:16,24]
 [256:2] [269:23] [270:2,17]
 [284:10] [310:17]
agent [46:24] [131:8]
aggregate [31:9] [70:18]
 [235:11] [238:20,21] [247:
 6]
aggregated [106:6] [246:17]
aggregating [105:18] [107:
 1]
aggressive [29:5,15] [35:13]
 [125:14]
aggressively [15:13] [72:13]
 [138:2]
aging [139:25]
ago [115:12] [144:6] [174:12]
 [181:21] [195:3] [197:18]
 [200:12] [225:4] [271:8]
agree [84:1] [96:22] [144:23]
 [151:25] [163:7] [164:15]
 [174:24] [181:14] [183:15]
 [216:7] [262:22] [277:14,22]
 [278:8] [288:15,16] [291:10]
 [299:1] [302:8,9] [309:12]
agreed [149:3] [152:20]
 [156:13,17] [170:21]
agreement [152:1,3] [181:3]
 [190:17] [192:4] [194:21]
 [215:17]
agreements [218:9,10]
agrees [119:8]
ags [97:24] [116:9] [173:23]
 [193:22] [264:22] [265:2]
 [280:18] [284:10] [298:11,14
 ,23]
ahead [32:22] [280:24]
aid [14:8]
aids [28:22]
aimed [155:12]
akin [165:17] [166:13]
 [218:13]
al [3:7] [149:17] [152:22]
 [162:7] [167:24] [170:18]
 [171:18] [176:10] [177:10]
 [190:9] [198:6] [204:10]
 [205:22,23] [208:4] [209:25]
 [210:12,13] [212:20] [215:
 16] [218:6] [222:6] [226:5]
 [312:11]
alberto [8:6] [147:14] [148:
 13]
alert [22:7,13]
alexander [261:8] [292:11]

alignment [276:3]
alive [250:5]
allegations [34:23] [35:2]
 [73:19] [119:22] [236:4]
 [238:9] [243:12,13] [254:14]
alleged [246:21]
allow [74:19] [218:15]
 [250:9] [301:20]
allowed [124:2]
allowing [30:10] [36:9]
 [93:24] [276:6]
allows [13:5] [20:16] [84:8]
 [106:9] [114:7] [170:10]
alluded [180:18] [197:23]
 [207:7,25]
alluding [180:13]
ally [161:19]
almost [37:15] [150:20]
 [152:8] [167:21] [174:21]
 [178:23] [186:19] [206:7]
 [208:9] [211:25] [221:12]
 [222:1,5] [224:9] [225:8]
 [281:13] [292:13] [312:14]
alone [25:18] [189:19]
 [249:9] [257:18] [264:2]
along [50:7] [52:4] [75:4]
 [83:22] [84:7] [86:22]
 [120:16] [129:10] [136:17]
 [141:19] [162:5] [163:10]
 [175:4] [215:6] [219:11]
 [222:16] [230:21] [248:13]
 [256:11]
alongside [15:13] [18:4]
 [144:2]
alphabet [45:8]
alphabetical [44:22]
already [4:9] [6:7] [25:4]
 [26:9] [42:12] [68:12]
 [69:2] [78:11] [86:8] [91:3]
 [110:16] [113:2,4] [115:19]
 [135:13] [160:4] [165:18]
 [167:2] [182:7] [190:4]
 [221:22] [231:17] [235:1]
 [251:17] [290:2] [306:14,15]
 [307:17]
als [154:9] [198:25]
alternated [158:1]
alternative [66:18]
alternatively [159:8]
although [21:21] [27:15]
 [35:9] [67:11]
always [30:14] [84:22,24]
 [90:5] [95:5] [124:12]
 [162:6] [180:22] [184:2]
 [193:9] [226:8] [230:12]
 [254:17] [264:5] [270:15]
 [272:3] [281:2] [286:3]
 [288:15,16] [308:8]
am [9:25] [10:17] [68:16]
 [77:3] [116:4] [119:8]
 [132:13] [167:25] [185:6]
 [205:17] [225:12] [234:16]
 [249:7] [251:13] [266:13]
amazed [132:14]
amazing [222:7]
ame [67:18]

amend [188:25]
america [47:9] [301:3]
american [36:16] [72:23]
 [118:10] [127:1,6] [139:16
 ,18]
americans [73:4,15] [74:6]
 [75:5] [229:20] [230:2]
 [312:13,20,22] [313:11]
among [4:19] [6:15] [9:5]
 [74:5] [133:3] [147:24]
 [151:10,22] [177:20] [200:
 20] [250:14]
amount [36:3] [46:8] [57:13]
 [72:15] [100:22] [103:3,9]
 [113:10] [134:4] [164:1]
 [229:5] [235:25]
amounting [217:16]
analogy [213:25]
analysis [23:14,22,23]
 [24:14,15,18] [25:21]
 [26:3] [30:22] [32:18]
 [33:1] [35:7] [39:11] [105:20
 ,24] [106:25] [112:15,21]
 [114:25] [115:6] [117:4,13]
 [150:19] [172:1]
analyst [214:16]
analysts [24:5] [93:25]
analytic [152:10] [230:14,19]
 [241:18]
analytical [115:4] [241:1]
analyze [183:10] [195:14]
 [308:13]
analyzed [32:15] [112:12]
 [155:4]
analyzing [19:12] [41:11]
 [114:24] [201:16] [207:12]
anchored [42:13] [55:3]
ancillary [158:13]
andahalf [100:16] [101:2]
 [102:22]
and-a-half [100:16] [101:2]
 [102:22]
anderson [102:4]
anecdote [224:25] [225:7]
angeles [153:9] [184:21]
 [191:9,12] [192:10] [213:24]
 [214:9,12] [215:3]
angleless [191:25]
angle [123:5,6]
anne [2:16] [80:12] [87:17]
 [258:19]
annual [28:4] [56:14,22]
 [110:14] [136:4] [162:21]
 [163:24] [224:9] [228:5]
 [301:16]
annually [135:14] [207:3]
 [230:25]
anonymous [34:14]
answer [64:19] [66:21]
 [91:17] [115:13] [125:7]
 [127:5] [129:6] [132:6]
 [136:7,9,16] [149:21]
 [160:11] [166:3] [168:12]
 [192:10] [196:17] [197:20]
 [209:16] [223:10] [254:22]
 [255:4,14] [259:3] [262:7]

[273:3] [278:7] [283:24,25]
 [287:4] [295:23] [297:17]
 [302:17] [306:2,9] [311:2,5]
answered [45:2] [125:6]
 [165:18] [226:25] [293:19]
answers [44:24] [115:18]
 [159:24] [250:24]
antenna [196:13]
anti [31:18]
anticipate [7:21] [141:6]
anticipated [170:23] [191:2]
 [230:13] [281:18]
anticrime [28:15] [31:18]
 [32:12] [55:1] [77:22]
 [139:10,11] [146:10]
anti-crime [31:18]
antidiscrimination [72:23]
antiterrorist [73:9] [126:16]
antiviolence [15:3]
antonio [147:18] [149:14]
anxious [213:10]
anybody [119:19] [136:22]
 [140:20] [204:1] [260:10]
 [300:8] [302:4]
anymore [101:21]
anyone [123:21] [215:25]
 [260:12] [274:23] [275:5]
anything [75:1] [114:21]
 [128:14] [139:12,20] [143:
 16] [183:23] [188:5] [230:17]
 [260:4] [301:23]
anyway [120:3]
anywhere [176:25]
ap [296:5]
apart [40:14] [128:17] [146:
 22]
apologize [96:25]
apparent [36:6] [112:3]
appealing [129:2]
appear [46:15] [142:16]
 [203:3] [275:17]
appearance [41:18]
appears [20:9] [73:19]
 [131:6] [190:15] [244:16]
 [275:11]
appended [20:20]
applaud [208:24] [285:5]
apples [289:5]
applicable [155:20]
application [74:20] [125:1]
 [146:4] [165:15] [172:12]
 [283:16]
applied [38:6] [76:9] [239:24]
apply [87:23]
applying [89:24]
appointed [6:5] [8:6] [15:15]
 [147:15]
appointee [110:22]
appraisal [23:1,10] [110:13]
 [136:4]
appreciate [58:14] [85:24]
 [116:3] [234:13] [259:13]
 [308:25] [314:2]
appreciation [54:14]
apprehension [15:8]
approach [30:17] [33:13]

[37:22] [38:25] [138:12]
approached [289:1]
approaching [134:19]
appropriate [10:19] [85:17]
 [130:2] [155:24] [165:19]
 [181:7,8] [240:13] [246:12]
 [255:1] [263:18] [268:1]
appropriately [197:24]
 [254:25] [276:15]
appropriation [240:21]
approval [27:2] [214:14,15]
 ,17,18,19] [239:9]
approved [110:24] [134:21]
approximately [26:1,7]
 [37:10] [77:9,23] [153:12]
april [42:15]
arab [72:23] [73:4,15] [74:6]
 [75:5,15] [126:25] [127:6]
 [139:16,18] [229:20] [230:
 2] [312:13,19,21] [313:10]
arduous [155:6] [161:14]
area [16:10] [25:3] [74:17]
 [124:25] [126:16] [232:21]
 [243:8] [255:12]
areas [43:10] [145:13]
 [190:24] [192:16] [225:16]
 [294:1]
arent [69:15] [186:5] [298:18]
argue [203:18] [252:13]
arguing [161:16] [287:14]
argument [230:23] [288:7]
arise [17:15] [46:21] [196:23]
arising [11:22]
arm [64:6] [265:18]
armory [1:12]
around [51:21] [53:15]
 [55:10] [56:3] [90:4] [120:14]
 [124:18] [127:14] [133:5]
 [149:23] [185:12] [196:5]
 [254:11] [271:14] [274:21]
 [275:6] [276:25] [278:12,16]
 [281:17] [285:25] [287:10]
 [302:12] [303:16]
arrangement [218:1] [223:
 3]
array [6:6] [11:23]
arrest [25:1] [26:10] [78:11]
arrested [18:13] [25:4]
 [78:12]
arrests [5:8] [18:8] [19:7]
 [31:11] [36:12]
arrive [6:16]
arrived [38:10]
arteries [11:25]
articulable [79:3] [113:7]
 [114:1,8] [205:7]
articulate [26:24] [50:15]
 [113:3] [205:10] [213:12]
articulated [171:2]
articulation [151:9]
asian [118:10]
asians [70:21] [74:6] [196:7]
aside [23:15] [140:13]
 [166:6]
ask [7:20] [8:14] [38:24]
 [39:4] [44:24] [52:17]
 [58:10] [59:16] [70:11]
 [74:10] [81:24] [89:12]
 [94:23] [112:9] [119:19]
 [122:17] [129:22] [131:9]
 [159:22] [162:15] [206:18]
 [233:3] [259:14] [266:21]
 [279:22] [281:19] [284:9]
 [309:5] [310:13] [312:9]
asked [5:14,16,21,24]
 [18:12] [74:4] [112:23]
 [115:14] [143:5] [145:5]
 [154:3] [168:22] [180:2]
 [186:24] [203:4] [204:16]
 [214:8] [225:3,5] [241:4]
 [252:21] [284:7] [295:19]
 [296:14] [309:4] [310:21]
 [312:10,11] [313:3,4]
asking [7:2] [69:16] [74:18]
 [134:8] [162:25] [204:17]
 [205:6] [209:17] [247:22]
 [250:23] [272:24] [276:5,19]
 [284:2] [289:7] [295:12,25]
asks [297:17]
aspect [58:12] [142:17]
 [254:10]
aspects [10:7] [108:24]
 [234:3]
assessing [41:11] [276:18]
assessment [82:9] [153:25]
 [210:6,9] [211:8] [240:9]
assessments [29:12] [90:7]
assets [14:15]
assigned [9:2] [42:6] [125:4]
 [135:7] [239:9] [252:23]
 [253:15] [279:2,4] [283:4]
 [294:19] [295:6]
assignment [19:20]
assignments [8:20] [37:17]
assist [6:2] [41:11] [67:23]
 [91:6] [245:1] [280:1]
assistance [14:16] [145:4]
 [154:2] [184:5] [239:1]
 [241:17] [245:12] [248:7,9]
 [250:2] [284:8] [290:1,7]
 [291:2] [312:8]
assistant [80:12] [87:7]
 [194:7] [237:18] [239:14]
 [258:19] [295:22]
assistants [41:10]
assisted [19:3] [249:10]
assisting [42:8] [236:23]
 [245:5] [256:3]
associate [79:17] [147:19]
associated [80:3] [157:22]
 [158:13] [170:10]
associates [1:20]
association [33:24] [89:11]
 [107:12] [118:10]
associations [144:10]
assume [209:19,20] [219:3]
 [294:5,7]
assuming [37:5] [77:3]
 [116:10] [278:14]
assumption [210:17] [224:
 3]
assumptions [175:24]
 [210:18]
assurance [120:6]
assurances [65:11]
assure [29:19]
attach [66:2] [68:8] [270:15]
attached [21:15]
attained [17:6]
attempt [37:24]
attempted [156:23]
attempting [60:19]
attempts [31:7]
attendance [314:4]
attention [31:16] [61:9]
 [103:4] [131:25] [143:11]
 [231:1] [309:21,23]
attentive [29:4]
attenuate [221:20]
attitude [65:16] [146:3]
 [175:23] [176:2,4,5,10,13,15]
 [177:12]
attitudes [55:10]
attorney [39:15] [40:2]
 [41:22] [48:5] [63:8,22]
 [67:11] [70:2] [80:13,23]
 [81:7] [82:21] [84:25]
 [85:5] [86:25] [87:1,8]
 [88:15] [91:23] [92:20]
 [93:9] [94:17,22] [95:10,21
 ,24] [96:1,13,15,16,17]
 [97:3,7,14,20] [98:14,17]
 [100:9] [104:2,10,20]
 [105:10] [116:8] [132:18]
 [134:21] [154:22] [166:13,15
 ,19] [192:23] [193:1,9,18]
 [194:2,7] [217:8] [221:1]
 [235:7] [237:15,18] [239:4
 ,10] [240:13] [244:21,23]
 [245:1,12] [247:15] [248:24]
 [249:1,4] [250:4] [253:16,21
 ,24,25] [255:3,8] [256:23]
 [258:3] [266:2,5,11,16,21]
 [267:2,5] [275:16] [276:2]
 [280:5,8] [283:9] [284:18]
 [288:23] [289:17] [300:14]
 [301:15] [303:17] [306:13]
attorneys [148:17] [239:6,16]
 [279:2,10,11] [280:1]
 [294:19] [295:6]
attribute [209:4]
attributed [81:5] [209:5]
audio [51:6] [120:9] [124:15]
audit [33:4] [43:7] [86:9]
 [89:15] [99:24] [155:23]
 [156:2] [167:10] [171:4,11]
 [180:17] [211:11] [212:13,18]
 [213:1,4] [243:1] [252:5]
 [260:10] [301:4,6,8,12,17]
 [302:25]
audited [207:24] [260:8,12]
auditing [40:13] [41:24]
 [42:4] [45:15] [47:12,17]
 [84:8] [89:23] [92:17]
 [93:1,5] [95:3] [99:11,12]
 [104:8] [110:6] [160:9]
 [203:23] [207:6] [234:5,7]
 [238:7,9,11] [242:24]
 [252:7,8] [253:10,23] [269:
 4] [275:20] [282:1] [283:17]
 [302:24] [305:12]
auditor [41:21] [47:7,15]
 [48:2,4] [67:12,14,15]
 [79:22,25] [85:7] [86:14,15
 ,21] [88:5] [95:20] [97:5,11
 ,16] [100:5] [148:3] [150:7]
 [166:13,14] [182:21] [184:
 14] [269:11,20] [270:6,16]
 [282:15,22] [301:14,16]
 [311:19]
auditors [86:11] [123:4]
 [151:14] [234:5] [268:18,21]
 [301:10] [311:21,22]
auditorship [40:8,21] [67:8]
 [79:14,19] [83:11] [93:21]
 [94:20] [116:6] [182:20]
 [300:24]
audits [35:14] [47:8] [79:24]
 [84:23] [97:12]
augment [41:5] [296:2,10]
 [300:20]
august [42:19]
authorities [93:19]
authority [27:18] [66:23]
 [113:25] [150:1] [241:3]
 [247:20] [250:8] [266:23]
 [267:14] [287:19]
automate [106:13]
automated [188:1]
available [6:21,25] [7:2]
 [10:18] [14:3] [44:18]
 [45:3,9] [91:6] [96:18]
 [101:5] [171:5] [195:13]
 [205:8] [230:24] [232:22]
 [233:11] [275:18] [300:20]
average [20:25] [21:8]
avoid [34:1] [41:18] [200:20]
 [226:8]
avoids [46:4]
award [9:8] [105:22]
awarded [17:12]
aware [54:11] [169:19]
 [238:3] [257:7] [262:10]
 [267:5]
awareness [14:1] [19:10]
 [36:22] [238:11] [246:19]
away [88:14] [103:15]
 [104:18] [125:8] [197:25]
 [208:16] [209:2] [216:23]
 [226:22] [261:10] [263:24]
 [276:12] [277:4,12] [299:18]
 [302:4] [304:12]
awry [216:19]

B

baby [220:19]
bachelor [9:9]
bachelors [148:5] [234:9]
back [32:21] [39:2] [47:10]
 [51:5,24] [58:19] [59:23]
 [72:12] [80:7,8] [88:20]
 [91:20] [95:17,24] [96:10,14]
 [101:18,21] [106:19] [109:

24] [110:21,24] [111:24]
 [114:16] [124:14] [126:7]
 [133:5,18] [135:11,13,15]
 [136:8] [137:3] [139:21]
 [141:22] [144:17] [162:15]
 [166:25] [167:4,18] [170:24]
 [174:15] [182:5] [186:7]
 [200:16] [204:9] [244:19]
 [279:25] [292:1,13,22]
 [311:3,20]

backdrop [131:17]
background [4:8] [63:14]
 [154:12] [182:23] [184:16]
 [239:16]
backgrounds [6:6] [182:24]
backward [101:22]
bad [71:9] [87:21] [106:21]
 [215:21] [287:1]
bags [62:7]
balance [165:3,9] [268:1,5,17,
 25] [269:19]
balanced [29:3]
balances [86:5] [130:11]
balancing [38:22]
ball [89:20] [184:15] [202:25]
bar [89:11]
barely [199:20]
bargaining [62:2] [125:20]
base [42:9] [51:17] [54:10]
 [109:12] [119:11] [183:3]
based [22:21] [29:11] [31:4]
 [32:18] [54:7] [59:7] [71:5]
 [79:1] [125:1] [128:10]
 [130:22] [135:17] [136:23]
 [149:5] [150:8] [166:25]
 [175:14] [176:7,8] [178:10]
 [192:1] [196:1,6] [201:14]
 [204:13] [211:8] [214:8]
 [219:19] [224:13,23] [243:
 21] [253:8] [294:1] [299:15]
 [302:22] [304:6]
baseline [30:10] [215:5]
basic [57:10] [129:3] [220:22]
basically [94:23] [108:15]
 [122:11] [149:24] [164:1]
 [167:25] [169:8] [171:2]
 [210:9] [212:20] [223:1]
 [240:14] [279:25] [290:11]
 [293:5] [301:21]
basin [13:18]
basis [10:3] [24:10] [37:3]
 [41:8] [55:3] [56:14] [73:24,
 25] [79:4] [86:23] [98:15]
 [104:11] [162:21] [171:7]
 [206:4,5] [207:6] [227:11]
 [241:20] [258:15] [268:12]
 [275:21] [283:19,20] [285:
 21] [294:16] [301:16] [304:
 3]
battlefield [149:16]
bayer [232:20]
beacon [33:15]
bear [10:6] [280:21]
beating [271:2]
became [50:3] [111:3]
 [112:3] [190:25] [237:21]
 [298:5,9]
become [51:17] [64:15]
 [115:8] [120:5] [150:20]
 [202:15] [205:16] [208:16]
 [215:18] [224:11]
becomes [105:1,2] [176:23]
 [202:22] [205:14] [212:18,25]
 [223:8] [275:22]
becoming [73:7] [278:16]
began [43:3] [81:15]
begin [4:8] [9:17] [40:6]
beginning [24:11] [36:24]
 [49:21] [63:2] [134:23]
 [140:24] [158:19] [159:2]
 [160:19] [199:6] [242:6]
 [287:11]
begins [147:10]
behalf [8:10] [81:7] [200:2]
 [235:3] [288:22]
behavior [19:17] [23:18]
 [53:14,15] [58:20] [59:3]
 [60:20] [65:17] [70:17,18,25]
 [71:13,18] [105:22,23]
 [145:1] [175:21] [176:2,4,10,
 11,17] [177:14] [197:14,17]
 [198:3] [199:17] [251:11]
 [254:15] [299:13]
behaviors [59:10] [143:12]
behind [25:24] [66:5] [129:
 22]
belief [30:3]
beliefs [37:7]
believe [4:22] [5:7] [26:25]
 [28:5] [40:7,12] [45:8]
 [46:2] [49:23] [52:10,14]
 [55:8] [61:16] [69:19]
 [70:23] [76:5,19] [77:9,17]
 [78:9] [81:5,20] [84:10]
 [89:25] [91:11,20] [93:12,15]
 [94:13] [99:22] [102:2]
 [108:11] [118:25] [119:17,19]
 [129:4] [136:10] [142:17]
 [167:18] [168:7] [171:9]
 [180:1,3] [188:13] [196:1]
 [208:14] [235:8] [250:15]
 [251:16] [253:6,11,16]
 [254:6] [256:13] [258:1,8]
 [260:11] [269:12,19] [278:
 11] [290:4] [291:20] [293:4]
 [299:3,22] [303:7]
believes [90:18] [99:18]
 [245:20]
belongs [253:16] [263:14]
below [21:4] [117:9] [179:21]
bench [156:12]
beneficial [45:17]
benefit [10:2] [80:17] [231:
 14]
benefits [72:1] [118:25]
 [168:4]
besides [93:1] [270:15]
 [308:6]
best [6:16] [12:15] [19:15]
 [30:16] [33:16] [38:8]
 [42:10,14] [47:22] [74:22]
 [92:17,18] [108:6] [119:15]
 [120:10] [129:11,13] [147:24]
 [185:4,8,12] [186:25]
 [196:1] [204:3,4] [205:23]
 [208:16] [213:11] [216:13,25]
 [222:18] [229:10] [232:19]
 [250:16] [254:18] [270:5]
 [295:20]
bethlehem [181:20]
better [13:23] [34:9] [36:10]
 [41:16] [54:17] [55:12]
 [67:13] [72:3] [80:21]
 [94:13] [107:7] [114:14,15]
 [138:14,20] [141:18] [177:
 7,24] [178:23] [187:2]
 [203:1] [215:25] [218:6]
 [273:12] [282:24] [285:8,10]
bettering [124:18]
beyond [23:20] [30:11]
 [34:2] [39:25] [42:11]
 [78:12] [81:13] [106:4]
 [114:19] [119:13] [128:2]
 [144:9] [163:12] [187:13,19,
 22] [188:4] [218:24] [223:15]
 [302:2]
bias [236:2] [250:18]
biased [34:2]
biases [175:25]
bifurcated [176:16]
big [166:6] [199:5] [215:10]
 [251:5] [287:1]
biggest [160:7]
bill [66:3] [222:25]
bills [68:3,7]
biochemical [13:15]
bit [8:7] [49:6] [80:8,20]
 [81:15] [83:15] [90:17]
 [92:11] [105:20] [111:14]
 [129:21] [202:23] [215:6]
 [223:18] [229:25] [234:20,25]
 [274:19] [310:12]
black [20:24] [21:4] [42:16]
 [133:4] [273:18,19,20]
 [274:17]
blackouts [12:7]
blacks [70:21] [74:5] [196:7,
 15,16]
blanket [120:5]
blend [41:15]
blind [53:9] [273:25]
block [144:10]
blocks [30:15] [63:2] [109:16]
blue [117:14]
board [47:9] [127:4] [198:4]
 [225:8] [301:5,9]
boards [33:3]
body [93:4]
boggs [111:13]
bolo [26:11]
bolts [165:22] [166:6]
bomb [44:3]
books [129:13]
bore [112:4]
borne [32:2] [39:8]
boss [258:19]
bottom [117:3] [138:1]
bounds [300:16]
box [111:3] [212:22]
branch [13:2,5] [82:16]
brand [228:24]
break [7:16,17] [80:7,10]
 [84:4] [106:3] [147:7]
 [225:14] [233:3,17,19]
breaking [130:2] [232:25]
bridges [11:25] [73:23]
brief [97:18] [149:18,20]
 [179:24]
briefed [228:10]
briefings [6:9]
briefly [85:22] [288:21]
bring [10:6] [62:21] [64:16]
 [74:7] [83:24] [101:10]
 [114:16] [116:21] [125:12]
 [136:18] [138:18] [139:7]
 [174:15] [212:21] [259:5]
 [293:20]
bringing [63:17] [113:17]
 [168:14] [236:24] [256:4]
 [257:9,15,24] [287:21]
brings [154:9] [170:16]
 [189:3] [207:20]
broad [6:6] [12:5] [32:18]
 [38:25] [42:9] [166:19]
broaden [115:20] [118:2]
broadens [117:19]
broadier [17:16] [43:11]
 [107:18] [311:24]
broken [238:23]
brokering [236:22]
brought [5:4] [58:9] [68:13]
 [78:17] [84:20] [88:11]
 [89:1] [108:18] [121:1]
 [125:23] [131:20] [139:12]
 [172:10] [191:21] [242:21]
 [243:4] [252:8] [309:20,22]
 [313:12]
brown [2:4] [98:20,21,23]
 [100:13] [101:25]
buck [288:9,10]
budget [57:23] [65:15]
 [91:10,14] [186:20] [190:3]
 [199:22] [240:14,15,20,22]
 [266:23]
budgeting [130:8]
bugs [179:3]
build [40:4] [50:8] [51:4]
 [109:12,16] [113:13] [138:
 14]
builder [85:9]
building [30:15] [126:3]
 [151:9] [161:19] [275:15]
built [118:2] [270:19]
bump [126:14]
bumped [59:20]
bumps [124:1]
bunch [146:19]
bureau [9:2] [10:11,12]
 [34:5,6,21,24] [62:24]
 [119:25] [134:9,18] [153:24]
 [154:1] [185:11] [248:4]
 [267:7]
bureaucratic [123:1]
bureaus [258:12]

busiest [121:18]
business [97:17] [179:9]
 [232:13,19]
busters [291:12]
butterfield [315:4,12]
butting [160:24]
buy [143:24] [271:16] [272:
 14] [291:15]

C

cabinets [280:4]
cad [19:3,9] [24:3] [39:19]
 [57:15] [106:11] [112:18]
 [113:1,4,18] [115:22,23]
 [119:3,6] [125:3]
calea [43:7,10] [109:13]
 [116:24,25] [117:5,8,9,12,18,
 25]
calendar [24:10]
california [153:19]
call [78:13] [86:5] [110:9]
 [118:8] [139:2] [157:4]
 [184:14] [205:4] [212:8]
 [240:18] [260:25] [261:4,25]
 [292:7,8,9] [295:7,8,15]
called [15:14] [20:24] [22:17]
 [49:4] [76:6,10] [88:7]
 [119:14] [179:20] [185:15]
 [240:19] [258:11] [296:22]
calling [202:24]
calls [67:23] [121:20] [142:
 20,21,22] [255:24]
camden [14:25] [55:4]
 [139:10] [143:7] [144:24]
 [285:17]
camera [120:4,9] [124:14]
cameras [17:10] [36:7]
 [119:16,21] [173:12] [219:
 25] [220:17] [222:8,10]
 [257:12] [271:11]
camper [197:23]
canadian [225:2,4]
canaries [216:17]
candidates [63:17,18]
 [64:9,17]
candor [122:20] [308:21]
canine [24:1] [113:9,11]
 [211:21]
cannot [7:5] [40:3] [73:25]
 [74:24] [170:3] [226:7]
 [249:8] [287:10]
cant [59:18,19] [66:21]
 [96:3,11] [104:20] [105:11]
 [121:21] [130:22,24] [160:
 16] [164:18] [168:6] [214:5]
 [230:12] [232:8] [254:22]
 [272:12] [302:17] [306:2]
capabilities [241:10]
capability [106:5]
capacities [57:17]
capacity [102:19] [122:13]
capital [13:20]
captain [10:8,10] [62:25]
 [118:16] [147:3] [203:2]
 [239:11] [261:4] [292:10]

capture [230:4]
captured [17:9]
car [51:1,2] [76:5,6] [113:11]
 [119:16] [124:13,25] [220:
 18] [257:12]
carbon [25:11]
care [163:5] [176:11,12,15,17]
 [261:9]
career [138:5]
careers [136:21]
carlos [2:17] [87:5,7]
carmelo [2:12] [64:23]
carried [17:7] [68:24] [90:20]
 [150:25]
carroll [2:5] [45:9,11] [46:22]
 [130:5,6] [222:15,16]
 [223:13] [225:11] [250:25]
 [251:1,4] [252:4,15]
carry [39:13] [40:21] [90:8]
 [108:9,10] [116:18] [240:2]
 [241:8]
carrying [34:17] [37:19]
 [83:17] [120:13] [161:3]
cars [36:8] [73:23] [106:13,15]
 [119:18] [219:25] [220:16,17]
 [222:9,11]
case [34:6] [74:2] [75:16]
 [93:15] [98:4] [110:1]
 [111:9] [114:2] [119:16]
 [124:1] [143:21] [152:13]
 [167:9] [184:3] [226:9,15]
 [241:20] [242:7] [268:18]
 [291:25] [307:7,10,14]
cases [45:22] [51:20] [63:5]
 [113:7] [115:8] [119:24]
 [125:22] [144:15] [151:25]
 [172:1] [176:14] [198:23]
 [223:24] [224:10] [243:18]
 [247:22] [257:3] [260:6]
 [261:12] [307:18]
casinos [12:1]
cast [146:7]
catalytic [255:10]
catastrophic [11:11]
catch [28:9] [162:9] [199:16]
catching [162:8]
categories [74:22] [228:23]
categorize [20:10,13]
category [22:11] [82:4]
 [312:20]
caucasian [75:7,9] [126:13]
 [312:23]
caucus [42:17,19,24]
caught [16:18]
cause [52:2] [70:10] [74:9]
 [76:9] [141:2] [169:15]
caused [13:19] [14:18]
 [52:20]
causes [59:15]
causing [13:14] [55:8]
cautionary [81:17]
caveat [182:6] [196:3]
cavity [133:24]
cease [15:6] [143:21,23]
ceases [94:8,9]
ceiling [109:11]

cell [7:24]
center [1:21] [13:23,25]
 [20:24] [61:8] [63:9] [147:20]
 [148:9] [154:1,2]
centers [15:2]
central [8:21] [28:16] [52:23]
cert [139:19]
certain [41:6] [196:8] [216:
 16] [263:21,22] [276:16]
certainly [33:12] [46:14]
 [57:19] [90:5] [105:14]
 [120:9] [193:13] [259:13]
 [277:18]
certification [117:1]
certified [315:4]
certify [315:6]
cetera [153:1] [205:2]
chain [59:21] [246:19]
chair [2:3] [67:4] [78:8]
 [98:24] [133:3]
chairman [9:18] [44:17]
 [149:12] [168:19] [293:15]
challenge [43:11] [123:9]
 [125:7] [141:6,12] [160:17]
challenges [11:4,22] [12:6]
 [29:24] [140:17,25] [160:7]
 [285:12]
champion [68:17]
championing [67:23] [68:16]
championship [14:9]
chance [98:25] [140:9]
 [285:19]
change [17:2,22] [30:10]
 [33:13] [37:23] [52:20]
 [54:24] [55:9] [65:8] [70:14]
 [88:10] [97:10] [99:14]
 [101:11] [106:10] [131:7]
 [142:9,14] [143:9,12]
 [145:15,18,22] [159:13]
 [165:6] [174:10,25] [175:21]
 [176:1,2,10] [177:12]
 [186:12,15] [189:4,7,8,18,21]
 [190:25] [199:12] [200:4]
 [207:19] [210:16] [214:22,25]
 [216:12] [232:6] [249:24]
 [258:1] [275:17] [276:2]
 [287:1] [288:5,8] [298:24]
 [301:19,20] [308:3,17]
changed [60:20] [115:10]
 [145:23] [174:20] [177:6]
 [192:3,4] [197:18] [210:17]
 [230:9,11] [287:5] [301:20]
changes [16:21] [30:13]
 [36:6] [37:20] [63:25]
 [65:15] [73:12] [100:24]
 [105:22] [125:23] [145:10]
 [176:3,4,5] [177:3] [224:4]
 [298:25]
changing [145:1]
chapters [43:9]
character [68:21] [88:14]
characteristic [152:7]
characteristics [150:24]
 [151:5,8,22] [152:24]
 [181:5]
charge [96:21] [137:17]

[138:22] [193:5] [195:9]
 [219:16] [237:19] [247:16]
 [258:16]
charged [156:21] [304:23]
 [305:1]
charges [242:11,20]
charles [152:18] [153:1]
 [154:3]
charter [167:15] [204:8]
 [300:21]
charts [75:12] [158:12]
cheaper [212:19]
check [73:23,24] [114:7]
 [157:16] [212:23] [222:24]
 [230:22] [268:12,24] [282:
 23]
checking [195:9]
checks [35:7] [86:5] [130:11]
chemical [12:1]
chief [9:2] [10:11] [88:11,25]
 [90:7] [91:1] [141:14]
 [146:12] [147:17] [148:19]
 [152:17] [153:1] [189:17]
 [214:15,19] [216:6] [234:17]
 [239:6] [256:1,19] [271:3]
 [290:17] [306:8]
chiefs [33:24] [57:20] [107:
 12] [120:16]
child [44:4]
choice [105:4] [311:13]
choices [311:13]
choose [209:11]
chris [261:5]
christian [73:4] [74:14]
chronicle [27:8]
church [67:18]
churches [286:15]
cincinnati [191:13,17]
 [192:11]
circle [133:5]
circumspect [74:21]
circumstances [100:25]
circumvent [103:18]
cities [31:19] [55:2] [143:22]
 [146:13]
citizen [10:3] [30:21] [31:11]
 [34:10,12] [243:25] [274:3]
 [292:21]
citizens [31:1] [65:11]
 [101:7] [126:9] [131:19]
 [235:23] [237:12] [243:24]
 [244:1] [274:11] [292:16]
 [297:2]
city [9:13] [11:12] [14:16,17]
 [88:1] [117:15] [120:17]
 [141:11] [144:7] [148:4]
 [150:10] [181:20] [191:20]
 [214:17] [284:12]
civil [19:15] [35:4] [181:19]
 [241:23] [257:5]
civilian [243:5,7,10]
civilians [238:25]
clarification [118:23]
clarify [26:2]
clarifying [99:7,8]
class [74:1] [75:1] [239:12]

classes [63:3] [66:16]
classic [170:25] [191:10,13] [224:1] [230:11]
classification [34:22] [243:20,24] [246:23]
classified [312:22]
clear [145:12] [204:23] [208:16] [216:2] [255:3] [287:7] [298:5,9] [309:10] [311:10]
clearly [17:19] [90:12] [95:8] [131:7] [183:12] [193:14,17,21] [200:17,22] [203:20]
client [97:1,2]
climate [43:18] [44:16] [52:15]
close [222:19] [265:10] [305:19]
closed [243:12,18]
closely [56:6] [63:7] [80:18] [174:17] [234:2]
closer [178:12] [234:20]
closing [79:15]
clubs [286:14]
co [9:7]
codification [39:7,16,23] [66:1] [67:22] [83:10] [84:7] [89:5,17] [108:23] [109:8,21] [215:10,17] [246:5] [250:7]
codified [306:19]
codify [69:13] [83:10]
codifying [66:7] [107:20] [181:7]
collaborating [14:20]
collaboration [46:9] [124:7] [242:2] [295:11]
collaborative [125:25] [193:17]
colleague [121:8] [148:12] [205:21]
colleagues [87:11] [119:1]
collect [186:14] [268:11] [276:22] [281:12] [283:1]
collected [158:23] [250:14]
collecting [281:6]
collection [39:11] [150:18] [281:21] [283:17,21]
collectively [44:15]
college [9:10,12] [45:14,23] [234:11]
colloquy [216:23]
colonel [3:4] [8:3,13,14,16] [9:4,9,14,16] [37:1] [44:19] [45:12] [46:24,25] [52:8] [53:20] [66:12] [67:19] [72:24] [73:2] [76:21] [80:15] [87:9] [89:12] [91:25] [98:24] [102:6] [107:13] [111:18] [118:6,15,24] [119:4] [121:6] [122:15] [130:6] [131:6] [137:5] [138:9] [140:10] [141:21] [146:24] [160:14] [164:15] [165:2] [168:22] [169:7] [173:1,20] [176:21] [180:2] [182:18] [189:10] [193:11] [200:22] [203:21] [213:9] [215:9] [217:13] [218:5,11,20] [229:23] [230:25] [253:18] [254:5] [261:16] [262:10,24] [276:21] [281:10] [282:19,25] [288:3,23] [292:8] [301:1] [302:7,15] [303:14,15] [309:4] [312:11]
colonels [217:12]
color [273:25]
combating [14:22]
combination [66:7]
comfort [50:7]
comfortable [50:4] [100:19] [120:11] [216:9]
coming [73:1] [86:14] [96:14] [172:17] [184:20] [218:12] [253:14] [254:5] [269:14,21] [279:23] [282:16,23] [286:9] [297:1] [302:7] [304:24]
command [37:5] [62:22] [108:12] [136:24] [137:4,16] [155:16] [173:21] [185:17] [230:25]
commandant [10:10] [137:19]
commander [27:12] [32:8] [59:21] [110:22] [130:21] [292:9]
commanders [19:23,24] [20:19] [32:11,16] [51:23] [101:14] [105:21] [137:21]
commencement [71:20]
commend [65:1] [70:12] [102:14]
commendable [47:5] [103:25]
commendation [61:4]
commendations [19:21]
commended [72:6] [111:22]
comment [152:5,25] [160:16] [185:23] [192:17] [198:10] [217:12] [230:7]
commented [24:11] [190:24]
comments [7:9] [48:10] [54:4] [65:1] [87:10,11] [156:3] [226:6]
commission [10:25] [43:5] [81:9] [92:8] [149:22] [154:13] [180:14] [181:24] [190:1] [207:23] [219:17] [223:21] [239:20] [257:25]
commissions [220:21]
commitment [17:13] [29:12,17,23] [48:11] [104:12] [146:16] [182:12] [188:5] [219:5,10]
committed [5:12] [108:4] [245:17] [271:1]
committee [1:6] [3:5,8,10] [4:4,7] [5:7,11] [6:5,8,24] [8:11] [9:20] [10:5,20] [38:15,24] [39:2,5] [44:21,23] [45:1,4] [57:2] [58:11] [67:2] [68:14] [72:23] [80:11] [81:2,8] [87:6] [90:16,18,23] [99:18] [107:10] [108:13] [111:19] [114:22] [115:1,17] [116:21] [121:12] [122:19] [126:4] [127:11] [128:2] [129:9] [131:1] [141:8] [142:13] [143:10] [147:9,12] [148:23] [159:22] [204:15] [229:18] [233:5] [234:16] [235:17] [247:12,23] [250:23] [259:13] [270:22] [271:5] [287:21] [300:10] [301:4,7,9] [305:18] [313:24]
committees [5:15,25] [6:25] [7:8] [122:22]
common [232:12] [259:9]
communicated [173:4]
communication [31:22] [33:6] [216:3]
communications [122:8]
communications [55:10,23] [126:17] [138:14] [139:10,22,25] [140:3,4] [143:8] [249:14] [274:10,15]
community [31:15] [41:18] [45:24] [54:17] [55:7] [56:1,2,4] [58:7,17] [62:15] [64:7,8,12,14,15] [73:3,5] [101:7] [105:9] [126:6] [127:7] [136:11,12,18,19] [138:19,20] [139:6,7,12,19,21] [140:1] [141:19] [143:17,18,20,24,25] [144:2,8,9,13,14,19,21] [146:12,22] [272:25] [274:23] [286:10,23]
company [150:6] [153:8] [206:25]
compare [20:17] [70:17] [117:5] [170:6]
compared [18:14] [26:5] [52:15] [171:14] [181:18]
comparison [20:19]
comparisons [59:7]
competencies [41:7]
competency [17:8]
competent [178:5] [218:23]
competing [165:10]
competition [94:11]
complacency [29:20] [232:7]
complaining [198:17] [297:2]
complaint [34:10,18] [198:10] [199:2] [242:19] [243:7,10] [244:12,19] [250:11] [260:22] [292:21,23]
complaints [23:24] [30:21] [31:12] [34:12,15,22] [35:23,25] [36:3,5,13] [110:18,23] [129:1] [201:12] [243:24,25] [244:2] [260:25] [284:15] [297:6]
complementary [146:21]
complete [16:14] [22:16] [31:23] [47:14] [242:18] [271:16] [312:3]
completed [22:23] [24:9] [46:18]
completely [62:16] [106:12] [174:13] [228:8]
completes [24:13]
completing [41:12]
complex [11:3] [14:14] [16:11] [161:14] [223:11] [292:14]
complexity [103:9,13]
compliance [5:1] [12:18] [15:22,25] [16:2,4,8,9,14] [17:4,12,23] [18:4] [29:7,9,18] [30:1] [36:18] [37:24] [44:10] [100:17] [107:21] [150:16,22,23,25] [152:12] [153:14] [154:8] [155:18,24] [156:13,15] [157:15] [159:5,9] [160:20] [161:14] [172:9,10,16] [173:2,7,16] [188:14] [190:25] [193:3] [236:24] [237:5] [245:18] [249:12]
compliant [12:16] [113:25] [125:17] [211:1]
complicated [127:18]
complied [158:21] [282:18] [299:2]
complement [53:13] [244:12] [293:4]
compliment/complaint [261:1]
complimentary [99:4] [165:10]
complimenting [48:10] [111:20] [293:6]
compliments [19:21] [47:1]
comply [15:20] [123:18,20] [155:16] [238:17] [241:16]
component [101:10] [115:4] [121:25] [221:13] [275:16]
components [68:4] [128:15] [136:5]
composed [24:4]
comprehensive [29:11] [32:18] [40:22] [186:5]
comprised [19:18]
compstar [185:16]
computed [21:7]
computer [19:3] [57:8] [106:14] [121:11]
computers [106:14] [121:21] [122:7]
concentrate [108:20]
concentrating [124:15]
concept [86:13] [106:20] [166:19,22] [222:21,22] [223:3,10]
concepts [30:23]
concern [55:23] [57:19,24] [58:16] [89:20] [92:7,8] [101:6] [123:13] [124:12,17] [166:16] [169:15] [199:1] [254:23,25] [255:1] [262:25] [263:1,2,3,9] [265:10]

10/10/2006 Hearing - 10/10/06

[277:6] [278:10] [285:5,7]
 [292:3] [299:14] [302:18,19
 ,20,21] [303:4] [312:24]
concerned [102:23] [103:11
 ,14,22] [104:7] [126:15]
 [196:9] [255:5] [302:15]
 [305:21]
concerning [5:18] [42:18]
 [234:3] [238:4] [242:15]
concerns [32:24] [56:8]
 [65:5] [73:6] [92:15] [100:21]
 [125:22] [143:20] [230:1]
 [240:8] [249:19] [278:16]
 [308:1]
conclusion [152:19] [215:3]
concoction [305:24]
concrete [157:3,7]
conduct [23:5,23] [29:5]
 [30:19] [35:6] [39:12]
 [60:16] [61:17] [76:10]
 [95:22] [112:20] [156:24]
 [158:5] [301:17]
conducted [23:3] [25:18]
 [26:22] [27:21] [29:1]
 [51:14] [65:22,23] [78:9]
 [117:4] [157:18,19] [243:19]
conducting [49:8] [72:13]
 [154:24] [206:15] [243:3]
conducts [24:6] [34:24]
conference [33:25] [133:4]
conferences [32:7,20]
 [33:2,18] [231:22]
confidence [17:18] [31:1,25]
 [62:16] [126:3,6] [136:10]
 [149:7] [165:4] [180:6]
 [236:5] [246:1] [247:7]
 [254:9] [263:1,22] [270:1,19]
 [273:1,17] [278:10] [281:1]
 [285:7] [302:20] [303:5]
confident [43:21] [178:7]
confidential [216:16]
confirmed [29:6] [298:20]
conflict [41:19] [46:5,15,20]
 [66:15] [243:6] [264:12]
conflicts [166:17]
conformance [5:22]
conformity [58:18]
confused [279:21] [280:22]
congratulations [213:17]
 [256:8] [260:17]
congregation [210:25]
congress [150:1]
conjunction [241:20] [257:
 11] [283:3]
connections [104:1,5]
cons [126:20] [127:11]
consecutive [15:23] [16:5,7]
consensus [6:17] [151:23]
 [152:25] [208:18]
consent [4:13,17] [5:3,18,20]
 [9:16,25] [10:7,23] [12:17,19]
 [15:18,21] [16:16] [17:1]
 [20:6] [23:21] [24:1,16,21,22
 ,25] [25:6,11,16,17,23,25]
 [26:8] [27:5,13,17] [28:13,19]
 [29:8] [30:7,8] [35:11]
 [36:19] [37:12] [39:9] [40:5
 ,12] [42:8,15,23] [43:14,15]
 [44:10] [45:17] [46:9,18]
 [47:2] [48:17,25] [49:2,14,15]
 [50:5,14] [52:1,11,16,19,25]
 [53:2,3] [54:18,25] [58:21]
 [65:2,7,18,25] [66:9] [67:24]
 [68:5] [69:1,5,10,17] [72:10]
 [77:1,14,18] [78:14,18,25]
 [79:4,19] [80:4] [81:1,18,25]
 [82:5] [83:5,18] [85:16]
 [87:3] [89:1,3,14] [94:10]
 [97:2] [101:9] [103:15]
 [109:10,17] [112:3,12,13,14
 ,16,20,23,25] [113:13,24]
 [114:25] [116:10] [117:2,7
 ,11,17,25] [118:22] [119:2,15]
 [122:5] [125:8] [130:12]
 [131:10] [132:8] [134:13,16]
 [142:1,2,6] [147:16] [148:3]
 [149:19,21,23] [151:1]
 [152:20] [153:4,11,15]
 [154:15,16] [155:13] [156:
 22] [157:1,2,9,14] [158:9,18
 ,21] [159:5,9,11,15] [165:8
 ,12] [168:24,25] [169:3,7,13
 ,20] [170:6,14,17,19] [171:
 15] [173:3,17] [175:22]
 [177:16] [181:2] [184:23]
 [185:2] [187:8,12,14,17,20
 ,23] [188:12,20] [189:1,20]
 [190:16] [191:2,6] [193:10
 ,16] [199:21] [205:8] [209:1]
 [211:20] [213:18,21] [215:
 4] [217:16] [224:24] [234:3
 ,6] [236:10] [237:20] [238:1
 ,17] [239:2] [241:5] [244:24]
 [246:11] [252:20] [254:12]
 [256:9] [259:23] [260:9]
 [279:24] [280:13] [282:11]
 [283:12] [289:13] [290:9]
 [291:3] [301:25] [302:3]
 [306:2] [310:1,3] [313:7]
consents [113:21] [169:5,21
 ,22,24,25]
consequences [104:7]
conservatively [119:23]
consider [38:24] [39:5]
 [58:11] [69:16,17] [84:1]
 [108:25] [109:10] [123:17]
 [140:12] [149:9] [246:10]
consideration [28:3] [92:24]
 [93:11] [201:8]
considered [7:8] [35:8]
 [85:15] [147:24] [173:19]
considering [247:13] [274:
 5]
considers [36:6] [84:6]
consist [23:1]
consistent [37:6] [198:2,3]
 [245:25]
consistently [192:17]
 [231:4]
constant [30:23] [31:16]
 [121:20] [125:11] [189:6,7]
constantly [125:12] [132:13]
 [133:14]
constitution [113:25]
constitutional [12:16]
 [27:17] [29:3] [131:18]
 [196:21] [197:2] [236:8]
 [237:12] [239:15] [245:8]
 [247:1] [304:2,3]
constitutionality [71:17]
constitutionally [125:17]
 [294:1]
constraints [65:15]
construct [98:16]
constructed [38:20]
constructive [236:8] [245:16
 ,21]
consult [136:6] [288:1]
contact [18:24] [26:23]
 [54:7] [177:10] [240:5]
 [244:5] [246:11] [261:8]
 [267:13] [286:5,6] [290:15]
 [292:10,17]
contacted [113:2]
contacts [18:3,6] [23:3]
 [28:21] [31:5] [35:17]
 [43:25] [144:9]
contained [46:14] [237:2]
 [240:20] [241:4]
contemplate [11:11]
contemplated [242:11]
 [313:7]
content [240:2]
contentious [161:15]
context [49:13] [140:15]
contingent [67:25]
contingual [30:22] [31:21]
continuation [218:12]
continue [6:13,14] [7:15,17]
 [27:3] [31:9,14] [32:22]
 [35:12] [39:1] [47:18,25]
 [65:13] [66:25] [68:16,23]
 [74:21] [79:23] [84:9]
 [87:1] [92:12] [93:25]
 [108:10] [119:6,9] [121:15]
 [123:20] [127:2] [142:18]
 [180:1] [188:14] [189:1]
 [194:9] [200:6] [201:9]
 [204:21] [205:11] [209:19]
 [211:19] [219:2] [224:19]
 [244:25] [252:25] [253:2]
 [278:14] [281:4] [286:25]
 [302:14] [303:8] [308:10]
continued [15:12] [16:4]
 [30:16] [32:23] [39:17]
 [40:12,16,21] [85:13]
 [88:4] [118:21] [131:2]
 [142:5] [189:15] [245:16,20]
 [247:5] [248:21] [249:12]
 [253:1,21] [282:14] [285:7]
 [286:23]
continues [48:13] [103:13]
 [182:11] [201:19] [224:13]
 [311:18]
continuing [50:8] [120:17]
 [141:24] [230:7] [231:23]
 [249:13] [252:22] [312:1]
continuum [24:24]
contract [41:20] [98:12]
 [116:8]
contracted [94:17] [95:16,21]
 [96:20] [100:9] [153:8]
 [253:24]
contracting [96:4]
contractor [94:22]
contrary [18:2]
contributors [44:9]
control [21:5,18] [22:10]
 [65:20] [117:13] [145:20]
 [240:14]
controlled [240:15]
controversial [248:24]
conversations [80:25]
 [194:20]
conviction [15:9]
convictions [5:9]
convinced [98:9]
cooper [301:11]
cooperate [186:1]
cooperated [161:7]
cooperating [161:17]
cooperation [46:8] [124:7]
coordinate [35:14]
coordinated [14:13]
coordinating [234:4] [245:
 1] [280:2]
coordination [13:12] [238:
 2] [245:6]
coordinator [59:22]
coordinators [19:24]
copies [34:17]
copy [25:11] [152:4] [172:3]
 [179:14] [235:14]
core [13:8] [23:14,22] [24:4
 ,18] [25:21] [32:19] [33:1]
 [38:14] [51:22] [105:24]
corecipient [9:7]
co-recipient [9:7]
corporate [1:21] [42:3]
 [47:8] [79:21,23] [301:3]
corporation [208:2]
correct [28:10] [77:3] [82:13]
 [119:9] [121:13] [149:12]
 [162:10] [170:8] [171:24]
 [175:8] [187:10] [190:18]
 [200:10] [213:23] [251:13]
 [266:15] [280:4] [282:20]
 [284:4] [289:19]
corrected [16:18] [156:18]
 [272:6]
correcting [185:9] [221:9]
correctional [220:9]
corrective [48:12] [305:1]
correctly [120:8] [200:7]
 [282:17]
corzine [5:6]
cosigning [242:16]
cost [56:14,20] [57:7] [84:13]
 [89:15] [128:5] [163:25]
 [164:13] [180:2] [181:14]
costly [163:2] [223:12]
costs [91:9]
couldnt [96:6] [132:23]
 [191:3] [192:3] [223:22,25]

10/10/2006 Hearing - 10/10/06

council [214:17]
counsel [46:12] [60:3] [62:3] [70:6] [86:17] [89:10] [148:22] [242:13]
counseling [27:20,25] [49:5] [51:16] [61:3,19] [178:20,21] [179:18]
count [138:7] [153:18] [162:10] [210:13]
counting [71:3,4]
country [24:13] [133:16] [187:1] [215:25]
county [13:13] [14:15] [33:18] [84:17] [90:3] [116:19] [128:19] [141:4] [153:19] [220:3] [239:21] [247:18] [248:2] [256:25] [257:8,19,23] [258:14] [259:8] [290:4,16,18] [291:22] [295:4] [306:24] [307:5,18] [310:25]
couple [7:13] [48:14] [54:4] [56:18] [57:5] [81:23] [107:17] [116:4] [119:23] [159:3] [174:6] [181:21] [183:11] [187:7] [190:23] [207:16] [218:15] [225:18] [234:23] [235:4] [260:24] [280:21] [288:13,19] [309:6]
coupled [31:21]
course [49:14] [61:12] [69:20] [72:20] [179:8] [224:8] [227:7] [240:24] [241:9] [244:17] [246:22] [247:14] [248:6,15] [274:18]
courses [36:23] [37:8]
court [8:5] [15:15] [16:13] [82:18,20] [151:13,19] [152:6] [165:15]
courts [151:24]
covering [16:1]
covers [77:19,20,22] [225:16]
crack [231:16]
cradle [298:9]
create [108:3,7] [139:8] [217:18] [228:18]
created [70:15] [210:1] [227:3] [236:10] [237:13] [306:1]
creating [13:2] [39:1] [192:6] [306:4]
creation [13:21] [41:24] [155:11,15]
creative [103:6]
credentialed [248:20]
credentialing [26:14] [78:17]
credentials [40:25] [45:25] [46:1] [93:18]
credible [236:9]
credit [85:19] [218:20]
crest [1:21]
crime [143:20] [271:1]
crimes [15:7]
criminal [9:11,12,13] [27:1] [29:6,15] [32:14] [49:17] [72:13] [125:15] [147:19] [148:19] [239:18,19] [241:21,24] [244:15,17,18] [247:21] [258:11] [259:21] [260:2] [261:21] [265:4] [267:6,9] [270:2] [293:10] [306:12] [307:8,9]
criminalistics [15:6]
criminality [35:2]
crisis [190:3]
criteria [155:3,11] [156:10] [182:21,22] [206:6]
critical [11:24] [12:14] [38:10] [39:18,24] [43:23] [83:1] [101:9] [107:22] [145:12] [189:13,16,25] [190:25] [194:2] [201:17] [202:13] [203:9] [216:4] [226:15]
critically [52:23]
criticals [211:20]
criticism [24:21] [146:7]
crossing [1:13] [74:3]
crystal [89:20] [208:16]
csr [315:12]
cultural [36:21] [245:9]
culture [145:1,15,18,21]
cumbersome [106:4]
curious [145:8]
current [31:18] [33:20] [37:11,17,19] [40:15] [43:18] [108:5] [123:11] [149:5,25] [166:18] [172:14] [183:22] [187:16] [192:19] [193:22] [194:1] [200:10] [209:5,15] [239:5] [246:3] [249:20] [292:5] [295:13]
currently [41:7] [152:9] [185:10] [226:12] [229:22] [271:20] [280:16]
curricula [134:20]
curricular [145:11]
curriculum [36:23] [37:8] [135:16] [224:5]
curve [181:17] [271:9,10]
cut [89:19] [180:20]
cutting [190:6,23]
cycle [15:10] [30:21] [134:23] [170:13] [189:14] [199:20] [210:21] [213:6] [231:17]

D

d.c [153:21]
dag [259:19,20] [261:8] [292:11] [304:19]
dags [260:1]
daily [10:3] [27:9] [30:3] [163:12] [175:14] [179:8] [282:2]
damage [13:19]
data [19:20] [20:8,9,12,16] [21:10] [22:5] [24:1,3,8] [31:10] [32:14] [36:11] [39:11] [47:19] [51:16] [78:1] [79:5,8] [84:9] [98:15] [105:18] [106:2,6,17,25] [107:2] [112:2,4,12] [114:3,20,24] [117:13,14] [122:5] [126:8] [127:7] [128:22] [133:8,12] [149:8] [150:18] [167:2] [168:24,25] [169:3,8] [170:10] [178:6,8,10] [179:4,6,11] [186:13,16] [192:8,9] [198:21] [199:2] [213:2] [229:20] [230:4,18] [234:8] [235:11,16] [238:11,20] [246:14] [247:6] [250:12,14] [281:7,12] [283:21,22]
database [28:2] [170:11] [240:1]
databases [33:21] [241:7]
date [25:24] [99:6] [222:20]
dated [315:17]
dauber [2:6] [48:7,8,9] [50:1] [52:5] [216:20,21] [219:16] [252:16,17] [253:18] [255:6]
day [30:25] [48:1] [96:7] [101:3] [103:7] [121:4] [132:21] [135:16] [144:19] [145:20] [155:20,21] [162:3,4] [168:2] [178:24] [226:9] [252:11] [257:22] [262:1,21] [263:12] [264:10,24] [265:7] [269:6,7,20] [272:24] [275:21] [282:6,8,22] [292:13] [297:2] [301:3]
dcj [244:16] [307:12]
de [18:2] [48:17] [49:13]
dea [76:4,7]
deal [4:23] [50:6] [58:16] [92:5] [98:8] [119:20] [122:25] [135:25] [136:2] [177:7] [194:25] [218:20] [240:23] [251:20] [257:1,2] [258:23] [267:7,20] [272:17] [279:13] [294:16] [303:23]
dealing [12:5] [230:1] [235:18] [247:25] [251:23] [257:8,21] [258:13] [267:3,18] [279:8,16,17] [286:12] [298:17] [304:9,10,14,22]
deals [297:23] [304:15]
dealt [155:18] [161:12] [222:6] [283:12] [310:1,3]
debate [6:15] [24:20] [161:16] [163:20]
decade [149:24]
december [10:20]
decent [312:25]
decentralized [305:22]
decide [51:23] [181:25] [189:10] [190:4]
decided [281:14]
deciding [229:10]
decision [38:11] [74:8] [79:2] [90:13,16] [104:25] [146:14] [157:13] [214:11,13] [215:1] [218:25] [272:18] [296:16] [300:4] [308:2]
decisions [20:4] [25:9] [113:22] [189:23] [215:20,21] [219:1] [236:15] [237:11] [240:10]
decline [236:5] [285:10]
declined [170:14] [214:10]
decrease [72:4]
decreasing [15:11]
decree [4:13,17] [5:1,3,18,20,22] [9:16,25] [10:7,23,24] [11:2,8] [12:12,17,19] [15:18,21,23] [16:15,17] [17:1,3,5,24] [20:6] [23:21] [24:16,21] [29:8,18] [30:2,7,8,13] [35:11] [36:19] [37:12] [38:18,20] [39:6,9] [40:6,12] [42:9,13,15,23] [43:14,15] [44:11] [45:18] [46:10,18] [47:2] [48:18] [49:14,15] [50:5] [52:11,16,19,25] [53:2,4] [54:18,25] [58:21] [61:12] [65:3,7,9,18,25] [66:10] [67:24] [68:5] [69:1,5,11,17] [72:10] [79:19] [80:2,4] [81:1,25] [82:5] [83:5,18] [85:5,16] [87:3,13] [89:1,3,14] [94:10,14] [97:2] [101:9] [103:16] [109:11,17] [116:10] [117:2,7,12,17,25] [118:22] [119:2,15] [122:5] [125:8] [130:12] [131:10] [132:8] [134:13,16] [142:2,6] [147:16] [148:3] [149:21] [150:5] [151:12,14,16,17] [152:14,21] [153:12] [154:15,16,19,21,25] [155:3,8,13,17] [156:14,22] [157:1,2,7] [158:10,18,22] [159:6,10,12,15] [163:9,13] [165:8,12] [170:17,19,20,23] [171:10,11,18,20] [173:3,17] [175:22] [176:20,25] [177:16] [181:2] [184:23] [185:2] [187:9,12,14,17,20,23] [188:3,10,12,20] [189:1,2,20] [191:2,6,14,16,18,19,25] [193:10,16] [199:21] [209:1,8] [213:18,21] [215:4] [216:8] [223:15] [224:25] [234:3,6] [236:10,16,24] [237:4,6,14,20,25] [238:1,5,13,18] [239:2] [241:5,16] [244:24] [245:19] [246:4,6,11] [250:6] [251:9] [252:20] [254:13] [256:9] [259:24] [260:9] [279:24] [280:13] [282:11] [283:12] [289:13] [290:9] [291:3] [299:3,4,6] [300:15] [301:25] [302:3] [306:2] [310:1,3] [313:7,10,13]
decrees [81:19] [149:19,23] [151:1] [153:15] [190:16] [191:11]
dedicated [237:8]
dedication [288:25]

deems [241:8] [248:14]
deep [100:23]
defendant [291:4]
defense [43:25] [176:18]
deficiencies [221:10]
deficiency [50:23]
deficient [294:3]
deficits [168:4]
defined [155:4,14,18] [247:21]
definitely [278:22]
definitions [150:16,25]
defuse [198:23]
degree [9:11] [30:17] [148:5,6] [149:7] [234:9,10]
delaware [13:18]
deliberate [7:9]
delineating [238:15]
delivering [12:14]
delivery [210:7]
delve [195:18]
demands [29:15] [57:16]
demographic [22:11] [63:6]
demonstrate [17:13]
demonstrated [122:22] [298:20]
demonstrates [17:20]
demonstration [33:25] [112:10,11]
demotion [149:16]
denied [169:22,25] [170:2,14]
density [11:23]
depalma [148:14]
departing [98:20]
department [4:12] [5:2,5] [9:5] [10:22] [46:3] [57:6,11] [67:9] [69:6,15] [82:18,20,23] [84:23] [86:17] [89:2] [90:9] [94:10,15] [97:11] [100:8,11,17,24] [104:13] [128:19,21,25] [129:9] [141:4,11] [142:15] [144:3,4] [146:1,5,7,19] [150:9] [151:3,12] [153:9,10,20] [154:18] [173:22] [213:21,25] [214:1] [237:16] [239:22] [240:16,18,21] [248:12,23] [251:18] [258:10] [265:13,15] [271:25] [272:17] [284:16] [289:14] [291:17] [295:14] [296:24] [297:4] [308:12]
departments [56:1] [57:4,12,14] [81:18] [84:17] [86:12] [87:17] [90:4,6,12,22] [91:5] [92:24] [128:24] [129:15] [143:13] [145:2,5] [146:9] [147:25] [219:19,24] [220:12] [221:5] [222:13,19] [248:7] [256:13] [258:14] [272:7] [277:3] [279:18] [289:19,25] [291:1,7,12] [293:25] [296:20] [299:16,21] [300:5,21]
depend [268:13,15]
dependant [215:1]
depending [153:17] [191:17] [240:24] [278:24] [292:20,23] [308:15]
depends [293:7] [294:11]
deployment [13:6] [14:2,14] [23:25] [211:22]
depolicing [18:2] [48:17] [49:13]
de-policing [18:2] [48:17] [49:13]
depth [10:19]
deputy [148:19] [233:25] [307:24]
derived [21:6] [178:6]
descent [229:21]
describe [18:19] [102:25]
described [51:22] [75:6,7,9,23] [77:12] [83:25] [93:17] [237:23] [262:12]
description [275:11]
descriptions [98:1]
deserve [201:3] [218:19]
desha [3:9] [8:8] [233:24]
design [11:4] [117:15] [164:12] [213:11]
designed [14:10] [32:21] [117:16] [122:10] [151:17] [175:7,8] [214:12]
designing [129:9]
desire [200:23]
desires [184:6]
desk [62:6] [223:2] [227:13]
desperately [166:20]
despite [29:14] [64:2]
destruction [11:20]
detail [101:2] [165:25] [178:16] [278:20] [310:12]
detailed [14:6] [113:5]
detailing [21:14]
details [29:23] [287:13]
detectives [14:23]
detention [113:12]
determination [37:21] [60:19] [168:11]
determinations [59:7]
determine [5:4] [59:9] [117:7] [157:12] [158:17,21] [195:19] [242:20]
determined [21:19] [27:15] [206:2,21]
determining [182:23]
deterrent [49:8]
detriment [49:10]
detroit [153:18]
devastation [14:18]
develop [153:10] [208:18] [215:20]
developed [6:1] [36:23] [104:1] [117:6] [147:23] [150:6,15,24] [153:16] [185:7] [186:5] [221:22] [290:10] [300:19]
developing [150:12] [228:23]
development [31:21] [38:19] [104:4] [154:4,5] [170:25] [171:17] [210:5,7,21] [213:6] [224:2] [240:1] [247:1]
develops [122:1]
deviation [60:5]
deviations [21:7,11]
devised [71:15] [155:10]
devising [156:9]
devotes [103:10]
diagram [20:22,23] [21:9,16] [22:12,16]
dialogue [31:13] [40:17] [51:2] [115:16]
didnt [58:25] [64:19] [71:23] [111:2] [117:14] [136:9,15] [144:12] [181:11] [186:21] [192:8,9] [203:6] [216:9]
difference [97:3] [99:9,15] [100:4] [101:18] [160:8] [163:25] [174:1,2,3] [175:9] [214:3] [215:10] [286:1] [300:1] [305:11]
different [52:15] [72:2] [77:2] [88:12] [123:5] [136:5] [142:21] [143:5] [166:7] [183:11] [197:13,14] [210:11] [218:15] [228:9] [248:6] [251:7] [259:5] [260:1] [265:11] [279:13] [284:14] [289:21] [311:23] [313:19]
differentiating [75:20]
differently [177:24] [196:15,16] [210:24]
difficult [90:21] [99:13] [163:8] [177:1,3] [193:6,7] [198:14] [214:1,22] [226:17,20] [230:21] [273:3]
difficulties [126:24] [198:24] [287:12]
difficulty [62:13] [161:2] [192:6] [291:3]
digital [39:20] [124:21] [308:16]
dignity [244:1]
diligence [12:5] [118:21]
diminish [29:22]
diminished [17:25]
dip [49:21] [72:11]
dipped [49:16]
direct [306:21]
directed [26:12] [75:24] [76:6,10]
directing [131:25] [156:5]
direction [106:22] [124:21] [201:25] [240:12]
directive [39:15] [155:16] [235:8] [244:22] [245:11] [250:4] [280:6,7,9,10,15] [306:20]
directives [9:16] [37:14]
directly [96:5] [162:3] [167:16] [204:18] [221:12] [222:1,5] [231:25] [249:15]
director [3:9] [8:9] [14:10] [107:11] [116:16] [147:20] [233:24,25] [237:19] [239:6,9] [275:1,11] [297:5] [298:4] [300:8] [305:15] [306:3] [307:24,25] [309:24]
directors [47:9] [301:5,10]
disaggregate [25:23] [106:25]
disaggregating [106:6]
disagree [262:17,24] [274:24] [275:5] [303:2]
disastrous [102:9]
discharge [6:10] [236:7]
discharged [236:1]
discharges [249:5]
disciplinary [23:25] [35:7] [58:22] [61:6,25] [62:1] [110:10] [242:11] [245:6]
discipline [19:22] [58:24] [60:12,13,20] [61:18] [102:20] [110:11] [111:6] [129:2] [155:23] [156:2]
disciplined [58:23] [61:11] [305:2]
disclosure [247:6]
discouraged [244:3]
discourages [237:10]
discovered [156:20]
discretion [24:24] [25:1,2] [29:1] [76:12] [78:25] [79:1] [88:14] [104:17] [235:25] [251:12]
discretionary [25:9] [113:22]
discrimination [22:1] [43:3] [59:14]
discriminatory [131:13]
discuss [45:4] [69:21] [113:2]
discussed [6:24] [82:3] [91:4] [116:15] [135:19] [218:14] [225:20] [238:13] [278:20] [309:7,9]
discussion [6:15] [59:17] [154:9] [183:25] [185:21] [251:6] [267:22] [268:19]
discussions [232:12]
disenfranchise [301:22]
disengage [226:2,20]
disengagement [226:19,24]
disincentive [228:16,18]
disincentivizing [229:15]
dismiss [5:3]
dismissed [172:12]
disparate [73:17] [195:22] [197:9] [243:14]
disparity [21:24] [59:13]
dispatch [19:2,3] [157:5]
displayed [20:12]
disportionate [195:25]
disposition [243:22]
disproportionate [112:22] [195:23] [196:10]
dispute [309:18] [310:4]
disputes [309:9] [310:13]
disrespectfully [301:1]
disrupt [15:10]
disrupting [44:1]
disruption [7:24]
dissatisfactory [244:10]

dissimilarly [197:1]
dissolution [165:14,16]
 [244:24] [279:24] [280:13]
dissolved [116:10] [165:8]
 [188:13] [251:9]
distances [164:4]
distinction [79:13] [252:7]
 [269:3] [282:1]
distinguish [21:4]
distinguished [9:19]
distributed [28:20]
district [15:15,16] [148:18]
 [165:15] [284:17,19]
districts [284:15]
disturbing [209:3]
diverse [63:18] [64:17]
 [249:14] [273:1]
diversified [136:25]
diversity [62:13,17] [133:20]
 [136:12,15] [137:23] [194:
 18] [245:10]
divide [210:14]
dividing [75:20]
division [10:9,14] [23:6]
 [28:19] [46:7] [47:17]
 [51:21] [64:16] [65:5,24]
 [79:21] [98:13] [101:13]
 [108:2,3] [134:18] [138:17]
 [148:20] [172:9] [203:23]
 [237:16] [239:19] [241:21]
 [244:17] [251:17,18] [252:
 1] [253:11] [258:10] [259:20
 ,21] [260:2] [265:4,9,11]
 [267:6,9] [282:5] [287:22]
 [293:10,11] [304:13] [307:
 8,9]
divisions [22:19] [265:12]
divr [39:19]
divulged [152:11]
document [14:12] [188:22]
 [224:19]
documentation [313:9]
documented [131:14,15]
 [246:12]
documents [6:9] [26:15,16]
 [235:5] [241:7]
dodge [205:17]
doesnt [57:8] [61:7] [71:6]
 [73:16] [77:2] [126:11]
 [130:9] [162:6,10] [197:21]
 [198:1] [203:3] [211:24]
 [215:18] [229:15,22] [258:
 3] [263:13] [268:11,12]
 [273:17]
dog [113:15]
doing [49:20] [54:14] [58:21]
 [63:21] [67:14] [79:21]
 [80:19] [101:23] [105:18]
 [107:2] [108:2] [111:21]
 [120:8] [125:16] [127:6,15]
 [131:17] [132:3] [133:23]
 [140:2] [144:12] [146:2]
 [160:6] [161:18] [162:1,19]
 [165:20] [170:13] [173:12,16]
 [176:9] [184:15] [187:25]
 [195:3] [211:10,16] [220:5]
 [221:9] [226:8] [249:21]
 [252:14] [254:18] [257:10]
 [259:14] [264:3] [269:6,16]
 [270:8,9,17] [273:16,22]
 [274:2,5] [275:15] [277:8]
 [299:25] [303:3] [311:7]
dollars [56:20] [181:21]
domestic [24:1] [35:6]
 [111:8] [243:16]
donald [209:21]
done [70:12] [73:24,25]
 [85:20] [87:12,13] [92:4]
 [94:15] [106:7,8] [107:5,16]
 [108:2] [112:15] [129:7]
 [135:24] [139:5,12] [156:25]
 [170:24] [173:14] [175:20]
 [180:17] [188:9,19] [194:5]
 [200:3] [201:2] [202:16,18]
 [206:8,17] [213:17] [216:23]
 [219:4] [220:1] [227:14]
 [228:13] [230:22] [252:9]
 [256:9,10] [269:15] [270:1]
 [271:7] [297:20] [300:13]
 [302:9] [305:5]
donovan [2:7] [46:23,25]
 [48:6] [213:15,16,24]
 [215:9] [256:6,7] [258:3,24]
dont [7:19] [45:2] [53:1,24]
 [56:16] [62:5,19] [63:15]
 [66:1] [68:9,25] [69:3]
 [71:3] [72:1,3] [75:19]
 [78:6] [86:10] [88:21]
 [89:19] [95:8,14] [101:21]
 [102:20] [106:18] [113:11]
 [115:18] [128:10,19] [130:
 4] [131:12] [132:1] [137:24
 ,25] [140:20] [145:17]
 [146:5] [160:14] [162:2]
 [163:22] [165:21] [166:2]
 [169:18] [172:16] [181:22,24
 ,25] [188:25] [193:12]
 [194:15] [197:9,19] [198:17]
 [203:24] [204:6] [215:24]
 [219:2] [222:9,11] [227:17]
 [231:22,23] [232:5,7]
 [233:16] [234:21] [253:11]
 [254:14,19,24] [255:3]
 [257:2,12] [258:6] [259:18]
 [263:17,18] [264:7,21]
 [265:3,16] [267:12,14]
 [269:5,9] [270:24] [273:14]
 [274:2,23] [275:4] [277:24
 ,25] [280:22] [282:25]
 [283:4,11,25] [284:21]
 [288:7,14] [294:6] [297:22]
 [299:13] [300:3,8,25]
 [302:3,8] [304:9,12,17,18,23]
 [306:9] [313:22]
doom [66:6]
door [62:7] [139:1]
doubly [220:17]
doubt [72:3] [131:13] [182:
 10] [194:7]
dowdell [292:11]
down [25:20] [26:1] [35:24]
 [48:25] [50:10] [53:24]
 [62:25] [71:12] [74:12]
 [98:7] [106:3] [110:23]
 [133:2] [141:14] [144:11]
 [166:20] [168:10] [172:19]
 [173:13] [176:23] [185:22]
 [197:7] [211:2] [227:22]
 [231:18] [238:23] [277:1,15
 ,22,23] [278:8,21] [293:19]
 [304:7]
downright [73:6]
downs [12:8]
dozens [18:25]
dr [3:7] [8:6] [93:16,22]
 [147:13,14,21] [149:9,11,17]
 [161:8] [162:23] [164:23]
 [165:17] [166:24] [170:8]
 [173:18] [175:2] [176:7]
 [178:9] [180:25] [183:15]
 [185:5] [187:10,24] [189:3]
 [190:18,21] [191:9] [196:3]
 [198:5] [199:7] [202:6]
 [203:5] [204:6,19] [205:22]
 [207:20] [209:16,24] [211:
 8] [213:19,23] [214:7]
 [215:16] [217:21] [221:11]
 [222:21] [223:20] [226:4]
 [230:5] [231:15] [234:16]
 [287:12] [290:4,8,15,22]
 [312:11] [313:8,9]
dramatically [64:1]
draw [213:25]
drawn [42:5] [123:10] [170:
 11]
dressng [58:18]
drew [234:10]
drift [74:15] [104:18]
drifted [29:16]
drifts [104:6]
drill [25:20] [71:11] [113:19]
drills [172:18]
drive [249:16]
driven [24:17] [226:11]
driver [20:13,14] [157:6]
drivers [21:2] [26:17] [78:18
 ,20] [170:5,6] [196:19]
driving [26:15] [44:4] [158:
 15] [176:23] [208:13]
drop [35:24] [74:12] [182:5]
drug [9:6] [72:16]
drugs [76:5] [273:20] [274:
 18]
drunk [158:14] [197:25]
ducks [109:2]
dudes [287:2]
due [300:22]
dues [270:13]
durable [6:16]
during [12:19] [16:17]
 [18:9] [22:25] [23:3] [61:12]
 [73:20] [101:5] [112:10]
 [116:24] [157:17,19,25]
 [168:23] [173:14] [238:16]
 [242:16] [244:7] [252:19]
 [262:6] [298:6] [309:9]
duties [37:20] [43:21] [236:
 8,20] [238:6] [249:25]
duty [8:20] [34:19] [111:8]
 [284:11] [296:6]
dwi [18:8] [26:11]
dynamic [15:12] [18:1]
 [105:8] [125:11]
dynamics [70:20]

E

earlier [152:10] [173:6]
 [179:25] [180:2] [190:9,14]
 [203:7] [204:10] [213:2]
 [215:3] [220:23] [250:22]
 [280:16]
earliest [32:25]
early [13:20] [33:21] [34:7]
 [62:20] [110:2] [112:2]
 [141:2] [146:3] [152:8]
 [172:8] [173:19] [198:13]
earned [38:12] [270:13]
easier [93:6] [105:2] [115:24]
 [181:16]
easiest [180:21] [231:21]
east [126:10] [127:1]
eastern [229:21] [312:25]
easy [51:11] [145:25] [146:
 2] [182:3] [308:24]
echo [48:10] [80:15] [81:2]
 [87:10] [111:19] [205:25]
echos [132:12]
eckel [78:13]
eckert [234:16] [290:4,8,15
 ,22] [313:8,9]
economical [84:12]
ed [2:6,20] [48:7] [102:2,3]
edge [129:5] [190:23]
education [231:23]
effect [105:22] [150:12]
 [155:3] [177:17] [254:2]
effected [115:11]
effective [12:13] [17:1]
 [30:18] [33:5] [38:22]
 [41:15] [66:25] [101:11]
 [102:13] [131:19] [167:23]
 [171:11] [217:11] [218:8]
 [236:3] [285:6] [306:6]
 [308:5]
effectively [43:19] [84:11]
 [253:3]
effectiveness [102:10]
effects [190:8]
efficacy [186:10]
efficiencies [128:7]
efficiency [12:5] [118:4]
 [243:13]
efficient [5:13] [43:20]
 [229:12]
effort [4:24] [6:12] [86:1]
 [148:12] [161:23] [171:21]
 [193:17] [219:18] [267:10,19]
 [273:4,5]
efforts [14:8] [17:21] [62:23]
 [63:20] [64:3] [92:12]
 [116:25] [215:13] [255:11]
 [256:8]
eggert [1:13]

egregious [61:17]
eight [80:22] [185:18] [224:7]
either [17:15] [55:3] [61:11] [70:18] [74:13] [92:16] [93:5] [98:5] [123:16] [126:25] [140:25] [156:25] [158:6] [160:15] [181:5] [189:11] [191:15] [198:15] [220:2] [261:20] [306:23] [311:16,18] [312:4]
elaborate [223:18]
electric [232:20]
electronic [19:4]
electronically [20:2]
element [151:16] [155:7] [198:5] [201:18]
elements [151:15] [170:20] [184:22] [188:25] [214:21] [215:7] [216:8] [221:11]
elicit [31:14]
eliminate [203:21] [210:25]
eliminating [168:17]
ellen [2:4] [98:20,21]
elongated [114:13]
else [56:3] [102:7] [121:23] [139:12] [140:20] [143:17] [188:5] [189:12] [264:1,5,6] [270:14] [284:6]
elsewhere [217:9]
embark [84:5] [106:9] [139:18]
embarked [42:12]
embarrassing [74:10]
embedded [32:6] [45:24] [116:21]
embodied [65:19] [88:5] [108:14] [113:21]
embodies [65:25] [101:16]
embodiment [28:6]
embrace [9:23] [30:9] [301:25]
embraced [17:1] [44:15] [65:7] [86:8] [302:1]
embracing [38:8] [47:1] [65:2]
emergency [13:3] [14:4,8] [139:19]
emerging [38:8]
emphasis [18:5]
emphatic [130:24]
employ [24:25]
employment [10:13] [239:17]
empower [139:21] [258:25]
empowers [51:7]
empty [62:6]
enable [149:6]
enables [19:22]
enabling [43:20]
encounter [167:2]
encourage [223:24]
encourages [237:11]
encumbered [46:20]
end [6:4] [10:11] [19:5] [39:4] [62:25] [84:14,15] [96:7] [122:16] [133:3] [134:24] [155:10] [210:7] [217:16] [218:1] [237:7] [242:7] [246:5] [262:21] [264:10] [314:5]
ended [150:14]
energizes [227:5]
enforcement [5:10] [6:2] [9:6] [11:16] [12:13,21] [14:6,21] [17:11] [18:1] [24:12,23] [29:6,16] [32:12] [33:15,19] [36:17] [38:22] [40:14] [41:17] [43:6,9] [49:10,18] [50:11] [71:5] [72:14] [73:8] [96:8] [125:9,15] [126:16,18] [127:3] [129:18] [140:13] [144:20] [148:6] [182:25] [183:13] [184:4] [205:5] [232:18] [234:8] [235:20,24] [236:3,7,15,20] [238:22] [244:7] [245:2] [247:17] [249:8,17] [255:7,16,18,24] [256:1,20] [265:18] [269:9] [273:15] [277:20,21] [280:2] [283:16,18,21] [285:6] [290:2] [294:17] [305:22]
engage [71:5] [74:8,25] [109:14] [115:16] [181:12] [202:7] [220:8] [221:7] [225:23] [226:1]
engaged [21:25] [112:5] [114:5] [144:19] [154:23] [162:3] [173:8] [232:11] [298:18]
engagement [17:25] [227:1] [228:17]
engages [51:2] [59:17] [227:5]
engaging [69:24] [72:18] [164:3] [227:14,16] [255:9]
enhance [126:6] [241:10] [246:1] [250:7]
enhanced [5:23] [33:5] [136:12]
enhancement [232:17]
enhancements [231:13] [232:10]
enhancementthat [232:17]
enhancement-that [232:17]
enhances [13:25]
enjoy [285:24]
enjoyed [46:7,8] [94:7]
enlist [127:13]
enormous [102:19] [103:3] [116:17] [124:17] [130:15]
enough [60:4] [100:19] [130:11] [146:6] [199:20] [226:25] [230:6,17] [269:25] [279:12]
enrolling [42:25]
ensue [244:15]
ensure [5:21] [22:18] [32:21] [38:21] [40:20] [242:8] [243:23] [245:23] [249:5] [250:16]
ensured [37:22] [242:1] [243:19,25] [250:11]
ensuring [38:25] [237:21] [245:18]
entails [155:15]
enter [121:20] [307:1]
entered [4:12] [10:22] [13:21] [19:7] [37:12] [151:11] [154:25]
enters [151:3]
entire [25:13] [91:10,12] [102:15] [104:4,13] [159:1] [185:17] [230:19]
entities [40:13,18] [98:2] [259:5]
entity [46:3,19] [66:13] [257:14] [258:25]
entrance [6:21]
entries [106:15]
entry [27:6] [112:25]
enumerated [18:16]
environment [12:3] [72:14,15] [145:23] [237:8]
environments [285:23]
envision [86:13,16] [130:23] [248:6] [275:23] [276:6,25] [313:15]
envisioned [139:14] [171:17]
equal [10:13] [241:25] [245:9] [251:23] [257:3] [294:2] [296:7]
equally [206:8]
equals [66:10]
era [13:21] [94:15] [159:12] [209:8,12]
eradicate [4:13]
erode [108:22]
error [156:18,21] [162:10]
errors [16:17] [162:8] [164:7] [175:8] [185:8]
escort [62:7]
esoteric [215:7]
especially [60:9] [111:25] [140:20] [256:15]
esq [3:7]
esquire [118:9]
essence [40:5]
essential [39:10] [183:16] [205:9] [235:20]
essentially [177:17] [186:5] [291:1]
essex [239:20]
established [5:6] [23:21] [151:22] [154:1] [175:17] [196:11] [216:11] [222:3]
establishing [114:6] [150:21]
establishment [40:22] [43:16] [146:13] [237:8]
estimates [296:11]
estimation [100:6]
et [152:25] [205:2]
ethical [41:19]
ethically [94:14]
ethics [36:22] [245:4] [280:4]
ethnicity [21:3] [22:21] [63:4] [75:2] [136:23] [197:7] [236:14] [237:10] [238:24]
evaluate [224:20]
evaluation [11:5] [22:3] [51:18] [134:25] [136:4] [210:7,8] [276:13]
evaluations [28:4]
evansville [148:8]
even [5:23] [7:5] [51:14] [55:12] [69:1] [74:2,16] [75:17] [89:16] [96:15] [109:9] [121:8] [123:1] [149:2] [160:18] [163:19] [164:15] [171:17] [174:22] [176:13] [179:21] [186:3] [191:25] [196:14] [199:1] [230:21] [231:12] [261:17] [295:5] [304:24]
event [5:20] [14:12] [111:8] [189:16]
events [10:23] [11:11] [190:11] [226:15,16] [232:13]
eventually [189:10] [213:6] [277:16]
ever [96:9] [185:25]
every [10:2] [12:9] [18:15,23,25] [22:2] [23:4] [26:20] [27:8,13] [32:7,8] [47:25] [52:24] [58:8] [92:11] [95:18] [105:24] [106:1] [110:15] [114:2] [121:3,23] [125:19] [132:21] [134:3] [151:15] [152:8] [162:21] [163:19] [177:10] [181:2,17] [185:16] [199:21] [202:23] [203:8] [212:21] [213:8] [223:2] [229:3] [230:9] [250:11] [251:19] [262:4] [263:12] [264:7] [277:23] [282:6,7] [292:13] [297:2] [301:3,11,17]
everybody [52:3] [72:9] [88:19] [93:15] [101:12] [102:7] [108:25] [114:16] [121:23] [138:4] [251:6] [291:15]
everybodys [138:5] [264:13]
everyone [7:19] [196:18] [218:4] [235:9] [271:13] [292:15] [305:5] [314:5]
everything [46:2] [77:21] [79:8] [117:20] [124:8] [125:1] [160:21] [174:24] [224:14] [252:9] [286:15] [293:22] [302:23] [304:14,18]
everywhere [56:3]
evidence [10:16] [17:22] [27:1] [36:13] [40:15] [120:10] [168:18] [201:15] [242:9,15] [298:10]
evident [205:14,16]
evoked [135:3]
evolution [131:3]
evolve [12:12] [100:2]
evolved [9:23] [123:25]

[162:6]
evolving [122:12] [125:11]
exactly [132:25] [165:20]
 [190:21] [198:25] [199:3]
 [206:2] [221:18] [258:25]
 [260:18] [307:2]
exam [62:20,22] [63:5,6,11
 ,17,19,23] [64:4]
examine [38:15]
examined [206:3]
example [24:18] [76:2]
 [100:25] [109:13] [157:4,8]
 [161:6] [164:10] [170:12]
 [171:1,8,13] [178:19]
 [182:24] [191:10,14,17]
 [202:8] [221:14] [224:1]
 [226:11] [230:11] [284:21]
 [299:9]
examples [76:1]
exceed [9:23] [180:5] [187:
 18] [188:10]
exceeded [188:8]
excellence [29:17] [30:13]
 [38:7,13] [43:18] [44:16]
excellent [182:8] [195:3]
 [200:3] [223:23] [224:13]
 [226:4] [232:23] [286:24]
except [285:21] [307:5]
exception [137:5] [142:14]
 [225:9]
exceptionally [172:24]
 [222:7]
exceptions [222:5]
excessive [243:14]
exchange [129:16]
exciting [85:4]
excuse [77:6] [114:14]
 [264:21]
execute [17:16] [89:3]
executed [244:23]
execution [154:20]
executive [10:8] [32:17]
 [39:16] [107:11] [147:17]
 [189:24] [244:22]
executives [34:1]
exemplary [35:11]
exercise [13:12,16]
exercised [312:2]
exercises [145:11]
exert [144:1]
exhaustive [18:17] [24:6]
exist [111:2,10] [195:19]
 [221:10]
existed [105:12]
existence [157:9] [280:20]
existing [10:22] [13:8]
 [38:18] [42:5] [151:1]
exists [97:6] [163:4] [169:2]
 [202:23] [243:6]
exit [18:12] [205:7]
exits [19:6] [87:14] [111:16]
exorbitant [164:13]
expand [187:19,22] [203:19]
 [312:6]
expanded [11:15] [34:12]
 [279:14] [308:11]

expanding [203:18]
expect [7:19] [49:15] [72:10]
 [167:19] [197:14] [282:13]
 [288:15]
expectations [58:6]
expected [139:14] [199:15]
expects [125:13]
expeditious [295:1]
expensive [163:6] [180:1]
 [223:6]
experience [111:14] [153:6]
 [161:25] [176:8] [178:10]
 [191:4] [192:1] [203:6]
 [204:1] [214:8,23] [219:20]
 [239:24,25] [244:10]
experienced [145:10]
 [153:4] [181:13] [248:20]
experiences [9:22] [143:6]
expert [10:6]
expertise [41:6] [94:25]
 [206:14] [251:25] [269:7]
 [300:19]
experts [127:14]
explain [30:7] [45:16] [110:
 3] [144:11] [172:9]
explained [112:11] [169:7]
 [215:15]
explore [128:12]
export [90:17]
exportation [84:16]
exported [57:4]
exposure [13:15]
expound [49:6]
express [44:6]
expressed [166:16]
extend [107:15]
extended [78:12] [142:6]
 [191:12,13] [192:11]
extending [106:4]
extension [142:1] [191:6]
extensive [13:19] [239:25]
extent [53:7] [105:4] [155:25]
 [181:13] [188:23] [206:18]
 [220:1] [226:21] [289:7]
 [291:2]
external [82:23] [86:6]
 [164:19] [268:23]
extinguished [189:2]
extra [98:11] [113:20] [171:
 25]
extraordinarily [102:7]
extrapolate [170:4]
extrapolating [146:3]
extremely [183:2] [218:23]
 [249:23]
eye [193:9,10,14]
eyes [164:17] [212:10]

F

face [140:17]
faced [29:24]
facets [32:5]
facilitate [39:10] [237:5]
facilitating [41:15]
facilities [241:7]

facility [240:17]
facing [12:22] [101:20]
fact [10:16] [32:4] [45:13]
 [69:23] [85:15] [88:24]
 [90:23] [99:13] [115:15]
 [126:17] [127:16] [130:7]
 [135:6] [144:15] [146:8]
 [175:6] [199:21] [202:4]
 [214:7] [219:2,7] [254:21]
 [274:9] [277:14] [294:14]
 [306:12] [308:2]
factor [236:14]
factored [110:13]
factors [172:10,13]
facts [38:16] [149:8]
factually [156:11]
fail [58:3] [63:6]
fails [196:18]
failure [66:6] [214:12]
fair [5:13] [71:5,17] [82:9]
 [240:9] [289:8,12]
fairly [49:3] [62:8] [152:2]
 [157:2] [223:11] [236:1]
faith [5:9] [38:5]
fall [32:21] [59:12] [103:16]
 [167:21] [208:15] [306:13,14]
falling [70:24] [71:11]
falls [21:10] [307:1]
familiar [167:24] [185:6]
 [196:4] [204:24,25] [205:4]
 [217:4]
far [10:11] [28:11] [114:25]
 [118:19] [161:5] [180:5]
 [188:9] [199:23] [203:19]
 [225:7] [234:21] [240:4]
 [260:19] [263:5]
farther [109:10] [120:23]
fashion [143:5]
fatalities [13:15]
favor [68:5] [162:16] [164:5]
 [297:15]
fbi [8:24] [11:19] [46:24]
fears [73:6]
fed [78:1]
federal [4:18] [5:17] [9:24]
 [10:7] [13:11,13] [15:17]
 [27:13] [29:8] [39:9] [40:5,12]
 [42:8] [43:13] [44:10]
 [47:20] [69:9,10,21,23]
 [70:1,3] [74:18] [79:19]
 [80:3] [82:5] [83:17] [94:9]
 [97:2,6] [102:4] [117:24]
 [122:4] [124:7] [132:16]
 [134:16] [147:16] [148:16]
 [150:2] [155:1] [244:9]
 [267:23] [269:13] [283:8]
 [289:14]
feedback [30:23] [31:14]
 [40:19] [194:1] [208:6,9]
feeder [128:15]
feeding [163:5]
feel [45:16] [49:7] [130:10]
 [132:7,9,10,24] [143:16]
 [178:8] [184:24] [216:9,25]
 [251:9] [252:21] [285:8,10]
 [306:5]

feelings [132:12] [193:22]
fellow [14:21] [120:16]
fellows [203:24]
felt [106:21] [156:1] [160:24]
 [217:17]
female [137:17,19] [275:2]
females [137:6]
fences [138:18]
fertile [221:4]
fetches [263:5]
few [34:13] [47:3] [122:17]
 [164:25] [177:8] [203:12]
 [211:24] [218:19] [222:4]
 [225:4] [289:3] [293:20]
fewer [212:2,3]
fictitious [26:17]
field [16:3] [23:5,7] [32:16]
 [36:8] [44:14] [123:6]
 [135:4,6,17,22] [136:1]
 [149:3] [196:5] [203:10]
 [221:4] [223:9] [230:18]
 [233:7] [261:3] [292:9]
fifth [137:2]
fighting [120:15]
figure [56:17,24] [59:19]
 [180:3,8] [300:23]
figures [57:5]
file [201:17] [310:5]
filed [152:6]
files [106:18] [201:11]
 [206:4]
filing [15:18]
fill [233:12] [292:22]
filled [169:21]
filling [37:2]
film [271:12]
films [220:18,19] [224:22]
filters [208:7]
final [72:5] [116:23] [121:5]
 [131:16] [225:17] [237:2,23]
 [245:15,25] [255:6]
finally [5:24] [8:8] [247:5]
finance [240:16]
find [51:14] [103:18] [114:4
 ,13,14] [125:10] [154:7]
 [158:25] [169:10] [179:19]
 [199:3] [200:19] [207:14]
 [231:1] [244:18] [247:20]
 [292:4]
finding [59:18,19] [154:22]
 [185:8]
findings [21:14] [44:5]
 [206:19] [215:13] [246:23]
finds [33:14]
fine [92:11] [259:12] [282:19
 ,21] [303:1]
finish [8:15] [45:2] [149:6]
 [233:6]
finished [129:21] [186:17,18]
fire [14:7] [15:6] [143:21,23]
 [144:1]
firm [46:13] [148:14] [206:25]
firmly [40:7]
first [1:8] [4:6] [5:16] [6:17]
 [8:3] [13:17] [16:18] [43:23
 ,25] [45:8] [48:9] [55:20]

[59:16] [69:4] [75:15] [80:12] [81:24] [82:14,24] [83:9] [104:16] [105:15] [122:24] [125:6] [129:21] [134:23] [136:9] [137:19] [139:22] [144:11] [149:25] [150:5,11,17] [151:23] [157:17] [159:3] [162:2] [176:18] [177:1] [180:20] [200:1] [204:9,14] [207:4] [208:24] [220:19] [224:11] [225:2] [226:5] [231:15,16,19] [239:12] [258:19] [270:11] [271:11] [272:2] [276:20] [279:22] [284:1,2] [287:4] [305:3,4] [308:20] [309:7]

fishing [50:18] [230:19]

fit [7:5] [60:5] [128:18] [299:10]

five [28:18] [44:23] [61:15] [77:1,7] [111:21] [159:22,23] [163:5] [186:1] [191:11] [199:20,23] [213:22] [232:9] [250:24] [278:23] [284:14]

fixed [266:19]

flag [110:4]

flags [110:3]

flarity [10:8] [147:3]

flexible [186:6] [230:6]

floods [12:7] [13:18]

floor [109:11] [187:17] [234:12] [240:18,20]

flow [158:11] [292:15]

floyd [2:8] [52:6,7,8,10] [131:5,6] [132:5] [208:22] [210:23] [259:11,23] [260:7]

fluctuating [12:22]

focus [23:15] [103:15] [154:19] [254:4,8,9] [307:23]

focused [103:4] [112:1] [170:19] [305:20]

focuses [36:20]

focusing [15:8]

fold [284:6] [296:23]

folks [123:17] [133:23] [153:2,5] [168:9,13] [191:21] [204:21] [205:11] [213:12] [224:17] [225:5] [228:12] [232:14] [268:2,4,9,14] [286:13]

follow [75:3] [85:21] [91:8] [122:17] [129:25] [179:17] [197:12] [203:16] [250:21] [262:14] [274:1] [310:10]

followed [130:10] [201:16] [280:7]

following [6:13] [165:1] [227:15] [246:10] [252:20] [269:18] [304:4]

foot [81:11]

footnote [11:8]

force [8:25] [11:19] [23:25] [25:14] [31:11] [41:5] [134:14] [194:19] [208:13] [211:21] [220:21] [241:24] [243:15] [257:25] [273:1]

forces [266:12] [310:24,25]

foregoing [315:6]

foreign [86:12]

forge [32:22] [138:20]

forged [33:14]

forget [51:11]

forgotten [159:11]

form [22:17,24] [25:11] [27:6] [34:17] [86:6] [95:2,25] [116:14] [119:11] [142:2] [143:23] [163:15,17] [164:15] [169:20,23] [187:22] [198:11,22] [199:2] [201:9] [211:11] [212:11] [218:13] [244:12] [261:1] [292:21,22] [299:4]

formal [33:7] [102:4]

formalizing [307:20]

formed [225:2] [283:13]

former [46:24] [87:7] [91:22] [147:22] [244:23] [256:25] [282:3]

formerly [10:9]

formulation [33:11] [165:13]

forth [9:24] [96:16] [158:9,24] [159:7] [219:13] [257:24] [267:19] [271:4] [315:9]

forward [38:7] [47:2] [65:5] [67:1] [68:9] [81:21,22] [86:4] [90:25] [92:9] [101:20,24] [102:24] [103:11] [114:10] [120:17] [121:2] [123:16] [126:22] [127:3] [130:25] [147:2,5] [194:8] [203:15] [213:18] [214:2,4,5,6] [215:11] [226:3] [244:19] [291:5] [293:9,10,11] [298:12] [311:7] [313:14]

forwarded [242:19]

fought [182:1,2]

found [4:15] [7:12] [16:13] [20:8] [26:16,18] [159:4] [178:22] [179:23] [183:23] [197:13]

foundation [30:15] [107:25]

four [15:23] [23:9] [59:25] [60:7] [86:18] [157:18] [191:18] [193:2] [226:22] [232:9] [239:7] [279:10,15] [284:14] [285:16] [287:9] [294:18] [295:6]

frame [68:7] [94:4] [100:15]

framed [66:22] [87:25]

framework [68:11] [109:21]

frank [94:8] [142:12]

frankly [40:3] [51:18] [57:25] [85:12] [91:2] [176:24] [232:2]

fraudulent [26:17]

free [1:24] [34:13] [243:1,23] [250:18] [312:5]

freedom [109:22]

frequent [164:6]

frequently [86:13] [164:5]

fresh [40:19]

friend [119:15]

frisk [124:2] [205:6]

frisks [19:6]

front [18:21] [63:16] [173:5]

fuentes [3:4] [8:4,14,16] [9:4,14,18] [44:20] [45:6,19] [47:13] [49:12] [50:2] [52:9,21] [54:19] [56:16] [59:1] [61:13] [62:18] [65:18] [66:20] [68:1] [69:6,19] [70:9,15] [71:23] [72:25] [73:16] [75:8,13] [76:3,18,22,23] [77:5,11,20] [78:5] [79:7,11,16] [82:11] [83:16] [86:20] [87:24] [88:3] [89:7] [90:2] [91:11,15] [92:1] [93:14] [95:14] [96:22] [97:24] [98:24] [99:17] [101:1] [104:15] [108:6] [110:7] [112:24] [115:3] [116:13] [117:10] [118:7] [119:10] [121:17] [123:24] [127:9,13,22] [128:13] [130:14] [131:12] [132:10] [134:8] [136:14] [138:21] [140:10] [142:7] [143:14] [145:14] [146:25] [165:2] [168:22] [169:7] [173:20] [176:21] [180:2] [182:19] [189:10] [193:12] [200:22] [203:21] [218:5] [229:24] [262:10] [271:15] [281:10] [301:1] [309:4] [312:11]

fulfill [123:11]

full [24:7] [29:17] [36:18] [41:8] [55:3] [237:5] [241:5] [303:13]

fulltime [41:8] [55:3] [303:13]

full-time [41:8] [55:3] [303:13]

fully [12:16] [95:7] [213:13]

function [42:2] [93:1] [167:7,8,10,20] [180:17] [201:20] [204:7,20] [205:10] [207:4] [212:18,19] [217:14] [235:22] [241:9,14] [251:16] [252:3] [253:20,23] [255:10,11] [256:19] [258:13] [259:24] [260:9,21,23] [262:11] [264:14] [284:8,22]

functions [13:9] [54:22] [56:2,5] [201:3,6] [245:4,7] [262:11]

fund [66:5] [89:18] [146:16,17] [180:11]

fundamental [54:24] [56:8] [74:23] [75:3] [143:23] [174:10,25] [175:5]

fundamentally [122:10] [174:20]

funded [68:23]

funding [39:17,24] [56:13] [58:1,11] [66:1,10] [82:25] [89:19,22] [94:12] [107:22] [108:21,23] [109:9,22] [167:12] [180:15] [181:8,14] [182:1] [186:8] [215:24] [219:10] [230:8] [246:8] [248:18] [267:14] [278:2,4]

funds [96:17]

further [16:20] [146:15] [245:23] [250:7]

furthermore [40:17] [237:25]

future [15:7] [38:8,14] [42:21] [48:13] [68:18] [85:1] [89:19] [92:9] [94:5] [105:3] [107:21] [108:3] [109:6,19] [110:5] [131:24] [132:4] [154:2] [160:10] [182:23] [200:7] [216:7] [232:9] [249:11]

G

gain [25:4] [37:24]

gained [29:7,9] [221:5]

gaining [249:13]

gains [38:17]

galloway [139:4]

gals [172:25]

game [181:15]

gang [8:25] [12:8] [14:22] [55:15] [72:16] [144:7] [291:12]

gangs [12:10] [55:18] [120:15]

garden [28:17] [89:11]

gather [65:3] [128:21]

gathered [19:1] [32:19]

gathering [95:3] [117:13]

gauche [70:16]

gauntlet [68:17]

gave [70:23] [77:1] [92:24] [112:11] [160:21] [180:3] [290:8]

ge [232:15]

gender [20:14] [21:3] [22:22] [43:2] [74:1] [75:1] [136:23]

genders [63:4]

general [8:20] [13:9] [40:2] [41:22] [62:1] [80:13] [87:8] [88:16] [94:18] [95:25] [96:13,15,16,17] [97:7,14] [98:14,17] [100:10] [104:3,10,20] [149:19] [154:22] [166:13,15] [192:23] [193:9,18] [194:2,7] [214:18] [217:22] [218:7] [232:20] [237:15,19] [239:4,10] [240:13] [244:21,23] [245:1,13] [247:16] [248:24] [249:1,4] [250:4] [255:3] [256:23] [266:11,16,21] [267:2,5] [275:16] [280:9] [283:9] [284:18] [285:22] [289:18] [306:14] [309:17]

generally [56:21] [202:16] [219:21]

generals [39:15] [48:5] [63:8,22] [67:11] [70:2] [80:23] [81:7] [82:22]

[84:25] [85:6] [86:25] [87:1]
 [92:20] [93:9] [94:22]
 [95:10,21] [96:1] [97:4,20]
 [105:10] [116:8] [132:18]
 [134:21] [163:18] [166:19]
 [193:1] [217:9] [235:8]
 [253:16,21,24,25] [255:8]
 [258:4] [266:2,5] [276:2]
 [280:6] [288:23] [300:14]
 [301:15] [303:17]
generate [44:16] [57:17]
 [60:7] [135:11] [179:10]
generated [18:3] [20:22]
 [23:11] [27:4] [35:21]
 [36:4,11] [76:11,12] [113:5]
 [119:18] [144:16]
generates [18:25]
generating [21:22]
generously [6:12]
gentleman [62:25]
gentlemen [4:4] [190:14]
 [208:21] [213:16]
geographic [78:4]
geography [11:23]
gets [51:1] [59:20] [78:1]
 [97:7] [117:22] [124:13]
 [171:10] [181:16] [208:6,8]
 [223:11]
getting [74:17] [98:15]
 [105:19] [121:19] [194:1]
 [199:13,16] [208:8] [219:6]
 [232:15] [263:6,8] [297:5]
giants [120:25]
gilbert [292:7] [303:15,16]
ginger [3:7] [8:6] [147:14,21]
 [149:9,11,17] [160:3]
 [161:8] [162:23] [164:23]
 [165:17] [166:24] [170:8]
 [173:18] [175:2] [176:7]
 [178:9] [180:25] [183:15]
 [185:5] [187:10,24] [189:3]
 [190:18,21] [191:9] [196:3]
 [198:5] [199:7] [202:6]
 [203:5] [204:6,19] [205:22]
 [207:20] [209:16,24] [211:
 8] [213:19,23] [214:7]
 [215:16] [217:21] [221:11]
 [222:21] [223:20] [226:4]
 [230:5] [231:15] [287:12]
 [312:11]
girt [8:22]
give [47:11] [65:11] [66:21]
 [76:1] [85:19] [86:18]
 [88:19] [93:10] [98:17]
 [100:25] [106:16] [109:6,20]
 [149:18] [161:6] [163:1]
 [164:8] [165:21] [166:3]
 [168:8] [178:7] [185:13]
 [201:8] [204:4] [215:19]
 [218:1] [219:22] [248:8]
 [250:1] [272:18] [274:22]
 [286:20] [297:17] [300:22]
 [310:8]
given [7:18] [21:1] [57:5]
 [59:6] [61:1] [100:21]
 [116:14] [126:14] [142:25]
 [150:23] [168:5] [174:13]
 [197:25] [228:17] [232:16]
 [235:6] [239:4] [247:16]
 [248:15] [263:14] [267:22]
 [307:7] [311:7] [312:23]
gives [24:23] [53:12] [105:21]
 [115:25] [228:12] [235:17]
 [241:5] [285:19] [312:9]
giving [6:11] [77:12] [98:1,11]
 [139:20] [201:24] [204:3]
 [235:2] [293:25]
glad [78:7] [129:18] [252:8]
glimpse [103:7]
glitches [121:11,22] [122:7]
global [23:23] [138:12]
 [295:18]
globally [56:17]
gloucester [290:3]
go [30:11] [44:24] [45:22]
 [46:12,18] [51:16,24]
 [57:18] [58:19] [59:21,22]
 [60:15] [61:22] [63:11]
 [66:12] [74:3] [78:22]
 [81:22] [91:20] [92:9]
 [96:10] [102:3] [106:18]
 [109:5] [110:20] [113:19]
 [117:3,15] [119:13] [125:4]
 [126:7] [133:1,6] [134:5]
 [135:1,11,13] [136:8]
 [137:3] [140:20] [141:21]
 [168:16] [178:21] [181:16]
 [189:1] [196:13] [197:6,7]
 [204:9] [224:3] [227:24]
 [231:22,23] [232:14] [249:
 13] [261:25] [263:13] [266:
 12] [269:25] [271:6,21]
 [272:7,12] [276:12] [277:12]
 [278:3] [279:12] [280:23]
 [283:2] [284:11,20] [289:18]
 [291:1,11] [303:20] [304:18]
 [305:7] [306:3,22] [307:13]
 [308:16]
goal [134:24] [156:9] [176:6]
 [187:25] [193:4] [194:8]
 [210:25] [211:12,15] [215:
 5] [218:2,3] [291:6]
goals [167:5,7,10,16,17]
 [168:15,16] [193:7] [204:12
 ,13] [209:18] [210:11,16]
 [231:18]
goes [51:5] [57:13] [79:18]
 [113:7] [123:6] [126:2]
 [128:2] [134:10] [135:25]
 [167:15] [186:7] [241:10]
 [262:2] [286:2]
going [39:20] [44:20,22]
 [50:21] [55:21] [57:2,18,19]
 [58:1,3,19] [60:7] [63:24]
 [64:1,22] [65:4] [66:22]
 [67:2] [72:2] [73:10,18]
 [86:3] [87:4,23] [88:17]
 [89:15] [90:21,22] [91:5,20]
 [93:12] [94:24] [96:9,12]
 [102:24] [103:11] [104:24]
 [106:12,16] [109:13,14,15
 ,18,24] [117:25] [120:19]
 [121:7] [123:16] [126:21]
 [127:21] [128:4] [130:10]
 [132:3] [133:17] [135:8]
 [136:3] [140:18,24,25]
 [141:1,12,17] [142:12]
 [144:17] [145:25] [146:11]
 [147:2] [162:14] [164:2]
 [165:19] [166:20] [172:2]
 [173:2] [183:6,22] [184:14]
 [185:25] [189:11,22] [190:
 2] [203:17,18] [206:2,3,5,13
 ,14,18] [207:15] [208:1,22]
 [216:19] [226:2] [228:10]
 [229:13,24,25] [232:4]
 [233:21] [234:24] [250:21]
 [252:9,12] [254:15,17]
 [257:22] [258:17] [261:15,20
 ,24] [262:16] [263:11]
 [267:13] [269:23] [272:13]
 [273:6] [274:19,22,25]
 [275:5,8,17,21] [276:1,10]
 [278:24,25] [279:7,16,19]
 [284:12] [287:14] [288:9]
 [291:5,21] [294:15] [295:9]
 [299:13] [301:21] [303:15,16]
 [304:5] [305:9] [306:22]
 [307:13] [308:14] [310:15,20]
 [311:6,10,11,12] [313:14]
golden [1:21]
goldstein [2:9] [91:21,22,24]
 [92:2] [95:5] [96:3] [97:18]
 [98:18] [199:25] [200:1]
 [201:24] [202:3] [203:3,16]
 [204:17] [205:20,23] [206:
 23] [208:23] [260:13,14,16]
 [262:9,19] [264:9,18]
 [265:1,20]
gone [4:24] [58:19] [113:4]
 [132:25] [187:13] [199:21]
 [200:8] [219:6] [277:16]
 [298:8] [299:18,24] [314:2]
good [4:1,3] [45:11] [50:10
 ,17] [52:8,9] [53:13] [58:6]
 [63:1,21] [64:11] [69:22]
 [70:3] [72:24,25] [75:20]
 [76:21,23] [80:14] [81:20]
 [83:20] [85:1] [87:21]
 [88:18] [91:25] [92:1]
 [98:9] [102:6] [106:8,23]
 [107:13] [118:15] [129:17]
 [134:18] [136:17,20] [137:
 14] [140:5] [141:15] [142:11]
 [146:9] [147:8,10] [154:11]
 [161:16,18] [168:2] [171:4]
 [172:7,20] [184:8,13]
 [186:17] [195:1] [202:24]
 [210:3,17,21] [213:1,11]
 [215:20] [216:14] [218:8]
 [219:3,15] [221:20] [222:16
 ,21] [223:3] [234:14,15]
 [251:1,3] [254:8] [259:11]
 [260:14,15] [265:22,23]
 [272:21] [285:18] [293:16,17]
 [294:13] [305:15]
gormley [68:2]
goss [10:11] [62:25] [147:3]
gotcha [53:12] [272:1,4,5]
gotten [55:24] [84:6] [132:20]
 [268:19] [285:8,10]
government [12:7] [74:19]
 [150:2] [155:1] [268:23]
 [310:17]
governor [5:6,14,24] [6:4]
 [7:11] [40:2] [58:13] [88:16]
 [131:1] [248:16] [265:6,8,14]
 [267:16] [268:3] [272:16]
 [296:16] [310:21]
governors [39:16]
graduated [148:24]
granted [27:2] [51:10]
 [62:2] [169:22,25]
graphs [105:19]
grapple [180:14]
grateful [81:20] [289:2]
grave [298:9]
great [4:23] [31:7] [58:16]
 [73:5] [79:12] [80:20]
 [87:12] [98:8] [105:17]
 [107:14] [118:19] [119:20]
 [122:25] [135:25] [136:2]
 [137:15] [145:16] [161:2]
 [177:7] [185:24] [186:24]
 [194:25] [197:8] [218:20]
 [222:12] [256:10] [302:10]
 [303:4]
greater [16:2,4] [39:13]
 [53:7] [57:13,15] [126:15]
 [156:15] [159:16] [196:14]
 [207:8] [226:24] [310:12]
greatest [67:10] [101:6]
 [160:17] [277:8]
greenberg [148:14]
ground [134:1]
grounded [12:15] [13:23]
 [41:1] [80:1]
group [5:12] [21:1] [23:14,22]
 [24:4] [25:21] [32:19]
 [33:1] [40:24] [51:22]
 [63:6,18] [93:23] [96:4,6,11]
 [97:19] [100:12] [105:24]
 [203:24] [217:6] [264:15]
groups [24:18] [98:2,3]
 [135:23] [137:22] [139:4,16
 ,18] [196:25] [197:4] [211:13]
grow [103:13]
grown [171:21]
growth [37:24] [40:21]
 [137:10]
guarantee [39:23] [66:4]
 [88:6] [99:19] [190:3]
 [249:11]
guarantees [67:10] [71:17]
 [85:17] [92:13]
guarantor [246:3]
guard [103:21] [105:14]
 [124:11] [177:25]
guess [49:3] [77:1,20]
 [83:1,14,19] [87:16] [93:7]
 [107:23] [118:23] [122:11]
 [129:6] [132:12] [138:9]
 [186:23] [208:17] [223:4]
 [263:18] [287:19] [300:7]

guessing [84:15]
guidance [293:25]
guide [250:1]
guiding [14:11] [30:19]
gun [26:11] [72:15] [144:1]
guy [1:20]
guys [165:20] [172:25]
 [285:19]

H

hadnt [194:22]
half [26:7] [28:21] [78:10]
 [115:13]
hall [55:12,19,21]
hammer [287:23,24] [288:8]
 [309:18]
hand [6:20] [15:2] [48:23]
 [88:17] [95:11] [106:7,8]
 [107:5] [138:7] [149:8]
 [203:20] [217:3] [291:7]
handed [222:12]
handle [56:7] [293:1]
handled [41:21] [60:24]
 [198:8] [293:9]
handles [236:18]
handling [198:18] [261:22]
hands [204:1]
handwritten [27:7]
happen [73:17] [103:19]
 [162:6] [189:9,22] [216:12]
 [218:19] [257:16] [261:24]
 [275:6] [278:7] [282:6]
 [288:6]
happened [75:19] [87:21]
 [88:9] [175:10] [189:17]
 [219:11] [263:25] [264:2]
 [287:11] [311:16]
happening [51:21] [59:20]
 [135:10] [137:11,12,14]
 [174:8] [266:18]
happens [68:20] [73:18]
 [99:12] [133:13] [145:18]
 [232:21] [249:21] [262:2]
 [275:19] [292:23] [301:2]
happier [132:23]
happy [120:20] [197:21]
 [198:22,23,25]
hard [38:12] [80:19] [83:22]
 [85:11,25] [109:1] [118:21]
 [121:16] [144:17,18] [171:
 8,9] [172:3] [179:14] [199:11]
 [218:18] [264:4] [277:13]
 [302:11]
harder [207:18]
hardware [222:25] [223:7]
harm [44:2]
harms [236:2]
harris [2:10,11] [53:18,19,20
 ,25] [56:11] [58:14] [61:10]
 [62:9,11] [64:19,21] [133:2
 ,3,6,7] [136:8] [138:8]
 [143:3,4] [144:23] [146:23]
 [190:12,13,19,22] [192:16]
 [193:20] [194:10,11,12]
 [197:11] [199:5,24] [265:21

,22,24] [266:4,7,17,22]
 [267:22] [268:8] [272:23]
 [274:8] [275:9,10] [276:9]
 [278:13]
harriss [138:10]
harvey [193:14] [244:23]
 [245:17] [266:16] [273:7]
 [280:11]
hashing [287:13]
hasnt [68:13,14] [75:19]
 [90:10] [192:11] [206:1]
 [278:19] [287:6]
hate [205:16] [212:22]
havent [83:7] [105:6] [196:24]
 [224:16]
having [46:2] [50:13] [55:21]
 [56:4] [57:7] [62:3] [66:13]
 [70:7] [81:25] [85:2,4,6]
 [90:24] [92:6] [93:1,18]
 [94:20] [106:24] [130:23]
 [136:24] [144:8] [160:4]
 [163:14] [173:7] [177:5]
 [186:7] [191:16] [207:9]
 [208:25] [209:13] [262:24]
 [275:18] [276:21] [278:11]
 [285:24] [291:18] [297:1]
 [298:8] [302:24]
head [10:15] [193:8] [255:20]
 [287:22]
headed [237:18]
heading [309:17]
headquarters [54:1] [79:22]
 [168:2]
heads [127:23] [160:24]
heal [275:1]
healthy [184:4]
hear [4:22] [8:3,5,8] [53:17]
 [57:21,22] [67:17] [72:22]
 [80:20] [95:8] [186:21]
 [194:15] [200:7] [203:6]
heard [99:2] [126:3] [135:20]
 [166:7,8,11] [203:20]
 [224:14] [253:8] [268:8]
 [303:1] [311:7,15]
hearing [1:8] [4:6] [6:13]
 [7:6] [61:25] [62:1] [87:15]
 [111:17] [220:18] [233:22]
 [247:10] [250:24] [314:6]
hearings [6:18,19,22,24]
 [23:25] [42:17]
heart [168:25]
hearts [118:14]
heels [69:11]
heightened [73:20]
held [14:12] [32:7,11] [34:1]
 [40:11] [42:17] [96:9]
 [150:22] [301:24]
hello [160:2]
help [64:12,16] [83:14]
 [114:22,23] [121:12,15]
 [128:7] [201:4] [204:2]
 [205:21] [272:8,10,11]
 [284:9] [291:7] [295:19]
helpful [83:24] [160:21]
 [164:20] [182:25] [183:3]
 [225:21] [249:23] [310:11]

[311:14]
helping [55:17] [83:24]
 [90:8] [101:10] [107:6]
 [139:6] [165:6] [290:16]
helps [220:24]
hereby [315:6]
hereinbefore [315:9]
hes [71:10] [91:22] [124:13]
 [147:19] [174:23] [189:10]
 [197:25] [201:2] [229:18,24]
 [297:8] [304:3] [305:4]
hesitant [182:22]
hey [140:5] [257:11] [295:8]
 [305:3]
hide [226:18]
hierarchy [40:15]
high [24:5] [50:20] [71:8]
 [79:1] [172:15] [213:3]
 [231:11] [254:17] [293:12]
 [299:24]
higher [37:3] [40:24] [41:2]
 [149:7]
highest [17:8] [24:25] [28:25]
 [40:10] [113:21]
highway [1:22] [13:9] [32:13]
 [49:20] [52:24]
highways [249:16] [282:5]
hire [166:12,13] [183:7]
 [301:14,15]
hired [37:12]
hires [96:14]
hispanic [170:5] [274:6,10,17]
hispanics [70:21] [74:5]
 [196:7,15] [273:9]
history [12:25] [19:20]
 [63:10] [100:21] [111:25]
 [131:23] [140:19] [149:19,20]
 [154:9,14] [159:1] [205:1]
 [248:25] [291:18] [299:15]
 [300:4]
hit [63:1,4] [226:5] [228:1,2]
hits [113:15]
hold [90:24] [149:4] [233:8]
 [235:24] [276:3]
holds [9:9] [148:5,8] [234:9]
 [239:23]
home [267:24]
homeland [13:2,4] [120:15]
honest [146:5] [170:21]
honestly [192:12] [205:14]
 [208:14] [254:4]
honor [218:10]
hook [284:19]
hope [33:12] [67:4] [83:12]
 [90:17] [141:9]
hopefully [68:17]
hoping [33:16]
horizontal [20:23]
horse [208:23]
host [175:16]
hosted [33:17]
hot [243:1]
hotline [34:14] [243:23]
hour [34:13] [243:23]
hours [6:8] [185:18] [261:17]
housekeeping [7:13]

housing [13:3] [34:4]
however [69:25] [156:4]
 [160:11] [180:17] [183:14]
 [240:9] [241:11] [289:18]
 [291:13]
huertas [2:12] [64:23,24,25]
 [66:11] [138:9] [187:5,6,11]
 [188:11] [279:20,21] [280:
 12,25] [281:18] [283:6,14]
 [284:4,25]
huge [54:12] [175:9]
human [10:9] [16:11] [24:3]
 [68:20] [88:13] [156:23]
humanizes [105:20]
hundred [119:23]
hundreds [13:6] [55:2]
 [198:7]
hurdle [30:8] [198:14]
 [199:5,13]
hurdles [161:9] [285:12]
 [287:8] [291:8]
hurricane [14:18]
hurricanes [12:7]
hurt [274:24]

I

i95 [286:8]
ia [304:24] [310:5]
ias [257:20]
icp [91:1]
id [4:8] [8:11] [78:7] [100:14]
 [102:24] [118:8] [123:4]
 [126:6] [129:22] [233:3]
 [259:14]
idea [67:3] [74:8] [75:20]
 [77:13] [110:5] [115:13]
 [162:8] [173:11] [210:3]
 [219:3,15] [263:25]
ideals [37:9]
ideas [47:11] [88:12]
identification [32:24]
identified [16:10] [22:15]
 [150:18] [152:12] [156:18]
 [207:17] [225:22] [247:4]
 [248:12]
identify [17:14] [19:14,16]
 [22:5] [33:8] [126:25]
 [128:7] [138:25] [167:4]
 [204:20] [215:21] [231:8]
 [246:20] [312:15]
identifying [44:1] [168:15]
ideology [37:19]
ig [163:18]
ii [186:3]
ill [8:7] [45:20] [83:13]
 [93:14] [119:16] [124:1]
 [143:17,20] [180:25] [185:
 13] [204:9,15] [215:8]
 [225:14] [226:5] [231:15]
 [289:6] [309:5]
illegal [44:1] [236:13] [243:
 15]
illegally [274:2,6]
illinois [14:12]
im [44:17] [48:3,7] [49:5,22]

,24] [54:11] [68:5,19] [69:14
 ,24] [72:17] [81:20] [83:19]
 [84:14] [87:4,19] [88:17,22]
 [89:16] [90:2] [91:16]
 [92:23] [93:16] [94:19]
 [95:7,17,19] [96:24,25]
 [98:1,9,11] [99:8] [100:6,18]
 [101:1,19,20] [102:2,21,23]
 [103:8,9,11,14,22] [104:6,8
 ,19] [115:1] [118:11] [120:20]
 [123:14] [129:4] [131:25]
 [133:14] [134:25] [139:16]
 [140:18] [142:12,20] [145:
 8] [146:2] [149:12] [162:14]
 [163:7] [166:20] [183:20]
 [186:22] [189:22] [196:9]
 [200:23] [203:19] [204:17]
 [208:22] [209:20] [214:19,20]
 [218:11] [220:18] [226:24]
 [234:24] [252:8] [254:15]
 [257:6,7] [258:15,20]
 [260:18] [262:16,17] [263:
 20] [264:18] [265:4,25]
 [267:10] [268:16] [273:6,10]
 [274:22] [275:1,8] [278:9]
 [279:21] [280:22] [282:21]
 [283:14] [287:7] [289:2]
 [291:11,13] [293:21] [294:
 14] [296:4] [299:19,21]
 [302:13] [305:11,21]
imagine [199:10] [240:6]
 [279:1] [280:20]
imagined [4:16]
immediate [13:5] [27:10]
 [211:11,17] [212:1] [217:2]
 [220:8] [252:12] [294:9]
immediately [158:20] [208:
 9] [282:2,8,12]
immensely [34:12]
impact [11:9] [13:8] [43:15]
 [66:23] [67:6] [135:25]
 [136:2] [144:13] [310:7]
impartial [17:20] [67:10]
 [95:19,22]
impartiality [98:12]
impeccable [40:25] [45:25]
 [46:1] [93:18]
imperfect [122:11]
implement [4:19] [15:3]
 [48:18] [119:3]
implementation [11:2,4]
 [15:17] [33:9] [34:3] [42:9]
 [47:4] [119:6] [155:19]
 [185:3] [215:12] [236:15]
 [237:1,4,22,24] [285:13]
implemented [16:21] [36:24]
 [37:18] [42:15] [44:12]
 [54:25] [84:19] [88:25]
 [90:14] [104:23] [114:19]
 [121:3] [123:25] [132:21]
 [135:2] [200:9] [219:18]
implementing [9:15] [33:7]
 [87:13] [155:13] [234:2]
 [245:13] [255:22]
implicated [158:9]
implications [58:22]

implied [166:1]
implore [181:22]
import [129:14]
importance [56:12] [107:19]
 [143:17,18] [192:17] [225:
 20]
important [20:7] [21:23]
 [30:6] [52:19] [89:6] [95:6]
 [99:4] [164:16] [171:16]
 [176:5] [193:21] [201:8]
 [204:8] [209:12] [212:11]
 [215:17,19] [223:21] [225:
 19] [231:8] [235:22] [243:8]
 [275:22]
importantly [74:17] [138:11]
 [175:4] [199:16]
impose [60:12]
imposed [49:16] [58:24]
imposition [90:11]
impossible [17:6] [206:8]
 [214:24] [230:20]
impoundment [78:21]
impressed [102:8] [103:8,9]
 [118:20] [172:25] [288:24]
impression [174:9] [194:1]
 [266:10] [268:21]
impressive [47:3] [54:2]
 [100:18] [112:9]
improper [27:22]
improve [62:16] [165:7]
 [210:19] [213:7] [255:11]
improved [54:8] [62:17]
 [119:12] [121:8] [156:2]
improvement [85:14] [190:
 8] [209:20] [210:15] [236:17
 ,19] [300:17]
improvements [186:20]
improves [122:2]
improving [62:13] [102:12]
imt [15:14,25] [16:10] [17:21]
 [18:19] [20:1] [24:11]
 [29:6] [65:6] [66:17] [82:5,17]
 [83:11]
imts [16:20]
inaccurate [178:13]
inaudible [224:23] [280:4]
 [298:6,18]
incar [17:10]
in-car [17:10]
incentive [228:12]
inception [187:8]
incident [13:14] [27:20]
 [35:20] [49:5] [54:15]
 [178:17] [181:22] [202:8]
 [312:20]
incidental [25:1]
incidentally [53:11] [60:3]
 [64:6] [115:24] [125:5]
incidents [11:20] [35:1,17,19]
 [36:2] [60:14] [203:9]
incisive [107:4]
include [19:19] [25:14]
 [28:21] [34:13] [37:8]
 [56:4,6] [60:9] [69:3] [85:16]
 [131:2] [241:23] [246:7]
 [248:17]

included [42:20,24] [67:21]
 [151:5,8] [152:4] [153:18]
 [178:19] [179:4,17] [238:6
 ,7]
includes [10:1] [11:24]
 [28:15] [30:17] [185:10]
 [239:5,10] [242:12]
including [8:19] [12:6]
 [13:19] [33:9] [36:25]
 [101:14] [103:23] [148:18]
 [152:24] [203:12] [234:4]
 [235:19] [238:20] [239:25]
 [240:25] [241:7] [245:3]
 [280:3]
inclusion [28:3]
inconsistent [48:16]
incorporate [99:14] [116:19]
incorporated [42:23] [188:
 20] [191:1]
incorrect [68:2] [266:14]
increase [18:11] [29:25]
 [48:20] [64:1] [308:6]
increased [18:3,5,7] [36:5]
 [159:17] [228:14]
increasing [17:23] [29:2]
 [36:2] [50:3,4,6] [165:3]
increasingly [61:7]
incredible [58:5]
incredibly [163:2] [218:18]
incremental [221:6]
incumbent [155:1] [218:25]
 [284:17]
independence [47:11,13]
 [48:1] [212:11] [217:6]
 [263:2,7] [268:10,11]
 [281:1]
independent [3:6] [15:14]
 [16:12] [40:13,18] [41:20]
 [43:1] [46:19] [47:14]
 [66:13,14,19] [92:21]
 [93:3,4] [95:20] [97:5,11]
 [147:15] [148:3] [154:12]
 [155:5] [164:16] [182:21]
 [209:4,10] [211:3,4] [212:10]
 [234:4] [238:3] [264:14]
 [268:18] [269:11] [270:6,7
 ,16] [271:23] [272:3] [281:2
 ,8,13]
independently [27:11]
 [142:19] [167:19] [240:12]
 [287:25]
indians [196:7]
indicate [21:25]
indicated [16:16] [179:14]
indication [59:14]
indicative [254:7]
indicators [20:3] [110:4]
indiscriminate [12:10]
indistinguishable [111:1]
individual [7:5] [12:9] [17:10
 ,15] [20:17] [28:8] [32:10]
 [38:23] [40:1,25] [53:14]
 [70:16] [86:22] [96:4]
 [100:12] [110:12,15] [112:
 10] [174:12] [178:17] [179:
 11] [183:17] [184:7] [195:14

,15] [198:16] [246:16]
individually [26:22]
individuals [7:3] [10:5]
 [58:25] [73:24] [93:17]
 [98:2] [134:6]
inexpensive [58:4]
inexpensively [37:21]
infant [205:17]
influence [108:10] [240:10]
influenced [236:13] [283:23]
inform [224:4]
information [4:24] [6:23]
 [19:1,8,12,19,21] [20:7]
 [31:8] [32:19] [33:20]
 [34:9] [36:9] [47:20] [54:3]
 [57:17] [76:14,17] [78:3]
 [95:24] [97:13,16] [99:3]
 [115:21] [116:1] [121:19]
 [122:13] [126:21,24] [129:
 16] [144:4] [145:11] [149:6]
 [157:6] [158:8,11,23]
 [161:1] [170:15] [171:5]
 [178:6] [183:11] [188:1]
 [206:20] [216:16] [231:4]
 [235:18] [240:23] [241:3]
 [244:3] [246:17] [277:15]
 [281:22,23] [286:20] [292:
 15,19] [293:8] [304:8,17]
 [310:4]
informative [235:16]
informed [6:16] [20:4]
 [246:14]
infractions [51:15]
infrastructure [11:24]
infused [134:17]
inherent [124:5]
initial [157:20]
initially [92:22] [112:1]
 [124:2] [125:24]
initiative [15:3] [33:11]
 [42:13] [143:22] [144:8]
initiatives [31:18] [32:13]
 [55:1] [74:3] [109:14]
 [140:3] [146:10] [245:10]
injury [11:21]
innocent [44:3]
innovating [224:19]
innovation [101:22]
inoculate [220:24]
input [51:8] [67:5] [96:16]
 [115:2] [126:8]
inquiries [49:9]
inquiry [10:19] [21:12]
inserve [135:12,14,17]
in-service [135:12,14,17]
inside [41:25] [47:16,24]
 [53:9] [67:7] [84:9,24]
 [94:20] [137:10] [164:18]
 [219:7,8] [264:10]
insight [216:15]
insights [217:19,22]
inspection [155:23] [156:2]
inspections [35:14]
inspector [163:18] [214:18]
 [270:3]
installment [190:7]

instance [21:2] [41:9] [228:15]
instances [126:5] [169:4] [179:16] [240:7] [287:6]
instead [106:24] [125:2] [166:12] [208:7]
instigation [290:17]
institute [41:2] [98:3,4,21] [100:23] [148:11] [235:15]
instituted [73:13]
instituting [302:10]
institution [40:23] [41:4] [45:23] [71:21] [93:4,23] [95:12] [96:11] [100:11] [140:15] [208:2]
institutionalization [145:19]
institutionalize [200:4]
institutionalized [16:24] [30:24] [245:24]
institutionalizing [299:8]
institutions [45:24] [92:25] [95:6] [98:5] [207:2]
instruct [51:25]
instruction [37:4]
instructions [201:25]
instructive [51:19] [52:3] [61:5] [65:23]
instructor [8:22]
instrumental [9:15] [55:8] [236:22]
insular [144:20]
insularity [103:24] [104:6] [105:6]
insurance [78:19] [196:19]
insure [101:18] [107:20] [120:7] [182:8] [237:1,4] [247:6] [281:20]
insuring [281:21,23] [285:12]
intact [97:4] [188:24]
intake [34:5,20,21] [119:25] [198:21] [199:2] [246:22]
integral [202:11] [252:24]
integrated [19:9] [276:18]
integrity [19:15] [213:3]
intelligence [9:2,3] [13:22,24] [15:4]
intelligenced [13:24] [15:4]
intelligence-led [13:24] [15:4]
intense [23:10,13] [212:25] [222:25]
intensity [212:20]
intensive [24:14] [60:8] [107:2]
intensively [60:18]
intent [245:11]
interact [55:7] [139:9]
interacted [55:25]
interacting [134:2]
interaction [54:7] [135:4] [156:23] [198:24] [267:24] [312:13]
interactions [16:11] [20:11] [31:4] [211:12] [220:6]
interacts [56:6]
interest [117:18] [166:17] [256:1] [307:11,16]
interested [33:19] [45:12] [168:12,14] [171:13]
interesting [11:7] [224:25] [225:7]
interests [165:10,11]
interface [133:25]
interfacing [278:15]
interim [37:3] [72:5] [131:15] [237:2,23] [245:15]
interior [78:15]
internal [18:17] [24:4] [33:3,6] [34:5,24] [35:13] [36:16] [39:22] [42:3] [47:8] [65:21] [79:24] [82:15] [188:23] [201:11,17] [206:4,9] [207:10,24] [212:9] [242:3,14,25] [243:3] [248:3,9] [253:22] [257:1] [272:9] [281:11] [301:6] [303:23] [304:15]
internally [35:21] [88:7] [146:6] [203:22] [217:15] [229:14]
international [33:23]
interpretation [114:8]
intersections [190:2]
intervene [19:16] [150:2]
intervention [159:24] [246:21]
interventions [19:22] [28:1]
interview [69:24]
interweave [232:18]
intimately [205:4]
intoxicated [44:4]
intrinsic [246:25]
introduce [8:2,13,14] [10:4] [234:12]
introduction [8:15]
invaluable [14:16]
inventory [52:1]
investigate [34:10] [35:2] [248:13] [267:11] [296:19]
investigated [34:15] [201:13] [250:12] [293:2]
investigates [238:8]
investigating [11:17] [76:13] [291:22]
investigation [18:24] [21:22] [30:21] [32:10] [34:6] [46:11] [76:4] [239:20] [242:16] [244:14] [261:21] [295:24] [296:21] [298:8]
investigations [32:14] [34:10] [49:9,17] [65:21] [234:7] [242:4,9,14] [243:3]
investigative [26:13] [75:25] [241:1] [242:13,17,23] [243:2,12] [246:23]
investigator [234:18] [239:7]
investigators [239:7,19] [278:23] [279:4,12] [308:14]
investigatory [304:16]
invited [290:20] [291:3]
involve [26:8] [60:24] [146:9] [158:11] [295:23]
involved [14:6] [26:14] [35:6] [56:2] [78:20,23] [97:15] [123:10] [132:15,16] [17,18] [155:11] [156:22] [162:12] [183:9] [194:19] [202:19] [221:2] [234:2] [238:25] [254:12] [278:17] [285:20] [286:14,21,22] [290:10,14] [297:7] [305:23]
involvement [143:19] [154:14] [286:24]
involves [136:17] [145:19] [186:15]
involving [11:3] [16:10] [43:8] [93:21] [148:4]
ironed [179:3]
irreplaceable [107:25]
irvington [14:25] [28:15] [55:4,13,14,16] [77:24] [139:11] [143:7] [144:25] [285:18]
isnt [69:18] [133:20] [164:5] [190:4] [266:19] [290:24] [297:11] [303:11] [312:25]
isolated [144:21] [231:21]
isolation [231:20] [232:25]
issuances [18:9]
issue [24:20] [26:15] [27:24] [42:18] [46:4] [51:24] [62:8] [86:15,17] [89:25] [92:6,15] [104:22] [111:14] [113:12] [114:16,23] [120:2] [126:2] [127:17] [128:1] [137:3] [164:5] [166:25] [170:16] [176:22] [180:12] [184:15] [186:8] [194:14,23] [207:21] [208:11] [217:18] [221:19,20] [225:18] [230:2] [231:21] [232:4,24,25] [240:25] [253:19] [254:2,13] [257:9] [261:2,6,7,9,13,14] [265:9] [267:20] [269:6] [273:21] [274:14] [276:21] [277:25] [278:1] [281:25] [283:7] [287:20,24] [288:8] [17] [289:5] [292:2,3] [295:15] [296:8] [298:7,11,13] [300:18] [301:7] [304:2,5,6] [11,15,25] [307:21] [308:8] [310:4] [312:14,16]
issued [42:20]
issues [5:15] [6:7,9] [17:15] [27:23] [32:24] [43:2] [46:20] [56:8] [74:15] [78:17,22] [82:7] [102:24] [108:20] [114:11,17,25] [115:17] [116:2] [123:1,12] [14,22] [128:1,4] [131:11] [133:4] [134:12] [135:11,19] [138:25] [139:7] [141:1] [158:9] [161:11] [179:12] [183:9] [185:19] [209:2] [217:4] [221:2,3] [230:12] [236:18] [239:15] [241:2,18] [24,25] [243:21] [247:25] [251:21,24,25] [255:19] [256:18,24] [257:1,3,13,22] [23] [258:8,23] [260:12] [262:5] [263:4] [266:9] [267:1,3,6,8,11,18,21] [269:10] [270:21] [276:17] [278:16] [282:6,22] [283:10] [12] [286:16] [287:15,17,18] [290:9] [293:18] [294:15] [295:8,18,19] [296:4,5,7,9] [25] [297:24] [298:22] [301:8] [303:7,24] [306:22] [308:10] [309:6,17,18,20,25] [310:3] [312:16]
item [186:19]
items [157:2,7] [179:13] [191:7]
iteration [210:10] [213:8]
itself [21:25] [47:15] [48:1] [93:2] [102:20] [103:25] [134:17] [143:25] [158:12,16] [161:4] [170:9] [180:16] [212:4] [275:22] [290:18]
ive [68:8] [74:4] [77:12] [80:23,24] [81:24] [82:12,17] [85:7] [98:6,25] [102:17] [103:19] [105:8] [108:7] [115:14] [116:22] [119:14] [132:10] [137:18] [142:25] [144:24] [162:1] [167:22] [172:24] [181:1] [196:11] [224:14] [268:8] [272:24] [285:15] [286:3] [287:9] [288:18] [303:1] [308:22,23]

J

jack [10:17]
jackson [8:9] [233:24,25] [234:11,14,22] [247:11] [250:21] [251:2,3,15] [252:6] [253:4] [254:4] [255:13] [256:7,21] [258:6] [259:2,12,18,25] [260:11,15] [24] [262:16,23] [264:16,20] [265:3,23] [266:3,6,15,20] [267:4] [268:6] [269:1] [273:2] [274:13] [275:11] [276:5,19] [278:19] [280:5] [23] [281:16,25] [283:11,24] [284:5] [285:2,4,15] [289:11] [16,20,23] [290:3] [291:10] [292:6,20] [293:17] [294:11] [23] [295:2] [296:3,13,22] [297:10,13,19] [298:5] [299:1] [300:8] [302:6] [303:22] [305:16] [306:3,8] [307:2,6] [308:7,20] [309:15] [22] [310:2,9] [312:18] [313:6,16]
jackson234 [3:9]
james [2:3,10] [3:3] [4:5] [8:6] [53:18] [133:7] [147:13] [194:11,12] [265:22]
january [24:11] [25:12]

jay [9:11]
jerome [2:11] [133:2] [143:4] [190:12,13] [275:10]
jersey [1:6,14,23] [4:11] [5:17,19] [6:1] [8:4,17,21,24] [9:7,10,22] [10:2,21] [11:21] [13:14] [15:16] [16:23,25] [18:6] [25:7,25] [28:14,16] [31:2,19] [38:1] [41:21] [42:16,21] [43:17] [44:8] [48:24] [53:19] [64:24] [65:6] [69:16] [73:3] [91:1,23] [98:5,6,21] [101:7] [102:5] [107:12] [133:14,15] [139:18] [142:16] [148:2,18,23] [149:20] [152:13,20,24] [153:3,24] [154:7,10,15,17,23] [155:21] [156:8,14,19,20] [159:3,8,12,14,17] [161:24] [163:11] [167:25] [168:4,11] [171:23,24] [173:23] [175:11] [177:7] [179:9] [181:23] [183:21] [184:23] [185:14,22] [189:6,25] [190:5] [192:2,14] [194:25] [195:2,12] [197:16] [198:9,10,20] [200:18] [201:19] [203:2] [204:24] [205:1,13] [208:17] [209:25] [215:2,6] [218:17] [219:19] [221:18,24] [225:1] [226:7,10] [232:21,24] [235:24] [236:4,6,12,17] [237:9,16] [238:15,21,23] [239:13,22] [242:21] [243:4,5] [245:21] [246:2] [247:4] [268:13] [274:4] [289:9] [299:20] [301:5] [307:12] [315:6]
jerseys [4:6] [205:18]
jim [3:7] [85:22] [91:24] [160:15] [173:6] [180:18] [197:23] [206:1] [207:7,12] [227:8]
job [49:20] [51:11] [59:5] [61:11] [64:6,11] [72:2,3,8] [80:20] [85:19] [87:12] [105:17] [108:8,15,16] [111:21] [115:25] [120:8] [125:17] [131:18] [137:14] [139:5] [140:5] [141:18] [145:23,24] [161:19] [162:25] [174:14] [177:22] [180:23] [188:9] [195:3] [200:3] [206:8] [213:17] [223:23] [226:8] [228:12] [253:3] [254:18] [256:10] [262:18] [264:19] [269:23] [270:1,17] [272:2] [273:16,22] [274:3,5] [277:8] [286:4] [296:6] [299:11] [300:13] [302:10] [303:4] [308:17]
jobs [227:15]
john [9:11] [216:24]
johnson [2:3] [3:3] [4:1,5] [9:19] [44:19] [45:7] [46:23] [48:7] [52:5] [53:17,22] [62:9] [64:21] [67:16]

[72:21] [76:19] [80:6,11,16] [85:23] [87:6] [89:9,12] [91:19] [98:19] [102:1] [107:9] [111:12] [118:8,13] [122:16] [126:2] [127:12,16,25] [129:20] [131:5] [133:1] [138:6] [140:7,18] [141:20] [143:2] [146:24] [147:8] [149:15] [159:20] [164:22] [168:21] [172:5] [174:5] [178:2] [182:15] [184:18] [187:4] [190:12] [194:11] [199:25] [208:20] [209:22] [213:14] [216:20] [222:15] [225:12] [228:14] [229:16] [231:7] [233:2,20] [234:15,19] [250:20] [252:16] [256:6] [260:13] [265:21] [275:8] [279:19] [285:1] [288:20] [293:14] [297:15] [298:3] [305:14] [308:20] [309:16,25] [310:6,10] [312:19] [313:14,17]
join [5:5] [216:21]
joined [52:14] [148:11]
joining [118:17] [160:3]
joint [8:24] [11:19] [150:8]
jonathan [2:9] [91:20,21]
judgment [141:25]
judiciary [148:23]
jump [122:6]
juncture [38:11] [111:3] [279:9]
junctions [189:14]
june [8:17] [9:14] [16:13]
jurisdiction [194:6]
justice [2:13] [4:12] [5:2,6,8] [9:6,11,12,13] [10:22] [67:17,19] [68:25] [69:7,14,15] [70:5,10] [71:20] [82:18,20] [98:22] [138:8] [140:11,12] [142:15] [147:20] [148:7] [150:9] [151:3,13] [153:10] [154:2,19] [161:13] [173:23] [184:19,20] [191:20] [239:20] [241:21] [244:17] [247:21] [258:11] [259:21] [260:3] [265:4] [267:7,9] [270:3] [285:1,2,5] [289:14] [292:14] [293:10] [306:12] [307:8,9]
juxtapose [117:1]

K

katrina [14:19]
kean [9:10]
keep [7:20] [56:14] [58:8] [72:4] [75:20] [95:3] [104:24] [122:12,13] [124:18] [126:1] [140:10] [181:8] [188:24] [195:13] [213:10] [246:9] [252:14] [262:18] [264:8]
keeping [42:2] [56:12] [79:20] [113:23] [115:11] [121:10] [122:4] [126:24]

[299:23]
keeps [125:18] [126:9] [250:4] [296:25] [297:1,5]
kept [282:17]
kevin [2:7] [46:23]
kevins [48:10]
key [6:9] [13:11] [30:25] [44:9] [132:19] [138:25] [173:7] [215:11]
khalaf [2:14] [72:22,24] [73:1] [75:4,10,22] [76:16] [229:17]
khalafs [126:7]
kind [46:13] [57:9,25] [59:3] [71:11] [79:18,20] [85:3] [94:21] [98:1] [101:16,19] [105:20] [106:3,21] [111:3] [122:6] [129:17] [132:12] [134:23] [135:16,20] [144:16] [146:7] [165:25] [180:12] [190:22] [195:16] [201:22] [206:19] [217:6,18] [219:18,21] [220:14] [225:6] [234:25] [235:17] [253:10] [257:2,10] [258:22] [260:4,5] [264:5,12] [266:8] [269:12] [270:17] [275:13] [277:1,5] [282:14] [285:20] [287:1] [291:9] [293:6]
kinds [104:13] [160:25] [220:4]
knocked [60:1]
know [7:4] [47:22] [55:5] [56:16] [57:1,9,18] [58:1,15] [61:3,18] [62:19] [66:20] [72:7] [73:3] [74:22] [85:19] [86:10,12] [88:24] [90:8] [94:3] [98:7] [107:24] [111:7] [113:13] [114:25] [115:19] [116:20] [122:9] [125:2] [128:10,19] [129:4] [130:7] [131:22] [140:13] [141:7] [145:9] [146:5,20] [154:15] [160:14] [165:21] [166:2] [167:25] [168:2,3,11,24] [169:18] [170:22] [171:12] [183:18,19] [190:1] [193:12] [194:13] [198:2,22] [199:10,14] [203:24] [204:18] [211:9] [213:9] [216:18] [217:11] [219:3] [220:11,13] [223:21] [225:1] [227:17] [229:8] [232:2,5] [235:19] [253:8] [254:14,25] [255:20] [257:11,22] [258:6] [259:18] [263:16] [264:20,21] [265:3] [266:8,17,25] [267:15] [273:4,14] [277:24,25] [279:17] [282:3,6] [283:11,25] [285:9] [286:12] [287:8,11] [297:6] [300:3] [302:14,23] [303:19] [305:17] [306:9] [308:22,24] [313:8]
knowing [45:13] [66:22] [133:13] [194:6] [199:10]

[216:13] [227:5] [232:2] [296:15]
knowledge [31:5] [32:2] [41:7] [129:5] [160:4] [167:1] [287:25]
knowledgeable [40:20]
known [4:9] [10:24] [13:23] [139:24] [140:4] [212:16] [254:20]
knows [199:19] [218:5] [278:6] [292:15]

L

la [186:3] [214:1] [215:15]
labor [107:3] [239:17]
labored [83:22] [85:10]
laborious [227:20] [228:17]
lack [67:12] [177:24] [214:2]
ladies [4:3]
lagging [227:20]
landscape [15:12]
lapd [153:11,15,25]
lapse [207:8]
large [15:2] [56:23] [58:5] [164:4] [189:4] [199:8] [208:7] [226:16]
largely [54:22]
larger [57:14,15,17] [64:16] [122:25]
largest [12:24] [25:22] [31:19]
last [16:21] [34:13] [41:23] [61:15] [62:11] [75:22] [79:12] [88:24] [111:21] [120:22] [127:25] [140:9] [163:17] [175:3,10] [177:8] [179:24] [180:18] [181:1] [203:12] [206:23] [216:5] [218:18] [225:13] [226:18] [228:21] [231:7] [233:15,22] [264:9] [266:11] [270:4] [288:18] [309:1]
lasting [37:22] [215:13]
lastly [296:17]
lasts [185:18]
late [55:13] [112:2] [198:13,15] [310:14]
later [8:8] [150:4,14] [186:2] [198:18] [203:17]
latest [62:12]
latino [42:17]
latitude [215:20]
latter [208:4]
lauren [315:4,12]
law [5:10] [6:2] [11:16] [12:13,21] [14:5,21] [17:11,25] [24:12,23] [29:18] [33:15,18] [36:16] [40:14] [41:17] [43:6,8] [46:4,13] [49:10] [50:11] [66:3] [67:9] [68:23] [71:5] [73:7] [94:16] [95:9] [96:8] [97:12] [100:8,11] [104:4] [125:9] [127:3] [129:17] [140:13,16] [144:19] [148:5,21] [149:1]

[182:25] [183:13] [184:4]
 [205:4,5] [224:8] [232:18]
 [234:10,11] [235:19,24]
 [236:3,7,14,20] [237:16]
 [240:16,21] [241:22] [244:
 16] [245:2,8] [247:17]
 [248:23] [249:8,17] [251:17
 ,18] [252:1] [255:7,16,18,23]
 [256:1,19] [259:20] [265:17]
 [269:9] [273:15] [277:19,20]
 [280:2] [283:16,18,21]
 [285:6] [290:1] [293:11]
 [294:17] [304:13] [305:22]
lawrenceville [1:12,14]
lawsuit [180:4] [257:5]
lawyer [148:13]
lawyers [118:10] [217:3]
 [251:19] [278:22]
lay [99:10]
layer [34:8] [98:11] [212:12]
layers [32:4] [50:13] [103:17]
lead [14:5,14]
leader [55:16] [140:22]
 [249:22] [254:8]
leaders [108:3,8] [109:6,19]
 [139:17] [181:11] [218:23]
 [221:17] [226:1,2]
leadership [36:22] [48:11]
 [52:13] [65:2,15] [81:5,6]
 [82:2,15,25] [86:4] [89:13]
 [92:4] [99:4] [107:25]
 [108:14,19] [111:20] [147:
 1] [156:8] [172:14] [174:2]
 [176:13,22] [177:4,6]
 [182:9] [183:22] [184:9]
 [187:16,21] [188:2] [189:24]
 [192:18,23] [200:11] [205:
 2] [208:10] [209:5,15]
 [214:4] [217:22,25] [218:8]
 [225:16,18,19,25] [227:2]
 [245:5] [249:20,24] [291:8]
 [301:8]
leading [10:23]
leads [188:11] [213:7]
lean [234:21]
leaps [300:16]
learn [4:25] [17:14] [129:14
 ,15] [175:14]
learned [38:5] [87:22,24]
 [144:6,16,18] [191:7]
 [219:14] [277:10]
learning [33:19] [38:9]
 [40:24] [41:2] [164:11]
 [175:13,17] [181:17] [202:
 15,22] [203:13] [204:22]
 [205:12] [207:13] [212:4]
 [213:8] [215:22,23] [224:23]
 [230:12] [231:2,3] [271:9,10]
 [275:15] [276:14]
least [23:22] [92:21] [123:13]
 [126:20,25] [129:23] [220:
 22] [221:6] [279:1,15]
 [303:13]
leave [83:13] [146:18]
 [187:1] [209:25] [256:22]
 [308:2]
leaving [7:22] [134:25]
 [142:15]
lecture [224:22]
led [54:15] [175:22] [218:22]
 [233:23] [236:4]
left [132:24] [159:25] [185:24]
 [210:4]
leg [107:23]
legacy [39:1,14] [68:17]
 [105:2] [108:8,25]
legal [27:18] [46:12] [113:25]
 [203:12] [217:4] [241:1,18]
 [242:16] [251:25] [261:7]
 [275:4] [294:4,9] [304:6]
legislating [68:4]
legislation [39:8,13] [67:24
 ,25] [69:4,12] [130:7] [246:
 7,10] [278:5]
legislative [42:16] [182:12]
 [214:16] [219:9] [237:13]
 [240:22] [306:4,10]
legislators [278:3]
legislature [68:12] [89:17]
 [267:17]
legislatures [181:6] [221:16]
length [7:18] [171:13] [299:
 24]
lenses [208:19]
less [25:17] [50:17,18,19]
 [57:7] [107:2] [149:24]
 [157:7] [164:6] [181:15]
 [208:5] [212:25] [222:2]
 [223:6,7] [228:7] [311:9]
lessen [229:5]
lesser [21:20]
lesson [262:3,4] [277:12]
 [313:20]
lessons [38:6] [87:22,24]
 [143:6,9]
let [7:3] [8:13] [18:19] [24:18]
 [26:2] [49:12] [102:25]
 [111:18] [133:14] [181:22,24
 ,25] [186:9] [196:3] [198:22]
 [199:14] [203:16] [207:21]
 [210:23] [216:18] [279:22]
lets [9:17] [25:20] [68:20,21]
 [86:9] [102:1,3] [136:3]
 [140:15] [166:6] [209:7,9]
 [219:4] [261:13] [272:7]
 [297:17] [306:25]
letter [17:3] [65:9] [293:5,7]
letting [257:11] [278:3]
level [14:15] [17:8,16]
 [18:17] [23:12] [32:17]
 [37:4] [60:24] [70:18,19]
 [72:12] [104:12,17] [122:21]
 [134:3] [162:17,19] [177:9]
 [179:22] [180:12] [199:23]
 [208:10] [211:18] [219:1]
 [220:3,22] [231:11,12]
 [256:5] [263:21,22] [264:8]
 [271:3] [272:22] [294:4]
levels [11:7] [12:15,23]
 [28:25] [29:13] [32:3]
 [35:13] [36:24] [60:8]
 [73:21] [100:17] [180:15]
 [182:1,3] [215:24] [226:22]
leverage [58:2]
leveraged [44:12]
leveraging [13:24]
liability [221:2]
liaisons [239:12] [252:23]
 [253:14]
license [26:18] [78:19,20]
 [196:19]
lie [21:17] [97:19,21]
lies [97:11]
lieutenant [10:14] [37:1]
 [115:5] [118:16] [137:5]
 [147:4] [228:9] [303:14,15]
life [189:14] [191:12] [199:20]
 [231:17]
lifting [67:24] [69:17]
light [29:23] [44:5] [65:14]
 [73:9] [148:14]
lightening [130:4]
liked [55:24] [83:3,7]
likelihood [15:11]
likely [275:15]
limit [21:5,18]
limited [245:3] [280:3]
 [284:22]
limits [22:10] [310:16]
linda [261:8] [292:10]
line [17:5] [18:21] [20:24,25]
 [21:4] [36:10] [43:25]
 [74:4] [109:2,12] [119:11]
 [138:1,19] [162:2] [173:5]
 [176:18] [178:25] [183:4]
 [186:19] [207:18] [216:2]
 [219:11] [225:20,23,24]
 [230:21] [235:10] [243:2]
 [260:6] [293:20]
lines [20:23] [21:4] [75:4]
 [86:22] [222:17]
link [235:10]
linkage [110:9,16]
linkages [104:10] [111:10]
linked [136:6]
list [75:6] [114:7] [121:10]
 [157:16]
listening [174:7] [265:25]
 [297:16]
literally [79:8] [172:2] [173:
 21] [175:14]
litigation [24:2]
little [8:7] [25:8] [48:15]
 [49:6] [80:8,20] [81:15]
 [105:20] [106:21] [111:14]
 [124:22] [129:21] [223:18]
 [229:25] [234:20,24] [274:
 19] [289:5] [305:21] [310:12]
live [105:5]
lived [141:11]
liza [2:15] [76:20]
llc [148:15]
load [227:8] [229:8]
loads [226:9]
local [13:13] [14:14] [32:17]
 [33:18] [57:22] [84:16]
 [89:24] [90:3] [91:5] [116:1
 ,19] [128:18] [140:13,16]
 [141:4,10] [143:12] [145:9]
 [146:1] [219:18] [220:10,11]
 [221:5] [222:19] [247:19]
 [248:3] [255:7,15,18]
 [257:20] [266:10,12] [270:
 18,20] [271:3] [272:7,17,22]
 [278:17] [283:18] [285:20]
 [286:14] [289:25] [290:1,25]
 [291:6,12,16,23] [294:4,17]
 [295:7,14,17,21] [305:21,24]
 [306:25] [307:10] [308:12]
 [310:24]
locality [146:17]
locally [294:3]
locals [220:7] [295:3]
located [47:16,24] [56:5]
 [94:20] [115:5] [204:7]
 [217:7,8,14] [240:17]
 [286:12]
location [78:4] [167:20]
locked [198:1]
log [27:7]
logical [249:3]
logistics [94:12]
logs [106:20] [312:21]
long [40:23] [83:22] [100:21]
 [129:6] [144:6] [152:1]
 [153:12] [168:17] [179:1]
 [189:1] [190:8] [196:21]
 [197:8,23] [212:25] [214:24]
 [215:13,17] [226:20] [249:
 13] [254:15,18] [274:4]
 [277:21] [281:16] [286:2]
 [303:16]
longer [116:11] [135:24]
 [149:13] [166:11] [274:19]
longterm [40:23]
long-term [40:23]
look [21:15] [24:18] [25:21]
 [26:10] [38:7] [39:2] [50:18
 ,24] [59:5] [71:13] [81:15,21]
 [85:5] [90:25] [97:22]
 [101:22] [103:6] [105:15,16]
 [106:1] [109:2] [111:24]
 [112:7] [118:1] [120:1]
 [133:24] [134:24] [135:8]
 [141:5] [145:3] [147:4]
 [163:21] [164:2] [167:19]
 [182:23] [189:16] [198:6,11]
 [208:18,25] [209:7,9]
 [211:22] [252:10] [264:5]
 [269:15,21] [270:8,9,16]
 [272:1] [279:9] [308:13]
looked [30:14] [125:19,20]
 [133:7] [145:13] [155:22]
 [174:17] [181:1] [195:21]
 [313:1]
looking [81:10,12] [100:16]
 [101:19,20,21,22,23]
 [114:4] [117:3] [124:13]
 [125:2,12] [128:3] [133:9]
 [147:1] [166:4] [169:9]
 [170:13] [180:19] [197:10]
 [223:4] [248:5] [254:16]
 [258:20] [264:6] [265:6]
 [293:21] [296:10] [298:12]

[309:11]
looks [105:24]
lopez [2:15] [76:20,21,24]
 [77:8,16] [78:2] [79:5,9,12]
 [80:5] [111:16]
los [153:9] [184:21] [191:9,12,
 25] [192:10] [213:24]
 [214:9,11] [215:3]
lose [53:24] [63:3] [122:5]
 [181:19] [186:10] [229:12]
losing [231:19]
loss [61:11,20] [64:3] [167:
 11,12]
lost [181:21]
lot [54:3] [57:25] [62:19]
 [63:3,14] [64:5,7] [72:2,20]
 [80:25] [101:21] [105:6]
 [107:7] [108:12] [110:18]
 [115:7] [124:1] [131:24]
 [132:1,15] [133:8,12]
 [136:16] [161:22] [170:21]
 [188:7] [192:12] [196:4]
 [198:23] [205:25] [219:7]
 [221:21] [222:12] [227:24]
 [232:15] [240:5] [287:20]
 [299:22] [306:11] [310:18]
low [25:2] [29:2] [71:7]
 [78:24]
lower [21:5,17] [22:10]
 [54:13] [84:12]
loyal [104:19]
luck [192:5]
lunch [7:18] [130:2] [234:23]
lurch [146:19]

M

mail [7:11]
main [86:3] [214:10]
mainly [212:3]
maintain [23:18] [31:24]
 [35:5,12] [37:6] [38:21]
 [47:18] [56:21] [58:8]
 [104:9] [126:5] [130:12]
 [139:15] [163:3] [209:18]
 [210:19] [211:11] [231:11]
maintained [27:8] [180:15]
 [246:14] [277:19] [299:17]
maintaining [19:12] [32:1]
 [45:17] [170:16] [180:23]
maintains [38:17] [122:2]
maintenance [56:23] [131:
 2]
major [11:24] [13:18] [64:23]
 [138:21] [139:4] [150:19]
 [151:15] [161:9] [199:13]
 [282:3,5] [302:18,19,20,21]
 [303:4,7] [308:3,9]
majority [77:17]
makers [218:25]
making [63:25] [74:9] [75:14]
 [90:13] [102:12] [104:14]
 [125:16] [139:24] [144:3]
 [167:24] [179:2] [184:6]
 [193:23] [195:17] [214:11]
 [228:22] [249:7] [257:15]

[263:23]
man [73:22] [92:11] [297:9]
manage [34:9]
managed [198:21]
management [13:3] [19:8,10]
 [23:19] [30:20] [32:2,6,20]
 [33:2,7] [34:3] [47:4] [51:22]
 [54:4] [57:15] [81:6] [147:18]
 [150:3] [159:18] [163:14]
 [175:16] [176:19] [184:9]
 [188:1] [195:11] [203:14]
 [222:1] [223:17] [228:8]
 [232:14] [238:10] [240:17]
 [246:15,19]
manager [147:23]
managerial [4:20] [79:24]
 [126:19]
managers [37:16] [232:16,23]
 [246:18]
managing [199:10]
mandate [39:17] [83:17]
 [94:9] [128:2] [311:24]
mandated [24:16] [145:6]
 [266:12] [283:19]
mandates [12:17] [15:20]
 [23:20] [59:16] [237:13]
 [246:16] [247:5]
manhattan [98:3]
manipulated [175:24]
manipulated [133:12]
 [184:5]
manner [13:7] [17:17]
 [33:9] [155:9] [200:10]
 [236:9] [238:8] [257:16]
mannie [234:18]
mantra [187:16] [189:3]
mapps [10:15] [19:11,18,22,
 24] [20:2,7,16,22] [22:7,13,
 16,23] [23:12] [24:3] [27:12]
 [28:2] [33:25] [34:2] [39:19]
 [45:15] [51:16] [54:2]
 [59:22] [60:9] [78:6] [103:6]
 [105:16,17] [106:5] [110:7,
 9] [111:2,3] [112:8,12]
 [114:20] [115:6] [117:16]
 [119:3,6] [122:1,8] [128:6,8,
 14,23] [129:2] [130:21]
 [133:8,25] [140:15,21]
 [141:7,9,10] [157:22]
 [168:23] [169:2,12] [170:3,
 9] [178:6,8,11,19,21,25]
 [179:15] [185:1,4,7] [186:6,
 9,17,21] [190:7] [222:17,22]
 [223:6] [226:11] [230:8,20]
 [241:15,18]
mappsight [223:6]
mapps-light [223:6]
march [16:1]
mark [156:12]
mary [234:16]
maryland [45:21] [98:8]
 [153:20]
marys [147:21] [149:13]
mass [11:20]
massaged [171:7]
master [10:17]

masters [9:11] [148:6]
mathematically [21:7]
mathematics [77:6]
matter [24:14] [28:24]
 [69:23] [130:25] [135:6]
 [146:8] [197:22] [214:7]
 [230:17] [273:17] [304:24]
matters [7:14] [194:24]
 [238:5] [239:2,18] [241:22,
 23] [242:4] [248:5]
maturation [298:13]
mature [298:23] [300:11]
matured [298:14,17,21]
 [300:23]
may [6:16,18] [10:20] [23:13]
 [31:13] [51:24,25] [59:23]
 [60:25] [61:1] [63:6] [84:17]
 [85:12] [88:11] [91:15]
 [93:15] [95:15] [99:13]
 [105:12] [111:9] [113:8,12]
 [114:12,15] [115:17] [116:
 19] [121:8] [123:10] [125:8]
 [126:11,14,19] [127:2]
 [128:20,24] [129:2] [131:8]
 [143:5] [149:22] [167:1]
 [168:19] [184:2] [193:9]
 [196:14] [197:8] [200:15,25]
 [201:1] [207:14,15] [216:4]
 [219:15] [221:10] [223:5]
 [229:23] [233:4] [234:19]
 [235:11] [244:14] [246:6]
 [253:8] [264:11] [268:19]
 [278:1,2] [297:7] [305:1,2,7,
 8] [307:7] [308:16] [311:1]
 [312:5,6] [313:18]
maybe [55:12] [56:17]
 [61:15] [73:14] [100:25]
 [103:16,17] [105:3] [106:17]
 [114:6] [118:25] [119:1]
 [126:17] [129:13] [140:4]
 [166:8] [182:13] [201:8]
 [205:21] [217:17] [229:10]
 [230:9,10] [248:13] [257:7,
 11] [258:1] [276:3] [277:24]
 [278:4] [279:11] [288:10]
 [297:6] [304:2,3] [305:6]
 [311:19]
mayor [88:10] [144:9]
mayors [214:14]
mccay [89:10]
mcneely [189:17]
mean [20:24] [21:8,11]
 [51:10] [59:2] [61:14]
 [64:5,11] [66:1,2] [71:2,7]
 [88:18] [90:12] [93:14]
 [109:10] [117:22] [130:9,16]
 [165:18] [224:21] [227:16]
 [264:16,23] [268:6,11]
 [274:15,25] [287:23] [299:
 6] [300:25]
meaningful [34:24] [60:17]
 [163:16] [235:23] [250:9]
means [71:9] [211:19]
 [227:12] [291:21]
meant [4:13]
measure [41:10] [151:6]

measured [155:4,9] [156:11]
 [161:21]
measures [21:8] [161:13]
mechanics [69:20]
mechanism [17:2] [52:3]
 [65:8] [84:18] [98:14]
 [101:11] [115:8] [162:11]
 [200:19] [217:1] [249:4]
 [271:6]
mechanisms [33:4] [61:5]
 [91:4] [306:16]
meet [6:13] [23:22] [139:17]
 [184:25] [212:23,24] [231:
 18] [233:11] [241:11]
meeting [23:1] [185:18]
meets [110:7]
member [3:5,8,10] [8:18]
 [22:8,18,25] [44:23] [53:14]
 [74:13] [80:12] [87:7]
 [107:10] [110:12,15] [136:
 4] [159:22] [229:18] [242:10,
 21] [250:23]
members [4:4] [6:5] [9:19]
 [15:13] [16:22] [18:22]
 [19:13] [21:21] [22:5,14]
 [24:5,6] [34:16,23,25]
 [35:6,8] [37:1,11] [38:1]
 [44:21] [45:1] [53:16]
 [57:6] [64:7,8,14] [81:2]
 [83:23] [92:7] [108:13]
 [111:19] [115:1] [122:19]
 [126:4] [136:18] [139:3]
 [141:8] [154:12,18,22]
 [157:20] [160:24] [169:19]
 [234:15] [235:17] [243:5]
 [246:20] [287:20]
membership [10:25]
memoranda [151:2] [153:16]
 [181:2] [190:17]
memorializing [245:16]
men [44:7] [218:17]
mend [138:18]
mention [70:6,19] [118:25]
 [185:3] [194:15] [307:25]
mentioned [47:6] [91:3]
 [93:22] [105:25] [116:24]
 [120:23] [152:10] [163:17]
 [172:8] [176:25] [179:25]
 [182:19,20] [208:5] [213:1,
 20] [216:5] [223:16] [225:18]
 [228:21] [258:12] [259:4]
 [280:15] [293:22,23]
mentor [36:10]
menu [74:12]
message [29:5] [40:9]
 [132:20] [141:13]
met [17:2] [27:18] [65:8]
 [139:4] [155:5] [158:17]
 [181:1] [187:12] [218:3]
 [242:12] [270:4]
method [34:11] [150:19]
methodologies [92:25]
 [152:15] [153:22] [218:15]
methodology [147:24]
 [150:7] [152:23] [153:11,14]
 [185:1]

methods [150:18,19] [152:11]
metropolitan [153:20]
michael [2:18] [89:9]
michelle [2:5] [45:9]
microphone [53:23,24] [80:18] [88:17] [234:20]
middle [126:10] [127:1] [149:3] [221:25] [229:21] [233:6] [297:8] [312:24]
middlesex [307:1]
midst [13:16]
mike [10:15] [59:23] [60:9]
milestone [149:25]
milgram [2:16] [80:12,14,22] [82:12] [85:21,24] [87:4,14] [247:9] [258:19] [288:20,21] [289:12,17,21,24] [290:6,13,20,23] [292:1,18]
million [28:21] [56:20] [181:21] [297:6]
millions [56:25]
mind [72:5] [88:19] [113:23] [115:11] [122:4] [163:6] [172:10] [177:6] [182:10] [185:6] [216:17] [280:22] [287:1] [296:4] [299:5]
mindful [131:23]
mine [89:20] [254:23]
mined [221:4]
minimal [181:18]
minimize [7:23]
minor [27:23] [51:15] [60:23] [110:21] [149:14]
minorities [60:4] [70:20] [71:2,7] [137:12,13] [273:7]
minority [62:15,22] [64:8] [112:22] [136:11,18] [137:22] [138:13] [139:4,6] [272:25]
minute [7:16] [117:22] [159:23] [227:22] [233:16]
minutes [44:23] [130:1] [132:11] [159:22] [227:23] [250:25]
mirror [54:21]
mirrors [100:22] [201:22]
misconduct [23:24] [35:18,23,25] [60:14] [119:24] [128:25] [234:7] [238:9] [243:12,18,20] [245:7] [246:21]
miss [76:20] [87:14] [98:21] [111:16] [130:5] [233:25] [234:11] [247:9] [250:20,25] [251:1] [256:7] [259:11] [285:2] [288:20] [305:14] [308:20]
missing [214:20]
mission [11:15] [31:24] [38:14] [43:22,23] [58:5] [85:1] [116:17] [125:9] [173:3] [174:14] [235:7] [236:25]
missions [46:15] [85:4] [120:14,20] [183:9]

misspoke [200:14]
mistake [179:19] [218:16] [304:18]
mistaken [69:15]
mistakes [28:9,10] [272:5]
mistrust [119:20] [236:6]
misunderstanding [141:2]
mittell [2:19] [102:3] [107:10]
mitigate [14:4] [63:12] [167:13]
mitigating [11:20] [143:19]
mobile [23:2] [39:20] [50:24] [71:14]
mode [7:25]
model [33:14] [98:10] [275:24]
models [207:22]
modern [144:19]
modernization [11:9]
modernize [12:13]
modernized [106:12]
modifications [73:12] [162:18]
modified [247:3]
module [20:8,9] [22:17,24] [110:10] [128:22] [169:8]
modules [19:19] [20:2] [129:1,2]
mold [134:11]
moment [14:24] [18:19] [44:6] [51:10] [185:13] [198:15] [200:12]
momentum [29:20] [38:21]
money [58:1] [63:14] [86:4] [140:13] [209:9] [222:8,10] [230:17] [232:1,4] [233:1] [291:8] [308:7,8]
monitor [15:16] [23:17] [66:14] [67:12] [74:5] [86:23] [97:6] [100:5] [148:1] [153:13] [170:18] [186:14] [188:16] [197:1] [199:19] [241:15] [251:12] [252:4] [258:4,7,17] [267:11] [270:6] [276:7] [277:16] [281:12,13]
monitored [121:15] [152:18] [187:7] [265:12]
monitoring [15:14] [18:10,14] [48:21] [49:23] [66:13] [73:13] [91:10,12] [92:16] [93:6] [99:10,14] [110:6] [138:3] [147:25] [150:13,17] [151:25] [153:4,11] [154:13] [155:5,10] [156:1,3,10,17,20,23] [157:16,17,20,25] [158:5,7,19,25] [159:1] [160:6,9] [161:3] [162:17,20] [163:3] [166:9] [190:16] [191:24] [201:7] [212:19] [214:9] [218:13] [223:14] [241:13] [251:22] [252:2,7,11,22] [253:1] [255:10] [256:2] [260:19] [261:23] [264:25] [268:7,18] [269:3,4] [272:3] [275:20] [276:1] [277:4] [278:15] [282:1] [283:17] [284:7,23] [299:22] [303:9] [306:6]
monitors [3:6] [4:18] [8:6] [16:12,13] [27:13] [47:21] [58:19] [69:9,22,23] [70:2,4] [79:18] [82:6,19] [87:18,19] [94:25] [99:2] [123:3] [124:8] [132:16] [147:13,15] [149:2] [151:13,24] [154:3] [161:12] [173:24] [180:3] [182:2] [209:4,10,15] [211:4] [218:14] [226:17] [238:3] [244:9] [267:23] [268:20] [269:13] [270:7] [271:23] [272:13] [275:12,14] [276:12] [277:3] [281:24] [283:8] [298:20] [302:1] [309:21] [310:8] [311:8]
monitorship [40:8] [79:14,16] [80:3] [116:6] [182:19]
montgomery [153:19]
month [23:4] [32:7] [186:12] [238:16]
monthly [207:10] [311:21,24]
months [15:24] [16:7] [22:2] [28:12] [77:13] [80:22] [106:1] [182:5] [185:17] [203:9] [207:16] [212:21] [264:7] [301:17]
morale [72:4] [85:9] [102:10] [141:1] [142:8,24] [144:13] [165:7] [217:18] [253:19] [254:2,9,16,17] [302:16]
morning [4:1,3] [45:11] [52:8,9] [72:24,25] [76:21,23] [91:25] [92:1] [107:13] [186:22] [200:21,22] [203:7] [271:14]
mortgage [74:19]
mostly [142:8] [286:5]
motion [5:3,5]
motor [18:8,23] [19:19] [20:8] [21:9] [22:8,16,24] [24:7] [26:10] [27:6] [28:21,22] [31:10] [35:17] [36:12] [71:12] [72:19] [113:5] [128:22] [154:20,24] [157:21,24] [158:8,14] [238:12] [239:14] [244:6] [303:25]
motorist [24:22] [25:4,12] [26:9,21] [28:22] [51:3] [74:11] [75:18] [78:11] [112:13] [113:7] [169:5] [244:9] [271:2]
motorists [18:12] [21:17,20] [70:24] [112:15,20,22] [169:6] [244:6]
mount [67:18]
move [5:17] [7:21,22] [53:15,23] [61:8] [67:1] [68:9] [80:18] [81:13] [84:7] [120:17] [127:3] [130:25] [182:19] [189:11] [194:8] [203:15,22] [214:1,4,5,6]

[219:4,13] [223:9] [227:4,6,7] [279:19]
moved [5:2] [55:2] [152:2] [209:2] [215:5] [228:11]
movement [258:22]
moves [38:14] [65:5] [69:2] [103:15]
moving [12:25] [47:2] [106:22] [114:10] [124:20] [170:17] [171:3] [213:18] [215:11] [229:16]
mr [3:7] [4:1] [9:18] [44:17,19] [45:6,7,19] [46:23,25] [47:13] [48:6,7,8,9] [49:12] [50:1,2] [52:5,8,9,10,21] [53:17,19,20,22,25] [54:19] [56:11,16] [58:14] [59:1] [61:10,13] [62:9,11,18] [64:19,21,23,24,25] [65:18] [66:11,20] [67:4,16,19] [68:1,25] [69:6,14,19] [70:5,9,10,15] [71:20,23] [72:21,24,25] [73:1,16] [75:4,8,10,13,22] [76:3,16,18,19,23] [77:5,11,20] [78:5] [79:7,11,16] [80:6,11,16] [82:11] [83:16] [85:23] [86:20] [87:6,9,16,24] [88:2,3] [89:4,7,8,9,12] [90:2] [91:8,11,13,15,18,19,24] [92:1,2] [93:14] [95:5,14] [96:3,22] [97:18,24] [98:18,19,23] [99:17] [101:1] [102:1,6] [104:15] [107:8,9,13] [108:6] [109:23] [110:7] [111:11,12,18] [112:24] [114:21] [115:3] [116:3,13,23] [117:10] [118:6,7,8,13] [119:10] [121:9,17] [122:16] [123:24] [126:2,7] [127:9,12,13,16,22,25] [128:13] [129:20] [130:14] [131:5,6,12] [132:5,10] [133:1,2,3,6,7] [134:8] [136:8,14] [138:6,8,9,10,21] [140:7,12,18] [141:20,21] [142:7] [143:2,4,14] [144:23] [145:14] [146:23,24] [147:8,14] [148:12,20,23] [149:9,11,15] [154:11] [159:20] [160:2,13] [164:22,23,24] [165:12] [166:5] [168:19,21,22] [169:18] [170:1] [172:4,5,6,7,13] [174:4,5,6] [175:19] [177:15] [178:1,2,3,4] [179:24] [180:9] [182:15,16] [183:2] [184:17,18,20] [187:4,6,11,15] [188:11,18] [190:12,13,19,22] [192:16,25] [193:20,25] [194:10,11,12] [195:4] [197:11,19] [199:5,24,25] [200:1] [201:10,24] [202:2,3,5] [203:3,16] [204:17] [205:20,23,25] [206:23] [207:7] [208:20,22,23] [209:22]

[210:23] [213:14,16,24]
 [215:9] [216:20,21] [219:16
 ,23] [220:23] [222:15]
 [225:12] [227:1] [228:14,20]
 [229:16,17] [231:7] [233:2
 ,20] [234:15,19] [250:20]
 [252:16,17] [253:18] [255:
 6] [256:6,7] [258:3,24]
 [259:11,23] [260:7,13,14,16]
 [262:9,19] [264:9,18]
 [265:1,20,21,22,24] [266:4
 ,7,17,22] [267:22] [268:8]
 [269:22] [272:23] [274:8]
 [275:8,9,10] [276:9] [278:13]
 [279:19,20,21] [280:12,25]
 [281:18] [283:6,14] [284:4
 ,25] [285:1,2,5] [288:20]
 [293:14,15,18] [294:22,25]
 [295:12] [296:1,11,17]
 [297:8,11,15] [298:2,3,4]
 [300:7] [303:11] [305:14]
 [308:20] [309:16,25] [310:
 6,10] [312:19] [313:14,17]
ms [45:11] [46:22] [76:21,24]
 [77:8,16] [78:2] [79:5,9,12]
 [80:5,14,22] [82:12] [85:21
 ,24] [87:4] [98:23] [100:13]
 [101:25] [118:11,15] [121:
 5] [122:15] [130:6] [160:2]
 [161:5] [162:14] [164:21]
 [222:15,16] [223:13] [225:
 11] [234:14,22] [247:11]
 [251:1,3,4,15] [252:4,6,15]
 [253:4] [254:4] [255:13]
 [256:21] [258:6] [259:2,18
 ,25] [260:11,15,24] [262:16
 ,23] [264:16,20] [265:3,23]
 [266:3,6,15,20] [267:4]
 [268:6] [269:1] [273:2]
 [274:13] [276:5,19] [278:19]
 [280:5,23] [281:16,25]
 [283:11,24] [284:5] [285:4
 ,15] [288:21] [289:11,12,16
 ,17,20,21,23,24] [290:3,6,13
 ,20,23] [291:10] [292:1,6,18
 ,20] [293:17] [294:11,23]
 [295:2] [296:3,13,22]
 [297:10,13,19] [299:1]
 [302:6] [303:22] [305:15]
 [306:8,24] [307:2,3,6,22]
 [308:7,19] [309:15,22]
 [310:2,9] [312:18] [313:6,16]
multi [18:17] [38:25] [56:24]
multifaceted [38:25]
multi-faceted [38:25]
multilayered [114:3]
multiple [32:4] [50:13]
multiplier [41:5]
multiply [210:14]
multitude [11:22]
municipal [220:2] [221:15]
 [222:13,18] [247:14] [248:
 1] [256:13] [257:9] [300:20]
 [306:14] [310:24]
municipalities [128:4]
 [220:25] [279:6] [284:3]
municipality [128:5,9]
muslim [73:4,5] [74:13]
 [127:1]
muster [113:24] [147:10]
mv [125:3]
mvr [23:2,6] [27:9] [45:16]
 [50:24] [120:1]
mvsrs [124:21] [272:11]
myriad [242:3] [259:25]
myself [83:19] [104:25]
 [152:22] [154:4] [215:8]
 [239:5]

N

naacp [53:18] [56:6]
nail [166:20]
name [4:4] [258:1] [270:12]
 [311:23]
named [9:1]
narcotics [8:25] [26:12]
 [76:4]
narrative [109:24] [157:11]
narrowing [211:2]
national [14:9] [22:22]
 [42:14,25]
nationally [43:5] [117:18]
natural [137:10]
naturally [140:24]
nature [86:15] [293:13]
 [310:13]
navigate [20:2]
near [211:17]
nearly [133:20]
necessarily [11:15] [172:16]
 [262:23] [306:9]
necessary [6:19] [17:25]
 [34:9] [157:6] [163:16,19,23]
 [188:16] [233:11] [241:8]
 [244:3] [245:22] [246:18]
 [248:14] [253:2,5,6] [278:5]
 [281:20] [291:25] [309:23]
need [44:25] [64:12] [78:8]
 [84:4] [88:14,18] [91:7]
 [94:4] [99:23] [106:9]
 [108:17] [109:6,20] [113:19]
 [115:10] [121:13] [122:14]
 [126:5] [130:18] [135:19]
 [136:14] [139:2] [143:11]
 [145:3] [165:3] [166:11]
 [170:22] [182:11] [186:13]
 [196:17] [197:4] [198:12]
 [202:9] [204:2,23,25]
 [205:3] [207:4] [209:13]
 [211:6] [214:14,15,17,18,19]
 [216:1] [218:23] [219:13]
 [228:3,15,23] [230:8,10,13]
 [231:5] [248:17] [253:11]
 [259:5] [276:17] [278:18,22
 ,23] [298:24] [301:19,24]
 [302:23] [308:10,12,14]
needed [13:7] [136:16]
 [188:9] [192:3,4] [227:14]
 [246:9] [255:15]
needs [12:22] [20:5] [29:11]
 [33:8] [61:6] [80:20] [84:3]
 [90:6] [91:2] [97:16] [103:4]
 [119:12] [128:18,20] [168:
 15] [171:6] [183:18,19]
 [184:3,13] [185:19,20]
 [190:1] [210:5,9] [219:2,12]
 [230:5,22,24] [232:16]
 [247:4] [264:13] [265:18]
 [266:18] [268:9] [288:17]
 [298:23] [304:8] [306:18]
negative [18:1] [54:13]
 [61:3] [83:6] [119:2] [217:18]
 [286:5]
negatively [13:8] [191:15]
negotiation [41:20] [70:1]
 [154:16] [161:12]
neighboring [11:12]
new [1:6,14,23] [4:6,11]
 [5:16,19] [6:1] [8:4,17,21,24]
 [9:7,10,13,22] [10:2,21]
 [11:12,21] [13:14,21]
 [14:16] [15:16] [16:23,25]
 [18:6] [25:7,25] [31:1,19]
 [33:10,11] [35:22] [37:5,14]
 [38:1] [41:21] [42:16,21]
 [43:10,17] [44:8] [46:24]
 [48:24] [53:19] [64:24]
 [65:6] [69:16] [70:13]
 [73:3] [84:6] [85:4] [88:11]
 [91:1,23] [98:5,21] [100:2]
 [101:3,7] [102:5] [106:2,11]
 [107:1,11] [113:18] [115:22
 ,23] [122:1] [123:18] [133:13
 ,15] [139:18] [142:16]
 [143:22] [148:2,18,23]
 [149:20] [152:13,20,23]
 [153:3,24] [154:7,10,15,17
 ,23] [155:21] [156:8,14,18,20]
 [159:3,8,12,13,16] [161:24]
 [163:10] [167:25] [168:3,11]
 [171:23,24] [173:23] [175:
 11] [177:7,22] [179:9]
 [181:23] [183:21] [184:23]
 [185:14,22] [186:15] [189:
 6,25] [190:5] [192:2,14]
 [194:25] [195:2,12] [197:16]
 [198:9,10,20] [199:7]
 [200:18] [201:19] [203:1,24]
 [204:24,25] [205:13,18]
 [208:17] [209:25] [211:15]
 [215:2,5] [218:17] [219:19]
 [221:18,23] [225:1] [226:7
 ,10] [228:24] [231:1] [232:21
 ,24] [235:23] [236:4,5,12,17]
 [237:9,14,15] [238:15,21,23]
 [239:12,22] [242:21] [243:
 3,5] [245:21] [246:2] [247:4]
 [249:21] [262:13] [268:13]
 [274:4] [276:17] [289:9]
 [299:19] [301:5] [307:12]
 [315:5]
newark [14:25] [28:15]
 [55:4] [77:22,25] [139:11]
 [148:22] [284:12]
newest [37:10]
news [297:1]
newspaper [297:3]
next [15:11] [52:6] [53:17]
 [64:22] [67:16] [72:21,22]
 [80:11] [87:6] [107:9]
 [108:7] [126:2] [167:3]
 [188:12] [210:10] [229:16]
 [262:1] [275:9] [291:16]
nice [294:12]
nimble [207:11] [208:5]
nine [9:3] [28:12] [77:13]
 [148:18] [224:7]
ninth [18:14] [49:23] [50:1]
njsp [208:15] [212:9] [232:11]
no [16:16] [17:10] [25:8]
 [28:24] [47:9] [48:16]
 [53:9] [71:23] [75:13]
 [105:4] [115:13] [116:1,2,11]
 [120:12] [124:22] [130:25]
 [135:23] [136:14] [149:12]
 [166:11] [167:11,12] [177:
 5] [182:10] [185:25] [194:7]
 [195:8,9] [197:21] [202:2]
 [211:16] [218:16] [220:13]
 [244:18] [257:7,13] [266:23
 ,24] [267:13] [271:17]
 [272:5] [277:7,9,11] [278:1]
 [280:14] [281:5,15] [284:19]
 [300:6] [302:6] [303:22]
 [309:22] [310:9,25]
noble [286:22]
nobody [88:8,19] [139:1]
 [173:11] [174:17] [198:25]
 [220:19] [300:9]
non [164:17] [171:3]
nonacculturated [164:17]
non-acculturated [164:17]
nonaction [29:8]
noncritical [226:16]
nondiscriminatory [99:20]
none [10:17] [38:3] [109:4]
 [278:5]
nonprofessional [132:7]
nor [17:11] [29:22]
normal [70:25] [231:17]
normally [257:6]
norris [304:7]
north [28:14] [77:21]
northern [133:21]
notary [315:5]
note [178:18] [198:13]
noted [16:20,25] [17:23]
 [24:15] [27:19] [28:2]
 [65:6] [76:7] [169:23]
 [178:5] [245:15]
notes [315:8]
nothing [117:24] [142:9]
 [145:17] [267:12] [272:15]
 [278:6] [296:13]
notice [82:23] [131:10]
 [178:20]
notices [61:2]
notification [113:16]
notify [50:15] [71:10]
notion [49:13] [50:9]
november [6:23]
nowhere [231:22]
nuanced [127:18]

nuclear [12:1]
number [15:2] [18:8,11]
 [20:10,13,14] [21:6,7,16]
 [25:17,23] [26:1,3] [33:17]
 [39:7] [48:20,25] [51:20]
 [55:17] [60:8] [73:16]
 [82:6] [83:21] [112:22]
 [118:13] [125:4] [126:4]
 [134:20] [137:24] [164:3]
 [170:4,5] [190:24] [195:23,
 25] [196:6,10,14] [208:7]
 [226:16] [228:22] [232:22]
 [292:16] [309:2] [313:1]
numbers [25:20,24] [28:25]
 [75:11] [195:18] [197:6]
 [228:2] [263:3,4] [282:17,21]
 [283:1] [287:15] [309:12,14]
numerous [284:15]
nuts [165:22] [166:5]

O

oakland [153:18] [184:22]
objecting [199:4]
objections [281:15]
objective [30:25] [155:9]
 [172:18] [187:20] [211:1]
objectively [156:11,24]
objectives [37:14] [90:9]
 [167:8,17] [168:16] [204:13]
objects [198:8]
obligation [250:16] [284:11]
observations [176:8]
observed [174:23]
observing [144:24] [174:7]
obtain [44:24] [149:4] [183:
 14] [193:4] [241:3]
obtained [201:15] [244:4]
 [298:10]
obvious [49:3] [184:6]
 [221:9] [270:25]
obviously [47:22] [56:23]
 [66:21] [79:17] [89:15]
 [101:9] [128:1] [149:21]
 [203:6] [209:14] [216:15]
 [218:4] [219:9] [227:4]
occasion [45:4]
occasions [288:13]
occur [131:16] [199:17]
occurred [11:10] [36:7]
 [78:10] [84:24] [88:21]
 [110:12] [117:11] [189:18]
 [224:24] [227:2] [288:12]
occurring [111:6] [196:18]
occurs [62:5] [70:1] [198:12,
 18] [266:1]
oclock [7:15,18]
october [1:15] [6:22] [16:1]
 [315:17]
odd [117:19]
odds [226:23]
off [87:18] [111:7] [124:19]
 [144:5] [186:8] [227:13]
 [255:20] [258:21] [269:1]
 [284:18] [293:5]
offenders [15:9]

offer [7:3] [10:19]
offering [138:3]
offers [185:7]
office [7:11] [8:9] [19:25]
 [27:12] [34:4] [35:9,15]
 [41:21,24,25] [42:1,4,6]
 [46:6] [47:17,24] [48:5]
 [56:5] [60:10] [63:8,22]
 [67:11] [70:2] [73:21]
 [80:23] [81:7] [82:8,22]
 [83:2,3,23] [84:25] [85:2,6]
 [86:25] [87:1] [92:20]
 [93:9,10] [94:17,22] [95:3,10,
 21] [96:1] [97:20,25] [100:
 9] [105:10] [109:25] [111:4]
 [116:8,9,12] [123:3] [132:17,
 18] [134:21] [135:21]
 [138:23,24] [141:24] [142:
 3] [148:17] [157:23] [166:8,
 19] [173:24] [194:5] [202:22]
 [204:7] [214:15] [217:9]
 [222:4] [235:3,14] [236:21,
 25] [237:7,13,15] [238:1,25]
 [239:21] [240:11] [241:8]
 [242:2,5,24] [243:8,19,22,25]
 [244:13,20,25] [245:12,17,
 20] [247:15,19,24] [248:3,18]
 [249:23] [250:1,5,7] [251:4,
 10,20,22] [252:2,18,24]
 [253:10,16,21,24] [254:1]
 [255:2,8] [256:14,16,18]
 [257:25] [258:4,15] [259:4,
 7] [260:8] [261:8,22] [262:
 25] [263:5] [264:23] [265:2]
 [266:2,5] [267:2] [269:6,16]
 [270:10,12] [271:18,19,21]
 [272:1,9] [275:13] [276:3,14,
 22] [278:12,25] [280:17,18]
 [281:2,16,20] [282:2,20]
 [283:5,9] [288:12,23]
 [290:12] [292:7,8,10,12,16,
 17,25] [293:2,9] [294:7,14,
 16] [295:10,15,21] [296:19]
 [298:11,14,23] [300:14]
 [301:15] [303:9,18] [305:24]
 [307:4,5,10] [308:5] [309:19]
 [310:25] [311:18,22,25]
 [312:4,9,15] [313:4]
officer [10:8,14] [24:23]
 [75:6] [141:4] [147:17,22]
 [256:1,20] [273:15] [313:4]
officers [47:23] [135:7,18]
 [173:4] [217:5] [220:9,11,13]
 [221:8] [235:24] [277:21]
 [284:13,14]
offices [202:18] [227:13]
 [248:2] [249:25] [307:19]
official [247:17]
often [119:14] [210:3,18]
 [224:10] [228:25]
oftentimes [161:15]
oh [61:13] [261:15] [274:18]
ohio [81:16] [152:15]
okay [77:8,16] [78:2] [121:12]
 [144:9] [162:14] [196:22]
 [197:7,8] [209:22] [210:8]

[229:10] [269:23] [275:8]
 [280:23]
old [58:20] [177:25] [190:17]
 [211:16] [230:16]
once [94:8] [103:15] [123:18]
 [136:19] [137:7,9] [146:21]
 [152:3] [154:25] [165:24]
 [185:16] [207:8] [224:4]
 [299:17] [311:19]
one [18:15] [27:16] [36:6]
 [39:7] [46:14] [48:21]
 [50:25] [52:12] [54:10]
 [58:9] [59:6] [62:10] [65:4]
 [66:11] [67:20] [68:7]
 [71:3,12] [75:22] [78:7,8]
 [80:16] [82:1] [86:4] [88:1]
 [91:8] [92:15] [93:17,19]
 [96:13] [97:18] [99:1,6,7]
 [102:25] [104:22] [106:17]
 [107:18] [116:23] [118:13]
 [121:5,9] [123:9] [124:11,17]
 [127:7] [128:4] [133:15]
 [134:20] [135:7] [137:1,5]
 [141:13] [142:23,25] [147:
 14] [158:4] [161:10] [162:7]
 [164:12] [167:1,9,13]
 [168:20] [170:12] [172:13,19,
 24] [175:19] [178:13,24]
 [179:19,24] [180:4] [181:4,
 21] [184:5,22] [188:18]
 [197:21] [198:5,12] [199:22]
 [200:7] [201:10] [206:23]
 [207:21,23,25] [209:11,24]
 [211:6] [213:19] [214:20]
 [215:1] [216:4] [217:3,12,24]
 [222:17] [223:13] [224:9]
 [225:16] [226:22] [228:7]
 [230:1,6] [232:17] [239:7]
 [249:19] [257:14] [259:9]
 [260:4,12] [265:12] [277:7,
 9,11] [278:1] [279:8] [284:
 21,22] [285:11] [286:4,13,16]
 [292:6] [295:5] [297:16,17]
 [298:5] [300:6] [303:2,13]
 [304:16,22] [307:4,22,25]
 [313:8]
onerous [228:7]
ones [49:3] [115:19] [163:19]
 [170:2]
ongoing [104:11] [229:7]
online [63:10] [106:16]
 [135:14] [186:4]
on-line [63:10] [106:16]
 [135:14] [186:4]
onto [7:6] [124:20]
open [6:14] [31:22] [149:4]
 [183:24] [243:25]
opening [3:3]
openly [240:7]
operate [12:4] [73:21]
 [156:6] [186:9]
operated [4:18] [159:14]
operates [52:2] [183:5]
 [186:10]
operating [23:20] [24:17]
 [36:18] [39:15] [65:19]

[66:8] [68:22] [127:4] [145:
 2] [188:24] [273:23] [276:23]
 [290:11] [304:4]
operation [14:14] [15:6]
 [16:3] [143:21] [194:9]
 [234:1] [278:18]
operational [4:20] [19:2]
 [150:16] [157:5] [161:11]
 [167:7,17] [168:16] [178:24]
 [179:1] [185:10] [202:13]
 [204:12] [240:1,2]
operations [13:4,22] [23:5,7]
 [67:1] [135:22] [136:1]
 [150:3] [155:21] [159:16]
 [162:4] [163:13] [184:10]
 [196:5] [203:15]
operators [19:2]
opinion [10:6] [75:10]
 [160:8] [162:16] [193:24]
 [251:7] [264:22] [268:5]
 [270:20] [298:12]
oppenheim [258:16]
opportunities [139:8]
 [232:23]
opportunity [9:20] [10:13]
 [30:11] [53:25] [80:24]
 [112:7] [227:4,6,19] [235:3]
 [261:18] [285:16]
opposed [99:14] [110:6]
 [116:6] [133:10] [160:10]
 [164:6,12] [178:13] [191:19]
 [207:9] [215:5] [253:15,17,
 22] [256:15]
opposing [191:22]
opposite [105:8] [278:7]
ops [34:4] [35:18] [60:11,16]
 [110:7,20,24] [111:1]
 [119:24] [136:1] [222:4]
 [260:8] [303:11,13,15,23]
 [304:15] [305:7]
opsa [265:2]
optimistic [294:22,24]
 [296:12]
optimizing [14:2]
option [29:21]
oral [293:22] [296:18]
oranges [289:6]
orchestrated [94:16]
order [6:10] [14:17] [37:6]
 [39:16] [44:22] [91:20]
 [98:20] [104:12] [130:5]
 [138:13,14] [156:13] [172:
 19] [180:5] [186:14] [188:16]
 [193:7] [200:20] [201:12]
 [214:12] [217:16] [228:1]
 [240:8] [281:20] [286:25]
 [302:22] [309:7,8]
organization [11:7] [29:13]
 [30:5] [32:3] [38:9] [40:9]
 [49:17] [52:20] [58:5]
 [62:4] [67:7] [71:24] [72:7]
 [88:8] [94:21] [96:4] [101:4]
 [102:10,12,16,18] [103:10]
 [106:10] [108:1,9,11]
 [109:7,9,20] [111:23]
 [116:7] [118:5] [119:13]

[120:21] [121:1,2,11,15,18,25] [130:17] [131:11,21] [132:8,13,15,23] [135:13,21,23] [136:6,19,20] [137:1,11,24] [138:4] [140:23] [142:1] [144:22] [164:8,11,19] [165:4,5,6] [166:7,14] [167:14] [174:11,19,20] [175:12,13,18] [176:24] [177:9,13] [182:9] [183:5,8] [188:5,21] [189:8] [191:1] [193:5] [199:8] [202:16] [203:1] [204:22] [206:12] [208:6,8] [212:16] [213:9] [215:19] [216:14] [217:23,24] [218:6,22] [225:24] [227:6] [230:24] [231:3,9,14] [232:3,8] [254:11] [256:10] [274:20] [275:4] [298:21,24] [299:7,8] [301:12,19,22]

organizational [17:13] [29:12] [30:10,22] [31:6] [33:13] [37:7,23] [143:8] [189:4] [214:25]

organizations [56:7] [103:20,23] [144:10] [189:5,6,14] [199:11,12] [231:3]

organize [290:19]

origin [22:22] [126:10]

original [83:18] [133:17,18] [152:23] [163:4] [170:11] [315:7]

orleans [14:16]

ortiz [2:17] [87:7,9,16] [88:2] [89:4,8] [182:15,16] [184:17]

oshea [261:5] [292:10]

ospa [23:12] [24:6] [27:16] [66:15] [83:14,16] [85:13] [93:12] [94:4] [116:16,18] [130:21] [166:12,18] [200:23] [201:6,11] [202:7,9,18] [203:11,13,17] [206:9] [208:15] [209:6,10,14] [211:5] [212:8,9] [217:14] [226:14] [234:4] [235:6] [239:13] [240:7] [241:5] [242:1] [255:9] [259:15] [270:2,9] [276:10,11] [280:14] [283:8] [293:24] [300:12,16] [303:16,17] [308:1] [311:6]

otherwise [43:13] [146:18] [233:12] [255:9]

ought [107:1] [138:2] [267:2]

ourselves [6:15] [139:24] [140:4,19]

outcome [20:11] [79:6] [108:4]

outcomes [99:25] [100:1,2]

outlining [34:17]

outlook [59:11]

outputs [43:19]

outset [122:20]

outside [21:10,17] [22:9]

[24:2] [46:3,19] [59:12] [60:2] [62:4] [66:19] [67:8] [70:25] [71:11] [76:18] [77:8] [84:20] [92:19] [94:15] [97:11,20,21] [98:5,15] [100:7,10] [104:9] [111:7] [123:4] [132:15] [166:14] [188:22] [206:25] [207:13,14] [232:24] [263:11] [264:22,23] [287:17] [292:16] [301:10,14]

outsource [208:1]

overall [59:11] [170:7] [213:10] [247:18]

overarching [151:21] [211:15]

overcame [141:6]

overcome [30:8] [61:7] [63:2] [104:16] [119:21] [124:6]

overhead [223:7]

overkill [103:1,21] [105:15] [106:20] [107:6]

overlapping [120:20]

overnight [162:7]

oversee [45:14] [85:6]

overseeing [9:3]

oversight [18:18] [25:9] [33:4] [34:8] [40:11] [42:8] [43:1] [46:11] [84:2] [85:13,17] [86:6] [88:5] [94:13] [103:18] [140:22] [142:21,22,23] [205:12] [240:4] [241:2] [245:4,17,21,24] [247:5] [248:21] [249:9,11,23] [256:12] [298:15] [300:9,14] [301:21] [308:5] [312:1]

own [52:18] [143:8] [165:13] [255:11,22] [257:10] [276:1,22,23] [283:2] [301:6] [305:24] [307:3] [310:15]

P

p.m [1:16] [314:7]

pacific [118:10]

pack [62:6]

package [129:3] [178:15]

page [3:2] [14:10] [54:5] [75:23] [76:24] [193:6]

paggers [7:25]

pages [178:16]

panel [129:23] [148:12]

panelists [8:2,12]

paper [106:19] [233:13]

paragraph [120:22] [238:1] [241:4,16]

parallel [128:16]

parameters [30:11]

paramount [31:23]

parc [154:3]

parker [89:10]

parkway [28:17] [135:9] [158:3] [202:1] [260:20]

part [5:11] [7:7] [22:2] [45:15] [49:19] [51:17] [55:3]

[57:1] [62:20] [64:2] [82:1,4,14,21,24] [83:17] [85:15] [89:6] [92:16,17] [124:22] [133:19,21] [141:7,17] [146:17] [147:11] [150:10] [152:17] [165:16] [182:18] [188:23] [200:24,25] [201:1] [202:12,24] [213:3] [214:8] [223:8] [226:18] [229:6] [231:10,12] [248:22] [252:25] [253:1] [276:24] [283:20] [300:21] [301:5]

partier [231:10]

partiality [240:10]

participant [13:11]

participate [145:6]

participates [242:5]

participating [202:20] [217:3]

particular [21:3] [22:11] [24:8] [33:10] [115:9] [123:2] [128:5,9,20] [135:9] [137:17] [143:11] [146:6] [154:10] [160:16] [187:21] [193:18] [197:20] [248:12,15] [255:15] [261:6,13] [265:5] [267:11,20] [279:8] [284:16] [288:5,17] [296:4,8] [297:4,24] [303:23] [304:2,14] [306:18] [307:14,21] [310:16] [311:14] [313:1]

particularly [23:7] [54:15] [55:9] [173:5] [177:20] [181:23] [200:21]

parties [151:9,10,11,23,24] [152:4,11] [155:2,6] [156:12] [165:14] [168:14] [170:20] [192:3]

partiesconsensus [151:9]

parties-consensus [151:9]

partner [84:1] [91:22] [111:13] [148:13] [242:8] [253:5]

partners [11:18] [132:16]

partnership [28:16] [64:16] [77:23] [111:1] [139:10,11] [173:22] [192:18,21] [242:12] [257:19,21] [258:2] [302:13] [305:10]

partnerships [146:10]

parts [82:1]

parttime [55:3]

part-time [55:3]

party [26:13] [75:24] [76:1,9,13] [96:25] [97:2] [104:9] [191:18,19] [281:7]

pass [63:13,15]

passage [39:7]

passed [130:8] [150:1]

passenger [51:3] [74:11]

passing [63:20] [67:25]

past [29:25] [38:6] [47:3] [94:6] [96:10] [105:11,12] [107:17] [113:24] [118:12] [131:23] [132:2] [171:22] [191:4] [238:7] [275:3] [277:10] [302:21] [303:6]

pastor [67:18]

path [33:14] [85:3] [249:13]

patrol [13:10] [18:22,25] [22:6,19] [23:17,24] [25:13,16] [27:9] [28:18] [31:18] [32:10] [36:7,25] [54:22] [55:14] [59:9,14] [71:18] [99:20] [101:8] [106:13,20] [131:14] [134:14] [174:23] [195:9] [227:10]

patrols [45:21]

pattern [88:4] [257:2] [258:4,7] [267:20] [289:4,9,15] [296:9]

patterns [30:12]

patton [111:13]

pay [61:11,20] [91:11] [96:18] [143:11] [231:1] [264:21] [268:12,13,23]

paying [163:25]

payroll [268:2,4]

pays [96:16]

pc [223:1]

pds [116:19]

peace [88:19]

pedestrian [18:24]

peer [21:1]

peers [59:8]

pennsylvania [11:12] [150:6] [181:20]

pension [72:1]

people [47:22] [49:19] [58:19] [62:19] [63:12,13] [64:13] [71:4,25] [92:4] [96:5] [103:17] [112:1] [121:18] [122:10] [126:25] [127:23] [132:1] [133:11] [163:5] [167:15] [168:7,10] [177:18,23] [180:19] [191:3] [194:19] [195:23,25] [196:12] [197:13] [199:8,14] [201:4] [205:6] [206:10,18] [211:14] [217:24] [218:16] [224:14] [228:10,11] [240:19] [249:16] [257:11] [260:25] [264:15] [267:9,18] [269:20] [274:16,17] [279:15] [282:4] [285:17,23] [286:20] [287:3] [288:15] [291:14] [295:5,7] [302:15] [304:23] [307:11] [308:13] [312:24]

peoples [5:9]

per [97:14] [164:1,12,14]

perceive [85:12]

perceived [31:17] [54:17] [107:5]

percent [16:2,4,6] [17:4] [18:10] [25:17] [26:1] [35:24] [37:11] [48:20] [49:1,22,24] [50:10,21] [56:22] [62:22] [63:6] [68:5] [72:6] [134:13] [137:6,7,8,9,25] [138:1] [144:24] [150:22] [156:15] [178:11,12,23] [179:22]

[203:9] [211:1] [219:8]
 [243:11,17] [291:10] [299:
 24]
percentage [20:25] [22:9]
 [91:9,13] [137:1] [178:7]
perception [31:3] [54:6,9,12
 ,20] [142:24] [175:24]
 [197:17] [274:9]
perceptual [142:8]
perfect [17:11]
perfectly [72:8]
perform [65:14] [177:22]
 [243:11] [253:3] [255:14,17]
 [264:13]
performance [19:10,13]
 [20:3,4] [22:4,15] [28:5]
 [35:12,13,19,20] [36:1]
 [39:12] [60:15,22] [61:2]
 [72:17] [100:20] [110:17]
 [129:1] [142:11] [155:19]
 [178:19] [193:10] [228:5]
 [234:5] [236:19] [238:12]
 [243:20] [249:2]
performed [280:17]
performing [43:23] [134:7]
 [183:1] [241:13]
perhaps [57:6] [68:6] [69:8]
 [71:3] [74:16] [88:16]
 [100:6] [107:5] [111:6]
 [116:13] [128:8,9] [200:12
 ,14] [203:23] [265:1] [275:24]
 [306:2]
period [16:1,17] [18:10,14]
 [23:4] [26:4] [28:12] [35:1]
 [48:21,22] [49:23] [60:16]
 [100:20] [149:24] [163:6]
 [164:2] [186:11] [238:16]
 [275:25] [276:4,8,9,15]
 [277:21,24]
periodic [35:14] [115:7]
 [206:4] [207:6]
periodically [220:5]
periods [15:24] [16:5,7]
 [23:10] [60:1,7]
permanent [17:22] [37:23]
 [39:8]
permissible [73:7]
permission [24:23] [26:21]
permit [246:19]
person [48:2] [75:15] [95:16]
 [120:24] [121:14] [124:16]
 [174:22] [193:4] [197:24]
 [257:14] [259:6,9] [263:15]
 [269:12] [273:19] [297:16,17]
 [304:25]
personal [27:22] [31:4]
 [54:7] [63:10] [81:5] [132:22]
personally [69:9] [102:15]
personnel [16:19] [19:10]
 [20:5] [36:10] [39:10]
 [65:17] [95:2] [134:2]
 [185:19] [197:15] [202:11,19]
 [203:11] [218:1] [226:13,14]
 [243:4] [246:9]
persons [7:6]
perspective [25:5] [40:20]

[77:21] [126:20] [174:1]
 [311:6,14]
perspectives [6:7] [9:21]
 [41:16]
pertaining [245:8]
pertains [143:15]
pertinent [24:2]
peter [244:23] [280:10]
pga [14:8]
ph [164:17]
ph.d [9:12] [148:8] [239:23]
phase [152:12,13,14] [155:
 10,11,14,18,24] [156:9]
 [167:3] [211:15,16] [219:4]
phases [152:12]
phenomenal [81:4,14]
phenomenon [54:21] [103:
 1]
phillip [292:11]
philosophical [174:10,25]
 [201:1]
philosophies [38:23] [191:
 22]
phone [121:20] [261:25]
 [284:18]
phones [7:24]
phrase [107:15]
physical [63:23]
physically [135:15]
pick [48:3] [64:8] [68:18]
 [93:3] [117:15] [125:3]
 [164:7] [261:25]
picked [48:5] [125:24]
picking [53:23] [74:12]
 [87:16]
picks [274:4]
picture [166:6]
pie [312:6]
piece [82:17] [83:13,15]
 [86:9] [106:16] [161:23]
 [164:1] [176:11,13] [198:21]
 [204:9] [222:23]
pieces [19:1] [106:19]
 [107:1] [196:5]
piling [107:14]
piscataway [306:25]
pittsburgh [81:15] [87:21,25]
 [88:10,21,23] [89:1] [148:4]
 [150:5,10,15] [152:16,23]
 [153:24] [185:10,15] [186:
 3] [189:17,19] [192:13]
 [200:13] [216:6]
place [39:25] [50:23] [52:17]
 [58:10] [66:5,8,9] [68:19,22]
 [69:3] [75:15] [84:5] [89:21]
 [90:3] [92:21] [95:6] [99:19
 ,22] [107:20] [109:16]
 [112:17] [113:25] [119:8]
 [122:3] [128:7] [130:12]
 [165:24] [166:9] [176:20]
 [177:1,2] [204:11] [226:21]
 [246:9] [249:4] [259:15]
 [260:4] [261:19] [264:15,24]
 [267:24] [270:23,25] [271:
 6] [272:15,16] [275:25]
 [276:10,13,15] [280:10]

[293:3] [295:13] [297:22]
 [303:20] [304:16,22] [306:
 11] [308:4] [313:18] [315:8]
placed [219:24]
places [98:7] [179:4] [219:15]
 [260:1] [265:6]
plain [26:11] [28:25] [50:17]
plaintiff [291:4]
plan [14:10] [48:2] [85:17]
 [154:5] [194:3] [210:16]
 [262:4]
planning [14:7] [210:6]
plans [112:17] [262:3]
 [313:20]
planting [44:3]
plants [12:1]
play [194:16,18] [195:1]
 [217:23] [225:25] [263:16]
 [312:15] [313:19]
played [99:5] [166:10]
please [4:2] [7:24] [58:11]
 [64:8] [77:6] [149:9] [233:21]
pleased [9:25]
pleasure [118:18]
plot [20:22] [21:9,16,18]
 [22:12,15] [60:2] [70:23]
 [75:18]
plots [20:12] [59:6] [70:22]
 [75:21]
plotted [22:9]
plug [219:13]
plus [66:10] [178:11] [180:5]
point [5:4] [45:22] [48:16,19]
 [87:3,14] [88:13] [89:2]
 [90:10] [93:15] [94:2]
 [109:1] [113:1] [119:16]
 [124:2] [127:8] [143:21]
 [159:10] [160:23] [163:10]
 [164:19] [169:9] [172:11]
 [174:22] [179:11] [184:22]
 [202:22] [203:14] [205:12]
 [207:21] [215:1,22,23]
 [232:10] [244:14] [247:9]
 [249:7] [257:6] [302:11]
 [311:17]
pointed [59:2,13] [61:18]
 [110:17] [120:22] [126:23]
 [159:6] [192:19]
points [121:7] [164:11]
 [175:17] [202:15] [204:22]
 [207:13] [213:8] [216:17]
 [230:12]
polar [274:11]
police [1:7] [4:7,15,16,17]
 [5:19] [6:1] [8:5,10,17,18,24]
 [9:8,22] [11:1,10] [12:4,11
 ,20,24] [13:9,11,17,20]
 [14:5,11,13,20,23] [15:1,5
 ,21,24] [16:14,23,25] [17:7
 ,12] [19:14] [20:1,5] [23:21]
 [24:5,12,17] [27:5,12]
 [28:7] [29:16,24] [31:3]
 [32:9] [33:15,24] [34:1,23]
 [35:15] [36:14] [38:2,12]
 [39:7,14] [40:1,19] [41:1,5
 ,15,25] [42:5,6,12,21,25]

[43:3,11,17] [44:8] [46:6]
 [47:1,7,25] [48:11] [54:6,12
 ,14,18,21,23] [55:11,22,24
 ,25] [56:1,20] [57:4,10,19]
 [60:10] [62:12] [64:24]
 [65:6,13] [66:24] [73:22]
 [75:6] [76:14] [81:1,17]
 [82:2,8,15] [83:2,4,23]
 [84:9,17,20,21,22] [85:2,9]
 [86:7,11] [88:11,24] [89:1,24]
 [90:4,11] [91:1,10] [92:18,19]
 [93:2,5,9,20] [94:19] [95:2
 ,23] [96:6,15,19,23] [97:14
 ,21] [101:8] [102:9,11,13,18]
 [103:5,23,24,25] [104:2,6,11]
 [105:7] [107:12] [108:1]
 [112:5,19] [116:12,25]
 [117:4,8,23] [118:19]
 [120:16] [123:3] [124:3]
 [128:19,21,24,25] [129:8,14
 ,15] [132:17] [138:12,16,17
 ,22] [139:9,13] [140:21]
 [141:3,14,24] [142:4,5]
 [143:12,16,19] [144:3]
 [145:2,10,18] [146:1,4,6,9
 ,12,19,21] [147:12,22,25]
 [148:2] [149:19,20,22]
 [150:3,13,17] [151:3]
 [152:20] [153:9,20,24,25]
 [154:8,10,23] [155:21]
 [156:5,6,8,14,19,21] [159:
 4,9,13,14,17] [160:19,25]
 [161:24] [162:1] [163:11]
 [166:9] [168:12] [169:19]
 [171:22] [173:23] [174:9]
 [175:11,20] [177:8,18]
 [178:15] [179:9] [180:16]
 [183:21] [184:24] [185:11,14
 ,22] [187:8,11] [188:13]
 [189:7,25] [190:5] [193:8]
 [194:4,5,8] [195:2,6,12]
 [197:14,15,17] [198:10,20]
 [199:3] [200:11] [201:7,19]
 [202:11,22] [203:2,11,23]
 [204:24] [205:1,13] [206:16]
 [209:6,25] [211:2] [213:20]
 [214:1,6,13,19] [217:5,8,15]
 [218:18] [219:6,19,20,24]
 [220:5,9,10,11] [221:5,18,24
 ,25] [222:19,20] [223:15]
 [225:1,3,5] [226:7,10,13]
 [229:8] [233:23] [234:8]
 [235:15] [236:6,18,21,25]
 [237:3,9] [238:2,5,15,22,24]
 [239:11,13,21,23] [240:6,11]
 [241:6,19] [242:3,22]
 [243:4,6,9] [244:11,25]
 [245:3,22] [246:2] [247:2,4
 ,14,19] [248:1,4,19,22]
 [249:3,6,18,20,22] [250:3,5
 ,8] [251:5,10,11] [253:6,15
 ,17] [256:5,11,13,16] [257:
 25] [258:11,13] [259:8]
 [260:19] [262:13,14] [263:
 6,10,17,19] [264:11,23]
 [266:4,10,12] [267:7,25]

[269:8,18,21] [270:8,12,18]
 [271:3,8,14,19,24,25]
 [272:7,17,20] [273:1]
 [275:1,13,22] [276:6,13,21]
 [277:2,7,11] [278:15,17]
 [280:3] [281:5,6,22] [282:4]
 [283:1] [284:13,16] [285:18
 ,25] [286:9,24] [287:23]
 [288:12] [289:18,25] [290:
 18,25] [291:6,12] [292:2]
 [293:25] [294:3,8,9] [295:14
 ,17] [296:19,24] [297:4]
 [298:7,11,16,19,25] [299:3
 ,16,20,21,23] [300:5,20,22]
 [301:6] [302:2,9,25] [305:10
 ,21,24] [306:7,14] [307:23]
 [308:6,12] [309:2,19,20]
 [310:23,24,25] [311:9,23,25]
 [312:10,13] [313:5]
polices [11:14] [23:16]
 [238:10] [249:10] [276:1]
policies [30:18] [33:20]
 [37:14] [44:11] [90:3]
 [240:1]
policing [13:24] [15:4]
 [18:6] [31:16] [34:2] [56:5]
 [66:25] [138:15] [145:9]
 [191:23] [195:1,22] [236:13]
 [237:11] [283:23] [285:20,22]
 [294:1]
policy [16:24] [22:19] [29:10]
 [30:24] [31:21] [33:10]
 [34:16] [40:24] [93:23]
 [98:3] [147:21] [148:10]
 [155:15,20] [166:1] [196:22]
 [197:3] [198:9] [200:9]
 [214:14] [220:7] [239:24]
 [241:18]
political [146:12] [167:11]
 [180:10,22] [190:10] [209:
 8] [214:2] [215:14]
politically [94:14]
politicians [73:8]
politics [205:18]
polls [158:11]
polytechnic [148:10]
pool [64:17] [170:7] [211:23]
poor [144:16]
pop [75:17]
pops [224:10]
populate [217:24]
population [11:23] [28:20]
 [64:1] [136:25]
port [222:23] [304:7]
portable [221:12] [222:1,2,5]
pose [210:23] [211:3] [290:
 23]
posed [122:19] [123:23]
poses [140:22]
posing [123:15]
position [47:7,15] [136:22]
 [148:1] [165:21] [166:3]
 [193:22]
positioned [41:25]
positions [227:3] [308:22]
positive [11:8] [12:12]
 [38:17,21] [40:9] [61:4]
 [101:3] [102:12] [105:22]
 [119:7] [165:6] [209:1]
positively [72:18] [83:5]
 [191:15]
positives [10:2]
possess [20:21]
possibility [128:12] [305:25]
possible [6:17] [31:8] [65:14]
 [73:14] [80:19] [95:18,19]
 [128:14] [156:24] [166:17]
 [170:15] [193:3] [272:25]
possibly [182:20] [232:6]
post [18:16] [19:5] [20:11]
 [22:21] [29:4] [38:19]
 [39:6] [42:13] [52:15,16]
 [72:14] [74:25] [76:15]
 [78:24] [80:2] [85:4] [94:9,14]
 [116:10] [126:15] [196:8]
 [202:8] [209:8] [216:8]
 [250:6,13] [251:8] [313:25]
postconsent [38:19] [39:6]
 [42:13] [80:2] [85:4] [94:14]
 [209:8] [250:6] [251:8]
post-consent [38:19] [39:6]
 [42:13] [80:2] [85:4] [94:14]
 [209:8] [250:6] [251:8]
posts [73:22]
poststop [18:16] [19:5]
 [20:11] [22:21] [74:25]
 [76:15] [78:24] [196:8]
 [250:13]
post-stop [18:16] [19:5]
 [20:11] [22:21] [74:25]
 [76:15] [78:24] [196:8]
 [250:13]
potential [22:6] [108:14]
 [123:16] [168:4] [230:1]
 [253:19] [254:2]
potentially [19:17] [74:10]
 [279:16]
power [235:25] [236:1]
 [289:22]
practical [262:20]
practice [4:15] [5:18] [16:24]
 [22:1] [30:4,24] [40:16]
 [41:14] [42:3] [50:17]
 [150:12] [151:7] [154:24]
 [164:7] [257:2] [267:21]
 [289:4,9,15] [296:9]
practiced [32:3]
practices [12:15] [18:6,22]
 [19:16] [22:7] [30:12,16]
 [33:16] [38:9] [42:10,14]
 [57:3] [58:9] [59:15] [65:20]
 [99:20] [101:8] [117:13]
 [129:11,13] [131:14] [145:
 20] [147:25] [150:3,17]
 [163:14] [175:16] [183:6]
 [220:10] [232:18,19] [247:
 2] [258:5,7] [295:21]
pre [300:15]
preconsent [300:15]
pre-consent [300:15]
predecessors [104:21]
 [172:17]
predetermined [206:7]
predict [232:8]
preempt [99:21]
prefer [127:17]
preferable [290:24]
preference [309:8]
preferred [164:14]
preliminary [59:18]
prelimature [90:17]
preparation [122:21] [308:
 25]
prepare [108:3]
prepared [86:1] [255:25]
preparedness [13:21]
preparing [87:19] [92:23]
preponderance [242:9]
present [38:6,8] [94:6]
 [101:23] [116:14] [154:13]
 [157:13] [215:15] [301:7,9]
 [303:18]
presentation [53:21] [186:21]
 [190:15] [194:13,15] [259:
 12] [265:25] [266:1] [285:3]
 [290:8]
presenting [73:2]
presently [39:25]
presents [11:21] [124:5]
preserve [29:3]
preservice [134:10]
preserving [302:21] [303:6]
president [45:9] [53:18]
 [89:10] [118:9,12] [275:3]
press [144:16]
pressure [124:19] [130:15]
 [144:1]
presumption [75:14]
pretty [63:21] [204:23]
 [214:22] [220:12] [222:25]
 [226:17] [257:6]
prevail [249:11]
prevalent [73:20] [133:20]
prevent [15:7]
preventing [6:3] [302:20]
 [303:5]
prevents [180:12]
previous [116:15] [153:6]
 [178:4]
previously [159:14] [228:5]
 [280:18] [283:8] [303:12]
price [57:18] [223:7] [301:10]
pride [38:4] [39:3] [102:19]
 [103:24]
primarily [15:7]
primary [55:23] [101:17]
 [154:19]
princeton [148:24]
principals [53:3] [134:15]
 [246:11]
principles [32:6]
print [117:14]
prior [9:1] [100:22] [101:18]
 [131:9] [158:6] [160:4]
 [173:9] [177:19,25] [195:19]
 [237:14] [238:16] [259:23]
 [260:8]
priority [172:15]
privilege [4:5]
privileges [20:15]
privy [160:14]
pro [23:18]
proactive [17:25] [66:25]
 [125:9] [202:7] [221:8]
 [258:22]
proactively [267:2]
probability [185:8]
probable [52:2] [76:9]
 [113:14]
probably [49:18] [57:10,13]
 [58:15] [69:21] [70:3]
 [73:3] [83:19] [84:12]
 [90:16] [93:19] [116:14]
 [119:19] [121:17] [142:7]
 [163:15,16] [164:5,14]
 [165:24] [168:13] [170:24]
 [178:12] [180:7] [181:15]
 [185:11] [186:25] [194:24]
 [199:20] [202:25] [211:22,24]
 [213:13] [215:7] [223:4]
 [225:1] [226:6] [230:23]
 [233:9] [248:7] [256:14]
 [262:9] [278:23] [294:13]
problem [4:14] [36:21]
 [69:1,4,7] [73:13] [103:2,22]
 [133:18] [140:14] [184:1]
 [195:20] [207:15] [224:10]
 [229:1,5] [230:11] [236:11]
 [248:12] [253:19] [284:10]
 [288:11] [291:14,17] [300:
 7] [303:14,21] [304:20,21]
problematic [19:17]
problems [96:10] [123:16]
 [167:1] [175:22,23] [186:11
 ,14] [196:23] [221:15]
 [231:1] [256:2] [281:6]
 [284:20] [286:4] [291:18]
 [297:1] [303:24]
procedural [27:23] [100:2]
 [239:15]
procedure [24:17] [39:15]
 [145:1] [155:15] [201:16]
 [250:22]
procedures [22:19] [43:8]
 [44:11] [47:4] [60:25]
 [65:19] [66:8] [68:22]
 [155:12] [158:17] [183:5]
 [188:23,24] [238:23] [244:
 7] [273:24] [290:11] [301:21]
 [304:4]
proceed [44:20,22] [149:10]
proceeded [194:23]
proceedings [4:23] [7:1,22]
process [5:12,13] [18:20]
 [27:3] [28:6] [33:7] [34:3,18]
 [36:15] [40:6] [43:4,19]
 [50:12] [58:21] [61:6,22]
 [62:4,8,21] [64:10,18]
 [66:18] [74:9] [84:8] [85:8]
 [86:19] [88:20] [91:12]
 [97:15] [98:1] [100:1]
 [104:19] [108:4] [110:5]
 [114:3,6] [142:10] [150:11]
 [151:25] [152:2] [153:6,13]

[155:7] [156:10] [158:19]
 [159:2] [160:18] [161:4,10
 ,15] [162:5,13,19] [163:3,18]
 [164:7] [165:13] [167:21]
 [170:25] [171:4,11] [172:8]
 [173:19] [176:3,16] [178:25]
 [183:10] [185:16] [191:16,22]
 [193:1] [197:2] [202:12]
 [203:13] [205:12] [207:24]
 [210:5,8,20] [212:7] [213:4
 ,11,12,13] [214:11] [215:14]
 [217:1,23] [220:2] [222:6]
 [223:9] [224:3,18] [227:16
 ,17,21] [229:14] [236:22]
 [240:22] [242:18,25] [243:
 7,10] [246:22] [247:8]
 [249:9] [250:10] [261:2,19
 ,20] [273:24] [277:1,22]
 [278:8] [281:11,15] [290:14]
 [293:3] [299:22] [300:12]
 [304:16] [306:18] [307:17,20]
 [308:16] [309:10]
processes [17:16] [43:8,13]
 [99:22] [117:23] [118:1]
 [205:19] [226:12] [232:11]
 [240:7] [242:17]
processing [34:22] [112:6]
 [260:6]
produce [27:1] [86:24]
 [94:1] [100:3] [105:23]
 [107:3] [108:9] [157:11]
 [196:18] [198:2]
produced [19:4] [242:15]
product [94:1] [99:24]
 [129:17]
productive [85:1] [116:17]
productivity [38:13]
products [107:4]
professional [34:4] [35:10]
 [42:1] [110:1] [111:5]
 [135:21] [157:23] [160:8]
 [162:16] [222:4] [242:2,6,25]
 [244:13,20] [248:19] [261:
 22] [292:12,25] [303:18]
professionalism [17:9]
 [19:15] [28:7] [41:1] [43:16]
 [93:20] [118:3] [288:25]
professionals [207:1]
professor [147:19] [148:21]
profile [133:23] [293:12]
profiling [4:14] [5:19] [6:4]
 [42:18] [73:6] [90:1] [111:25]
 [126:19] [131:11] [154:24]
 [160:10] [169:2] [211:1]
 [230:2] [236:2,4,12] [243:14]
 [248:25] [249:15] [266:13]
 [267:21] [274:11] [278:16]
 [283:22] [296:9] [297:25]
 [298:1,6,22] [300:15]
 [304:10] [312:24]
program [36:20] [39:19]
 [43:1] [63:24] [139:19]
programs [6:1] [30:18]
 [33:21] [73:10] [186:15]
 [224:20] [225:9] [286:11,22]
progress [15:17] [25:5]
 [32:11] [40:5] [41:10] [53:2]
 [80:25] [122:6] [132:14]
 [151:20] [173:25] [188:15,17]
 [192:22] [235:10] [238:14]
 [311:8]
progressive [33:13]
prohibits [22:20] [237:9]
project [150:8,14] [152:8,11
 ,17,18] [154:10] [163:4]
 [181:18] [211:9]
projects [140:2] [150:20]
 [152:8] [153:23] [192:13]
 [211:9]
promise [131:24]
promote [19:14] [33:16]
 [136:22] [246:18]
promoted [37:16] [137:4,7,8
 ,9]
promotes [17:17] [41:16]
promotion [35:8]
promotions [37:2]
prompted [27:24]
promptly [27:9]
prong [83:8,9]
proof [277:18]
proper [27:18] [31:20]
 [49:10] [138:3] [243:19,23]
 [245:22] [246:22] [282:10]
properly [29:2] [38:22]
 [51:14] [201:13] [249:5]
 [313:3]
prophylactic [216:13]
proportion [21:20]
proportional [26:3]
proposal [66:12] [92:14]
 [160:16,17] [253:22] [281:
 9] [282:24]
proposals [167:2] [168:17]
propose [40:22] [46:17]
 [67:3] [233:7]
proposed [6:18] [67:8]
 [108:24] [151:6] [256:12]
proposing [100:7] [161:20]
 [282:20] [291:11,13]
proposition [58:4]
proprietary [222:22]
pros [126:20] [127:11]
prosecute [259:15] [307:14]
prosecution [46:11] [169:1]
prosecutions [239:18]
prosecutor [102:5] [118:18]
 [148:16] [248:4] [256:25]
 [257:19] [258:11] [267:7]
 [271:4] [290:16] [291:23]
 [295:22]
prosecutors [239:21] [247:
 18] [248:2] [256:14,18,25]
 [257:8] [258:14] [259:8]
 [271:25] [293:2] [295:4,8,15
 ,21] [306:13] [307:5,10,19]
prospect [17:4]
prosper [219:14]
protect [120:6] [220:24]
protected [250:17]
protection [14:7] [216:14]
 [237:12] [241:25] [245:9]
 [251:23] [257:3] [294:2]
 [296:7]
protocols [27:22] [39:21]
 [186:16] [240:3]
proud [9:25] [14:13] [30:5]
 [38:2] [92:5] [137:23]
proven [33:5]
provide [4:8] [31:7] [33:3]
 [34:8] [38:3] [40:15,18]
 [41:4,6] [47:18] [78:7]
 [95:24] [97:13] [112:16]
 [143:10] [156:3] [157:5]
 [204:22] [235:12] [244:16]
 [245:12] [248:21] [252:13]
 [281:12] [290:7,25]
provided [14:15] [26:16]
 [33:8] [37:3] [90:19] [99:3]
 [145:5] [198:11,15] [199:2]
 [206:9] [235:1,4,14] [290:1]
 [298:15]
provides [17:22] [46:10]
 [67:14] [68:7] [235:20]
 [238:2] [241:17,19] [301:12]
providing [13:12] [14:6]
 [30:22] [36:11] [97:16]
 [112:14] [181:7] [206:15]
 [207:12] [239:1] [281:7]
 [294:5]
proving [169:1]
provision [246:8]
provisions [90:15] [238:17]
prudent [265:17]
psychological [200:25]
public [1:8] [6:25] [10:24]
 [11:22] [14:3] [17:18]
 [18:3] [31:8,22,24] [32:15]
 [40:24] [42:17] [43:24]
 [46:4] [54:8] [58:6] [67:9]
 [72:18] [73:9] [86:7,14]
 [87:2] [93:22] [94:16]
 [95:9] [96:2] [97:9,12]
 [98:2] [100:8,11] [102:14]
 [104:4] [120:6] [125:13]
 [130:18] [147:18] [148:8,9]
 [151:19] [180:6] [200:9]
 [216:4,12,15] [237:17]
 [240:16,21] [246:1,12]
 [247:6,7] [248:23] [250:15
 ,17] [254:9] [255:2] [263:1,8]
 [269:24,25] [270:19] [273:
 16] [281:1] [282:14] [285:7]
 [286:6] [302:19] [303:5]
 [313:24] [315:5]
publication [39:11]
publicize [206:19]
publicly [41:12] [62:19]
publics [31:3,12] [38:5]
 [165:4] [236:5] [278:10]
published [65:23]
pull [144:5] [219:13] [234:19]
 [313:25]
pulled [128:16] [171:6]
 [183:20]
pulling [55:22] [106:19]
 [273:19]
punish [175:8]
punishment [215:22]
punitive [175:7]
purchasing [106:11]
purpose [47:17]
purposes [20:6]
pursuant [147:16] [148:3]
 [154:16] [244:21]
pursue [126:20] [208:14]
 [223:6]
pushed [162:8]
pushing [94:21]
put [49:13] [56:18] [63:8]
 [64:6] [66:9] [77:21] [82:4]
 [88:17] [92:2] [94:25]
 [99:19] [108:11] [109:1,16]
 [115:23] [118:22] [119:18,25]
 [122:14] [124:3,25] [127:10
 ,23] [136:22] [137:24]
 [143:22] [169:9] [171:21]
 [185:2] [191:7] [192:8]
 [196:2] [204:11,14] [206:13
 ,20] [217:2] [222:9,10]
 [229:9] [263:5] [264:6]
 [270:22] [271:5,11] [272:16]
 [275:24] [276:13] [287:18]
 [303:10]
puts [85:3] [124:19] [130:15]
putting [47:6] [97:8] [128:6]
 [166:5] [206:12] [267:19]

Q

quadrupled [311:12]
qualification [63:24]
quality [29:2] [50:20] [175:6]
 [205:9] [310:7] [311:17]
quantifiably [161:21]
quantify [177:1,13]
quantitatively [151:6]
quantity [29:2] [175:5]
quarter [26:4] [186:12]
quarterly [22:3,25] [23:4,10
 ,23] [28:4] [51:17] [60:1]
 [110:13] [136:3] [207:3]
 [228:7]
question [48:14] [55:20]
 [59:16] [62:11] [64:20]
 [65:10] [66:11] [67:20]
 [70:3,5,11] [75:22] [79:12]
 [81:24] [89:14] [91:9]
 [92:21] [97:19] [99:8]
 [100:14] [103:21] [105:15]
 [107:10,19] [109:24] [116:
 23] [118:23] [121:6] [125:6]
 [126:7] [129:6] [131:9]
 [132:5] [133:21] [134:9]
 [136:9] [138:10] [141:23]
 [143:4] [144:25] [160:5]
 [163:23] [165:17] [166:1,2]
 [168:13,20] [175:19] [177:
 6] [179:25] [180:10,13,22]
 [184:21] [188:12] [190:10]
 [192:10] [196:17] [197:5,12
 ,20] [203:4] [204:14] [205:17]
 [206:11,22,24] [209:17]
 [210:24] [213:19] [223:10,14]

[225:3,15] [226:4,19] [229:19] [231:7] [252:21] [254:22] [255:6,15] [256:11] [259:14] [261:23] [264:9,25] [266:20] [271:17] [272:23,24] [273:3] [276:7,20] [283:15,25] [284:1,2,7] [287:5,7] [290:24] [294:7] [302:17] [307:22] [310:14] [312:8,9,25] [313:2,3]
questioner [72:22] [225:13]
questioning [51:5]
questionnaire [63:11]
questions [3:5,8,10] [44:18,20,24,25] [45:2,3] [65:3,4] [74:10,18] [81:23] [83:1,12] [99:6] [107:17] [112:9] [115:13,20] [116:4] [122:18,23] [127:5] [129:25] [130:1,3] [133:5] [140:8] [143:1] [149:22] [159:24] [165:1] [174:6] [187:7] [190:23] [233:4,8] [250:24] [261:11] [262:8] [280:21] [282:10] [289:7] [293:19] [295:20,23,24] [309:3] [313:21,23,25]
quick [81:23] [116:4] [138:7] [140:10] [225:14] [289:3] [313:8]
quicker [107:3,7] [215:6]
quickly [28:10] [37:20] [56:9] [98:25] [102:20] [130:6] [164:8] [193:3] [208:18]
quietly [7:23]
quinoa [234:18] [269:22] [295:12]
quit [71:22]
quite [51:18] [58:25] [85:12] [91:2] [105:8] [170:21] [176:24] [215:6] [232:2]
quo [209:19] [210:20]

R

race [20:13] [21:3] [22:21] [43:2] [54:12] [63:4] [74:1] [75:1] [136:23] [194:14,16,24] [195:1] [196:1,6] [197:7] [236:14] [237:10] [238:24] [273:15,17] [274:2,5] [287:3]
races [197:13]
racial [4:14] [5:18] [6:3] [42:18] [111:25] [131:10] [133:20,23] [154:24] [169:1] [210:25] [236:2,4,11,12] [243:13] [248:25] [249:15] [266:13] [267:21] [274:10] [296:9] [297:25] [298:1,6,22] [300:15] [304:10]
racially [133:16] [236:13] [283:23]
radar [61:8] [63:9]
radical [36:14] [100:6]
radio [26:24] [27:22] [60:25]

[122:8]
raise [80:17] [123:14]
raised [123:22] [229:19] [248:1] [253:18] [292:3] [304:6] [312:17]
raises [197:11]
rambert [2:18] [89:9] [91:8,13,18] [178:3,4] [179:24] [220:23]
ran [144:6]
random [73:24] [243:17]
randomly [158:7]
range [241:22]
ranging [185:21]
rank [37:3,4]
ranking [24:5]
ranks [35:23] [36:25] [62:14,17] [136:13,15] [137:16]
rate [16:3,4] [17:4] [35:24] [156:16]
rates [17:12] [18:4] [114:13,14]
rather [30:8] [80:2] [96:19] [124:15] [127:15] [167:23] [180:1]
re [1:4] [161:23]
reach [25:3] [138:13,19]
reached [152:3] [271:16,17]
react [253:20]
reaction [49:19] [135:3]
reactionary [258:18,22]
read [93:16] [191:18] [271:9] [309:3]
reading [234:25]
ready [102:4] [147:9] [150:4]
real [4:16] [141:1] [173:24] [192:15] [201:24] [227:21] [257:13] [260:21] [261:23] [271:1] [290:24] [291:17] [294:9,20] [295:7] [302:13,24] [303:8,14,20] [312:4]
reality [12:22] [223:11]
realizing [165:2]
really [47:16] [48:17] [51:7] [53:2] [54:2,23] [56:3] [59:5,10] [64:15] [65:24] [72:1] [74:6] [81:25] [88:20] [96:20] [101:21] [105:6,21] [110:25] [111:2,21,23] [112:3] [131:25] [134:8] [140:19] [141:1] [144:25] [146:20] [161:11] [163:24] [168:7,25] [171:10] [176:4] [185:21] [186:3] [192:14] [197:1,10] [198:25] [205:16] [211:14] [216:25] [217:15] [225:15] [226:11] [241:15] [242:7] [264:22] [270:25] [274:21] [281:15] [286:9] [287:14] [292:15] [296:15,25] [300:24] [302:18] [307:20] [308:8]
realm [70:25]
rear [54:20]
reason [8:1] [20:10] [36:5] [55:20] [60:3] [109:6]

[136:15] [171:1,14,15] [189:18] [214:10] [215:1,2] [216:9] [262:14] [307:15] [312:9]
reasonable [26:25] [50:16] [51:4] [79:2] [113:3,10] [114:1,8] [157:10,12] [205:7] [223:22] [225:10] [268:17,24]
reasons [27:21] [52:12] [142:23,25] [162:7] [200:8,24] [229:23] [230:6] [250:6] [254:21]
recall [133:17] [309:8]
received [54:1] [202:25] [223:25]
receives [238:8] [240:7]
receiving [6:9] [37:1]
recent [30:6] [175:3]
recently [5:2] [33:23] [234:1] [273:5,6]
recertified [231:24]
recognition [28:8] [42:14] [44:13] [85:14] [142:11] [218:3,24]
recognize [50:23] [210:3] [234:22] [247:12] [313:10]
recognized [9:4] [43:5] [92:13]
recommend [5:16] [38:16] [41:19] [45:13] [60:12] [166:24] [182:22] [204:5] [210:10] [227:18] [262:11]
recommendation [5:15] [41:23] [42:24] [116:5] [129:10] [131:1] [150:8] [162:23] [167:24] [168:6] [182:18] [193:23] [203:25] [247:23] [262:15,17,21,22] [268:22] [310:21]
recommendations [5:21,25] [39:5] [42:11,20,22] [58:13] [60:12] [67:6,21] [81:21] [82:24] [86:2] [87:20,25] [108:24] [114:23] [116:22] [127:24] [130:9] [162:24] [200:5] [219:17] [245:14,25] [247:13] [305:19]
recommended [85:8] [90:20]
recommending [288:5,6]
reconcile [274:8]
record [7:7] [131:7] [149:4,12] [169:24] [229:20] [233:12] [313:11]
recorded [35:18] [179:4]
recorders [39:21]
recording [23:2] [50:25] [71:14] [304:1]
records [19:8] [31:13] [35:7] [95:1] [164:3] [172:2,3] [179:9]
recruit [273:7]
recruiter [136:17]
recruiting [62:23,24] [63:20] [64:3,9,11] [137:3] [138:2,22]
recruiting/eo [10:12]

recruitings [138:24]
recruitment [138:11]
rectify [17:14]
red [21:3] [110:3,4]
redefined [66:17]
redesigned [36:20] [128:18]
reduce [104:17]
reduced [267:25]
reducing [228:22]
reduction [32:13]
redundancy [275:14,18]
redundant [275:14]
reengagement [161:23]
re-engagement [161:23]
reestablish [272:8]
referred [18:2] [110:21] [173:6] [207:13] [220:23]
refinement [103:12]
reflect [86:2] [149:8]
reflected [179:7]
reflection [229:7]
reform [4:25] [17:21] [25:5] [28:7] [33:15] [39:18] [40:6] [41:1] [43:16] [65:16] [71:21] [88:20] [92:12] [93:20] [102:20] [104:19] [108:21] [145:16] [236:16] [245:14] [247:7] [257:9] [306:19]
reformrelated [39:18]
reform-related [39:18]
reforms [4:21] [9:24] [30:3] [37:17] [39:1,8,25] [40:16] [42:10] [44:15] [56:19] [66:4] [68:19] [72:10] [81:20] [85:18] [88:25] [90:11,13,19] [99:5] [100:23] [104:13,23] [105:5] [108:22] [116:18] [117:11] [118:2,3] [119:13] [120:12,18] [121:2,3] [125:16] [142:19] [145:19] [236:23] [245:23] [246:4,6,9] [249:12] [250:8] [254:19] [255:22] [264:8] [269:19] [273:24] [277:3,5,12,19] [278:9,11,12] [281:3,4] [282:9] [299:6,15,16,17] [300:5] [302:10,22] [303:6] [308:3]
refunding [231:21]
refusal [112:24] [113:6]
refusals [113:20] [169:13]
refuse [112:15,20] [169:6] [170:6]
regard [31:7] [70:7] [78:4] [79:6] [103:17] [140:14] [160:25] [220:8] [247:13] [248:1] [254:13] [255:7] [268:6] [276:24] [282:7,10] [294:17] [297:25] [304:6] [306:22]
regarding [19:13] [20:4] [36:12] [235:15] [239:2] [241:22] [242:13] [248:4] [250:12]
regardless [303:3]

regards [241:17] [261:12]
reginald [2:8] [52:6]
region [279:3,4] [294:19] [295:6]
regional [13:22] [19:23] [33:25] [42:17] [59:22]
regionally [128:10]
regions [279:1,11]
registration [26:18] [78:19] [196:19] [198:2]
regs [88:7]
regular [227:11] [258:15] [268:12] [285:21] [294:16] [295:20,23]
regularly [207:25]
regulation [65:24] [155:16]
regulations [100:3] [259:17]
reinforce [37:9]
reiterate [180:25]
relate [39:9] [143:15]
related [14:22] [16:17] [18:25] [25:16] [31:10] [35:17] [39:12] [123:1] [125:23] [151:14,15] [167:16] [179:8] [214:13] [238:5] [243:13]
relates [112:13] [142:24] [169:4] [225:15] [231:25] [285:12]
relationship [40:23] [69:22] [83:20] [94:7] [97:5,6] [138:15,20] [174:11,19] [175:1] [311:22]
relationships [58:7] [105:9] [139:16] [146:8]
relative [245:7]
relatively [50:20] [78:24] [199:12]
release [31:9]
released [32:15] [41:12] [96:1]
relevance [247:3]
relevant [20:3] [38:15] [250:10]
relies [5:8]
religion [74:1]
religious [74:16]
reluctance [123:19]
relying [76:17]
remain [32:22] [231:5] [249:25] [278:12]
remainder [78:25]
remaining [30:4] [243:18]
remains [276:14]
remarkable [175:21]
remarks [3:3] [23:15] [86:1] [94:4] [98:25] [105:25]
remedial [237:1,22] [245:14]
remediate [19:17] [23:17]
remediation [285:13]
remember [126:10] [203:8] [211:12] [221:14] [222:22] [273:5] [307:9]
reminded [133:15]
remiss [44:6]
removed [35:10]
removing [94:19]
renamed [270:14]
rent [264:21] [268:14]
renzi [1:20]
reorganization [12:25]
repeating [83:19]
replace [212:22] [295:13,25]
replaced [171:12]
replicate [57:8]
report [10:1] [16:12,16,20] [17:19] [21:13] [23:9] [27:6] [42:20] [56:12] [62:12] [67:20] [69:25] [86:18,24] [93:16] [95:12,15,17,25] [96:5,6,14] [98:16,17] [110:14] [113:6] [116:9] [127:10] [131:15,16] [152:5] [155:14] [157:11] [158:14,15,25] [159:2] [166:15] [177:3] [178:15] [179:14] [207:15] [210:14] [229:24] [233:5,8] [235:6,10,11,13,15] [238:14,19,20] [246:1] [253:25] [265:5,7,8,16,19] [268:3] [285:9] [287:19,22] [311:20]
reportable [35:1,16] [60:14]
reported [237:19]
reporter [4:3] [80:17] [297:16] [315:5]
reporting [15:23,25] [16:5,7,17] [47:10] [57:16] [98:14] [100:8] [196:6] [216:8,16] [238:16] [239:14] [240:3] [269:9] [309:9] [310:7] [311:21,25] [312:21] [313:11]
reports [15:19] [19:4] [27:3] [31:10] [35:21] [41:13] [72:6] [86:15] [87:2] [97:8] [105:23] [106:17] [121:21] [158:12] [159:7] [162:9] [175:15] [178:15] [179:8,20] [195:24] [196:4,24] [206:20] [228:6] [237:3,24] [245:15] [248:23] [287:16] [309:11,13] [312:21]
repository [35:5]
represent [25:2] [43:10] [55:11] [66:16]
representation [280:19]
representative [137:16]
representatives [154:17] [192:20] [233:23]
represented [159:13]
representing [6:6]
represents [20:25] [255:2]
request [7:10] [26:12] [27:3] [75:24] [76:7] [113:9] [114:1] [157:9,14] [158:7] [169:13,20] [170:14] [171:15] [196:20] [205:8] [211:20] [248:7]
requested [26:21] [33:24] [248:16]
requesting [78:14]
requests [24:25] [26:8]
require [10:20] [84:18] [124:22] [223:23,25] [246:20] [310:15]
required [4:19] [15:21] [26:23] [27:7,19] [47:20] [49:5] [155:17] [157:8,10,16] [160:22] [173:15] [187:22] [188:3] [228:2] [242:15] [313:10]
requirement [34:14] [151:16]
requirements [17:2] [29:10] [65:8] [123:11,14] [158:18] [159:5,15] [163:12] [173:17] [182:13] [184:25] [187:12,13,19] [188:7,8,10,19] [189:20] [220:21] [228:15] [234:6] [238:12] [302:3] [313:12]
requires [21:11] [31:16] [56:21] [165:14] [171:24,25] [172:1,2] [198:9] [220:4]
rescind [280:9]
research [197:12] [208:2] [239:25] [310:15]
researchers [41:9] [93:25]
resign [71:22]
resist [37:23]
resistance [93:8]
resolution [160:10] [201:14]
resolve [90:6] [120:2] [127:19] [184:2] [264:12]
resolved [127:21]
resort [224:11]
resource [154:1,4]
resourcefulness [174:16]
resources [10:9] [14:3] [24:3] [42:5] [56:13] [94:11] [103:14] [147:18] [240:25] [241:1,9,12] [248:17] [266:24]
respect [44:7] [89:22,25] [127:6] [155:23] [157:24] [160:13] [180:22] [184:4] [194:3] [221:4] [244:2] [310:22,24]
respectively [25:7]
respects [46:11] [97:1] [110:25] [128:18] [298:15]
respond [12:21] [14:3] [255:25] [258:9] [282:8,12]
responded [103:5] [283:9]
responder [43:24]
responders [139:22]
responding [13:13,17] [122:22] [207:12]
responds [190:10] [282:2] [307:4]
response [103:1] [126:11] [139:19] [141:23] [163:2] [216:8] [226:18] [230:18] [252:12] [306:1] [311:4] [313:8]
responses [233:10]
responsibilities [6:10] [23:16] [29:22] [239:3] [240:5] [241:12] [312:1]
responsibility [109:19] [134:5] [166:10] [192:24] [243:8] [249:6] [297:12,14]
responsible [9:15] [11:17] [34:16,21] [96:8,9] [97:8,22,25] [150:11] [158:2,3] [237:21] [238:13] [239:1] [242:24] [249:2] [293:24] [303:11] [306:25]
responsive [201:20]
responsiveness [102:8]
rest [21:20] [58:1] [71:1] [78:15] [118:4] [134:17] [135:18] [286:19] [297:16]
restoring [14:17] [38:4]
restrictions [57:22] [182:14]
result [4:17] [22:13] [48:17] [66:9] [70:13] [114:15] [117:6] [126:18] [131:20] [176:20,21] [212:2] [216:12] [224:24] [229:15] [298:25]
resulted [159:15] [162:12]
resulting [18:11] [159:17]
results [22:23] [23:8] [41:12] [81:14] [158:24] [174:15,16] [212:16] [216:3] [244:8]
resume [7:18] [147:5,9]
retention [220:8]
retire [189:11]
retired [64:23] [116:16]
retrained [135:19] [185:20] [231:24]
retreat [109:5]
retrieving [19:12]
return [244:12] [280:14]
returns [247:9]
reveal [242:9]
reverend [2:8,13] [52:6] [67:17] [131:5] [138:8] [140:11] [141:5] [184:18] [216:24] [285:1]
reverted [200:16]
review [4:16,18] [18:17,20,21] [20:3] [22:14,17,24] [23:2,10,13,14] [24:7] [31:12] [32:5] [33:3] [36:16] [40:13,17] [41:13] [43:2,7] [50:13] [60:8,17] [79:24] [82:7] [84:8] [95:1,22] [98:25] [114:3] [134:5] [152:5,25] [156:12,24] [157:15,21] [159:1] [162:9,18] [163:15] [164:16] [165:19,23] [173:14] [175:15] [176:19] [180:16] [183:7] [195:8] [198:7] [201:20,21] [202:14,21] [203:13] [207:3,10,24] [211:11,17] [212:1,8,15,17] [217:2] [220:6,14] [222:6,11] [226:23] [227:16,17,19,22,23,25] [228:16,23,24,25] [229:1,4] [233:7] [237:3] [242:14,18] [243:10] [246:16] [250:10] [251:11] [253:12] [261:6,18] [262:3,5] [269:16] [272:11] [281:3,4]

[283:2] [299:10,12] [302:24,25] [308:15]
reviewed [22:25] [157:12] [158:16,20] [169:15] [203:10] [206:3,5] [226:12,14,17] [227:18] [247:2] [290:12] [304:1,5] [310:5]
reviewing [6:8] [22:5] [220:19] [221:5] [234:6] [239:14] [261:12] [263:5,10] [281:3] [282:18] [299:25] [313:20]
reviews [23:6] [24:9] [34:25] [115:7] [201:11] [202:9,14,15,16] [206:15] [228:6] [243:11,22] [250:9] [253:13]
reward [19:14] [23:17]
rewarded [37:25] [201:2]
rewarding [165:5]
rewards [142:10]
reynolds [152:18] [153:1] [154:3]
rick [3:4] [8:4]
rid [270:12] [300:9]
ride [208:22]
right [47:24] [50:12] [51:8] [56:15] [63:8,21] [68:4] [84:5] [94:24] [95:4] [96:25] [101:17] [105:7] [106:11] [109:8] [111:10] [113:18] [114:5] [115:3] [119:11,14] [120:2] [124:8] [125:4] [126:11] [129:5] [130:21] [131:25] [135:5] [136:7,25] [163:4] [168:9] [170:13] [180:10] [181:4] [185:5] [186:25] [190:17] [192:6,8,9,15] [198:25] [202:23] [206:10] [207:23] [208:8] [212:5] [226:18] [231:6] [232:3,11] [252:11] [253:12] [255:20] [261:10] [262:6] [264:20] [270:25] [271:20] [272:14,19] [273:10] [277:8] [278:7,23] [280:23] [282:2] [292:4,6] [295:13] [296:3] [299:14] [306:11] [307:6,17]
rights [19:15] [29:3] [35:4] [38:24] [61:23] [62:1] [230:15] [237:12]
ringing [284:18]
rise [14:22]
rises [271:3]
rising [16:6] [58:6]
risk [23:14,19,22] [32:2] [33:1,7] [34:3] [51:21] [105:24] [107:14] [124:5] [231:16,20,25] [232:6]
risks [86:3] [226:2] [231:10]
rivars [3:7] [8:7] [147:14] [148:13,14,20,24] [149:9] [152:22] [154:11] [160:2,13] [164:24] [165:12] [169:18] [172:13] [177:15] [180:9] [183:2] [187:15] [188:18] [192:25] [193:25] [195:4] [197:19] [201:10] [202:2,5] [205:25] [207:7] [219:23] [227:1] [228:20] [312:12]
river [13:18]
riverside [153:19]
rms [19:8,9] [24:3] [39:19] [57:16] [121:21]
road [1:13] [8:20] [44:13] [50:14] [53:10] [101:12] [132:19] [133:10] [171:23] [173:10,11,14] [174:14,21] [195:7] [205:5] [226:10] [227:11] [282:7] [305:4]
roads [158:5] [206:3]
robust [56:4] [121:24] [139:15]
rock [13:23]
rogue [296:24]
role [37:2] [52:23] [66:16] [83:4] [96:24] [97:4] [99:5] [105:1] [116:11] [137:15] [141:24] [166:10] [192:23] [194:4,16,18,25] [203:18,22] [225:25] [241:14] [252:22] [260:23] [278:14] [279:25] [280:14] [289:6] [290:25] [291:19,21,24] [294:4,8] [308:11] [312:15] [313:19]
roles [280:16,17]
roll [88:20]
rolling [24:10]
room [4:10] [7:21,23] [53:9] [127:15,20] [204:1] [218:5]
rooms [106:19]
rooted [18:20] [36:15] [42:10] [54:22]
round [64:22] [122:17] [129:21,24] [130:3,4] [313:22]
rounds [44:25]
routine [24:14] [171:7]
routinely [178:14] [246:13]
royal [225:2,4]
rule [75:3] [155:15]
rules [35:3] [88:7] [259:16] [273:23] [274:1]
rumfeld [209:21]
run [5:12] [57:10] [110:23] [179:12,16]
running [120:21]
runs [61:18] [120:4]
rutgers [148:21,25]

S

sadly [131:16]
safe [125:18] [126:1]
safety [11:22] [14:3] [27:22] [32:13] [46:4] [67:9] [94:16] [95:9] [97:12] [100:8,11] [104:4] [123:12,14,22] [124:5,10] [125:23] [237:17] [240:16,21] [248:23]
saint [147:21] [149:13]
sam [2:14] [72:22] [93:16]
sample [211:23] [212:14] [243:17]
samson [193:13]
san [147:18] [149:13]
sat [160:4]
satisfaction [39:3]
satisfied [72:17]
satisfy [185:1]
saw [72:11] [76:20] [185:15,23] [186:2] [193:14] [235:6]
say [52:21,22] [56:10] [57:20] [65:25] [75:17] [82:9,22] [83:4] [88:16] [92:10] [118:17] [119:4,23] [121:12] [132:1] [133:14] [136:3] [137:25] [140:5,8,15] [141:15] [160:18] [161:8] [163:8] [164:17] [171:8] [178:9] [212:22] [214:21] [218:16] [219:13] [251:15] [254:10] [255:19] [256:22] [261:13] [263:17,19] [272:1,13] [273:4] [279:15] [288:9] [289:8,13,24] [299:5] [303:3] [304:11] [306:25] [307:13] [308:1] [311:22] [312:18] [313:6]
saying [49:21,22] [68:19] [69:2] [83:20] [95:11] [98:12] [241:11] [263:20] [266:22,24] [277:1] [281:19] [299:19,21] [300:2,10] [302:8] [303:25]
says [89:5] [188:4] [210:8] [261:15] [288:10]
scarcity [94:11]
scatter [20:12,22] [21:9,15,18] [22:12,15] [59:6] [60:2] [70:22,23] [75:11,18,21]
scenario [211:5] [291:25]
scent [113:15]
schaller [10:15] [147:4]
schallers [115:5]
schedule [7:6] [129:22] [206:21]
scheduled [6:22]
scholar [45:13]
scholars [41:9] [93:25]
school [148:21,25]
schools [12:2]
science [9:10] [190:15,20] [279:14]
scientist [234:17] [239:8,23] [241:14]
scope [51:4]
scott [2:21] [111:12]
screen [61:8] [63:9]
scrupulous [156:4]
scrutiny [18:18] [32:15] [50:5] [72:20] [155:25]
se [97:14]
sea [8:22] [55:9]
seamless [13:6]
search [18:13] [24:1,8,22,24,25] [25:1,3,10,11] [26:8,20,25] [27:4,5,14,21] [50:15,16] [51:13] [76:10] [78:13,14] [79:4] [100:1] [112:4,12,25] [113:14,16] [157:9] [158:14] [168:24,25] [169:3,5,14,20] [205:6,9] [241:24] [243:15] [245:9] [251:23] [296:6,7]
searches [19:7] [22:20] [24:19] [25:6,16,17,23] [26:1,5,14,23] [27:17,19] [28:13,19] [29:1] [31:11] [36:12] [48:25] [49:2] [50:9,17,19,25] [52:1,2] [65:22] [77:1,14,18] [78:10,18,23] [79:1,6] [106:3] [112:13] [113:24] [114:14] [170:14]
searching [50:19]
seat [57:20] [132:11]
seats [4:2] [7:20] [233:21]
second [5:19] [8:5] [48:21] [64:22] [82:4,17] [86:10] [100:13] [103:22] [104:15] [125:7] [129:24] [130:3] [147:11] [152:14] [161:23] [165:16] [177:2] [231:20,25] [276:24] [283:25] [287:7] [313:22]
secondly [123:21] [163:8]
seconds [297:18]
section [9:4] [10:9] [16:3] [23:7] [32:8] [77:25]
sections [13:4]
security [13:2,5] [14:7] [73:20] [74:3] [120:5,15]
seeing [48:12] [54:23] [86:16] [133:11] [134:1] [216:6] [297:3]
seek [44:2] [116:25]
seeking [15:10] [34:1] [43:4] [161:1] [165:15] [172:11] [294:7,14] [296:1]
seeks [15:7] [240:12]
seem [48:15] [106:22] [131:8] [263:4]
seems [74:7] [84:25] [102:3] [134:3] [174:18] [251:6] [266:25] [301:18] [310:18] [312:14]
seen [12:20] [47:3] [81:25] [82:12,14,17] [98:6] [99:6] [102:17] [103:19] [105:8] [144:24] [160:15] [193:9] [195:24] [197:6] [229:8] [278:6] [288:18] [305:6] [312:19]
segal [91:22]
segment [233:22]
segments [73:8]
segregated [133:16]
seizure [205:6] [241:25] [243:15] [245:9] [251:23] [296:7]
seizures [22:20]
select [125:3]
selected [150:7]
selecting [64:13]
selection [35:9] [62:21]

[64:17] [97:25] [189:15]
selective [112:6] [169:1]
selects [74:1]
self [18:3] [32:23] [174:13]
 [212:3] [229:7] [276:13]
selfassessment [32:23]
self-assessment [32:23]
selfcorrections [212:3]
self-corrections [212:3]
selfishly [93:24] [139:24]
selfreliant [174:13]
self-reliant [174:13]
sell [271:22,24]
semantics [99:11]
semi [15:18] [86:23] [95:23]
 [98:15] [142:19]
semiannual [15:18] [86:23]
 [98:15] [162:21] [163:24]
semi-annual [15:18] [86:23]
 [98:15]
semiannually [95:23] [207:
 3]
semi-annually [95:23]
seminars [33:17]
senate [148:23]
senator [68:2]
send [22:7] [40:9] [220:13]
 [229:24] [244:5,11] [261:1
 ,5] [292:21,24] [293:5]
 [314:1]
sends [164:10]
senior [81:6] [198:19]
sense [86:19] [93:8] [100:14]
 [123:6,12] [126:19] [138:18]
 [171:19] [204:3] [211:25]
 [229:17] [258:25] [302:17]
 [311:6]
sensitive [74:2] [88:23]
 [125:21] [293:12]
sent [61:1] [86:25] [119:24]
 [174:14] [244:8] [248:13]
 [267:24]
sentiments [111:19]
separate [19:18] [40:14]
 [95:12] [116:7] [214:20]
september [11:13] [25:13]
sergeant [20:16] [59:15]
 [82:3] [130:19,20] [134:4]
 [227:25] [299:10,11]
sergeants [18:21] [21:14]
 [36:25] [53:6] [173:7,15]
 [227:12] [229:9] [239:11]
sergent [125:2] [203:2]
 [226:10]
serial [15:9]
serious [255:19] [296:25]
servants [250:15]
serve [31:9] [66:14,17]
 [154:4]
served [8:19] [44:8] [69:10]
 [94:13] [148:2,16,22]
 [187:3] [250:18]
serves [10:12] [210:9]
 [213:8]
service [14:21] [182:18]
 [183:1] [205:12] [222:13]
 [235:20] [282:14]
services [12:14] [13:10]
 [38:3] [182:24]
servng [43:25]
session [147:11] [178:4]
 [180:19]
sessions [7:19]
set [4:3] [9:24] [21:6] [145:6]
 [158:9,24] [159:7] [164:17]
 [170:10] [177:22] [212:10]
 [241:16] [262:13] [272:11]
 [278:25] [287:1] [296:14]
 [315:9]
sets [42:7]
setting [11:10] [156:12]
settled [60:6]
seven [28:17] [77:7] [115:11]
 [134:22] [135:1] [150:14]
 [154:8] [195:3] [197:18]
 [210:4,20] [213:6] [224:2,18]
 [254:13] [271:8] [274:20]
 [275:6] [287:10] [302:12]
 [309:1]
several [10:7] [29:25] [42:22]
 [202:10] [207:21] [230:10]
 [292:7]
severed [104:5]
shaft [216:17]
shaped [175:21]
share [7:9] [9:21] [79:9]
 [92:7,8] [107:24] [119:1]
 [143:10] [185:14] [217:19]
shelf [191:11]
sheriff [90:7] [141:14]
sheriffs [86:17]
shes [80:19]
shift [19:5] [173:15] [175:5]
 [276:2]
ship [207:17]
shooting [15:11] [44:3]
 [194:23]
shootings [12:11] [14:23]
 [15:8] [120:16]
short [129:6] [149:23]
 [154:14] [225:14]
shortcomings [159:6]
shorter [261:17]
shorthand [315:4]
shortly [308:23]
shoulder [120:25] [174:17]
shouldnt [96:13,18] [142:14]
 [251:8] [263:19] [288:16]
 [291:18] [293:9] [303:19]
show [35:24] [120:7] [122:6]
 [170:4]
showing [64:4]
shown [214:23]
shows [120:12] [311:19]
shut [12:7]
side [50:7] [136:17] [159:25]
 [183:18] [260:6] [278:13]
 [311:9]
sift [20:16]
sight [17:9] [130:16]
sign [293:5]
signed [25:11] [280:10]
significant [4:20] [11:18]
 [36:3] [82:1] [123:22]
significantly [13:25] [18:7]
 [142:9] [197:18]
signing [237:14,20]
silent [7:25]
silos [135:21]
similar [20:17,19] [62:4]
 [84:8] [153:6] [184:23]
 [196:11] [223:2] [281:9]
similarly [196:12,25] [197:4
 ,5] [211:13,14] [298:23]
simple [61:19]
simplistic [131:8]
simply [25:10] [62:5] [116:20]
 [161:22] [164:18] [170:22]
 [176:22] [199:17] [216:1]
 [219:3] [294:6]
simulated [13:14]
sincerely [8:11]
singe [114:2]
single [27:4] [58:9] [59:8]
 [93:19] [125:19] [132:21]
 [251:19] [310:25]
sir [45:6] [49:12] [89:7]
 [91:16] [95:15] [96:22]
 [127:10] [143:15]
sit [57:20] [106:14] [115:12]
 [127:14] [144:11] [173:13]
 [227:22] [274:22] [278:21]
site [7:1,10,12] [157:18,19,20]
 [158:6] [203:8] [314:1]
sits [292:13]
sitting [53:8] [90:12] [127:19]
 [132:11]
situated [182:8] [196:25]
 [197:4] [211:13]
situation [191:10] [200:18]
 [275:23]
situational [14:1]
situations [191:5] [196:11]
 [240:9]
six [16:21] [56:19] [115:11]
 [163:5] [203:9] [212:21]
 [214:20] [238:16] [264:7]
 [301:17]
size [278:17]
skew [75:11]
skill [42:7] [84:22] [183:16]
skills [41:6]
skipped [48:8]
skipping [102:2] [234:25]
sklar [2:19] [102:3] [107:11
 ,13] [109:23] [111:11]
 [172:6,7] [174:4] [293:14,15
 ,18] [294:22,25] [296:1,11,17]
 [297:8,11] [298:2]
slacking [120:13]
slip [40:6] [104:18] [109:5]
slippage [29:20] [65:16]
 [246:3]
slipped [88:9] [277:5]
small [98:2] [103:7] [163:19]
 [180:7] [199:11,12]
smarter [229:11]
smartly [152:2]
snapshots [105:19]
sobriety [198:1]
social [14:21] [98:22] [234:
 17] [239:7,23] [241:14]
 [279:14]
society [209:3] [235:21]
 [236:2]
sociology [148:6] [239:24]
socks [117:20]
software [34:7] [110:2]
 [129:3] [170:10] [171:25]
 [222:23]
sold [271:24]
soldier [104:19]
sole [258:13]
solid [17:22] [30:15] [110:9]
 [184:8,16]
solution [116:11]
solve [304:20,21]
solving [36:21]
somebody [62:6] [99:24]
 [120:23] [121:10] [124:3]
 [134:11] [171:9] [204:23,25]
 [205:3] [222:24] [230:22]
 [263:11] [267:1] [268:11]
 [311:12]
somehow [75:11] [108:22]
someone [93:21] [164:4]
 [183:12] [198:1,7] [260:22]
 [264:1,5,7,24] [265:18]
 [282:15] [284:6] [292:8]
 [295:16] [299:25] [300:2]
 [302:24]
someplace [186:20]
something [64:4] [69:8]
 [71:9] [79:17] [84:4] [86:16]
 [89:16] [99:12] [107:24]
 [108:17] [109:12] [116:20]
 [121:14] [125:18] [128:11]
 [139:2,21] [141:15,22]
 [146:15] [161:6] [162:20]
 [166:21] [169:17] [185:14]
 [189:12] [193:15] [210:1,2]
 [223:5] [261:15] [262:1]
 [264:17] [266:7,18] [270:14
 ,23,24] [272:16,18] [273:8]
 [278:20] [288:6,18] [292:24]
 [293:8,12] [297:3] [305:3,8]
 [306:5,20] [313:20]
sometimes [51:11] [122:25]
 [261:11] [288:2,3] [304:23]
 [310:2]
somewhat [97:4] [98:20]
 [192:20] [207:6] [221:20]
 [314:2]
somewhere [92:18] [124:4]
 [184:12] [219:11] [230:21]
 [259:22]
soon [54:24]
sophistication [70:13]
sops [65:20] [66:2] [67:22]
 [107:20] [188:21] [204:25]
 [269:18] [282:10,18]
sorry [48:7] [214:20]
sort [49:3] [81:11,25] [83:6]
 [86:5,18] [100:23] [165:18]

10/10/2006 Hearing - 10/10/06

[171:19] [176:15] [184:6]
 [191:24] [195:10] [206:5]
 [216:17] [217:10,17] [220:
 2,7] [224:11,22] [262:25]
 [271:6] [276:25] [290:6]
 [311:4] [313:2,15]
sorts [184:10] [186:16]
sound [17:9] [18:6] [30:18]
 [31:21] [38:16] [43:21]
 [50:10] [99:23] [209:21]
 [247:1] [276:4]
source [20:7] [208:15]
sources [150:18] [183:11]
south [28:14]
southern [8:21] [133:19]
sp [22:17] [59:2]
sp632 [22:17] [59:2]
sp-632 [22:17] [59:2]
speak [104:20] [105:11]
 [140:9] [149:2] [216:18]
 [229:14] [287:10]
speakers [234:24]
speaking [210:24] [275:1]
speaks [144:25]
special [13:4] [44:13] [46:24]
 [86:17] [148:22]
specialist [35:9]
specialized [28:18]
specific [27:20] [37:4]
 [49:5] [56:17] [107:18]
 [143:6,9] [151:8,14,15,16]
 [155:8,17,24] [163:1]
 [165:25] [167:13] [216:7]
 [224:8] [241:2] [251:21]
 [282:11]
specifically [5:14] [16:15]
 [21:13] [24:22] [142:3]
 [163:1] [170:19] [197:15]
 [223:16] [304:10,11]
specificity [151:5]
specifities [165:19]
spectrum [12:6]
speed [124:1]
speedy [69:12]
spell [79:14]
spelled [180:21]
spend [222:9]
spending [179:2] [222:8]
spent [6:8] [63:14] [133:9]
 [183:17] [314:3]
spiral [213:7]
spirit [17:3] [65:9] [245:18]
 [246:4,6] [299:4,5]
spoke [69:13] [200:12]
 [281:10]
spoken [68:8]
spot [206:10]
spread [78:5]
spring [13:10]
squad [18:23] [19:23] [20:15
 ,18] [21:12,21] [23:11]
 [27:19] [51:12] [52:23,25]
 [53:7,16] [59:4,15] [60:18]
 [70:18] [71:1] [101:13]
 [110:16] [111:7] [115:9]
 [130:19,20] [136:2] [228:1]
squads [20:20] [195:15]
stab [127:20]
stadiums [12:1]
staff [13:1] [32:17] [47:6]
 [65:2] [102:15] [107:16]
 [108:5,12] [135:18] [136:24]
 [137:4,16] [173:5,21]
 [184:12] [185:17] [203:12,14]
 [218:21] [224:14] [230:25]
 [231:18] [239:8,10] [241:6
 ,19] [242:8,23] [243:2]
 [248:18,20] [259:12] [260:
 17] [279:14] [285:3] [294:12
 ,18,25] [296:12] [305:16]
 [308:1,6,10] [311:11]
staffing [42:4] [167:20]
 [182:3] [190:6] [231:16]
 [239:5] [308:9]
stage [80:6] [181:15] [224:6]
 [233:3] [298:19] [311:11]
stages [32:25]
stagnant [32:22]
stagnation [215:18]
stakeholders [44:9]
stalwartly [204:15]
stance [23:19]
stand [295:16,22]
standard [21:6,10] [27:18]
 [40:16] [60:5] [65:19]
 [66:7] [68:22] [150:21]
 [151:7] [223:20,22] [224:21]
 [231:11] [273:23] [290:11]
 [293:7] [304:4]
standardization [306:17]
standards [1:7] [4:7] [5:22]
 [34:4] [35:10] [40:10]
 [42:1] [43:9,10,12] [65:14]
 [110:1] [111:5] [117:5,6,8,9
 ,12] [135:22] [145:7] [147:12]
 [150:12] [157:23] [196:10]
 [212:23,24] [222:3,4]
 [224:12] [242:3,6,25]
 [244:13,20] [261:22] [292:
 12,25] [303:18]
standing [33:14] [39:14,21]
 [120:25]
standpoint [124:9] [132:22]
 [179:6] [218:7] [262:20]
 [303:19]
stands [130:13] [185:5]
 [186:25] [212:5] [225:13]
 [230:15] [231:6] [232:8]
stanley [2:13] [67:17]
start [7:16] [37:13] [45:7]
 [106:19] [129:24] [130:5]
 [159:25] [204:11,12] [210:
 11] [231:19] [233:22] [250:
 25] [261:2] [269:1] [289:4]
started [7:14] [170:25]
 [173:25] [178:24] [199:9]
 [233:18] [271:8] [286:3]
starting [68:10,11] [209:20]
 [221:6]
starts [51:3] [210:5]
state [1:22] [4:11,14,15,17]
 [5:19] [6:1,3] [8:5,10,17,18
 ,19,24] [9:7,22] [10:21,25]
 [11:10,14,16,21] [12:4,11,20
 ,24] [13:11,17,20] [14:1,5,11
 ,13,15,20,23] [15:1,5,21,24]
 [16:14,23,25] [17:12]
 [18:7] [19:13] [20:1,5]
 [23:16,21] [24:5,12,17]
 [27:5,12] [28:7,17] [29:16,24]
 [31:2] [32:8] [33:18] [34:23]
 [35:15] [36:13] [38:1,12]
 [39:6,14] [40:1,14,19]
 [41:3,4,14,25] [42:5,6,12,21
 ,25] [43:3,11,17] [44:8]
 [45:21,23] [46:6] [47:1,7,24]
 [48:10] [52:13] [54:12,18,21
 ,23] [55:10,11,22,24,25]
 [56:4,19] [60:10] [62:12]
 [64:24] [65:6,12,13] [66:24]
 [69:16] [73:21] [76:14,25]
 [80:25] [82:2,8,15] [83:2,4
 ,23] [84:9,20,21] [85:2,9,16]
 [86:7] [89:11] [90:4] [91:1,10]
 [92:5,18,19] [93:2,5,9]
 [94:19] [95:2,23] [96:6,8,15
 ,19,23] [97:14,21] [98:7]
 [101:8] [102:5,8,11,13,17,18]
 [103:4,5,24,25] [104:2,6,11]
 [105:7] [107:12] [111:15]
 [112:1,4,19] [116:12,25]
 [117:4,7,23] [118:19]
 [120:14] [123:3] [128:2]
 [131:19] [132:17] [133:13,21]
 [138:12,16] [139:9,13]
 [140:5] [141:24] [142:4,5,16]
 [143:15] [145:6,10,18]
 [148:2,11] [149:20] [152:20]
 [153:24] [154:7,10,17,23]
 [155:1,21] [156:5,6,8,14,19
 ,21] [159:4,9,13,14,17]
 [160:11,19,25] [161:13,17
 ,18,24] [163:3,7,11] [166:9]
 [168:3,11] [169:19] [173:23]
 [174:8] [175:11,20] [177:7
 ,18] [179:9] [180:6,11,16]
 [181:23] [183:21] [184:24]
 [185:14,22] [187:8,11]
 [188:13] [189:7,25] [190:5
 ,10] [191:19] [193:8] [194:4
 ,5,8] [195:2,5,12] [197:15,16
 ,17] [198:9,10,20] [199:3]
 [200:11] [201:7,19] [202:11
 ,22] [203:2,11,22] [204:24]
 [205:1,13,18] [206:16]
 [208:17] [209:6,25] [211:2]
 [214:6] [217:5,7,15] [218:17]
 [219:1,6,20] [220:3,5]
 [221:18,24] [222:20] [223:
 5,15,23] [225:1] [226:7,10,13]
 [229:7] [232:24] [233:23]
 [234:7] [235:23] [236:6,18
 ,21,25] [237:3,9] [238:2,4,8
 ,10,11,15,21,23] [239:11,13
 ,20,22] [240:6,11] [241:6,19]
 [242:3,22] [243:4,5,9]
 [244:11,25] [245:2,21]
 [246:2] [247:4,17] [248:19
 ,22] [249:2,6,10,17,20,22]
 [250:2,5,8] [251:4,10,11,20]
 [253:5,14,17] [256:5,11,16]
 [258:5,8] [260:19] [262:12
 ,13] [263:6,9,17,19] [264:11
 ,23] [265:15] [266:4] [267:25]
 [268:2,12,13,23] [269:5,8,18
 ,21,23] [270:8,12,18] [271:
 8,14,19,24] [272:20] [274:3
 ,12] [275:2,13,21] [276:1,6
 ,13,21] [277:7] [278:15]
 [279:3,5,7] [280:3] [281:4,6
 ,22] [282:3] [283:1] [285:14
 ,18,25] [286:9,22,24] [287:
 23] [288:12] [289:6,8]
 [290:25] [292:2] [294:8]
 [298:7,11,16,19,25] [299:3
 ,20,23] [300:22] [301:6]
 [302:2,9,25] [305:10,20]
 [306:7] [307:11,12,16,23]
 [308:5] [309:2,19] [310:23]
 [311:9,23,25] [312:10]
 [313:4] [315:5]
stated [52:12] [195:6] [250:
 6] [270:4] [284:6]
statement [20:21] [54:5]
 [58:10] [79:15] [91:3]
 [119:5] [235:7] [296:18]
states [4:12] [9:5] [10:21]
 [15:15] [82:20] [91:23]
 [93:21] [133:16] [148:17]
 [150:9,21] [151:2,4,12]
 [153:5,10] [154:18] [173:22]
 [238:4]
statewide [15:3] [29:4]
 [128:1]
stating [14:10] [205:13]
station [19:23] [20:19,20]
 [23:12] [27:11] [59:9,11,21]
 [60:24] [70:19] [71:1]
 [110:21,22] [111:4] [124:24]
 [130:20] [158:16] [238:24]
 [261:3] [292:9]
stations [25:14] [111:2]
 [158:4] [168:1] [195:16]
 [202:17] [247:19]
statistical [21:24]
statistically [21:23]
statistician [184:13]
statistics [32:12] [49:11]
 [95:4] [128:22] [170:4]
 [238:21] [276:23] [308:13]
status [209:18] [210:20]
 [238:14,19] [251:7]
statute [39:24] [289:10,15]
statutes [181:7]
statutory [150:1] [182:13,14]
stay [68:19] [71:19,25]
 [129:23] [130:1] [215:24]
 [269:5]
staying [207:18]
stays [59:23] [67:15] [97:4]
steadfast [30:3]
steadily [50:2]
steady [29:25]
stenographic [315:8]

step [88:20] [113:20] [134:22,24] [135:1] [146:14] [162:15] [166:25] [167:4,18] [171:25] [210:4,21] [213:6] [220:20] [224:2,18] [277:15,22,23] [278:8] [291:16] [292:1]
stepped [277:1]
steps [29:19] [48:18] [89:23] [135:1] [138:17] [220:22] [221:6] [225:22,25] [237:1,22] [238:15] [245:14]
stereotype [75:2]
stereotypes [175:25]
stereotyping [22:22]
stetson [234:10]
steubenville [81:16] [87:22] [88:2,3,22] [152:15] [192:14] [200:13]
stick [251:24]
stickler [101:1]
stier [2:20] [102:2,3,4,6] [107:8] [138:8] [141:20,21] [174:5,6] [175:19] [178:1,2]
stigma [270:14]
stimulate [31:13]
stimulating [115:16]
stimuli [12:12]
stimulus [38:18]
stock [99:21]
stone [296:14]
stool [107:23]
stop [18:22,23] [19:20] [20:8] [21:10] [22:5,9,17,24] [23:13,17] [24:7] [26:12] [27:6] [51:12] [59:9] [71:18] [74:9,24] [76:7,8,11] [99:25] [101:8] [112:1] [113:6] [120:15] [125:3,4] [128:22] [157:5] [158:12,14,15,17,21] [171:1,13,14] [197:25] [202:20] [209:22] [227:23,24] [235:15] [238:12] [244:6,8] [260:21] [287:2]
stopped [18:8] [70:8] [195:24,25] [197:21,22] [229:22] [250:13] [274:16,18]
stopping [21:19] [60:4] [71:7,8] [75:14] [124:16] [195:17] [286:6,7,8]
stops [18:11] [20:10,11,13,14] [21:2,16] [22:11,20] [23:24] [28:22] [31:10] [36:12] [48:20] [71:4,12] [72:19] [74:5] [75:23] [77:4,10,11] [78:3] [114:12,13] [126:9] [154:20,25] [157:21,24] [158:8,20] [195:16] [206:3] [235:18] [286:19] [288:9,10]
store [117:20]
stored [19:2]
stories [192:15] [200:14]
story [43:14]
straight [136:21] [207:18]
strategic [14:2] [33:11] [154:5] [167:5,10,16] [168:15] [204:12] [312:8,14,16]
strategically [313:18]
strategies [15:5] [38:23]
strategy [38:16,20] [39:6] [80:2]
street [8:25] [55:15,17] [144:6,7] [205:4,6] [211:12] [224:8]
streets [14:25] [171:23] [227:15]
strengths [22:6]
strict [36:15]
striving [200:18]
strong [29:4,10] [31:20] [110:8] [113:8]
strongly [227:18] [262:10]
struck [266:8]
structure [165:8] [166:18,21] [167:14] [168:5]
structured [196:5]
structures [166:22]
stuck [314:5]
studied [87:20]
stuff [51:11] [133:13] [176:15] [221:21] [232:16] [291:9]
stumbling [63:1]
stumped [91:15]
style [2:8] [175:12]
sub [43:12] [283:20]
subdivide [74:21]
subject [18:13] [23:14] [43:9] [72:9] [158:20] [180:16] [212:1,7,12] [240:22] [244:6] [249:17] [309:17]
subjected [196:8]
submission [21:13] [25:10] [293:24]
submit [58:12] [87:2] [105:12] [233:9] [238:20]
submitted [6:23] [16:12] [23:9]
submitting [238:14]
suborganizations [43:12]
sub-organizations [43:12]
subscribe [37:18]
subsequent [78:11]
subsequently [27:11] [42:19]
substance [99:15]
substantial [5:1] [15:22,25] [16:8] [159:4]
substantive [37:22]
substitutes [156:7]
subtract [210:14]
succeed [144:21]
succeeds [92:10]
success [43:14] [52:11] [81:3,4] [83:25] [98:8] [189:15] [192:15,18] [200:14] [208:24] [209:3,14] [231:9] [249:9] [263:25] [264:2] [271:17]
successful [31:16] [45:20] [53:5] [104:14] [143:24] [152:19] [162:13] [191:16] [194:9] [242:1] [264:3]
successfully [90:14] [150:14]
successor [189:16]
successors [104:21]
suddenly [119:18]
suffer [121:22]
suffice [207:6]
sufficiency [242:17]
sufficient [144:4] [242:10] [247:20,25]
sufficiently [127:18] [298:21]
suggest [68:6] [93:13] [142:5] [165:7] [167:3] [247:15] [259:1] [306:5]
suggested [94:2] [210:2] [224:2] [301:2]
suggesting [48:3] [93:12] [95:20] [142:20] [146:18] [183:21] [275:24] [297:14] [307:20]
suggestion [83:10] [95:8] [116:21] [166:8] [206:24] [253:9] [256:15] [259:3]
suggestions [145:4] [156:4] [166:7] [219:21] [240:8]
suit [181:19]
suitable [221:23,24]
suite [1:22]
summary [61:25]
summons [18:9]
supercede [188:6] [289:18]
superintendent [8:4,16] [9:1] [19:25] [29:14] [40:2] [42:2] [88:15] [101:15] [104:18] [105:3] [123:19] [138:23,25] [193:19] [242:19] [250:2] [253:9] [271:15]
superintendents [68:18] [245:6]
superseded [186:2]
supervise [36:10]
supervised [246:13]
supervises [97:23]
supervising [245:13] [249:6]
supervision [31:20] [155:22] [156:1] [163:14] [175:6] [184:9] [188:2] [200:23] [221:8] [246:14]
supervisor [8:23] [21:12,23] [22:4,8,14,18] [23:3] [26:24] [27:10,24] [50:15,23] [51:5,7,12] [52:23] [53:12] [60:19] [71:10] [110:14] [113:2] [114:5] [115:25] [119:7] [136:2] [173:13] [179:18] [198:18] [202:19] [203:10] [208:10] [221:25] [226:7] [261:14]
supervisors [19:23] [22:3] [23:5] [27:16,19] [28:4,9] [32:16] [35:21] [36:4,5,8,9] [37:16] [44:14] [50:3] [53:1,7] [59:4] [101:13] [105:21] [110:11,19] [111:5] [115:9] [130:15] [132:20] [145:21] [156:5,19] [161:24] [162:3,12] [173:6] [199:16] [223:2] [225:21,23,24] [227:10] [246:17] [294:10]
supervisory [16:19] [18:18,21] [25:8] [27:2] [30:19] [36:24] [175:15] [176:19] [179:16] [201:21] [203:14] [211:18] [212:1] [217:5] [220:14] [221:13] [228:15] [250:9]
supplement [10:18]
supplies [76:14]
support [13:1] [30:25] [43:22] [154:2] [239:8] [290:25] [291:9] [309:13]
supported [15:5]
supposed [120:3] [179:5,6] [212:13,14,15] [269:17]
sure [45:1] [49:25] [51:12,13] [58:2] [59:1] [66:24] [67:13] [68:20,21] [70:11] [79:11] [85:23] [86:20] [88:8,22] [90:2] [91:16] [92:24] [93:16] [95:7] [99:9] [104:8,22] [105:1] [108:19] [115:1] [116:1] [122:12] [124:14] [125:16,25] [144:3] [159:10] [161:20] [163:7] [167:11] [168:21] [178:22] [179:3] [180:14] [182:11,12] [184:14] [186:22] [189:22] [198:11] [200:24] [201:18] [203:19] [207:17] [211:13] [212:13] [213:2] [215:12,14,23] [216:2] [218:11] [226:24] [234:14] [243:9] [257:6] [258:15] [260:18] [265:5] [269:16,17,25] [273:6,10] [278:9] [282:9,15,16,17,19] [283:14] [284:1] [287:7] [293:21] [295:2] [297:19] [299:12] [313:23]
surfacing [168:18]
surmount [291:7]
surpass [38:4]
surprised [102:21] [272:21]
surrounding [296:8]
surveys [235:19] [244:5,8]
survivors [45:10]
susceptible [155:8]
suspect [84:14]
suspended [26:19] [78:21] [116:2]
suspension [61:20]
suspicion [26:25] [50:16] [51:4] [79:3] [113:3,8] [114:2,9] [157:10,13] [205:8]
sustain [39:25] [40:4,10] [65:13] [81:19] [104:12] [108:21] [214:24] [242:10]
sustainability [17:21] [66:10] [90:19,24] [122:24] [123:2,8] [165:3] [225:15]

[276:16]
sustained [5:23] [30:1,12]
 [44:16] [85:18] [278:11]
sustaining [38:7]
sustains [38:12] [81:14]
switch [83:11] [186:9]
sworn [8:16]
synergized [43:19]
synergizes [129:17]
synopsis [154:14]
system [5:7] [19:8,11]
 [41:3] [56:15] [57:7,10]
 [70:16] [71:15,18] [84:5,6]
 [98:6] [101:4] [103:6]
 [105:16,17] [106:12] [112:
 8,18] [113:4,19] [115:23]
 [121:6] [123:12,23,25]
 [124:20] [126:8] [128:6,8,10,
 14,17] [130:11] [133:8,10]
 [141:17] [168:23] [169:4,9]
 [170:9] [171:2,6] [175:7]
 [176:19] [178:6,8,11,21]
 [179:15,25] [185:4,24]
 [186:11,20,24] [199:7]
 [201:7] [207:9,11] [212:4]
 [214:25] [226:11] [228:8]
 [229:15,22] [230:3,5,8,14,15,
 20] [231:5] [241:15] [246:20]
 [268:24] [276:14] [292:5]
 [295:13] [297:20,23] [307:
 4] [310:23]
systematic [236:11]
systemic [256:2] [287:18]
systems [33:22] [36:9]
 [39:10,18] [50:22] [56:21,22]
 [57:3,9,15,16] [84:16,18]
 [99:19,23,25] [117:16]
 [122:9] [123:20] [128:15]
 [131:3,4] [133:25] [141:3]
 [146:20] [176:19] [184:9,10,
 24] [185:7,9] [186:4] [187:
 2] [188:2] [210:15] [215:21]
 [226:21] [229:20] [313:11]

T

table [10:6] [115:12] [206:12]
tables [20:9] [105:18]
tabulated [158:24]
tackling [29:21]
tactic [65:7]
tactical [14:2]
tactics [27:23]
tag [223:7]
taken [29:19] [48:12,18]
 [80:10] [90:24] [100:23]
 [138:13,17] [147:7] [197:25]
 [220:20] [225:22] [226:1]
 [233:19] [238:16] [285:14]
 [307:7] [315:8]
taking [44:6] [139:20] [190:
 7] [271:3] [276:3] [296:5]
 [299:6] [311:3]
tales [81:17]
talk [8:7] [46:13] [56:12,17]
 [73:11] [86:9] [94:3] [114:17]

[115:8] [123:4] [130:16]
 [139:3] [142:8] [145:14]
 [185:19] [264:19] [285:17,23]
talked [67:21] [107:19,21]
 [109:25] [122:25] [200:12,21]
 [231:17] [280:25] [296:19]
 [297:5] [302:1]
talking [56:24] [94:4,5,6]
 [99:16] [115:4] [132:13]
 [137:18] [145:15] [194:17]
 [207:5] [210:15,16] [257:4]
 [265:14] [267:10] [277:23]
 [279:10] [282:21] [286:19]
 [294:5] [295:17,18] [296:5]
 [297:23] [302:13] [305:11]
talks [51:5] [218:12] [291:15]
tap [84:18]
tape [51:6] [125:2] [222:5]
 [227:25] [229:4] [257:12]
 [261:6,14,16,18] [263:14]
tapes [134:5] [158:15,16]
 [175:15] [198:7] [201:20,21]
 [220:6] [222:9,10] [227:18,
 19,21,23] [228:16,22,23,25]
 [229:2] [261:12] [283:2]
 [299:9] [308:15]
targeting [73:14]
task [8:25] [11:19] [22:7]
 [24:16] [105:23] [155:25]
 [156:14] [157:8,15] [161:19]
 [248:15] [257:25] [282:11]
 [299:2]
tasked [22:14] [243:2]
tasks [15:22] [16:15] [42:23]
 [117:19] [150:23] [155:8]
 [223:16] [251:14] [311:1]
taught [37:9] [134:15,22]
 [248:25] [262:5] [299:15]
teaches [212:4]
teaching [133:24] [134:16]
team [4:16] [8:15] [15:14]
 [86:21] [87:12,20] [111:20]
 [129:8] [139:20] [153:2,3,4,
 7] [154:13] [155:5,10]
 [156:1,3,4,17,20,23] [157:
 16,17,21,25] [158:5,19]
 [174:21] [191:24] [192:19]
 [214:9] [234:13] [237:3]
 [312:5]
teams [186:3] [192:7] [309:
 1]
technical [121:22] [129:8]
 [145:4] [239:1] [241:17]
 [248:8] [250:1] [284:8]
 [290:1] [291:1,9]
technically [119:12] [256:4]
technique [224:22]
techniques [242:13]
technological [56:19]
 [122:7] [140:22]
technology [11:6] [13:25]
 [15:6] [39:18] [40:4] [44:12]
 [50:6] [53:4] [58:2,3] [59:3]
 [66:5] [121:19,24] [122:1,2,
 3] [124:18] [129:12] [130:22,
 23] [145:12,17] [190:16]

[220:15] [246:8]
telephone [34:14]
tell [40:3] [62:6] [77:18]
 [83:18] [85:25] [105:7]
 [108:1] [123:24] [136:21]
 [142:3] [162:8] [172:21,22]
 [176:12] [185:24] [186:23]
 [187:15] [189:23] [193:11]
 [195:21] [197:20] [285:24]
 [288:4] [292:14,17] [303:15,
 17]
telling [283:6]
tells [114:20] [244:9] [288:2,
 3]
temporarily [200:15]
ten [19:18]
tend [99:11] [123:7]
tendency [103:23] [164:7]
tends [198:23] [208:4,5]
tenet [218:7]
tenets [12:17] [217:25]
tenth [15:25]
tenure [40:1]
term [46:9] [54:20] [67:13]
 [69:10] [79:18,25] [80:1]
 [96:25] [190:8] [214:24]
terminate [5:17]
terminated [5:20] [61:16]
 [199:23]
termination [61:21]
terminations [61:14,15]
terms [12:18] [30:2] [48:14]
 [66:13] [71:2] [78:20]
 [87:13] [89:5] [107:3]
 [125:14] [137:5] [138:15]
 [145:8] [153:14] [155:2,13]
 [157:1] [160:17] [161:3]
 [163:13,25] [175:25] [179:
 10] [180:9] [181:6] [182:13]
 [193:23] [194:18] [199:13]
 [206:14] [207:11] [219:22,23]
 [227:1,14] [237:4,24]
 [253:19] [275:19] [280:1,18]
 [283:15,22,23] [289:25]
terrible [272:4]
terrific [122:18]
territory [77:19]
terrorism [8:24] [11:19]
 [12:8,10,23]
terrorist [11:18]
test [63:12] [198:1]
testament [30:2] [31:19]
testified [48:24] [271:13]
 [303:12] [310:18]
testify [7:10] [235:3] [308:23]
testimony [3:4,6,9] [6:14]
 [7:3,7] [8:3,12] [10:18]
 [48:15] [73:2] [75:23]
 [76:25] [99:1] [108:18]
 [109:25] [116:24] [117:2]
 [118:24] [146:25] [149:5]
 [164:24] [165:1,2] [168:23]
 [174:7] [182:17] [203:7]
 [217:12] [233:16] [235:1]
 [271:10] [275:12] [279:23]
 [288:22] [293:21,23] [296:

18] [308:21] [311:3,15]
testing [178:24]
texas [147:19]
text [155:17]
thank [6:11] [8:11] [9:18]
 [44:17,19] [45:11] [46:22,25]
 [48:6] [52:5] [53:20,21]
 [56:11] [64:21,25] [67:16,19]
 [72:21] [73:1] [80:5,9,21]
 [81:8] [87:5,10] [89:8]
 [91:18,19,24] [92:3] [98:18,
 24] [101:25] [102:1] [107:8,
 9] [109:23] [111:11,12]
 [118:6,11,16] [122:15,16,20]
 [129:20] [138:6] [140:7]
 [141:20] [143:2] [146:23,24,
 25] [147:1,4] [149:11]
 [159:18,20] [160:3] [164:21,
 23,24] [172:4,5] [174:4]
 [178:1,2] [182:15,16]
 [184:17,18,20] [187:4,6]
 [190:13] [194:10,12] [199:
 24] [200:1,2] [208:20]
 [213:14] [216:21] [225:11]
 [233:2,14,15,18,20] [234:21]
 [235:2] [250:18,20] [252:15,
 17,18] [265:20,24] [275:10]
 [279:22,23] [284:25] [285:
 2] [288:21,24] [293:15]
 [298:2,4] [303:3] [305:16]
 [308:19,21] [314:4]
thanked [252:18] [288:23]
thanksgiving [216:22] [293:6]
thanks [76:19] [98:19,23]
 [127:25] [133:1] [225:12]
thats [25:16] [28:19] [45:8]
 [52:3] [57:19] [59:20]
 [60:7] [62:22] [63:1] [64:4]
 [66:22] [69:7] [72:14]
 [73:17] [75:2,16] [76:6,11]
 [79:25] [80:1] [84:5,21,24]
 [85:20] [89:4,21] [93:6]
 [94:2] [95:10] [96:23]
 [99:17,20,21] [106:23]
 [107:2] [109:18] [110:10]
 [112:12] [116:14] [122:3]
 [123:10] [124:16] [125:11,24]
 [126:8] [130:2,12] [131:24]
 [134:2] [141:12] [142:23]
 [143:22] [145:21,22,25]
 [152:6] [164:14] [170:12]
 [171:7] [172:24] [173:24,25]
 [177:8] [180:10,13] [181:24]
 [187:10,20] [189:5] [196:1,
 17] [197:1,7,9] [199:13,15,
 22] [201:14,15,17] [203:4]
 [210:20] [211:14] [214:22]
 [215:1] [216:13] [217:10]
 [218:7,11] [219:5,25]
 [227:24] [229:7] [230:6]
 [231:9,19,24] [232:24]
 [235:13] [239:4] [240:19]
 [252:12] [254:11] [258:12]
 [259:4,9] [263:20] [264:1]
 [265:17] [266:20] [267:16]
 [269:22] [270:21] [271:1,16]

10/10/2006 Hearing - 10/10/06

[272:15] [273:1,2] [278:20]
 [279:11] [280:7,23] [281:9]
 [282:19,21,24] [287:4,24]
 [288:8,16,18] [289:21]
 [294:4] [296:6,10,15]
 [297:21] [300:3] [301:4]
 [302:18] [303:1,25] [304:1
 ,5,6,9,16,22] [306:20]
 [307:12] [310:14] [313:19,20]
themselves [36:4] [120:7]
 [175:25] [263:10,23] [276:
 7] [277:17]
thereafter [157:18] [308:24]
thereby [247:19]
therefore [28:2] [37:13]
 [39:1] [170:3]
theres [47:9] [49:7] [54:11]
 [61:14,17] [68:3] [72:3]
 [80:16] [88:1] [103:3,11]
 [112:18,24] [114:17,21]
 [117:17] [123:18] [133:8]
 [139:2] [140:24,25] [167:11
 ,12] [170:9] [174:9] [176:1,9]
 [182:6] [183:16] [199:22]
 [220:13] [227:3,5] [228:3]
 [232:6] [260:24] [261:13,15
 ,21] [263:2,3] [266:23,24]
 [267:13] [269:5] [271:17]
 [273:4] [277:6] [297:4]
 [303:13] [312:20]
theresa [2:22] [118:9] [159:
 25]
theyd [225:25]
theyll [172:23] [292:14]
theyre [50:20,21] [53:8]
 [60:23] [71:7,8] [75:8,15]
 [78:5] [90:23] [97:1,20]
 [104:23] [110:20,21] [117:
 9] [120:3,7,8] [121:20]
 [122:7,8,10,11] [126:13]
 [130:10] [137:13,14,15]
 [169:16] [172:11] [179:11]
 [183:22,23] [184:15] [188:
 6] [195:16,17] [199:4,15]
 [201:13] [202:18] [203:18]
 [210:18] [217:7,8] [220:16]
 [221:15] [224:17,18] [226:
 14,16] [229:9,13] [240:19]
 [254:18,21,22] [257:10,21
 ,22] [262:4] [264:3] [269:14]
 [270:17] [273:20,22] [274:
 5] [286:11] [312:22]
theyve [187:24] [220:1]
 [225:7] [229:9] [254:12]
 [264:3,4] [270:13] [285:25]
 [286:20] [299:24] [301:19]
 [302:11,12]
thing [52:19] [71:3] [74:22,23]
 [80:16] [100:6] [104:22]
 [105:3] [106:8] [108:6]
 [124:11] [125:11] [137:22]
 [139:25] [145:25] [146:2]
 [149:14] [172:19,24] [180:
 21] [186:23] [189:5] [198:6]
 [208:1] [224:23] [260:6]
 [262:2] [270:5] [271:7,18]
 [272:6] [286:25] [301:13]
 [303:2] [305:13] [313:15]
things [4:20] [48:14] [54:11]
 [56:18] [60:25] [63:10]
 [68:8,15] [69:13] [70:22]
 [79:21] [83:7] [89:18]
 [90:20] [94:24] [99:1]
 [105:16] [106:9,13] [107:7]
 [114:9,19] [115:9,22]
 [117:24] [123:7,11,15]
 [124:21] [130:16] [132:24]
 [133:3] [135:10] [139:23]
 [142:14] [145:3,21] [146:17]
 [156:25] [170:12,22] [171:
 12] [176:14] [178:13,18]
 [180:19,20] [184:6,11]
 [185:4] [186:16] [187:25]
 [188:18] [192:2,6] [195:10]
 [198:12] [200:8,20] [201:10
 ,23] [207:10] [209:24]
 [212:5] [216:18] [220:4]
 [222:2] [254:7] [261:24]
 [263:13,16] [282:6] [285:18]
 [287:14] [289:3] [293:20]
 [294:20] [296:8] [297:22]
 [298:5] [308:18] [312:6]
think [47:5] [50:10] [52:18]
 [54:8,16,19] [55:5,6,13]
 [56:14,24] [57:24] [61:14]
 [62:14] [63:25] [66:20]
 [67:1,9] [68:1,3,9] [69:8,9]
 [70:8] [71:16,18] [72:3,12]
 [74:7] [75:8,19] [77:5]
 [79:19,25] [80:6,24] [81:10
 ,14,16] [82:13,25] [84:3,4]
 [85:8,25] [86:2,6,23] [88:21]
 [92:4,6,15] [93:24] [95:11,15]
 [99:1,12,17] [101:16]
 [102:21] [104:16] [106:7,22
 ,24] [113:19] [116:14,17]
 [117:10] [121:8] [129:15]
 [130:14] [131:12] [132:1,2]
 [134:9] [137:6] [139:3]
 [140:21] [141:22] [142:24]
 [143:1] [145:15] [159:20]
 [162:12] [163:16,18,22]
 [164:14] [165:9,17] [166:1
 ,21,22] [168:9] [170:8]
 [172:16] [175:2] [176:1,5,7
 ,9] [180:4,7] [182:6] [183:2
 ,6,16] [184:12,21] [189:25]
 [191:9] [192:20,25] [193:2]
 [195:4] [197:16,19] [200:3]
 [201:17,18] [204:6] [205:15]
 [206:1,6,7,22] [209:3,12]
 [211:6] [212:10] [213:19]
 [215:16] [216:5,13] [218:4
 ,14] [219:2,14,24,25] [222:
 14,17] [224:6] [225:12,21]
 [228:6,20] [229:6,25]
 [232:17] [233:2] [235:5]
 [247:24] [251:20,24] [252:
 25] [253:4,7,13] [254:16,19
 ,24] [255:13,14,16,18,23]
 [256:10] [257:10,17,20]
 [258:18] [260:1] [263:18,21
 ,23,24] [264:7] [265:9,16,18]
 [267:4,5,6,12,17] [268:1,10
 ,17,24] [269:2,4,10,24]
 [270:4,5,11,21,22,24]
 [271:4,5,13] [273:3,10,12,19
 ,21] [274:3,13,23] [275:4]
 [278:20,21] [280:15] [282:
 24,25] [284:5,10,17,21,23]
 [285:17,19,22] [286:2,17,23]
 [287:5] [288:15] [289:5]
 [290:4,16] [291:6] [294:12
 ,19,25] [295:2] [296:11,18]
 [298:12] [299:2,14] [300:1
 ,8,10,13,24] [302:4,16]
 [304:9,18] [305:5] [306:10
 ,15,17] [308:9] [310:11]
 [314:3]
thinking [139:1] [228:21]
 [254:6] [287:3]
thinks [302:4]
third [26:13] [75:24] [76:1,9
 ,13] [82:7,21] [83:8,13]
 [92:20] [96:25] [97:2]
 [104:9] [107:23] [181:12]
 [212:12] [232:6] [240:18,20]
 [281:7]
thirds [177:17]
thirsty [231:4]
thorough [5:13] [30:20]
thoroughly [34:15] [286:18]
though [48:14] [69:2] [174:
 22] [192:1] [196:14] [231:12]
 [263:21]
thought [17:5] [38:4] [112:8]
 [149:17] [217:13] [235:16]
 [286:3,17] [296:15]
thoughtfully [38:20]
thoughts [9:21] [83:6]
 [89:23] [92:3,22] [254:1]
thousand [13:1]
threat [12:10,23]
three [5:15] [6:17] [10:5]
 [13:18] [16:5] [20:23]
 [22:2] [23:9] [26:4] [34:17,25]
 [39:5] [42:11] [56:25]
 [59:25] [60:6] [82:1,10]
 [86:3,5] [106:1] [140:8]
 [148:19] [150:4] [175:3,10]
 [181:4] [185:17] [191:18]
 [192:15] [193:1] [225:16]
 [226:22] [232:9] [269:15]
 [279:2,3,10,11,15] [294:18]
 [305:7]
throughout [4:23] [6:3]
 [8:19] [36:22] [40:11]
 [78:6] [108:18] [118:24]
 [134:17] [151:4] [160:18]
 [177:12] [251:19] [258:5,7]
 [279:7]
throw [277:25]
thus [15:9] [247:2] [249:3]
tim [10:10] [62:25]
time [6:12] [8:12] [11:14]
 [12:9,19] [36:1] [51:1]
 [58:12] [73:19] [85:19]
 [100:15,20,23] [101:5]
 [103:9,14] [108:15] [111:16]
 [113:10] [123:9,17] [125:15
 ,19] [127:5] [133:9] [136:10]
 [144:6] [149:24] [150:17]
 [151:18] [157:13] [161:22]
 [164:8] [177:10] [179:1,2]
 [181:1] [183:17] [185:11]
 [186:11] [189:23] [191:8]
 [198:19] [199:18,22] [201:
 25] [203:8] [207:8] [220:17]
 [227:20,21] [228:21] [229:
 4] [239:3,4] [252:19] [260:21]
 [261:17,23] [270:5] [274:19
 ,25] [275:7,25] [276:8,9,16]
 [277:21,24] [279:18] [281:
 14] [286:13] [294:9,21]
 [295:8] [302:13,24] [303:8
 ,14,21] [305:3,4] [311:16]
 [312:5] [313:22] [314:2,3,6]
 [315:8]
timely [17:17] [30:20] [33:9]
 [201:12] [246:13]
times [34:18] [82:6] [86:18]
 [224:7] [225:19] [230:10]
 [269:15] [305:7]
tiptoes [139:1]
tired [181:11]
title [256:16]
today [5:4] [6:11] [68:15]
 [87:11] [118:17] [130:13]
 [132:24] [146:25] [164:24]
 [174:18] [182:17] [186:9]
 [189:8] [194:13,24] [195:11]
 [203:17,20] [219:7] [233:16]
 [250:22] [252:19] [268:9]
 [271:10] [281:10] [303:14]
 [305:20] [307:23] [308:22,25]
today's [8:2] [147:11] [233:22]
together [51:23] [59:4]
 [95:1] [125:13] [127:10,23]
 [136:6] [139:13] [146:22]
 [160:5] [168:15] [185:2]
 [253:13] [257:15] [259:6]
 [288:14] [313:25]
told [186:22] [301:18]
toll [1:24] [34:13] [158:4]
 [243:1,23]
tom [10:8] [292:7]
tomorrow [69:24] [311:4]
took [55:20] [103:6] [152:1]
 [182:4] [199:18] [215:4]
tool [167:23] [210:21]
tools [33:5] [173:13] [195:5
 ,12] [220:15]
top [54:5] [59:24] [177:9,11]
 [247:17] [255:20]
topic [33:10] [251:5]
topics [36:21]
topoff [13:12]
total [25:15]
totally [57:8] [101:11] [279:
 21]
totowa [54:1]
touch [43:12]
touched [12:9] [121:9]
touching [289:4]

toughest [59:5]
tournament [14:9]
toward [55:11] [104:6]
towards [23:19] [112:2] [168:17]
town [55:12,19,21] [221:1] [256:20] [257:23] [286:12]
towns [146:13]
township [222:13]
track [67:15] [126:9,21] [195:13]
trackable [151:18]
tracked [126:12,13] [169:14,17] [170:3]
tracking [34:7] [110:1] [169:6] [190:14]
tracks [112:19]
trades [10:17]
tradition [205:1]
traditional [11:16] [175:12]
traffic [14:7] [29:5,15] [32:12] [49:17] [72:13] [73:22] [125:14] [238:22]
trail [169:23]
trails [213:1]
trained [37:13] [174:13] [177:21,23,25] [305:6]
trainees [232:12]
trainers [231:24] [232:13]
training [10:10] [11:6] [19:20] [20:5] [27:23] [29:11] [30:18] [31:20] [33:10,21] [36:8,19,20] [39:22] [43:22] [51:24,25] [61:1] [65:22] [114:10,15,18] [133:22] [134:9,10,18,22] [135:2,7,11,17,22,24] [138:11] [155:22] [156:1] [157:22] [182:2] [188:2] [190:6] [199:14] [202:7] [206:6] [220:9] [221:9,13,21] [222:1] [223:8,17,18] [224:1,5,11,21] [225:5,8,9,17] [231:8,11] [232:12,15,19,23] [239:2] [245:4,5] [246:25] [247:3] [248:9] [250:10,11] [262:6,7] [266:13] [305:2]
transcript [315:7]
transcripts [7:1]
transferred [152:7,16] [185:20] [262:12] [263:15]
transformation [36:15] [194:17]
transformed [177:18]
transforming [155:7] [195:1]
transition [40:8] [176:3] [224:24] [275:18] [276:4]
transitioned [175:11]
transitioning [163:11]
translate [53:15] [56:3] [155:2] [191:24]
transparency [31:6] [32:1] [36:11] [67:14] [84:10] [130:17,18,19] [152:3,25] [159:16] [247:7]
transparent [17:17] [94:1] [95:18]
transportation [11:25]
travel [65:12] [164:4]
traveling [31:2]
treat [190:5]
treated [196:12,15,16,20,25] [197:4,24] [211:14] [244:1]
treatment [73:17] [197:9] [243:14]
tremendous [46:8] [62:23] [72:15] [94:7] [111:21] [128:23] [134:4] [135:4] [139:5] [192:22] [227:9] [235:25]
tremendously [51:8]
trend [23:23] [24:15] [32:18] [35:7] [105:19] [106:25]
trending [35:23]
trends [41:11]
trenton [1:23] [15:1] [239:21]
triangle [45:10]
tried [85:16] [108:7] [187:21,25] [193:3] [290:18]
trigger [115:8] [144:5] [296:20]
triggers [34:7] [110:2]
trip [224:16]
troop [19:24] [24:8] [28:13,14,16,17] [32:8] [77:17] [105:24] [106:2] [135:9] [137:21] [158:1,2] [168:1]
trooper [8:20] [9:8] [20:17] [21:19,25] [25:3] [27:8,20] [29:14] [30:19] [39:12] [50:14] [51:1] [52:13,24] [60:1] [61:6,10,24] [62:2] [70:17,24] [71:10] [74:8] [76:8,12,15,16] [78:12] [106:13] [112:5] [113:1,8,22] [115:24] [120:3] [124:5,10,13,19,23] [134:1,12] [140:6] [157:4,5,8] [173:14] [174:12,19,22] [179:18] [195:7] [198:16,19] [228:24] [229:1,3] [234:5] [238:11] [245:7] [254:8,16,17] [261:5] [273:18] [274:4] [282:6] [286:5,10,21] [292:24] [293:6] [302:16] [305:4]
troopers [13:1,6] [14:24] [18:7] [19:5] [20:18] [21:9] [22:3] [23:8,11] [25:15] [26:22] [27:10] [28:5,8] [29:1] [35:22] [37:10] [43:20,22] [44:14] [47:23] [49:8] [50:3] [53:10] [55:2] [58:23] [59:8] [60:3,25] [61:16] [64:13,15] [70:7] [71:22] [72:18] [77:24] [78:8,9] [79:2] [83:21] [85:10] [101:12] [119:15,22] [121:1] [125:18] [126:1] [128:3] [131:17] [132:19] [137:18] [157:10] [173:10] [177:11,21] [180:7] [195:14] [201:25] [202:10] [227:5] [252:23] [253:7,12,20] [254:20] [259:16] [273:9] [280:19] [282:4,7] [285:14,22] [286:18] [298:17] [299:12] [303:24] [304:7] [305:11]
troops [24:10] [77:2,15] [115:7] [135:8] [158:6] [172:19,20]
trouble [192:13] [215:8] [221:19]
true [30:4] [37:24] [38:9] [99:18] [172:17] [221:25] [315:7]
truly [81:3] [167:17] [174:3] [212:12]
truncate [234:24]
trunk [76:6]
trust [5:9] [31:1,24] [41:17] [249:14] [263:19] [269:24]
truth [105:8]
try [7:23] [70:16] [105:1] [114:4] [125:3] [127:3,19] [162:24] [166:20] [183:22] [194:20] [200:19] [204:15] [222:23] [223:9] [225:14] [230:3] [232:17] [234:24] [264:12] [288:14] [294:23]
trying [63:16] [92:5] [95:17] [99:10] [113:18] [115:20,22] [120:7,15] [121:20] [125:6,10] [126:21,25] [143:11] [208:11] [215:11] [216:7] [221:7] [229:12] [262:18] [263:24] [264:18] [272:16] [297:21] [300:11] [303:3] [312:15]
tuesday [1:15]
tunnels [11:25] [73:23]
turn [7:24] [186:8] [271:14] [275:9]
turned [102:11] [173:21] [279:25]
turnpike [25:7,18,22,25] [28:11] [48:24] [54:16] [77:4,10,11] [78:3,6] [133:18,19] [135:9] [158:2] [202:1] [260:20] [286:7,19] [287:2]
turns [207:19]
twice [137:8] [207:9] [263:12] [269:14] [281:13] [311:19]
type [16:9] [24:13] [47:19] [52:15] [58:23] [70:22] [110:3] [134:12] [137:10] [140:22] [142:21] [151:20] [165:23] [176:9] [188:16] [194:16,21] [211:5] [217:4] [221:3] [223:2] [294:6] [303:23]
types [78:21] [94:23] [114:18] [117:16] [125:5] [139:23] [167:14] [171:12] [176:14] [196:8] [240:23] [248:5] [294:15] [295:18]
typically [23:4]

U

u.s [150:1]
uh [261:15]
ultimate [30:1] [70:16] [176:6]
ultimately [9:23] [11:3] [59:23] [97:7] [104:3] [249:1] [268:3]
unbiased [67:10] [95:19,22]
undercut [123:7]
undergone [18:16] [36:14]
understand [21:23] [31:15] [83:8,15] [95:7] [111:6] [116:5] [119:8] [168:6] [173:9] [184:1] [190:1] [193:21] [201:4] [202:10] [214:5] [221:2] [252:24] [254:5] [255:4] [260:3,7,18] [262:19] [263:13] [284:2] [302:6] [303:2] [310:12] [312:22]
understandable [49:18]
understandingly [305:20]
understanding [31:17] [37:7] [41:17] [67:2] [75:5] [138:16] [151:2,19] [153:16] [156:22] [169:2,12] [170:1] [171:22] [181:3] [183:3,4,8,13] [184:3,8] [202:13] [205:18] [206:16] [219:5] [235:9] [251:13] [256:21,24] [258:21] [269:8] [273:8] [277:2] [280:8] [300:25]
understands [84:19]
undertaken [11:3]
undertook [12:24] [155:6]
undue [113:12]
unfair [82:13] [99:7]
unfunded [94:9]
unhappy [197:23]
uniform [25:15] [114:8] [134:14] [257:16] [267:10,19] [297:20,23]
uniformed [14:24] [37:11]
uniformity [114:7]
unique [11:4] [12:6] [36:16] [80:24]
uniquely [248:20]
unit [8:25] [9:1] [10:15] [19:25] [23:12] [26:13] [27:13] [46:10,14] [55:15,16] [60:9] [76:13] [115:5,6] [144:7] [217:7] [224:7] [234:17] [237:14,21] [248:10] [253:7,12,15,22] [258:10,16,19] [260:5] [261:4] [262:13] [265:5,7,16] [275:14,22] [285:16] [287:9] [305:12]
united [4:12] [9:5] [10:21] [15:15] [82:20] [91:23]

[93:20] [148:17] [150:9,21]
 [151:2,4,12] [153:5,10]
 [154:18] [173:22] [238:4]
units [9:3] [28:18] [62:3]
 [75:25] [77:2] [125:20]
 [246:20]
universal [150:20]
university [9:13] [41:3]
 [45:14] [96:12] [147:21]
 [148:7,11,21,24,25] [149:13]
 [207:1] [234:10,11]
unlawful [237:10]
unless [72:2] [103:11]
 [162:2] [164:3] [180:21]
 [204:16] [206:6] [293:1]
 [307:6] [311:11]
unlike [47:7] [105:13]
unnecessary [103:17]
unprecedented [11:5]
 [12:8,15] [36:14]
unrestricted [241:6]
unseen [130:16]
until [7:15,17] [90:15] [234:
 1] [242:7] [252:20] [261:19]
 [262:20]
untold [43:14]
unusual [213:20]
unwavering [12:4]
upcoming [109:15]
upfront [63:11]
upgraded [36:8]
upgrades [11:5]
uplink [124:24]
upon [10:6] [22:21] [37:4]
 [39:2] [42:12] [43:12,15]
 [59:8] [60:6] [67:25] [68:14]
 [71:6] [79:1] [106:9] [109:12
 ,16] [121:9] [130:22] [135:17]
 [136:23] [139:8] [144:13]
 [157:9] [192:1] [196:20]
 [218:25] [244:24] [284:17]
 [296:22]
upper [21:5] [22:9]
ups [126:14]
upstairs [293:11]
upwards [23:5]
urban [15:2] [54:25] [55:9,25]
urgency [29:21]
urges [262:10]
us [5:4] [7:3,8] [24:18]
 [30:9,10] [33:14] [41:11]
 [44:2] [55:5,6] [64:16]
 [73:2,12] [76:2] [77:1]
 [79:10] [80:20] [83:24]
 [85:3] [86:18] [93:24]
 [98:16] [99:3] [100:25]
 [105:2] [106:9,16] [107:6]
 [108:1] [109:4] [114:20]
 [115:25] [117:17] [118:17]
 [125:12,13,20,25] [127:19]
 [128:7] [129:16] [139:7]
 [141:18] [142:3] [146:2]
 [149:6] [154:9] [160:3,21]
 [177:3] [178:7] [193:21]
 [198:22] [200:2] [201:4]
 [204:3,4] [216:18] [217:20]

[219:22] [225:13] [233:11]
 [239:4] [244:9,13] [249:1]
 [255:1,19] [260:25] [261:25]
 [262:10] [269:20,21] [274:
 19,25] [276:24] [277:13]
 [279:17] [282:23] [283:3]
 [284:9] [288:2] [291:14]
 [292:17] [297:16] [299:15]
 [301:24] [304:12] [305:17]
 [310:11] [314:5]
use [23:25] [26:3] [31:11]
 [45:20] [54:20] [74:12]
 [79:3,25] [85:13] [93:14]
 [95:2] [101:4] [102:19]
 [103:16] [110:4] [118:2]
 [124:1] [129:4] [140:19]
 [141:17] [143:18,20] [145:
 17] [184:25] [210:21] [211:
 21] [234:8] [236:1,13]
 [237:10] [238:10] [240:25]
 [241:24] [243:15] [274:2]
used [41:14] [47:8] [49:23]
 [54:3] [55:15,24] [86:11]
 [103:12] [129:10] [141:7,16]
 [152:16] [153:23] [167:22]
 [280:1]
uses [76:8]
ushered [159:12]
using [21:6] [25:21] [96:24]
 [114:24] [121:3] [153:13]
 [162:11] [213:24] [224:18]
usually [60:23] [202:21]
utilization [29:10] [53:4]
utilize [142:18]
utilized [12:11] [14:11]
utilizes [34:6]
utilizing [15:4] [103:10]

V

vailsburg [77:25]
validate [90:22]
valuable [42:7]
value [56:22] [128:23]
values [37:8] [74:16] [176:23]
 [177:22] [205:2]
variables [171:16]
variance [21:8]
variety [12:21] [38:3]
various [66:16] [309:13]
vast [240:25]
vehicle [18:12,23] [19:19]
 [20:8] [21:9] [22:8,16,24]
 [24:7,19,24] [25:10] [26:9,10
 ,15] [27:6] [28:21,22,23]
 [30:9] [31:10] [35:17]
 [36:12] [71:12] [72:19]
 [74:24] [78:15,21] [113:5]
 [119:2] [124:4] [128:22]
 [154:20,25] [157:21,24]
 [158:8,14] [205:7] [238:12]
 [239:14] [244:6] [303:25]
vehicles [18:8] [19:6] [222:
 18]
vera [98:3]
verbal [27:24] [51:15] [61:19]

[178:20] [198:24]
versus [70:13] [208:15]
 [209:10] [256:19] [268:3]
 [300:15]
via [7:11]
viable [66:18]
victim [44:3]
video [23:2] [39:21] [50:24]
 [51:7] [71:14] [120:9]
 [158:15] [173:12] [175:15]
 [222:8,10] [224:22] [227:25]
videos [272:11] [282:18]
view [17:20] [26:11] [28:24]
 [49:11] [50:25] [54:21]
 [67:10] [79:13,21,23]
 [81:11] [90:9] [124:9]
 [143:8] [231:13] [251:8]
viewed [27:10,11,17] [30:7
 ,9] [90:23] [141:9,25] [217:
 15]
viewing [20:15] [215:4]
views [230:3] [310:16]
violation [26:11] [244:15,18]
violations [35:3,4] [60:15,23]
 [71:6] [259:16] [299:13]
violence [12:8] [14:23]
 [15:10] [24:2] [35:6] [111:8]
 [243:16]
violent [15:7,9]
virginia [11:13] [148:10]
virtual [28:6]
virtually [18:24] [121:23]
 [181:2] [214:23]
virtue [116:5]
vis [114:22]
visavis [114:22]
vis-a-vis [114:22]
vision [174:2] [176:23]
visit [149:3] [157:20,25]
 [158:7] [163:17] [203:8]
 [216:5]
visiting [158:4]
visits [157:18,19] [158:6]
 [203:12]
vividly [248:25]
voice [199:1]
void [240:10]
voluntary [283:19]
volunteer [145:6] [284:23]
voted [68:14]
vulnerability [113:17]
vulnerable [126:18]

W

wait [261:19]
wake [14:17]
walk [62:5] [302:4]
walker [93:16,22]
walks [51:2]
walls [135:22]
want [48:9] [50:18] [64:5,13]
 [65:1] [69:21] [71:3,4,19]
 [73:11] [83:11] [84:17]
 [87:9,10] [89:12] [92:2,8]
 [95:9,12] [102:14] [105:13]

[107:15] [109:2] [116:19]
 [122:20] [128:21] [131:9]
 [135:3] [136:8] [137:25]
 [138:7] [141:21] [146:14,15]
 [153:17] [162:9] [166:12]
 [173:1] [182:16] [189:15]
 [200:2,17] [201:18] [203:25]
 [204:20,21] [205:10,11]
 [207:17] [208:24] [209:18,19]
 [210:19] [211:10] [228:24]
 [229:1] [231:1] [234:19]
 [235:2] [252:17] [254:20]
 [256:22] [262:19] [263:17]
 [270:6] [273:3] [279:2]
 [282:14] [284:1] [287:6,8]
 [288:7] [291:14] [297:7]
 [303:10] [304:12,17] [309:
 10] [313:6]
wanted [118:17] [132:25]
 [161:2] [169:10] [180:23]
 [187:18] [193:2,15] [270:20]
wanting [113:3] [283:1]
wants [109:4] [154:13]
 [194:4] [201:1] [223:5]
 [256:23]
warehouse [117:21]
warning [33:21] [34:7]
 [110:2]
warnings [18:9]
warrant [26:10] [296:6]
warranted [44:13] [60:21]
 [191:5]
washington [45:21] [98:7]
 [153:21] [184:21]
wasnt [119:2] [146:1] [161:
 17] [210:1] [260:3] [264:2]
 [298:7] [300:2]
watch [233:17] [263:23]
watches [261:14]
watchful [227:7]
watching [122:12] [264:1]
 [277:7,9,11] [278:2] [300:6]
waterhouse [301:11]
wave [299:24]
ways [93:10] [103:18]
 [114:4] [120:5] [124:17]
 [126:12] [127:2] [139:13]
 [196:21] [201:22] [211:23]
 [228:19] [260:25] [292:7]
wayside [109:5]
weakened [104:5]
weaknesses [22:6] [121:7,10]
web [6:25] [7:2,10,11]
 [125:1] [314:1]
weber [2:21] [111:13,18]
 [114:21] [116:3,23] [118:6]
 [121:9] [164:22,23] [166:5]
 [168:19,22] [170:1] [172:4
 ,5] [298:3,4] [300:7] [303:11]
wed [234:13]
weeds [169:11]
week [286:10,21]
weeks [47:3]
weigh [163:9]
weight [39:14]
welcome [4:6] [31:12]

[115:1,2] [118:7] [285:4]
well [7:17,24] [8:3] [10:24]
 [11:19] [19:16] [20:4]
 [28:20] [32:17] [34:8]
 [39:21] [44:24] [45:19]
 [47:13] [52:6] [54:1,19]
 [57:21] [61:7] [62:18]
 [64:22] [67:16] [70:15]
 [72:19,21] [74:4] [77:15]
 [78:1,22] [79:16] [80:7]
 [83:16] [86:7] [90:2] [92:3]
 [95:14] [97:24] [104:15]
 [108:6] [119:1] [129:13,18]
 [131:14,15] [132:10] [133:
 5] [140:18] [142:7] [143:14]
 [159:10,21,24] [161:8]
 [162:2,23] [163:1,12]
 [165:5,12] [176:2] [178:9,21]
 [185:2] [187:3] [188:4,18]
 [189:23] [192:25] [195:4]
 [200:8] [201:10,21] [203:5]
 [204:6] [205:16] [206:17,25]
 [209:6,16] [213:4,13]
 [217:21] [220:15] [222:7]
 [223:20,24] [224:20] [225:
 10] [226:6,25] [230:5]
 [231:15] [233:9,12,17]
 [235:7,10] [236:19] [239:17
 ,22] [241:24] [247:22]
 [248:3,9,18] [249:21]
 [251:12] [254:10] [255:13]
 [256:3] [257:23] [260:17,24]
 [262:16] [263:22] [267:8]
 [268:8] [269:7,21] [274:13]
 [276:20] [278:19] [279:13]
 [284:8] [285:15] [287:9,14]
 [288:25] [297:6] [298:11]
 [308:12,14,25] [309:23]
 [311:2] [314:3]
wendy [139:4]
went [48:25] [86:1] [173:10]
 [177:16] [192:20] [195:7]
 [223:15,19] [224:21] [225:
 2] [277:4] [302:2]
werent [124:2] [125:24]
 [170:23] [171:17] [216:11]
 [217:11]
west [77:22]
westinghouse [232:20]
weve [5:16] [47:3] [81:10,11]
 [84:6] [96:10] [99:5] [100:21]
 [102:2] [114:16,17] [118:2]
 [122:24] [126:3] [160:4]
 [166:7,8,11] [171:21]
 [179:12] [192:25] [195:21]
 [209:4] [218:14] [219:14]
 [231:16] [268:19] [278:6]
 [287:8,18] [301:18] [305:6]
 [312:10,11,19] [314:2]
whatever [60:2] [74:1]
 [90:6] [91:2] [98:4] [102:23]
 [111:9] [172:21,22] [173:1]
 [187:19] [206:21] [208:3]
 [212:8] [216:9] [248:14]
 [255:23] [261:6] [270:1,6,10
 ,18] [271:2,18,21] [275:19]
 [281:14]
whats [51:8,9] [119:8]
 [135:8,24] [166:12] [174:8]
 [183:9] [189:22] [192:22]
 [204:2,3] [205:23] [206:2]
 [252:10,12] [260:23] [269:
 15] [273:6] [275:16] [284:11]
 [308:14] [311:10]
whenever [140:21]
whereupon [80:10] [147:7]
 [233:19]
wherever [303:9]
whether [5:5,16] [44:2]
 [49:7] [53:8] [57:3] [74:12]
 [86:21] [89:18] [90:13]
 [92:17,19] [94:11,12]
 [99:11] [100:22] [112:4,5,16
 ,17,21] [114:5] [117:7,8]
 [120:14] [122:7,8] [123:2,21]
 [126:8] [128:10] [146:14,15]
 [157:12] [163:23] [169:1,12
 ,14,16] [190:5] [195:19,22]
 [217:7,8] [255:8] [257:24]
 [258:20] [259:19,20] [263:
 3] [267:23] [268:20] [270:2]
 [271:1,19] [275:20] [283:17]
 [294:13] [306:19]
white [21:17,19] [70:24]
 [75:7,9,17] [126:13] [274:4
 ,11] [312:23]
whites [70:21] [71:8] [74:5]
 [196:7,15]
whoever [48:2] [84:17]
 [92:10] [96:12] [183:6]
 [232:21] [291:23] [301:11]
whole [73:5] [101:3] [110:5]
 [175:16] [194:14] [201:15]
 [208:1] [218:22] [309:1]
 [310:23]
whom [8:7] [23:15] [46:7]
 [198:16]
whos [63:8]
whose [22:8] [241:14]
why [31:17] [45:16] [59:19]
 [74:6] [79:25] [94:2] [96:3,6
 ,11,13,18] [100:19] [117:17]
 [130:4] [162:22] [196:17]
 [198:22] [199:5] [200:8]
 [203:4] [228:10] [233:16]
 [249:22] [250:13] [254:21]
 [255:4] [258:12] [259:4]
 [262:21] [263:14] [266:19]
 [271:16] [277:10,12] [281:
 19] [300:18] [301:22] [312:
 25] [313:2]
wide [28:19] [185:21] [221:
 3] [241:22]
widespread [13:15] [14:18]
 [29:24] [42:3]
will [4:22,25] [6:13,14,24]
 [7:1,7,8,15,16,20] [8:5]
 [10:18] [20:23] [22:7,14,18
 ,24] [23:1,15] [29:22] [31:9
 ,14] [35:24] [39:23] [40:6,8
 ,15,18,20] [41:10] [43:7]
 [44:23] [45:3,7] [51:15,16,17
 ,18,22] [53:17] [59:21,22]
 [63:12,13,19] [65:13,15]
 [66:4,12] [68:16,19] [76:8]
 [80:7,8] [85:18] [87:7]
 [89:19] [90:14] [92:10,11]
 [103:16,17] [105:5] [107:10]
 [113:1,8] [120:2] [124:22,24
 ,25] [127:7,22] [128:3]
 [140:5,9] [143:23] [144:21]
 [147:5,13] [149:6,8] [158:25]
 [159:21,23] [160:18] [167:
 11,21] [168:16] [172:20,23
 ,25] [180:10,22] [183:4]
 [187:2,3] [188:13] [189:1,8
 ,10,19,23] [190:3,8,10]
 [192:12] [200:6] [202:7]
 [205:15] [207:14] [208:16,18]
 [209:9] [212:2] [214:2]
 [216:18] [221:19] [224:9]
 [226:5,19,24] [230:8,10]
 [231:2,5,25] [232:5] [233:3]
 [234:25] [242:20] [244:11,19]
 [247:6] [250:25] [261:3,5,8
 ,9,16,17] [264:8] [266:21]
 [270:15] [275:7] [278:12]
 [285:24] [292:7,8,9] [294:16]
 [304:19] [309:3]
willing [67:22] [90:5] [128:12]
 [180:11] [310:19]
window [58:18] [311:10]
windows [53:9]
wingspan [78:13]
winter [12:23]
wise [199:19]
wish [7:3] [160:12] [203:19]
within [4:14] [9:3] [12:3]
 [28:20] [47:7] [52:2,19]
 [57:22] [61:5] [82:16]
 [93:5] [94:10] [95:9,10]
 [102:22] [111:25] [112:12]
 [113:10] [131:11] [137:1,16]
 [140:15] [161:24] [169:3]
 [195:5] [196:21] [197:3]
 [237:9,15] [240:14,20]
 [258:10] [261:16] [262:13]
 [265:1] [269:5] [274:9]
 [276:22] [302:25] [307:17]
 [311:22]
without [37:24] [61:20]
 [136:12] [139:1] [144:8]
 [191:23] [211:17] [216:12]
 [219:4] [225:9] [236:2]
 [241:10]
witnesses [147:12]
women [44:7] [218:17]
wonder [58:20]
wondered [133:9]
wonderful [111:24] [300:13]
wondering [49:6] [87:19]
 [89:16] [100:18] [112:16]
 [268:16]
wont [63:13] [176:14] [304:
 21]
wool [183:20]
word [93:6,7] [177:24]
 [313:17]
words [52:18] [179:22]
work [7:8] [15:13] [17:5,7]
 [32:5] [38:5] [60:18] [68:7]
 [90:5] [92:3] [96:18] [98:6]
 [111:23] [118:21] [121:16,22]
 [124:22] [128:11] [129:8]
 [138:17,20] [144:2] [149:7]
 [162:1,2] [164:25] [165:9]
 [166:23] [171:18,23] [175:
 20] [176:6,9] [181:9] [191:23]
 [193:3] [200:3] [201:3]
 [216:22,25] [219:5] [223:1]
 [226:9] [227:8] [229:8]
 [230:14] [233:14] [240:24]
 [248:2] [252:19] [256:17,23]
 [272:13] [284:3] [288:14]
 [289:1] [291:6] [295:3,4]
 [309:1,2]
worked [108:25] [141:17]
 [216:6] [218:18] [264:4]
 [302:11] [306:18]
working [14:25] [15:1]
 [33:17] [45:15] [55:2]
 [63:7,22,23] [77:24] [80:19]
 [81:22] [83:3,5] [90:25]
 [98:9] [100:15] [124:15]
 [136:17] [139:6,23] [146:22]
 [147:2,5] [153:2] [164:19]
 [171:19] [213:13] [254:19]
 [256:9] [260:5] [291:22,23]
 [295:3]
works [71:16] [110:5] [138:
 22] [210:6] [272:21] [292:5]
world [46:1] [74:13] [126:15]
 [310:20]
worry [128:25]
worrying [108:20,22]
worst [291:25]
worth [159:23]
worthwhile [171:20]
worthy [17:20]
would [8:2,14] [10:4] [11:9]
 [26:4] [27:1] [38:24] [39:4,13
 ,17] [41:4,5,19] [44:5]
 [45:12,16] [46:15,19]
 [47:10,11,14,15,18] [48:3,4]
 [49:3] [50:14] [52:17,21,22]
 [56:9,14] [57:10] [58:7,8]
 [64:14] [65:10] [67:3,4]
 [68:6] [69:11,13,20] [70:10]
 [74:9,11,19] [75:10,17]
 [80:15,17] [81:1,8,24]
 [82:4,8,22] [84:18] [85:5,9
 ,15] [86:13,14,15,20] [90:4
 ,17] [92:9] [93:4] [94:13,23]
 [95:1] [97:19,25] [98:16]
 [100:4] [105:13] [114:23]
 [115:1,2,12] [116:7,8,9,11]
 [119:4,5,19,22] [123:3,7]
 [127:13,16] [128:11,21,23]
 [130:7] [132:6] [140:8,17]
 [141:12,25] [142:3,5,9,15]
 [144:1,5] [146:4] [149:15,18]
 [151:24] [156:3,21] [157:21]
 [158:5,7,16,23,24] [161:8]
 [162:17,18,20,24] [163:2,7]

10/10/2006 Hearing - 10/10/06

[164:15] [165:9] [166:15,24]
[167:3,12] [173:18] [174:15]
[177:2] [178:9] [180:4,5,20]
[181:22] [183:15] [186:23]
[188:16] [189:9] [192:5]
[193:20,25] [194:2] [203:21]
[204:8,19] [205:25] [206:16
,17] [207:5,11] [209:11]
[213:10] [215:10] [216:25]
[217:2,18,23] [221:25]
[222:12,17] [224:3,4]
[225:21] [231:13] [232:17]
[235:16] [245:24] [246:1,2]
[247:14] [248:6,7,8,13,16,17]
[249:11,12,23,25] [250:1,7]
[251:22] [253:1,4,14,20,23
,25] [254:2,16,24] [255:4]
[256:13,14,17,19,20,22]
[257:17,18,20] [258:2]
[259:15,19,21] [260:16]
[262:24,25] [263:4,18]
[264:15] [265:4,13,14]
[269:2,19] [274:8,24]
[275:5,17] [276:4,6] [277:6
,12,13,16,22] [278:5,21]
[279:1,2,14,15,17,25]
[280:14,20] [281:3,8,11,14
,19] [282:13,14] [283:18,19]
[284:3,7,17] [287:15,20]
[288:24] [289:3,24] [291:6]
[294:12,13,19,20,25]
[295:3,4,7,8,9,10] [296:19
,20,23] [299:20] [301:9,13,14
,15,16] [306:5,8] [308:17]
[310:4,11,13] [311:2,5,13,18
,20] [312:7] [313:3]
wouldnt [128:8] [163:24]
[194:24] [219:10] [258:24]
[300:3]
woven [36:22]
wrestling [207:23]
write [222:24] [230:22]
writing [186:15] [233:9]
written [7:6] [20:21] [27:25]
[44:11] [51:15] [61:2,19]
[62:20] [63:5,17,18,19,23]
[149:5] [170:23] [191:3,11
,14,17] [293:21,23]
wrong [51:9] [139:2] [168:7]
[197:5] [210:18] [292:24]
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[1:25]
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[7:12]

Y

yang [2:22] [118:9,11,15]
[121:5] [122:15] [160:1,2]
[161:5] [162:14] [164:21]
[305:14,15] [306:24] [307:
3,22] [308:19]
yeah [76:3] [77:5]
year [9:8] [12:25] [25:24]
[26:4] [35:1] [49:1] [55:14]
[57:11] [60:16] [61:15]

[86:18] [91:17] [152:1]
[153:12] [157:17,19] [163:
5] [164:11,12,14] [165:25]
[181:16] [186:13] [191:11]
[199:20,23] [207:8,9]
[228:6] [230:9,10] [254:13]
[263:12] [269:14,15] [281:
14] [301:12] [305:19] [311:
19]
years [5:1] [16:22] [24:7]
[29:25] [34:13] [39:2]
[55:17] [56:19] [71:25]
[82:7] [92:9] [100:16,19]
[101:2] [102:22,23] [106:2]
[107:17] [109:15] [111:22]
[115:12] [144:17] [148:18,19]
[150:4,14] [154:8] [159:3]
[161:25] [162:21] [164:2,25]
[174:12] [175:3,10] [176:8]
[177:8] [179:21] [181:21]
[182:4] [186:1] [187:2]
[190:7,17] [191:4] [195:3]
[197:18] [211:10] [213:22]
[218:19] [225:4] [232:9]
[233:15] [256:3] [271:8]
[274:20] [275:6] [277:23]
[285:16] [287:9] [288:19]
[300:19] [302:12] [309:1]
yes [70:9] [88:3] [89:7]
[127:12] [129:7] [131:6]
[192:10] [202:5] [214:21]
[223:10] [252:6] [258:9]
[261:24] [266:3,6,15]
[267:14] [273:4] [280:5]
[289:11,16,20,23] [290:3,22]
[306:9] [309:15] [313:16]
yet [40:19] [52:16] [186:4]
[229:12] [233:5] [299:11]
yield [87:4]
york [9:14] [11:12] [46:24]
youd [119:9] [211:22] [272:
20]
youll [8:8] [146:18] [185:13]
[186:10]
young [190:19]
younger [177:20]
youre [55:20,21] [60:6]
[69:2] [72:2] [74:14] [75:14]
[95:11] [99:16] [115:4]
[117:3] [118:7] [120:24]
[121:6] [124:8] [134:8]
[135:13] [145:15] [162:25]
[163:25] [164:2,3] [166:3]
[169:18] [170:8] [171:13,24]
[180:9,13] [183:6] [190:22]
[196:4] [197:22] [198:17,21
,22] [206:12] [210:15]
[222:8] [223:4] [226:6]
[233:6] [263:6,8] [265:6,10]
[266:1] [275:24] [276:19,25]
[277:23] [278:24] [279:16]
[283:6] [284:2] [285:4]
[286:6,7,8,12] [294:5,22]
[296:1] [297:2] [299:14,25]
[300:24] [301:21] [302:7]
[310:18,20]

yourselves [233:11]
youth [286:10,21]
youve [75:23] [82:24] [92:3]
[102:21] [104:14] [122:21]
[145:9] [169:11] [200:3]
[207:5] [213:17] [216:22]
[252:23] [275:6] [303:12]
[305:23] [307:24] [310:18]

Z

zero [68:10]
zion [67:18]