

William H. Buckman Law Firm

ATTORNEYS AT LAW
110 Marter Avenue, Suite 209
Moorestown, NJ 08057

Telephone: 856-608-9797
Fax: 856-608-6244

William H. Buckman
Certified Criminal Trial Attorney - NJ
Member NJ, PA, NY and VT Bar
wbuckman@whbuckman.com

Daniella Gordon
Member NJ and PA Bar
dgordon@whbuckman.com

April 25, 2007

James Johnson, Chair
Advisory Committee on Police Standards
P.O. Box 001
Trenton, N.J. 08625

Dear Mr. Johnson and Committee Members:

I have had the opportunity to review the January 2, 2007 letter written to the Committee by Professor Kelling concerning the report that I had previously provided to the Committee entitled "New Jersey State Police: A Cultural Perspective and Prescription." I wish to update my testimony with the following observations about Professor Kelling's letter.

Initially, I would note that Professor Kelling's letter confirms that the document, be it euphemistically termed a draft or otherwise, is genuine. Professor Kelling states that "because of the rapidly changing circumstances in the leadership of the New Jersey State Police, and the opportunities that these leadership changes presented, the OAG and I agreed that the report should not be completed." Yet, neither Kelling's letter nor any correspondence from the State Police or the Office of the Attorney General that I have seen explains why the underlying data and the research done by Kelling, at least up until the time the report was presented to the Attorney General's Office, has not been provided to the public or to this Committee.

Unfortunately, neither Professor Kelling or the OAG or the State Police provide

any documentation indicating why what appears to be a complete report was not “completed.” Nowhere does the report indicate that it was a draft. Moreover, while claiming that changing circumstances in the leadership of the State Police obviated the Report, Professor Kelling does not deny the accuracy of any of the underlying report - data at least as with respect to any time period prior to “the rapidly changing circumstances in the leadership of the New Jersey State Police . . . “ as of 2003.

Most important, Professor Kelling concedes that the report reflects his “point of view at the time it was being drafted.” Kelling’s letter, therefore, supports my position that as recently as late 2003, an independent study of the New Jersey State Police produced dramatic concerns about the inbred culture of the organization and its operations. Professor Kelling concedes that his “view at the time” was essentially correct.

Professor Kelling’s letter also avoids mention of and/or fails to address the significance of the nine (9) prior PERF reports referred to in his 2003 study, which were similarly “less than favorable” to the New Jersey State Police. It continues to speak volumes about the candor of the State Police and/or the Office of the Attorney General that these reports have not yet been produced. I would note that I know of no instance when the State has produced these reports for review by the very public who paid for them. Notably, neither Professor Kelling nor PERF has contested the accuracy of the PERF reports as described in Kelling's Report.

The remainder of Dr. Kelling’s letter raises questions about other aspects of the operations of the State Police. Indeed, Professor Kelling’s letter in no way touches upon the serious aspects of the culture of the State Police that have led towards its dysfunctionality. Instead, Professor Kelling cites but two examples of State Police programs of which he approves. He has not, however, described any systemic changes to the State Police which would have affected its culture between 2003 and the present.

Needless to say, I would stand by the present testimony of myself and numerous others that there has been little or no systemic change in the culture of the State Police since the date of Professor Kelling's report¹. Neither of the examples that Professor Kelling cites strike at the heart of the State Police culture which has been so destructive from within and without the organization, and which have led to a great deal of valid litigation and settlements as well as the Consent Decree.

Instead, Professor Kelling cites two (2) distinct examples that do not touch upon the culture of the State Police or the troubling statistical evidence that profiling continues. Professor Kelling concedes that he remains "concerned about the evolution of the culture of the State Police." However, his concerns are only allayed because of the presence of an individual in the present leadership of the State Police, namely Superintendent Fuentes. Kelling admits that he remains concerned whether Fuentes' "leadership can permeate the entire organization; and . . . that he puts into place a new cadre of department leaders that share his vision, values and commitment." Here, again, Professor Kelling's letter, while decrying the release of the 2003 Report, supports the testimony of myself and others.

The reformation of the New Jersey State Police should be made permanent, and not require citizens to cross their fingers in the hope that one individual at the top of the State Police will continue a particular vision or commitment. Real State Police reform will be realized when permanent structural changes to the State Police, including independent outside monitoring, are guaranteed. The long-standing problem of the New Jersey State Police is that it has only been left to individuals within the organization to set the tone without proper accountability to the citizens which it is supposed to serve.

1.

While Professor Kelling asserts that his report was not complete, he does not explain what about the report was incomplete. Instead he offers the contradictory explanation that he simply agreed with the Office of the Attorney General not to finish what appears completed - because of changing circumstances.

Troubling still is Kelling's admission that despite his allegation of an incomplete report, he continues to hope that the State Police will change not only based on Fuentes' personal bona fides but whether or not Fuentes insures that appropriate leadership beneath him is put into place. A thorough examination of the leaders that Fuentes has placed into key positions shows that he has elevated numerous persons with backgrounds troubled by citizen complaints, equal employment complaints, as well as litigation concerning other actions.

In any event, it would be important to obtain the appropriate "data" for this second prong of Professor Kelling's desire for the State Police, namely, a full examination of the leadership that Superintendent Fuentes has installed beneath him. I suggest that a full examination of the hierarchy of the New Jersey State Police - including the lawsuits, the internal complaints, the disciplinary history and the EEO/AA investigations on many of these persons - would indicate that the long standing model of the State Police hierarchy has not changed significantly.

I would also offer the following observation: Professor Kelling does not name the person within the Office of the Attorney General that purportedly helped decide to end a study which appears complete. Moreover, I would suggest that the Committee would nevertheless desire to see the data - including the PERF reports - upon which Kelling based his report. I would suggest that the Committee might wish to look at the fees earned by Professor Kelling for his report to determine whether or not it was a final product or a draft. If, for example, those fees match any bid for initial specifications, one might question whether or not the document was a draft or indeed final.

Lastly, Professor Kelling is less than specific as to which point between 2003 and the present he was able to secure even his present level of comfort about the State Police, albeit as qualified as his letter suggests.

Inasmuch as Professor Kelling's letter merely points to his hope that the present

leadership will achieve some set of written goals, Professor Kelling's letter is hardly a "prescription" for the guaranteed change and oversight that is necessary to assure the citizens of this State that the problems endemic to the New Jersey State Police will be cured and that some of the more rampant problems that have been proven will not re-emerge. Indeed, Kelling does not suggest, and it is difficult to imagine that an academic would so suggest, that particularized requirements and structural changes should not be placed upon the State Police. Further, if it is a fact that only sometime after 2003 Professor Kelling began to feel more confident than his report reflects, I would respectfully suggest that his letter begs one of the central questions before the Committee, namely: if the New Jersey State Police is at best still evolving, and if as recently as 2003 a study documented many disturbing details about the State Police operation and culture, should the independent oversight of the State Police remain and include permanent structures that survive any particular New Jersey State Police leader?. After all, as noted, Kelling's Report was provided to the Attorney General in 2003, four (4) years after the inception of the Consent Decree, seven (7) years after the Court decision in Soto, five (5) years after the shooting of three (3) innocent men on the Turnpike, and fourteen (14) years after a TV documentary critical of the State Police - which was ultimately found to be true, aired. The obvious answer is no. The fact remains that despite one of the most (- if not the most -) egregious patterns of biased policing nationwide, New Jersey has failed to install long needed checks and balances on the State Police. It would be reckless in light of the decades old history of the organization's abuses for New Jersey to refuse such objectively reasonable action.

Respectfully,

William H. Buckman

WHB/pw