

***FINAL REPORT
OF THE
STATE POLICE REVIEW TEAM***

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ACKNOWLEDGMENT

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PREFACE

Shortly before writing the Declaration of Independence, Thomas Jefferson wrote to a friend and observed that the morals of society, the foundation of government, and the confidence of the people are dependent on the skillful administration of justice.

Jefferson's words in that letter serve as an important instruction as we approach the last Independence Day of this century, 223 years later. For in 1999, it is the law enforcement officer who is the most visible representative of our criminal justice system, with awesome power to do good by protecting the rights of citizens and by upholding our laws fairly and justly, or to do harm by violating the very rights of citizens that the officer is sworn to uphold.

We are fortunate in New Jersey that the overwhelming majority of police officers pay undying loyalty to their oaths to uphold the law and to faithfully, impartially, and justly perform their duties. These officers put their lives on the line each day and serve the public with honor, dignity, and integrity.

The Review Team has been guided by these fundamental principles of our democracy — fairness, integrity, and the importance of the rule of law — as we examined allegations of injustice involving the New Jersey State Police. We have attempted to be fair, objective, and constructive.

We made a number of recommendations for reform in our Interim Report that focused on the subject of racial profiling and we now submit this Final Report which focuses on recommendations concerning the issues of hiring, promotions, internal affairs, and discipline. It is our strong belief that implementation of our recommendations will help restore public confidence in the New Jersey State Police and we call on all citizens to assist and support the New Jersey State Police during this reform process.

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PART I.
EXECUTIVE SUMMARY

It is the overall assessment of the State Police Review Team based upon the matters to be discussed in this Report together with the matters discussed in its earlier report on racial profiling that the Division of State Police is in need of significant change. While it is evident that the Division generally performs admirably in pursuing its law enforcement mandates, it appears to have done so in a manner that has severely undermined its support in significant portions of the State's law-abiding citizenry and that does not pay sufficient attention to the workplace conditions of its members and employees. This has undermined the morale of its members and employees and diverted Division energy, goodwill and resources to litigation. It is the Review Team's belief that this current state of affairs may be in large part attributed to a lack of forward-looking and imaginative leadership coupled with an absence of an effective management/supervision apparatus that assures that Department and Division policies are implemented in the ways they are intended. The fine staff of the Division require and deserve better. We are convinced that the troopers and the civilian staff of the State Police can accomplish virtually any task assigned to them provided they are given a clear message of what is expected of them by management and provided that they have appropriate assistance, support and continuing guidance from management and supervisory staff.

We urge the Attorney General to consider mandating change at the State Police in a way that melds some of its old traditions with the new requirements of a state-level professional law enforcement agency. Along with its modern day obligations such as crime prevention and the apprehension of criminals, the Division should be rededicated to its traditional mission of service as peace officers of the State furnishing police protection, providing first aid to the injured and succor to the helpless.¹ Additionally, we urge a rededication to the following ideal expressed by the first Superintendent of the State Police that:

The force individually and collectively, should cultivate and maintain the good opinion of the people of the State by prompt obedience to all lawful commands, by a steady and impartial line of conduct in the discharge of its duties and by clean, sober and orderly habits and by a respectful bearing to all classes.
[General Order, Number 1, December 5, 1921.]

It is imperative that as the representatives of the State Police go about their duties they do so mindful that they unlike other police agencies are an extension of the Executive Branch of State Government which places upon them high expectations from the law-abiding citizens of this State. This is particularly important given that the average citizen's exposure to government does not usually involve contact with high officials in government, but rather with law enforcement officials. The citizen's good or poor opinion of government may largely be formed by the impression the citizen has of those fleeting contacts with these officials including the State Police. No other state officials have the

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See N.J.S.A. 53:2-1.

discretionary power, sometimes exercised within seconds, to consider and apply the law to a citizen, to restrain a citizen's liberty by temporary detention, to invade a citizen's privacy by search or even to injure or kill a citizen in self defense or in protection of others. These are awesome powers and require the confident support of the people that the powers will be exercised vigorously but with unbending adherence to fairness and law.

In addition to this rededication to these standing mandates, the Division must dedicate itself to vigorous implementation of the Department of Law and Public Safety Policy Against Discrimination, Harassment and Hostile Environment in the Workplace. This should be integrated within a comprehensive program to develop, implement, review and adjust its management and supervision mechanisms so that there will be confidence that the policies, goals and objectives of the Attorney General are fully understood and carried out by all representatives of the State Police consistent with their duties and level of responsibility. Decades have passed since the beginning of the integration of the State Police workforce. Yet, accomplishing the goal of a diverse and respectful workplace still remains elusive. The people of this State and the State Police itself should not have to wait for the organization to continue to evolve slowly and make slow progress on these vital issues. The State Police must act decisively and immediately to get its internal house in order.

With these goals in mind the Review Team has made numerous recommendations for change within the State Police. In summary, the recommendations

include the creation of an oversight unit within the Office of the Attorney General ("OAG") headed by an Assistant Attorney General/Director in Charge ("AAG/Director"), who reports directly to the Attorney General. The AAG/Director will be charged with assuring the implementation of all remedial actions approved by the Attorney General together with administering any necessary coordination and interaction with the United States Justice Department on matters related to the State Police. The recommendations also call for the restructuring of the State Police EEO/AA complaint investigation process with the assumption of direct supervision of that function by OAG. Additionally, the internal affairs process will be substantially reformed under the supervision of OAG in a manner consistent with the Attorney General's Statewide Internal Affairs Policy. There are also recommendations related to recruitment, selection, promotion, performance evaluation, facilities review, provision of additional legal support and assistance and the discipline process. It is the opinion of the Review Team that these measures, when implemented, will further strengthen the New Jersey State Police so that it fulfills its mission to faithfully, impartially, and justly serve the citizens of this State.

PART II.

INTRODUCTION

A. Description of Review Team Process

On February 10, 1999 former Attorney General Peter Verniero appointed a State Police Review Team headed by then incoming First Assistant Attorney General Paul H. Zoubek to conduct a comprehensive review of the State Police. This review included examining issues such as racial profiling, procedures for processing citizen complaints and internally generated complaints, hiring, promotions, and training for supervisors. The Review Team consisted of members of the Divisions of Criminal Justice, Civil Rights, and Law and the Office of the Attorney General. The Review Team issued a report concerning racial profiling on April 20, 1999. The remaining work of the Review Team was to be addressed in this subsequent and final report.

As was noted in the first report of the Review Team, in addition to examination of matters related to racial profiling, the Review Team was asked to examine matters related to recruitment, selection and promotion within the State Police. A distinction between the work on the issue of racial profiling and these other issues is that the former primarily dealt with State Police interaction with its constituents, the public, while the latter deals with State Police interaction with its employees in the workplace. A cooperative effort involving the State Police, OAG and the Police Executive Research Forum (“PERF”) had already begun in 1996 to address these workplace issues. With this foundation, the Review Team

turned its efforts to becoming fully familiar with the work that had been accomplished to date, including reports received from PERF.

The Review Team also reviewed various records and files, internally and externally -generated complaints and anecdotal information provided by persons within and outside of the agency. These sources of information suggested that troopers have concerns about the operation of the State Police as a workplace which went beyond the matters the Review Team had initially been asked to review.

The Review Team also focused on allegations of race and gender discrimination within the State Police. These include allegations of sexual harassment, hostile work environment and disparate treatment in promotions and assignment and other matters on the basis of race or gender. These concerns and the pendency of administrative and court discrimination complaints, and the filing of new ones, caused the Review Team to expand its inquiry to examine the status of the State Police's implementation of the Department Policy Against Discrimination, Harassment and Hostile Environment in the Workplace.

B. Implementation of Recommendations of the Interim Report

In issuing our Interim Report, we observed that the report represented "a major step, indeed a watershed event, signaling significant change." We further observed that we intended that the report, "once fully implemented through the issuance of new and comprehensive standard operating procedures, a monitoring system, training, and other reforms will ensure that New Jersey is a national

leader in addressing the issue of racial profiling.” Since issuing the report, the Review Team has aggressively taken steps to ensure implementation of our recommendations.

Since issuance of the report on racial profiling the State Police has organized working groups to implement the various recommendations of the Interim Report. Representatives of the staff of the Review Team have been working closely with these groups to ensure full and complete implementation. Training with respect to the Interim Report and the “zero tolerance policy” concerning racial profiling has been implemented in ongoing, in-service training for all troopers. Review Team members are also engaged in a continuing dialogue with representatives of the United States Department of Justice concerning matters related to the report and the formulation of a mutually-acceptable consent resolution of potential litigation.

In addition, a three-year information systems implementation plan has been approved, with an immediate appropriation of \$10 million to address information system deficiencies within the Division. This funding will facilitate the implementation of information systems critical to improving the quality of data available and compliance with the mandates of not only the Interim Report, but the comprehensive recommendations of this Report as well. Development of these systems will help achieve our aim to ensure that all State Police policies, procedures and practices promote fairness.

C. *History and Structure of the New Jersey State Police*

The New Jersey State Police began in 1921 with the mission of "furnishing adequate police protection to the inhabitants of rural sections," exercising statewide law enforcement powers and serving as a posse when directed to do so by the Governor at the request of a municipality. N.J.S.A. 53:2-1 (l.1921, C.102). The Division was organized by the first superintendent in a paramilitary fashion based upon a chain of command enforced through a regimented barracks living environment and the strict adherence to uniformity, discipline and obedience.

Currently, the Division of State Police is a large and complex organization with responsibilities that encompass the entire spectrum of police services. Over time, the Legislature and the Division's own sense of service have expanded its responsibilities far beyond the original purpose. Beyond the direct police and patrol services to the rural areas, unique statewide investigative and regulatory activities, and the police and patrol services on the State's highways, all municipalities receive support services from the Division of State Police such as access to Automated Fingerprint Identification System, criminal records services of the State Bureau of Identification, laboratory analysis, major crimes investigation assistance, narcotics and organized crime investigations, civil disturbance support and any number of other requested routine police services. In addition, waterways within this State are routinely patrolled by the State Police Marine Troop.

The Division is organized into eight major subdivisions or sections. The Administration Section oversees fiscal, personnel, logistics and planning functions. The Division Staff Section has the responsibility for State Government security, internal affairs investigations, training and EEO/AA investigations. The Special and Technical Services Section handles forensic matters and crime laboratories, the regulation of firearms and private detectives and other technical services related to specialized forensic investigations such as crime scene investigations and forensic photography. The Records and Identification Section maintains the State's criminal justice records and identification functions.

The Intelligence Section handles criminal intelligence functions, solid and hazardous waste matters and the oversight of casino gambling. The Emergency Management Section deals with the State's need for disaster preparedness and includes the Division's radio communications operations and dispatch. The Investigations Section conducts general criminal investigations, specialized narcotics and organized crime investigations and special investigations related to race tracks, sports complexes and alcoholic beverages.

The Field Services Section is composed of the Traffic Bureau and six Troops operating in 33 stations. This section provides full and part-time rural policing in some 94 municipalities where the State Police is the primary response agency and routinely provides highway and roadway policing and patrol and contracted police services to all of the toll roads of this State.

PART III.

DIVERSITY WITHIN THE NEW JERSEY STATE POLICE

A. History and Status

In discussing the history of racial diversity in the sworn membership of the State Police it is important to note that issues regarding race are not peculiar to the institution of the State Police. As noted by the Advisory Board to the President's Initiative on Race,

“Our Nation still struggles with the impact of its past policies, practices, and attitudes based on racial differences. Race and ethnicity still have profound impacts on the extent to which a person is fully included in American society and provided the equal opportunity and equal protection promised to all Americans.”²

After its creation in 1921 the State Police remained an all white male law enforcement agency for the next 40 years. It was not until 1961 that the first black State Trooper was sworn into office. The first female trooper was graduated from the State Police Academy in 1975.

Significant inroads by minorities and females into the State Police did not occur until the 1970's. During that decade the United States Department of Justice (“DOJ”) became concerned about the low representation of minorities and females in the State Police. Ultimately this resulted in the filing of a complaint in 1975 alleging that the State Police and other State defendants had engaged in a pattern or practice of discrimination based on race, sex and national origin in all

² Page 2, “One America in the 21st Century,” Report of the Advisory Board to the President, September, 1998.

aspects of employment. The State Police together with other State defendants denied these allegations. However, because the State Police, other State defendants and DOJ were desirous of ensuring that any past practices which may have acted to the employment disadvantage of minority and female applicants and employees were remedied and because the State Police and other State defendants were committed to taking affirmative steps to increase the participation of minorities and females in jobs under their control it was determined that all parties would enter into a Consent Decree designed to address these concerns and objectives. The Consent Decree was entered on October 7, 1975.

Generally, under the terms of the Consent Decree, the State Police agreed, subject to the availability of qualified applicants, to seek to achieve a long term combined hiring goal of a force consisting of 14% black and Spanish surname male members within five years. That percentage appears to have been an approximation of the minority proportion of the population at that time. Minority representation in the State as reflected in census data for 1970 and 1980 were 11.4% and 19.2% respectively. With respect to female sworn membership the State Police committed to make every effort to recruit and hire women as members of the force and adopt appropriate interim and long term hiring goals. A significant facet of this effort involved the so-called "all female class," the 96th Class which graduated 30 female troopers in 1980. Twenty-one members of this class remain in the Division. The Division experienced a fairly successful period of minority recruiting between 1978 and 1993 while operating under the Consent

Decree. Three hundred and twenty minority troopers were hired during this time; as of November 1998 there were 369 minority troopers in the Division.

The 1975 Consent Decree was dissolved on October 19, 1992, except for certain provisions provided in a Supplemental Order issued the same day. The Supplemental Order provided for the provision of compliance reports to DOJ with respect to training of the 113th, 114th and 115th Classes. The Supplemental Order was to dissolve 90 days after the graduation of the 115th Class unless the Justice Department demonstrated that the State Police violated Title VII with regard to the training of female recruits. The Supplemental Order dissolved pursuant to its terms.

The following tables reflect minority and female applicants, sworn appointments to the State Police Academy and the graduates of the Academy from 1975 to 1998. As demonstrated by the information in Tables 2 and 3, the Division has made insufficient progress in the area of female and minority recruitment and selection since 1992. During this time period, females represent 6.5% of the total appointees to the State Police Academy while minorities account for 10.2%.

**Table 1:
Initial State Police Applicants by Race and Gender 1975-98**

RECRUIT CLASS	MINORITY MALES		FEMALES		WHITE MALES		TOTAL	
	Percentage of Total	Percentage of Total	Percentage of Total	Percentage of Total				
1975	91	294	16.9%	26	1.5%	1,423	81.6%	1,743
1977	92	335	15.0%	83	3.7%	1,814	81.3%	2,232
1978	93A	1,575	19.8%	474	6.0%	5,899	74.2%	7,948
1978	93B	1,263	31.7%	384	9.6%	2,334	58.6%	3,981
1979	94	899	18.1%	347	7.0%	3,719	74.9%	4,965
1979	95	771	20.7%	266	7.1%	2,688	72.2%	3,725
1980	96	0	0.0%	1,631	100.0%	0	0.0%	1,631
1980	97	786	18.1%	272	6.3%	3,276	75.6%	4,334
1982	98	514	15.8%	256	7.8%	2,492	76.4%	3,262
1982	99	806	22.9%	320	9.1%	2,387	67.9%	3,513
1983	100	985	23.4%	369	8.8%	2,857	67.8%	4,211
1984	101	1,529	26.7%	668	11.7%	3,534	61.7%	5,731
1985	102	1,339	23.5%	581	10.2%	3,772	66.3%	5,692
1986	103	1,281	24.2%	503	9.5%	3,499	66.2%	5,283
1986	104	775	27.6%	291	10.3%	1,746	62.1%	2,812
1986	105	922	30.8%	301	10.0%	1,773	59.2%	2,996
1987	106	975	25.9%	353	9.4%	2,433	64.7%	3,761
1987	107	913	28.6%	338	10.6%	1,938	60.8%	3,189
1987	108	848	30.7%	248	9.0%	1,668	60.3%	2,764
1987	109	930	31.6%	241	8.2%	1,769	60.2%	2,940
1988	110	1,118	33.0%	301	8.9%	1,973	58.2%	3,392
1988	111	903	30.5%	254	8.6%	1,807	61.0%	2,964
1989	112	838	27.8%	227	7.5%	1,945	64.6%	3,010
1992	113	1,015	27.2%	226	6.1%	2,491	66.7%	3,732
1993	114	907	19.7%	380	8.3%	3,315	72.0%	4,602
1995	115	818	18.8%	431	9.9%	3,091	71.2%	4,340
1995	116	774	20.8%	349	9.4%	2,605	69.9%	3,728
1996	117	310	14.3%	173	8.0%	1,686	77.7%	2,169
1998	118	310	13.6%	225	9.9%	1,748	76.6%	2,283
Totals		24,733	23.1%	10,518	9.8%	71,682	67.0%	106,933

**Table 2:
Appointments to the Academy by Race and Gender 1975-98**

	RECRUIT CLASS	MINORITY MALES	Percentage of Total	FEMALES	Percentage of Total	WHITE MALES	Percentage of Total	TOTAL
1975	91	5	4.6%	2	1.9%	101	93.5%	108
1977	92	6	4.8%	0	0.0%	120	95.2%	126
1978	93A	29	28.9%	3	3.0%	68	67.8%	100
1978	93B	29	28.3%	4	3.9%	69	67.4%	102
1979	94	14	11.8%	7	5.9%	97	82.1%	118
1979	95	49	25.3%	13	6.7%	131	67.8%	193
1980	96	0	0.0%	104	99.0%	0	0.0%	104
1980	97	39	20.6%	19	10.0%	131	69.2%	189
1982	98	25	19.9%	17	13.6%	83	66.2%	125
1982	99	24	17.9%	11	8.2%	99	73.7%	134
1983	100	33	19.0%	7	4.0%	133	76.8%	173
1984	101	23	19.0%	15	12.4%	83	68.4%	121
1985	102	47	21.9%	30	14.0%	137	63.9%	214
1986	103	63	28.0%	24	10.6%	138	61.2%	225
1986	104	39	29.7%	11	8.4%	81	61.7%	131
1986	105	32	31.3%	6	5.9%	64	62.5%	102
1987	106	39	28.0%	12	8.6%	88	63.1%	139
1987	107	44	28.1%	16	10.2%	96	61.4%	156
1987	108	41	30.1%	11	8.1%	84	61.6%	136
1987	109	47	28.6%	14	8.5%	103	62.7%	164
1988	110	46	31.9%	6	4.2%	92	63.7%	144
1988	111	37	26.0%	15	10.5%	90	63.2%	142
1989	112	35	24.1%	7	4.8%	103	71.0%	145
1992	113	24	18.0%	5	3.8%	104	78.2%	133
1993	114	14	8.4%	9	5.4%	143	86.1%	166
1995	115	10	8.0%	10	8.0%	105	84.0%	125
1995	116	10	9.1%	7	6.4%	93	84.5%	110
1996	117	20	14.3%	12	8.6%	108	77.1%	140
1998	118	13	7.3%	10	5.6%	155	87.1%	178
	Totals	837	20.2%	404	9.7%	2,899	69.9%	4,147

Table 3
Academy Graduates by Race and Gender 1975-98

	RECRUIT CLASS	MINORIT YMALES	Percentage of Total	FEMALES	Percentage of Total	WHITE MALES	Percentage of Total	TOTAL
1975	91	4	4.9%	1	1.2%	76	93.8%	81
1977	92	2	2.4%	0	0.0%	82	97.6%	84
1978	93A	18	27.3%	0	0.0%	48	72.7%	66
1978	93B	10	16.7%	1	1.7%	49	81.7%	60
1979	94	7	10.9%	0	0.0%	57	89.1%	64
1979	95	0	0.0%	0	0.0%	79	100.0%	79
1980	96	0	0.0%	30	100.0%	0	0.0%	30
1980	97	21	21.4%	9	9.2%	68	69.4%	98
1982	98	10	13.5%	2	2.7%	62	83.8%	74
1982	99	12	17.9%	2	3.0%	53	79.1%	67
1983	100	13	15.7%	0	0.0%	70	84.3%	83
1984	101	9	16.7%	3	5.6%	42	77.8%	54
1985	102	23	19.0%	5	4.1%	93	76.9%	121
1986	103	26	19.8%	5	3.8%	100	76.3%	131
1986	104	22	24.7%	3	3.4%	64	71.9%	89
1986	105	21	29.2%	1	1.4%	50	69.4%	72
1987	106	20	25.3%	1	1.3%	58	73.4%	79
1987	107	16	17.6%	2	2.2%	73	80.2%	91
1987	108	9	12.3%	1	1.4%	63	86.3%	73
1987	109	26	28.6%	2	2.2%	63	69.2%	91
1988	110	28	31.8%	1	1.1%	59	67.0%	88
1988	111	23	24.5%	5	5.3%	66	70.2%	94
1989	112	16	19.0%	2	2.4%	66	78.6%	84
1992	113	19	20.4%	0	0.0%	74	79.6%	93
1993	114	9	7.6%	6	5.0%	104	87.4%	119
1995	115	5	5.3%	5	5.3%	84	89.4%	94
1995	116	4	4.7%	4	4.7%	78	90.7%	86
1996	117	17	15.2%	5	4.5%	90	80.4%	112
1998	118	13	8.7%	7	4.7%	130	86.7%	150
Totals		403	16.1%	103	4.1%	2,001	79.8%	2,507

Past and ongoing work conducted by the Police Executive Research Foundation (“PERF”) at the request of the State Police and the Office of the Attorney General indicates that the sworn membership of the State Police does not closely represent the diversity of New Jersey’s population. The Division’s current total minority representation of 14.2% (see Table 8) is less than half of the estimated 29.6% reported by the Census Bureau as the estimated minority population of the State in 1996. Moreover, this disparity appears to be growing larger despite the fact that there is an impressive ratio of minority college graduates in New Jersey.³

As Table 1 shows, historically, the breakdown of applicants that began in the process is closely representative of the minority population, but has sharply declined in recent years. Further, from a review of Tables 1, 2 and 3, it appears that female and minority applicants have not fared as well in the selection process as have white males.

In the area of recruitment of female troopers, there is also a need for progress. As shown in Table 4, which follows, New Jersey ranks near the bottom of the listing of the fourteen largest State Police agencies in the nation with a

3	Baccalaureate Degrees Conferred by New Jersey Colleges							
	<u>White</u>		<u>Black</u>		<u>Hispanic</u>		<u>Other</u>	
	Number	% of Total	Number	% of Total	Number	% of Total	Number	# of Total
FY1998	17,225	73.2%	2,292	9.7%	1,945	8.3%	2,075	8.8%

Source: *N.J. Commission on Higher Education, Compilation, IPEDS Form #21, FY 1998.*

female sworn member proportion of 3%. This compares against 12% representation in Michigan and 10% in Massachusetts.

Table 4:
Fourteen Largest State Police Agencies by Sworn Personnel

Ranked by Percentage of Female Sworn Personnel

	Total Sworn Personnel	Percentage of Female
Michigan State Police	2,054	12
Florida Highway Patrol	1,637	11
Massachusetts State Police	2,270	10
California Highway Patrol	6,532	9
Maryland State Police	1,516	9
New York State Police	3,979	8
Ohio State Highway Patrol	1,354	8
Pennsylvania State Police	4,098	7
Texas Department of Public Safety	2,757	5
Indiana State Police	1,222	5
Virginia State Police	1,658	4
New Jersey State Police	2,555	3
Missouri State Highway Patrol	1,056	3
North Carolina State Highway Patrol	1,298	1

Source:
Law Enforcement Management and Administrative Statistics, 1997.
Bureau of Justice Statistics, U.S. Department of Justice. April 1999.

Table 5, which follows, is also worth noting. It shows female police officer representation in ten selected large municipal police departments. Pittsburgh at 29% and New York City at 15% suggest that there are strategies in place which

may assist in increasing female representation in police agencies. Overall, the municipal departments appear to be more successful than the State Police agencies. While it may be that there are differences between State Police agencies and municipal departments which by necessity make this difference unavoidable, overall it appears appropriate for our State Police agency to look to some of these other out-of-state, state-level, and local police agencies as a part of its own efforts to improve female representation in its ranks.

<u>Table 5: Large Municipal Police Departments</u>		
	Total Sworn Personnel	Percentage of Female
Washington, DC	3,618	25
Boston	2,190	13
Newark	1,660	11
Detroit	4,050	22
New York City, NY.	38,328	15
Suffolk County	2,711	10
Baltimore	3,082	14
Pittsburgh	1,122	29
Philadelphia	6,782	22
Milwaukee	2,151	24
<i>Source: Law Enforcement Management and Administrative Statistics, 1997. Bureau of Justice Statistics, U.S. Department of Justice, April 1999.</i>		

Generally, from the data contained in Tables 1, 2 and 3, it appears that the recruitment and selection process that has been in place at State Police has not

achieved a sworn workforce reflective of the diverse citizenry of this State. Moreover, it appears that overall the minority representation in the classes from 1993 to 1998 has been significantly lower than that representation from 1975 to 1992. As indicated earlier in the report, the State Police, OAG and PERF have been engaged in a review of the recruitment process along with other matters. At this juncture before discussing recruitment any further, it is appropriate to describe PERF and its relationship to the State Police and OAG for background purposes.

B. Review of Hiring Practices

1. Background

In 1995 former Attorney General Poritz and former Treasurer Clymer concluded that a comprehensive study of the staffing practices of the State Police was needed in order to accurately identify and adequately fund its essential functions. Upon assuming office in 1996 former Attorney General Verniero endorsed this effort and commissioned PERF to assist the State Police in this effort.

PERF is unique among law enforcement organizations in that its general membership is restricted to police executives of either municipal, county or state-funded agencies that provide general and basic police services. The executive must hold an accredited four year degree and head a department which either has at least 100 members or serves a jurisdiction of at least 50,000 people. Potential members of PERF must also be approved by the current general membership.

From this unique base of practical management experience, PERF provides technical assistance to police agencies on a variety of management and organizational subject matters, with particular emphasis on the allocation of personnel resources vis-a-vis the philosophy and mission of the agency. The unique approach employed by PERF focuses on experienced police executives guiding the actions of client personnel in technical research, statistical gathering methods and professional analysis to assure an objective and accurate picture of the organization.

The PERF State Police Staffing study began September 1996. In this phase the State Police, OAG and PERF staff identified the functions performed by the Division, the organization structure used to perform the functions, and the staffing levels deployed by the Division to perform the functions. That study ended in October 1997. The second phase of the study was initiated in 1997 when the Governor and the Attorney General directed the Division to continue its study with PERF and focus upon the core mission and function of the Division, adequate funding of priority responsibilities, effective staffing development and allocation and recommendations for administrative reorganization consistent with the core mission as identified by the Attorney General and the Superintendent. In a third phase begun in May 1998 the study was expanded to assess all components of recruitment, selection and promotion processes. A report on hiring and selection was submitted in November 1998. As a direct result of these efforts, Governor Whitman and former Attorney General Verniero announced at the

December 11, 1998 New Jersey Law Enforcement Summit an enhanced commitment to increase the representation of minorities and women in the State Police by recruiting and training two trooper classes each year, expanding the recruitment unit and increasing recruitment outreach efforts.

2. *PERF'S November 1998 Hiring Study*

a. Recruitment

(1) Findings

The PERF study submitted in November 1998 concerning recruitment noted the following concerns:

- The Division had no comprehensive plan for recruitment.
- The Division's policies and procedures regarding the qualification and selection of candidates were significantly flawed.
- The Division staffing did not closely represent the diversity of New Jersey's population, and this disparity was growing larger.
- The uneven adoption of technology by the Division had hampered its ability to gather and analyze information for either the accurate assessment of its operational needs or the development of necessary and effective policies on recruiting.

More specifically, with regard to recruitment and at the time of the PERF assessment, the State Police did not have identifiable recruiting goals, including but not limited to female and minority representation. There were no specific and regular recruiting activities, no time lines, no fixed staff responsibility, no annual or long-range budget, no official tracking instruments and assessment procedures

at any level of the application and selection process and no regular reporting requirements. The Division conducted large, infrequent classes on an irregular and unpredictable basis, driven by fiscal availability and without regard to the priority staffing needs of the Division. The Division had no staff of recruiters and investigators dedicated exclusively to the recruitment process, and the staff who were engaged in periodic recruiting efforts were poorly equipped. Also, the recruiting effort was supported with very basic written material without the benefit of well planned multi-media materials.

PERF found, moreover, that the recruiting approach of the Division was based almost exclusively on the history and tradition of the Division and its culture and internal values without focusing sufficiently on the need for the Division to evolve into a cutting-edge law enforcement agency for the 21st Century, proficient in technology, “state of the art” methods and professional growth and diversity. Moreover, it was found that the State Police had exhibited a lack of aggressiveness in efforts to attract minority and female applicants who seemed to have potential to move on through the selection process. For example, PERF noted that some minority and female applicants who had passed the Law Enforcement Candidate Record Examination (“LECR”) did not return to take the physical agility test. Yet, the Division made little if any attempt to contact and further recruit these minority and female applicants.

As a result of its study, PERF made the following recommendations regarding the recruitment process.

(2) Recommendations Concerning Recruitment

(a) The Division should adopt a comprehensive long range plan for recruitment which should include:

- i) specific goal identification, including but not limited to female and minority representation;**
- ii) specific key activities;**
- iii) time lines for implementation;**
- iv) fixed staff responsibility;**
- v) annual and long-range budget;**
- vi) tracking instruments and assessment procedures at every level of the application and selection process;**
- vii) regular reporting requirements.**

(b) The Division should appoint a full-time staff of recruiters and investigators.

(c) The Division should conduct smaller and more frequent academy classes on a regular and predictable cycle.

(d) The Division should center its recruiting approach on the technology and “state of the art” methods of the Division as a cutting edge law enforcement agency for the 21st Century, with the history of the Division as a secondary appeal.

(e) Division recruiting staff should attend all job fairs and career events on a regularly scheduled yearly cycle centered on college graduation schedules, and access to college students, with at least two recruiters at all job fairs and career events of medium or larger size.

- (f) Division recruiting staff should analyze successful recruiting activities of private sector enterprises and replicate where possible.
- (g) Division recruiting staff should identify, and focus specific strategies in, areas where the greatest number of potential college minority applicants resides.
- (h) The Division should offer incentives to Division members who recruit successful applicants.
- (i) Division recruiting staff should design and deploy “state of the art” display materials for recruiting events.
- (j) Division recruiting staff should be provided with the newest and best equipped marked vehicles.
- (k) The Division should seek federal funding to support the implementation of a cadet program similar to one in place in the Michigan State Police.

The following represents the status of State Police implementation of the PERF recommendations.

(3) Actions Taken on Recruitment

Significant and substantial steps have been taken to enhance the Division’s recruiting efforts in recognition of the essential role of recruiting as a gateway through which the Division can attract, retain and benefit from a broader diversity of individuals. More specifically, the Division has:

- (a) more than doubled the size of its Recruiting Unit from 4 to 11;
- (b) planned and implemented an extensive series of recruiting activities focused on graduating college minority and female students;
- (c) conducted a series of focus group meetings with private industry to identify and replicate successful recruiting practices;

(d) conducted a series of focus groups with civic, ethnic and religious organizations to invite and encourage their participation in the Division's expanded recruiting effort; and,

(e) developed an information technology support plan.

The OAG has also allocated \$120,000 in the Fiscal Year 1999 budget for displays, pamphlets, and other equipment to support the Division's redesigned recruitment strategies, and will receive approximately \$750,000 in the Fiscal Year 2000 budget to support an extensive, nationwide multimedia recruiting campaign designed to identify and attract qualified applicants from all parts of a diverse cultural and ethnic community. Part of this fiscal commitment will also support the design and implementation of information technology systems in order to track and assess the success of the Division's recruiting effort in a coordinated manner.

In addition the Acting Superintendent has created a Recruiting Advisory Board with public and private sector members reflective of the diverse community of New Jersey to advise and assist in the State Police recruiting campaign.

b. The Selection Process

(1) Findings

Compounding the recruitment planning process and resource problems, PERF's review also revealed that the qualification and selection process administered by the State Police contained serious flaws. At the time PERF conducted its review, the State Police selection process involved the

administration of the LECR test to a large number of applicants with little pre-screening. Test takers were then rank ordered by test score. Those meeting the cut-off score would be invited to the next step, the physical agility test. Those taking the physical test would be rank ordered. The scores from the written test and the physical test would be averaged. Those applicants with an average score above the cut-off would advance into the remaining parts of the process. That involved undergoing a background check, an oral board interview, and a medical/psychological examination.

The current State Police standard of a four-year college degree is consistent with good police practice, professionalism and maturity. PERF concluded, however, that the use of the substitution of two years of military or police service for two years of college academic work was not an equivalent qualification and therefore not appropriate for continued use.

Another problem noted was that the Division made no attempt at the beginning of the application process to verify the qualifications of applicants prior to its testing process. As a consequence, applicants with clearly disqualifying backgrounds remained in the selection process far too long. By beginning the selection process with the mass administration of a written examination, some applicants who did not meet even the minimum requirements of age, education, physical standards, etc., were permitted into the selection process. This resulted in unnecessarily high costs and inaccurate data with regard to the true size of the

eligible pool of applicants and may have undermined the effectiveness of minority and female recruiting efforts.

PERF's review also indicated that the State Police's use of the scores from the LECR exam was inconsistent with the testing company's performance research findings. The use of the written test scores in a numerical rank order was not recommended by PERF.

Another problem with the selection process identified by PERF was the Division's physical agility test. It was noted that by grading applicant performance and then using performance ranking scores to select only the most physically proficient, the Division was placing a disproportionately high emphasis on physical prowess in the selection of troopers.

Another component of the State Police selection process is the use of an oral board. The board consists of five sworn members, a captain, a lieutenant, a sergeant, a sergeant first class, sergeant, and a trooper. Several boards are used in the process to interview the applicants. PERF concluded that the effect of the oral board in the selection process is not readily discernable. A primary problem and concern is that applicants who should have been disqualified earlier in the selection process for other reasons are left in the process for the oral board to evaluate. In addition, there is a lack of consistency in the methods used by oral boards to score applicants before them and, further, the scores of the oral boards are combined with testing and physical agility scores already used in other ways

earlier in the selection process to rank applicants for final selection. The purpose and expectations of the oral board's inclusion in the selection process should be clarified and steps should be implemented to resolve any inconsistencies in scoring methods used by the boards.

Overall, it appears that the failure to make substantial progress in the diversity of the sworn membership of the State Police may be attributed in some part to the lack of specific and effective recruiting strategies aimed at attracting qualified minority and female college graduates, who are in high demand by government agencies and the private sector. At the same time, although not necessarily specific to the issue of diversity, elements of the selection process appear to be seriously flawed. There is a clear need for revision of the process to ensure a diverse applicant pool while still surfacing highly qualified applicants for consideration for entry into the academy.

PERF made the following recommendations concerning the selection process.

(2) PERF Recommendations on Selection

(a) The Division should remove any offset credit for police or military experience if the four-year college degree is retained.

(b) Applicants should be required to certify the possession of minimum qualifications before any testing is administered.

(c) Applicants should be required, before any testing is administered, to indicate any participation in test prep coaching or courses, and to certify that all biographical information provided on

the test is accurate. Any deceit in this regard would disqualify and result in termination of the applicant.

(d) Cutoff scores on the LECR exam should coincide with band performance identified in the exam's research findings and should remain constant with every administration of the exam.

(e) The practice of changing the weight of selection components at various stages of the selection process should be discontinued.

(f) The physical agility test should be linked to the essential tasks required of troopers to perform their jobs, and any physical agility test used should be the same for all applicants.

(g) The physical agility test should be constructed to represent the level of fitness for entry to the academy, and should be scored only on a threshold, pass/fail basis.

(h) The Pre-Employment Preparation Program should be open to all qualified applicants.

(i) Background investigators should be given the verifiable questions and answers from the LECR exam and verify each during every background investigation.

(j) Applicant background information should not be divulged to individuals vouching for applicants during the investigation.

(k) The Division should develop a list of disqualifying conditions that constitute cause for rejection from the selection process, in order to terminate unnecessary further investigation and focus the efforts of the oral boards on viable candidates.

(l) Oral boards should include non-sworn representatives and should be videotaped.

(m) Oral board deliberation and evaluation should focus on the applicants performance in the interview, and not on previous measures of evaluation.

(n) No technique for the equalization of scores between oral boards should be used. Selections or placement into bands, if and when used, should be made by numerical rank order among all boards.

(o) The Division should review the files of any group of female or minority applicants when a significant percentage was rejected by a particular board.

The following represents the current status of the State Police's implementation of the PERF recommendations.

(3) Actions Taken on Selection

The Division is currently revising the sequence and content of the process used to select recruits for admission to the State Police Training Academy. This selection process will be used for the 119th and subsequent classes. Some of the overall changes made include the following:

(a) The Division has revised initial physical testing standards to require that successful applicants must meet a threshold level of physical performance for admission to the academy. Physical performance will not be a graded factor in the admission process. The Division has also eliminated differentiated performance standards for female applicants.

(b) The Division has eliminated the use of specific scores in standardized tests in the selection of applicants and instead will consider applicants from each of the top three bands of scores in order to keep as many qualified candidates in the selection process as long as possible.

(c) The Division is designing several measures, including mentoring programs, to insure that qualified candidates remain in the selection and training process as long as possible.

(d) The Division is developing a list of automatic disqualifiers which would serve to identify those applicants who can proceed no further in the selection process as early as possible.

- (e) The Division has reordered the selection process to attract and screen interested and qualified candidates before formal testing begins as a principal function of the expanded recruiting staff.

The selection process now consists of nine steps:

- i) *Initial Application*. Using a modified standard State application as a starting point, the Division will design a standard application for distribution by the recruiting staff and available to any interested person from the Division. The application will contain a "tear-off" sheet for affirmative action and tracking data, and will elicit background, biographical information and experience from the applicant. The application will also describe minimum qualifications and items that would disqualify a candidate from applying, as well as a detailed description of all phases of the selection process and pre-service training program.
- ii) *Initial Screening*. All application forms received will be entered into a statistical database to insure an accurate and complete record of the implementation of both the recruiting and selection processes. An application received through the proactive recruiting process will be identified for inclusion in the process and the candidate will receive active mentoring throughout the selection process. Preliminary Criminal History and Motor Vehicle records checks will be performed on all applicants. The staff of the Recruiting Bureau will review all applications to determine if preliminary application criteria have been met and will evaluate candidates submissions against criteria determined by the Division to be essential characteristics, traits and experiences necessary to be an effective member of the Division. Upon the completion of this review, the recruiting staff will designate all applicants into one of three categories: those invited to continue in the selection process, candidates who could be considered at a later time and candidates who should no longer be considered. All candidates will be immediately notified of the determination of the recruiting staff. All selected applicants will be invited to continue in the process by taking the Law Enforcement Candidate Record Examination (LECR) and a physical qualification test, each to be administered by the Division at places and times determined by the Division.

iii) Written Examination. All selected applicants will take the same standardized test (LECR). The test manufacturer will score all of the tests and will report the results to the Division in bands or scoring ranges; no specific numerical scores will be reported. Individual applicants taking the test will be reported as either scoring within the top three bands or not within the top three bands. The biographical information sheet provided by the applicant scoring in the top three bands will be provided to Division by the test manufacturer for subsequent verification later in the selection process should that applicant continue. All applicants scoring in the top three score bands of the LECR will be deemed to have passed the written examination. Applicants who do not score in the top three score bands will be notified of their elimination from further consideration.

iv) Physical Qualification Test. All applicants passing the written examination will be invited to complete a Physical Qualification Test based on the current Division S.O.P. ("Standard Operating Procedure") C20 which establishes minimum singular physical standards for all sworn members at all ranks of the Division.

All applicants meeting the C20 standards will be deemed to have passed the physical qualification test. Applicants who do not meet the C20 standards will be notified of their elimination from further current consideration but will be returned to the selection process for the next recruit class.

v) Initial Oral Interview. All candidates who pass the written examination and the physical qualification test will be invited to continue in the selection process by meeting with oral screening committees. Each committee will consist of a Lieutenant, a Trooper and a civilian; the membership of each committee will be rotated daily to ensure an objective review of each applicant. Civilian participants will consist of loaned public and private sector executives and volunteer representatives of civic groups and organizations.

A standard set of questions will be prepared to ask each candidate. A blind selection process will be employed in which screening committee members will grade all candidates based upon specific predetermined criteria. These measures will be

based on the criteria determined by the Division to be essential characteristics, traits and experiences necessary to be an effective member of the Division. A predetermined number of the highest scoring candidates will be invited to continue in the selection process.

The Division is developing the logistical specifications of the Initial Oral Interview procedure, including the validation of interview questions, in consultation with several private sector management consultant firms.

vi) Background Investigation. A detailed background investigation, similar to that done on previous applicants, will be performed on the predetermined number of highest scoring candidates selected from the initial oral interview.

vii) Oral Board Review. Remaining applicants will be notified and instructed to appear for an oral board hearing. Oral boards each will consist of two members of the Division and one member designated by the Attorney General from within the Department of Law & Public Safety. A selection process will be developed and all oral board members will be trained to assure consistent and uniform standards of operation and inquiry. A standard set of questions will be prepared to ask each applicant and each applicant may also receive unique questions as they relate to background check findings, and personal skills and experiences.

Members will grade all candidates based upon identified criteria. These measures will be based on the criteria determined by the Division to be essential characteristics, traits and experiences necessary to be an effective member of the Division. A predetermined number of the highest scoring candidates will be invited to continue in the selection process.

viii) Medical Exam/Psychological Evaluation. A detailed medical and psychological examination will be performed on the predetermined number of highest scoring candidates selected from the oral board review. Candidates who do not meet the necessary criteria will be notified of their elimination.

ix) Acceptance to Academy. All candidates who pass the medical and psychological exam will be instructed to appear at the State Police academy to begin the training process.⁴

3. *Allegations of Nepotism*

During the course of its examination of the recruitment/selection process, the Review Team became aware of concerns that nepotism may play a role in the selection process. To examine this issue the Review Team reviewed the most recent classes for which family relationship information is most readily available. The family relationships reported included grandfather, father, brother, sister, uncle, aunt, cousin, in-laws, step-fathers and one godfather. The following table reflects the composition of the five most recent classes.

<i>Table 6</i>		
<i>Class</i>	<i>Appointed to the Academy</i>	<i>Family Members</i>
114th	166	14
115th	125	12
116th	110	13
117th	140	22
118th	178	36

Taken on its face, the table is somewhat startling, since family members make up a sizable and growing representation in the classes. Our review, however, did not reveal any formal or informal policy routinely to provide advantage to candidates who were related to current or former members of the

⁴ Any candidate who is eliminated from the selection process after successfully passing the L.E.C.R. Exam, except for failure of a background investigation, will be tracked and included for consideration in the next selection cycle.

State Police. Certainly, family relationship does not appear to guarantee entrance into the State Police Academy. Anecdotal information suggests that just as there are those with family ties who make it into the State Police, there are also examples of those who did not. Yet, other anecdotal information suggests that the selection process is not entirely insulated from family contacts. Family members do contact persons in the recruitment/selection process apparently to keep up to date on the progress of the candidate. There is also a belief held by some that there have been instances where candidates have received personal consideration above that of other candidates because of family or other relationships to the State Police. Of course, even if direct and affirmative influence is not intended to be brought to bear, there is the possibility that persons contacted might interpret an inquiry from a family member improperly. Additionally, the contact could easily raise the appearance of impropriety, particularly if the family member is of superior rank.

Even the perception that nepotism is a part of the State Police recruitment/selection process is a matter of serious concern. A belief that family relationship to members or former members of the State Police influences the selection process might undermine public confidence. The selection process should be viewed solely as a mechanism for selecting high quality candidates for the Academy based upon individual merit. It could also harm high-quality candidates who happen to have trooper as a relative by painting them with the

stigma of gaining admittance to the Academy merely because of family relationships. Moreover, a public perception that members of the State Police, who are also public employees of the State, would use their public positions to provide unwarranted private advantage to a family member could undermine public confidence in the force's overall adherence to principles of integrity. In order to avoid any appearance of impropriety, steps should be taken to establish standards with regard to State Police employee interaction with the recruitment/selection process to assure the integrity of the process both in appearance and in fact.

C. Review of Promotional Practices

1. Lack of Diversity in Management

The following tables set forth an overview of the State Police's rank distribution from the perspective of diversity for the years 1993 and 1998.

Table 7: Sworn Personnel by Rank, Race and Gender, 1993				
	Total	White	Minority	Female
Colonel	1	1	0	0
Lieutenant Colonel	1	1	0	0
Major	8	7	1	0
Captain	30	30	0	0
Lieutenant	135	132	3	0
Sergeant First Class	173	168	5	0
Sergeant	423	396	27	5
Trooper I	573	491	82	21
Trooper II	288	235	53	8
Trooper	807	632	175	26
Totals	2,439	2,093	346	60
Percentage of Total	100%	85.8%	14.2%	2.5%

Note: Female personnel counted among white and minority categories

**Table 8: Sworn Personnel by Rank, Race and Gender
PERF - November 1998**

	Total	White	Minority	Female
Colonel	1	1	0	0
Lieutenant Colonel	2	2	0	0
Major	7	6	1	0
Captain	34	33	1	0
Lieutenant	161	157	4	2
Sergeant First Class	215	199	16	6
Sergeant	467	402	65	16
Trooper I	1,059	845	214	30
Trooper II	7	4	3	0
Trooper	637	572	65	25
Totals	2,590	2,221	369	79
Percentage of Total 100%		85.8%	14.2%	3.1%

Note: Female personnel counted among white and minority categories

Table 7 shows the rank distribution in 1993 following the lifting of most of the provisions of the 1975 Consent Decree.

Table 8 reflects the current breakdown of the minority and female distribution in the State Police as of 1998. There are six minority males among the 184 ranks above sergeant, two female lieutenants out of 161, and no females above the rank of lieutenant. There were no Hispanic, Asian or American Indian females within State Police ranks in 1998.

Overall, the data reflected in the tables are unacceptable for a law enforcement agency nearing the 21st Century that serves a diverse population. In some respects, the lack of diversity in the upper ranks of the New Jersey State Police may be the natural consequence of insufficient recruiting and hiring of minorities and women. Certainly, it should be expected that in the long run greater diversity in the pool of troopers eligible for promotion should result in greater diversity in the upper ranks. In the near future, however, it is unlikely that there will be appreciable improvement in the upper ranks unless there is meaningful and substantial reform in the promotion process which is driven substantially by seniority. For example, it has been Division policy that there is a twelve-year "waiting" period before advancement to sergeant. A heavy reliance upon seniority tends to frustrate the advancement of talented younger troopers of all races or gender until it is their "turn." This is borne out in PERF's assessment of the State Police's promotion process which was completed in April, 1999.

2. *PERF'S April 1999 Study on Promotions*

a. Findings

PERF's April 1999 assessment of Division policy and procedures regarding promotion identified two significant problems:

- The promotion process has stagnated and frustrated both the Division and its members as a method to advance qualified candidates to supervisory and management positions;

- The promotion process, combined with a pronounced lack of diversity among the ranks, has had a constrictive effect on the promotional experience of females and minorities.

Troopers are generally non-competitively promoted to the ranks of Trooper/Detective II and Trooper/Detective I. The ranks of Sergeant/Detective Sergeant, Detective Sergeant First Class and Lieutenant are achieved through a promotional process. The ranks of captain and above are by executive appointment.

The trooper promotions below the sergeant level generally occur as a function of good behavior and longevity. Promotion to the "II" level generally occurs after seven years. Promotion to the "I" level generally occurs after nine and one-half years.

The collective bargaining agreement between the State and the bargaining units representing troopers and NCOs addresses the steps to be followed for promotion. Promotion criteria are not specified although it is required that there be criteria. Promotion to positions above the trooper/detective level are generally limited to those meeting certain prerequisites. For example, in the Field Operations Section, in order to be eligible for consideration for promotion to Sergeant-Squad Supervisor, the Trooper must already be a Trooper I and be assigned as Acting Squad Supervisor or an Assistant Squad Supervisor and assigned to a specific regional location. The effect of such prerequisites is that it narrows the pool of eligibles essentially to incumbents. Additionally, the Trooper

I prerequisite results in the earliest eligibility for promotion to sergeant to those with 9-1/2 years on the job. In practice, the average time for the first promotion is more than 12 years. The average age of the members of the 118th Class was 28 years. The past practice of waiting twelve years for the first opportunity for promotion translates into the members of the 118th Class being at least 40 years of age before being considered for promotion.

Bureau chiefs (Captains or Majors) evaluate eligible subordinates for promotion. Although not required, it appears that the bureau chiefs seek input from line supervisors concerning the promotability of eligible subordinates. Pursuant to that input and a personal assessment, the bureau chief rank orders those who are eligible for promotion and submits the list to the Superintendent. Ties in ranking are broken by giving credit for seniority and awards received.

The initial promotion threshold levels are rigid and unnecessarily long and, as such, work against attracting highly competent applicants motivated by professional advancement. For example in comparable police agencies such as New York and Virginia, the minimum time for eligibility for promotion to sergeant is 4 years and 2 years respectively. This compares with 12 years in New Jersey. This is particularly problematic while attempting to attract talented and highly motivated college graduates into the ranks. It is a tough sell to say in effect to such a person, "come with us, serve in the trenches for 12 years and maybe you will be recognized for your skills and leadership ability."

With regard to the overall utility and effectiveness of the promotion process PERF noted that it is of critical value to an agency to be able to identify competent supervisors, managers and leaders within the organization. In the case of the Division, however, PERF found that State Police procedures governing the promotion to the ranks of sergeant, detective sergeant, sergeant first class, detective sergeant first class and lieutenant were often inconsistent. Time-in-grade more often than not appears to be primarily determinative of promotion over other factors. Eventually most troopers get promoted at least to the rank of sergeant before retirement.

The promotion to the sergeant-squad leader position carries with it leadership and supervisory responsibilities. It is an important step in future advancement to supervisory levels. As noted, this initial supervisory promotion is currently limited to acting or assistant squad leaders. The Division does not base the designation of "acting or assistant" upon formal written criteria to ensure consistency in the identification of those with superior leadership and supervisory potential across the Division. Rather, the appointment is left as a discretionary call made by the local supervisor. Additionally, by limiting the filling of sergeant and lieutenant vacancies to personnel in the unit where the vacancy occurs, the Division forecloses the competitive consideration and advancement of personnel having superior supervisory potential in other units.

Other concerns noted by the PERF study were that the Division employs no objective qualifiers in the promotion process, and requires no training in management or supervisory skills prior to promotion. There is no career development program within the Division that allows specialists to advance without having to be promoted, thus resulting in restrictive career growth for many specialists who tend to stay in the same unit. Senior officers from these areas often have not had the experience with the diversity of the Division's functions to effectively manage other units to which they may eventually be assigned through raw seniority.

Of particular concern is that there is little linkage between the annual evaluation process and the promotion process. The Division does not employ a standard, division-wide form, requiring narrative documentation for every extremely high or low sub-score or past deduction of points for disciplinary actions. There were no benchmarks and sample work behaviors that depict levels of performance in every position and assignment, to be measured consistently and uniformly by all performance raters. Historically, supervisors were not trained in evaluating the performance of a candidate for promotion.

PERF's study further indicated that while the Division does employ procedures to rank and select prospective candidates for promotion in middle ranks, the actual promotion ratings are finalized by section supervisors, in most cases, several levels of supervision removed from the candidate. The section

supervisors' ranking lists are often based on information about the candidate not accessible to his or her immediate supervisor.

PERF concludes overall that the current method of selecting troopers for the ranks of sergeant and above continues to restrict many promotional opportunities only to persons who have been put in "acting or assistant" positions, primarily by either strict seniority or discretionary determination of a superior. This process is further complicated by the practice of promotion to sergeant only after almost 12 years in the organization. The chance at promotion for other, often better, qualified personnel is routinely lost in this process.

The lack of clear standards and heavy emphasis on seniority in the promotion process make it susceptible to allegations that the process operates ineffectively or unfairly. Indeed, information received by the Review Team from troopers irrespective of race or gender generally indicated little support for the current process and a general desire for its reform.

PERF made several recommendations concerning improvement of the promotions process. Those recommendations follow.

(1) PERF Recommendations on Promotion

In its formal report of April 1999, PERF offered these recommended actions to address its findings:

- (a) This Division should design and implement a formal, written policy governing the promotion of all personnel to the ranks of sergeant, detective sergeant, sergeant first class, detective sergeant first class and lieutenant.

- (b) The Division should design and implement a formal, written process for the designating of acting or assistant squad leaders. Selection will be made only by that process, consistently disseminated and applied throughout the Division. The process will include objective selection criteria and the clear documentation of a candidate's performance against those criteria.
- (c) All promotion positions will be open to any member who demonstrates superior supervisory and management talent, and will not be limited to the present assignment unit.
- (d) All first sergeant and lieutenant vacancies should first be offered for lateral transfers.
- (e) Promotion should be based on a candidate's overall suitability for a new rank, reflected in the breadth of previous assignments.
- (f) Transfer of personnel should consider geographic preference.
- (g) All members should be eligible for promotion after six years of service, the generally recognized national average.
- (h) By policy, promotion to each rank should be based upon:
- ▶ The candidate's performance against an objective qualifier such as written examinations, course completions, assessment centers, oral boards, and the like.
 - ▶ The last four semiannual performance evaluations by the candidate's immediate supervisor.
 - ▶ The promotional performance evaluation of the candidate.
- (i) Promotion lists should be set once, reflecting the findings of these evaluative procedures, and should remain in effect for at least 12 months. All promotions should come only from these lists.
- (j) The promotional performance evaluation should be recorded on a standard, Division-wide form, requiring narrative documentation for every extremely high or low sub-score or past deduction of points for

disciplinary actions. All forms and supporting documentation will be retained until all timely-filed appeals, if any, are final.

(k) The Division should develop and disseminate benchmarks and sample work behaviors that depict levels of performance in every position and assignment, to be measured consistently and uniformly by all performance raters.

(l) All supervisors should be properly trained before evaluating the performance of any candidate for promotion.

(m) Candidates for promotion should be placed in groups or bands of exceptionally qualified, well qualified and qualified. The superintendent should then select candidates first from the top band, then the middle and then the last as sufficient promotions exist.

(2) Actions Taken: Promotion

The following represents the status of implementation of the PERF recommendations contained in PERF's April 1999 report.

(a) The Division has implemented a formal, written process for the designating of acting or assistant squad leaders. Selection to any such title in the Division will be made only by that process. The process will include objective selection criteria and the clear documentation of a candidate's performance against those criteria.

(b) The Division has adopted seven years of service as the threshold for initial eligibility for promotion.

(c) The Division has revised the semi-annual performance evaluation process and linked that process to the promotion evaluation process.

(d) The Division has trained all personnel in the redesigned rating process.

(e) The Division has developed benchmarks and sample work behaviors that depict levels of performance in every position and assignment, to be measured consistently and uniformly by all performance raters.

(f) The Division is also in the process of designing its first formal, comprehensive policy governing promotion in all ranks.

As part of this process the successful completion of formal management, supervision and leadership training courses will be required, together with objective evaluation measures such as written examination and assessment centers to ensure that promotion to management and supervision positions is open only to capable and qualified member of the Division

This policy will include standardized data collection and retrieval systems to support the promotion process. These information technology systems are essential in order the track and assess the equity and effectiveness of the Division's anticipated changes in the promotion system.

(g) The Division has requested \$1 million in FY00 for a comprehensive restructuring of its training program to both identify promotional qualification and professional growth opportunities for enlisted and civilian personnel, and for the technical and clerical personnel necessary to support its data retention system.

(h) With regard to the need for revisions in the training programs to ensure the professional growth and development of supervisory and management skills within the Division staff, in April 1999, at the request of the Attorney General, Dr. Charles Nanry of the Rutgers Graduate School of Human Resources Management, was asked to review the promotion practices of the Division and submit a draft proposal regarding professional development within the management of the Division of State Police.

A central aspect of Dr. Nanry's proposal is the need for management and supervisory training which is both relevant to the mission of the Division and effective in its production of managers who can move the organization forward.

One of the devices Dr. Nanry has suggested to meet this need is the use of focus groups which identify the perceptions by various personnel at different levels of the organization of the organizational strengths and weaknesses of the current management system. This activity will be used to identify traits, behaviors and skills which

could be used to determine suitability for promotion to the ranks above sergeant.

The findings and recommendations from these focus groups will become an effective roadmap for the development of management and supervisory training programs required under future promotion standards at every rank of the Division. This comprehensive restructuring of its training program will be funded by the appropriation for FY00 cited above.

D. Workplace Issues

1. Treatment/Atmosphere

During the course of the Review Team's work on the issue of racial profiling, concerns were also voiced about the alleged disparate treatment of troopers on the basis of their race within the Division. Because of these concerns, the Review Team turned its attention to the State Police as a workplace. As the Team began its examination, it became apparent that there were also concerns about allegations of disparate treatment based upon gender and about the operation of the EEO/AA process at State Police. As a first step, the Review Team inquired into the status of EEO/AA related complaints generated within the State Police. A review of administrative discrimination complaints filed against State Police personnel indicates that since 1995, 72 internal complaints were filed. Some of these complaints took as many as two years from complaint filing to final disposition. Of these complaints 24 involved claims of race discrimination and 33 involved claims of gender discrimination. Of the 33 gender related complaints, 14 were from unsworn female staff. In addition to these complaints, State Police

personnel have filed and continue to file discrimination complaints against the Division in court proceedings. Since 1996 there have been at least five lawsuits filed against the State Police by its employees alleging race discrimination. For the same period six cases claiming gender discrimination were filed against the State Police. While numbers are not necessarily overly large when compared against approximately 3,000 of the total number of employees in the Division, they are very significant given the relatively small representation of minorities and females in the sworn ranks of the State Police.

The kinds of issues raised in these lawsuits and complaints were reinforced by additional information received by the Review Team from troopers other than those who have filed claims against the State Police. For example, anecdotal information was received that suggests that there are still instances where minority and female troopers feel that the workplace is hostile rather than accepting and respectful of their presence. One example mentioned with respect to female troopers is that State Police facilities may not be uniformly at a standard appropriate to address the needs of female troopers. There were divergent opinions expressed to members of the Review Team concerning the degree of this problem. Some expressed the view that there has been significant progress over time. Others, in frustration, suggest that little has changed in over 30 years and that the discrimination continues in less obvious forms as well as overt forms.

Information the Review Team also received that suggests that for some minorities and females, a significant cause of concern is not that a substantial number of troopers exhibit bigoted and discriminatory conduct but that the few who do in subtle and not so subtle ways are able to continue to get away with it. Some troopers allege that they have observed or heard about conduct engaged in by certain members of the Division in years gone by which they regard as evidence of discriminatory attitudes and noted that these same individuals have been promoted to positions of authority without any apparent consideration of, or negative consequence for, their alleged abhorrent conduct. Some expressed the concern that conduct which undermines Department policy is tolerated more than conduct which supports the Department policy intended to foster a respectful work environment free of discrimination is encouraged. There was also concern expressed by some that if discrimination is tolerated in the ways in which troopers treat one another, then it may also be tolerated in the ways in which a trooper interacts with the public.

The perception that there are persons in the supervisory ranks who have allegedly engaged in or who tolerate discrimination may tend to discourage some of those who have legitimate complaints from coming forward. There is also opinion expressed that supervisors allegedly do not regard the filing of a complaint as an opportunity to look into and resolve an alleged existing or potential individual problem and avoid its development into an organizational problem.

Rather the making of the complaint is allegedly perceived as an act of disloyalty which may bring disrepute to the State Police.

What was particularly notable about the comments and opinions expressed to the Review Team is that even though there is a divergence of views concerning the alleged existence of or the level of alleged disparate treatment in the agency or at least allegedly exhibited by some individual troopers, there is a near consensus in the perception that there are deficiencies in State Police practices and processes which reasonably could lead to what is interpreted by troopers as actual or perceived unfair or otherwise inappropriate results or treatment. To a large degree the PERF study and the anecdotal comments and opinions provide mutual corroboration. This intersection of information from various sources tends to support the conclusion that there are workplace issues of a degree sufficient to demand the high priority and immediate attention of State Police management. Leadership and management at the Division must necessarily play a strong and effective role in addressing these workplace issues.

2. EEO/AA Process

The matter of the administrative claims of disparate treatment as it relates to the workplace climate is a matter which implicates the Department Policy Against Discrimination. The Review Team, therefore, considered the formal processes available pursuant to that policy. Under current Department of Personnel regulations, State employers are required to accept and investigate

complaints of discrimination. N.J.A.C. 4A:7-3.3(a). A report of the investigation is to be prepared for the consideration of the Department Head, in this case, the Attorney General. N.J.A.C. 4A:7-3.3(b). Thereafter, the Department Head is to render a written decision on the complaint which is appealable to the Merit System board. Ibid.

With but one exception, the EEO/AA unit of the Office of the Attorney General (“OAG”) conducts all employee discrimination complaint investigations arising from the various divisions, offices and units of the Department of Law and Public Safety, including the Divisions of Alcoholic Beverage Control, Civil Rights, Consumer Affairs, Criminal Justice, Elections, Gaming Enforcement, Highway Traffic Safety, Law, the Juvenile Justice and Racing Commissions, and the Office of the Attorney General. The one exception is the Division of State Police. Under current procedures, State Police houses its own EEO/AA investigations unit. The unit has State Police investigators who intake and investigate discrimination complaints generated by State Police employees. These complaints are either filed directly with the State Police or referred to it by OAG. After the completion of the investigation by the State Police, a report is prepared and submitted to the OAG. The State Police report and investigatory file are then reviewed by OAG staff who prepare an analysis and recommended decision for consideration by the Attorney General. The final decision of the Attorney General is highly dependent upon the work product of the State Police.

The OAG does exercise oversight with regard to the EEO/AA investigations process at State Police. This occurs primarily through communications and meetings between OAG staff assigned to monitor investigations and supervisory personnel in the State Police EEO/AA Unit. There is also communication between the Department EEO/AA Officer and the State Police EEO/AA Officer. Where necessary and appropriate, there will also be contacts on specific issues between higher level OAG and State Police staffs on EEO/AA matters. The contacts between OAG and State Police investigatory supervisory staff are regular and allow for the exchange of information concerning the status of cases and consultation on the handling of specific investigations. They do not, however, involve day-to-day supervision of intake, investigations or related counseling and training. Moreover, while State Police staff have generally been cooperative in carrying out tasks or implementing decisions generated by OAG staff, it is evident that the view of State Police personnel is that their responsiveness is a matter left to their agency's discretion and desire to cooperate rather than because of authoritative compulsion from OAG supervisory staff. The apparent explanation for this view is that OAG staff is not a part of the "chain of command" pursuant to rules and regulations of the State Police.

The Review Team informally received information related to the operation and perception of this process from various sources. It also interviewed a variety of troopers on a confidential basis concerning these and other matters. The

following summarizes some of the information which was supplied regarding the EEO/AA process.

Comments received by the Review Team suggest a belief on the part of some troopers that there are female and racial or ethnic minority troopers who may have legitimate complaints to raise under the Department Policy but have refrained from bringing these issues to the attention of the EEO/AA unit. Explanations offered include fear of reprisal, fear that the unit will not do a thorough enough job so that their claims will be substantiated, fear of being labeled as a troublemaker or a strong desire to “tough it out” in hopes of being accepted and treated fairly as a member of the Division. Commentators noted that the process is also perceived as being too lengthy to be effective. Complaint processing could take several months and in some cases years to complete. Another explanation for the reluctance to use the administrative complaint process is the belief expressed by some that many of those who have complained to the EEO/AA unit have not brought legitimate discrimination complaints but have brought complaints for self serving reason unrelated to actual discrimination. This has for some troopers undermined the credibility for all persons making complaints. As a consequence, some persons with legitimate complaints do not wish to use the process for fear of being “associated” with those who are perceived by others as having abused the complaint process.

Comments were also made which suggest that having an EEO/AA apparatus to administer the implementation of the Department's Anti-Discrimination Policy is perceived by some as offering protections and opportunities to minorities and females not available to non-minority troopers. For some, this creates a separate class of troopers whose interests may be perceived by some as divergent from those troopers who do not see the EEO/AA process as available to them. Some non-minority troopers may feel that they have less recourse than minorities and females in addressing the day-to-day individually encountered difficulties of the workplace. This perception may have the unintended consequence of undermining the implementation of the workplace policy which is to foster and maintain equal and fair treatment by suggesting to some that EEO/AA actually favors one set of troopers over others. This may be one of the reasons why some non-minority troopers view some workplace concerns such as promotions with a degree of skepticism. Some feel that the existence of EEO/AA-related policies means that minority and female troopers will receive favored treatment over deserving non-minority troopers in the promotion process. Such perceptions are extremely harmful and unfair to minority and female troopers since by implication they create the suspicion that minorities and females are promoted not because it is professionally and organizationally warranted, but only because it improves the affirmative action numbers. Moreover, it misunderstands and misrepresents the policy underlying the Department Policy

Against Discrimination. It also suggests that there is a need to improve communication between supervisors and troopers to allay misperceptions.

This counterproductive view of Department policy appears to have been implied in a bargaining unit-related communication suggesting that there might actually be a “minority” promotions list.⁵ This encourages disharmony within the trooper ranks. This may also be one of the factors underlying why minority troopers have taken steps, as reported in press accounts, to distance themselves from the current collective bargaining representative. Overall, disharmony is destructive to the fostering and maintenance of a respectful and professional workplace.

3. *Departures*

The Review Team also reviewed separations from the State Police involving non-reenlistment and dismissal. A non-reenlistment involves a separation from the State Police by non reappointment at the end of an enlistment period prior to the attainment of tenure status by the Trooper. A dismissal generally involves a separation from the State Police for cause. The period of review was from 1990 to 1998. During this period 15 troopers were dismissed. All were males. Of these five were black, seven were white and three were Hispanic. Thus, eight out of 15 dismissals involved minority troopers. This is a number well in excess of minority

⁵Letter from STFA Leadership to “Fellow Trooper,” dated December 4, 1997, concerning annual membership meeting.

trooper representation in the force as a whole. Each file contained information which supported the dismissal.

During the same period, 29 troopers were not reenlisted to hold their positions under tenure. Their relationship with the State Police therefore ended at the expiration of their respective probationary enlistments before attaining tenure in the fifth year. All of the non-reenlistments involved males. Of these five were Hispanic, 10 were black and 14 were white. Thus, 15 of those who were not reenlisted were minority troopers. Again this proportion of representation is well in excess of minority representation in the State Police as a whole. All of the non-reenlistments occurred between January 19, 1990 and July 19, 1992. There have been no non-reenlistments since that time. Since that time, 48 minority troopers and 27 female troopers have been sworn in, out of a total of 561 troopers sworn. The Review Team is continuing its review of the non-reenlistment process to assure that it is consistent with the Department Policy Against Discrimination.

E. Conclusions Regarding Diversity in the Division

It has been 38 years since the first minority male entered the ranks of the State Police. It has been 24 years since the first female entered the ranks of the State Police. After all of this time the State Police ranks remain insufficiently diverse. Efforts made to date to improve diversity have not accomplished the goal of a State Police organization fully reflective of the citizenry of this State. Moreover, it appears that the goal of a fully respectful workplace environment consistent

with Department Policy may not yet have been uniformly accomplished across the Division. The Division must do better as the force prepares to enter the 21st Century.

The OAG should become more directly involved in the implementation and enforcement of the Department Policy Against Discrimination and Hostile Environment in the Workplace in the Division of State Police. The Attorney General is the head of the Department and ultimately responsible for implementation of the policy.

In this regard, the Review Team recommends that the following steps be undertaken to address these issues.

F. Recommended Action Steps

1. Creation of State Police Unit Within The Office of the Attorney General

Within 60 days, the Attorney General should create a State Police Unit within the Office of the Attorney General that will be responsible for oversight of the Division of State Police. The new unit should be headed by an Assistant Attorney General in charge of State Police matters who reports to the Attorney General. More specifically, the Assistant Attorney General in charge of State Police matters, will be responsible, inter alia, for:

- (1) ensuring implementation of the recommendations of the State Police Review Team's Interim Report on Racial Profiling;
- (2) ensuring implementation of the recommendations of the Final Report of the State Police Review Team concerning promotions, hiring, employment discrimination, internal affairs, and training;

- (3) auditing compliance with the recommendations of the State Police Review Team;
- (4) providing technical assistance and training to assist with the implementation of the recommendations;
- (5) coordinating with the United States Justice Department's Division of Civil Rights on issues concerning the Division of State Police;
- (6) oversight over the investigation of EEO/AA complaints from the Division of State Police; and
- (7) oversight over the investigation of allegations of misconduct by members of the State Police.

2. Recommendations to Ensure Implementation of Policy Against Discrimination and Hostile Environment in the Workplace at the Division of State Police

- a. Within 90 days, the Office of the Attorney General ("OAG") EEO/AA Unit should assume direct control of complaint, intake, mediation and investigation process of EEO/AA matters arising from the Division of State Police.
- b. State Police staff selected by OAG in consultation with the Superintendent shall be reassigned to the OAG EEO/AA Office to perform such tasks as may be assigned from time to time by and under the direct supervision of OAG regarding complaint intake, mediation and investigation.
- c. To assure confidentiality and assure clarity in supervision, State Police staff assigned to the OAG EEO/AA Office shall be relieved of all reporting obligations to staff and supervision within the Division of State Police for the duration of the reassignment. Reassignment to OAG shall be for a period not to exceed three years and shall not interfere with reassigned staff's consideration for advancement opportunities available in the Division of State Police.
- d. The Superintendent, acting under the direct supervision and approval of OAG, shall take whatever actions are necessary with respect to rules, regulations and procedures to assure that OAG EEO/AA staff shall have full access to all State Police facilities, personnel and information and shall have

the full cooperation of all State Police personnel when performing their official duties.

e. Within 60 days, the Superintendent, acting under the direct supervision and approval of OAG, shall review all State Police supervisor training regarding State Police supervisor roles and responsibilities related to administration and enforcement of the Department Policy Against Discrimination.

f. Within 90 days, the Superintendent, acting under direct supervision and approval of OAG, shall revise, adapt or develop as may be necessary management/supervisor training programs to assure that all managers and supervisors within the State Police are well schooled about their roles and responsibilities under the Department Policy Against Discrimination.

g. Within 120 days, the Superintendent, management and supervisory personnel shall receive training concerning their roles and responsibilities and the Attorney General's expectations regarding the administration and enforcement of the Department Policy Against Discrimination. The Attorney General's policy is one of "zero tolerance" and a direction that all managers and supervisors shall be held accountable for the full and proper implementation of the Department's workplace policy. Such training shall be delivered by persons designated by OAG.

h. Within 180 days, the Superintendent, acting under the direct supervision of OAG and approval of OAG, shall review all management and supervisor training programs administered by the State Police and integrate EEO/AA roles and responsibilities into such programs where appropriate with the objective that such responsibilities are not to be regarded as separate and apart or as "add ons" to supervisor duties. Rather, this function and responsibility shall be a regular part of those matters for which managers and supervisors shall be held accountable.

i. Within 180 days, the Superintendent, acting under the direct supervision and approval of OAG, shall develop a regular schedule of manager/supervisor in-service training concerning matters related to administration and enforcement of the Department Policy Against Discrimination. Such training shall include periodic meetings for managers/supervisors to consult about and discuss the handling of EEO/AA and other workplace issues and experiences with the objective that there shall be reinforcement and mutual support in the administration and

enforcement of the Department Policy Against Discrimination and the fostering of a respectful workplace environment.

j. Within 180 days, the Superintendent, acting under the direct supervision and approval of OAG, shall conduct a comprehensive review of all academy, in-service and coach training programs to assure consistency with the Department Policy Against Discrimination. Any inconsistencies shall be remedied immediately.

3. *Performance Evaluations*

a. Within 180 days, the Superintendent, acting under the direct supervision and approval of OAG, shall develop complete job descriptions for all positions of sergeant and above.

b. Within 180 days, the Superintendent, acting under the direct supervision of and approval of OAG, shall develop a comprehensive performance evaluation process for managers and supervisors in the ranks of sergeant and above geared towards professional development and promotional potential. In addition to other matters of concern regarding the professional development of managers and supervisors such as leadership, judgment, initiative, administrative ability and interpersonal skills, special attention shall be focused upon knowledge of workplace policies, understanding of the role of management/supervision in the implementation and enforcement of those policies, initiatives and actions taken to contribute to the fostering and maintenance of a professional and respectful work environment, participation in management/supervision training, evidence of the incorporation of skills and abilities acquired in training into the day-to-day supervisory regimen, evidence of knowledge of abilities, strengths and weaknesses of staff, evidence of activity designed to constructively address professional and workplace weaknesses in staff and contribute to their professional development, ability to provide individualized evaluations useful to the professional development of subordinates and for the provision of accurate personnel assessments to upper supervision, EEO/AA record of the evaluated supervisor and EEO/AA record of subordinates over which the evaluated supervisor has jurisdiction.

c. Within 180 days, the Superintendent, acting under the direct supervision and approval of OAG, shall make whatever organizational restructuring is necessary to assure that managers and supervisors shall have the ability to carry out the roles for which they will be held accountable and professionally evaluated.

4. *Facilities*

a. Within 60 days, the Superintendent, acting under the direct supervision and approval of OAG, shall undertake a complete facilities inventory to identify all areas in need of improvement to properly address the needs of female troopers. Where possible the State Police shall immediately take steps to relieve any identified area of need to the extent reasonably feasible.

b. Within 180 days, the Superintendent acting under the direct supervision and approval of OAG, shall develop a comprehensive facilities plan to address the renovation, reconstruction or new construction of facilities to assure that female troopers will be professionally accommodated in any State Police facility. Such plan shall be prioritized listing the most egregious needs first. The State Police facilities budget shall be prioritized similarly to implement the entire plan as soon as possible and no later than two years.

5. *Leadership and Training*

a. Within 180 days, the Superintendent under the direct supervision and with the approval of OAG shall develop a comprehensive plan for the identification of troopers and officers who exhibit superior potential for higher responsibility. The plan shall provide for the development of an appropriate program of training, mentoring etc., to contribute to the professional development of such individuals. Successful participation in the program shall be a factor in future promotional consideration along with worksite evaluations.

b. Within 180 days, the Superintendent under the direct supervision and with the approval of the Attorney General shall conduct a comprehensive review of the entire training process and programs of the State Police to ensure that it is consistent with the concerns and objectives described in "Training" (see Part III, § E) of this Report. The Superintendent's findings and recommendations shall be reported to the Attorney General within this time period. As this review is conducted and recommendations are prepared, the following matters are to be a focus.

(1) Pre-Service Training. The recommendations in this Report regarding the recruitment and selection of individuals to enter the State Police Academy are aimed at identifying a diverse group of well educated recruits

with the abilities, personal character and potential for growth to become excellent troopers.

The academy, or pre-service, training must be carefully reviewed and revised where necessary to ensure that this critical training program is grounded on the needs of both the Division and the recruit. For example, course content and curriculum must recognize that there is little value in redundant college academic course work for recruits who are already college graduates. Recruits will have been drawn to the Division as a comprehensive 21st Century law enforcement agency. The pre-service curriculum must reflect that by including the development of skills necessary for success within such an agency. The training regimen of the paramilitary organization should remain important but only to the extent that it supports the diversity of the members and the mission of the Division, and not as an end unto itself.

(2) In-Service Training. In-Service training programs must be reviewed and revised where necessary to insure that these programs provide and insure that all members at all ranks possess the skills and practices necessary to do their jobs effectively, and are prepared and qualified to pursue professional growth opportunities across the Division. As with Pre-Service training, these programs must be consistent with the Division role as a comprehensive 21st Century law enforcement agency and must reflect the diversity of the members and the mission of the Division.

(3) Management Training. Successful implementation of the recommendations contained in this Report rests largely upon the professionalism, ability and skills of the Division's management staff. In this context then, the design and implementation of a comprehensive management training model must be a primary focus of the Division's efforts together with the implementation of a new evaluation and promotion system. This model must include the identification of behavioral competencies related to management practices within the Division as the basis for the course content and curriculum design, and must insure that only those with proven skills and abilities, the best and the brightest, be eligible for promotion to management and supervisory positions within the ranks of the Division.

6. *Recruitment/Hiring*

a. In furtherance of the policy and goal of fostering and maintaining a State Police force with high quality personnel reflective of the diverse citizenry of this State, the State Police, acting under the supervision and approval of OAG, shall aggressively pursue implementation of the recently developed recruitment/selection process set forth in Part III, B., 2,b. of this Report with the admonition that the program be closely monitored. In the event the program does not produce diverse classes of high quality recruits reflective of the State's citizenry, the program shall be adjusted, modified and improved until it does operate in an effective manner consistent with this policy.

b. Within 60 days, the Superintendent, acting under the direct supervision of OAG and the approval of OAG, shall review the recruitment/selection process for the purpose of establishing appropriate standards and procedures to assure that the process is not subject to improper influence. The procedure shall require that any modification of the recruitment/selection process shall, in addition to other review, be subject to review by the Department Ethics Officer.

7. *Promotions*

a. Within 30 days, the Division shall issue a formal, written policy governing the promotion of all personnel to the ranks of sergeant, detective sergeant, sergeant first class, detective sergeant first class and lieutenant.

This policy will insure that:

- all promotion positions will be open to any member who demonstrates superior supervisory and management talent and will not be limited to the present assignment unit;
- all first sergeant and lieutenant vacancies will be first offered for lateral transfers;
- every promotion will be based on a candidate's overall suitability for a new rank, reflected in the breadth of previous assignments;

Promotion to each rank will be based solely upon:

- The candidate's performance against an objective qualifier such as written examinations, course completions, assessment centers, oral boards, and the like.
- The last four semiannual performance evaluations by the candidate's immediate supervisor.
- The promotional performance evaluation of the candidate.

Promotion lists will be set once annually and will reflect the findings of the above evaluative criteria. All promotions will come only from these lists.

Promotional performance evaluations will be recorded on a standard, division-wide form, requiring narrative documentation for every extremely high or low sub-score or past deduction of points for disciplinary actions. All forms and supporting documentation will be retained until all timely-filed appeals, if any, are final.

All supervisors will be properly trained before evaluating the performance of any candidate for promotion.

PART IV.

INTERNAL AFFAIRS AND DISCIPLINE

A. Introduction

The Review Team was also asked to examine State Police procedures for processing citizen and internally-generated complaints against State Police, as well as the system of State Police discipline. For purposes of this Report, we will refer to the process of receiving, processing, and investigating complaints concerning the conduct of troopers as “internal affairs.” Our examination of the internal affairs function in the State Police includes an objective assessment of current practices, and suggestions and recommendations for improving those practices.

Our review must be guided by certain fundamental principles of policing and the administration of the criminal justice system. In our democratic society, police officers derive their authority from the law and, conversely, their authority is limited by the law. Police officers are sworn to uphold the constitutions of the United States and the State of New Jersey, and to faithfully, impartially, and justly perform their duties. Police officers stand as the most visible representative of the criminal justice system. During encounters with the police, all citizens have the right to be treated fairly, impartially, and justly.

The motto of the new Jersey State Police is “Duty, Honor, and Fidelity.” We are confident that the vast majority of troopers give undying loyalty and

commitment to upholding the principles expressed in that creed by fairly, impartially, and justly carrying out their duties each day. In those circumstances where a trooper fails to maintain the highest ideals of the profession by treating a citizen unfairly or inappropriately, we must have an accessible and effective internal affairs process that vigorously pursues citizens complaints, and a system of discipline that sternly addresses those officers taint their badge by violating their oaths.

When it comes to internal affairs, the process by which we seek to ensure integrity in law enforcement, the way we police the police, we believe the goals are simple and clear:

1. Citizen reports of police misconduct must be thoroughly, objectively, and expeditiously investigated to their logical conclusion, and
2. Citizen reports of police misconduct must be investigated in a manner which protects, not violates, the rights of accused police officers.

Both the public and the police themselves have legitimate expectations when it comes to the conduct of internal affairs. The citizens of this State rightfully expect that police officers will be both skilled and just. When the conduct of officers leads citizens to believe that the police are lacking on either count, confidence will quickly erode.

Likewise, police officers rightfully expect that their actions will be judged through a lens which recognizes that they occupy a job so often characterized by

a need for initiative and difficult decisions. Every day they work, police officers ask themselves, “Should I get involved?” When officers lose confidence that they will be judged fairly, there will be an effect on the way they do their jobs. We need police officers who get involved; we can be certain that no one is served when officers engage in fewer and fewer opportunities to get involved.

Law enforcement executives have an obligation of equal importance to both the officers they lead and the public they serve. That obligation requires that they take whatever steps are necessary to meet both internal affairs goals. The recommendations forwarded in this Report suggest what we believe are the steps that should be taken. We are confident that these steps will advance the process by which citizen complaints are accepted, investigated and resolved. At the same time, we are confident that these steps will help ensure that this is not done at the expense of either the constitutional rights or simple “fairness” rights of those police officers who serve this State well.

B. Methodology

In conducting our review of the State Police internal affairs process, we examined source documents relevant to existing State Police internal affairs and discipline including but not limited to: (1) New Jersey State Police Organizational Chart, dated January 31, 1998; (2) Internal Complaint procedure flow chart; (3) New Jersey State Police *Internal Investigation Manual*; (4) NJSP S.O.P. B3, Internal Affairs Bureau; (5) NJSP S.O.P. B10, Internal Investigations Procedures;

(6) NJSP S.O.P. B13, Advisory Board; (7) NJSP S.O.P. B22, Use of Force; (8) NJSP S.O.P. B28, Inspection Program - Personnel and Facilities; (9) NJSP S.O.P. C37, Employee Assistance Program (EAP); (10) NJSP S.O.P. C50, Duty Status Review Board; and, (11) NJSP Operations Instructions 99-05, Revised Internal Investigation/Administrative Inquiry Short Form Investigation.

In the Internal Affairs Bureau, we reviewed completed internal affairs files for 1998. We reviewed 151 (out of 188) internal investigation files, 35 (out of 38) administrative inquiry files, and 175 (out of 176) miscellaneous files. Those not reviewed typically had not been completed by the assigned investigator. Many of those we reviewed had been investigated, but were still in the process of review by Internal Affairs Bureau staff or pending Advisory Board or Superintendent action. These detailed reviews consisted of a thorough reading of the file contents as well as an evaluation by the reviewer about the investigative process and the outcome. A checklist was completed for each file reviewed. In addition, we reviewed the procedures used by the Internal Affairs Bureau in maintaining information and tracking cases through log books, computerized databases, index cards and filing systems.

We interviewed various members of the New Jersey State Police who had responsibilities for, or contact with, the internal affairs process. These interviews included members assigned to the various functions within the Internal Affairs Bureau; command personnel from several Troops within the Field Operations

Section; and commanders and supervisors from selected road stations. We also interviewed command personnel from other units who have responsibilities which sometimes dovetail with internal affairs: the Equal Employment Opportunity/Affirmative Action Bureau, the Human Resource Management Bureau, and the Major Crimes Unit. In addition, we interviewed representatives of the Superior Officers' Association, the State Troopers NCO Association, the State Trooper Fraternal Association, and several citizens who had filed internal complaints with the State Police.

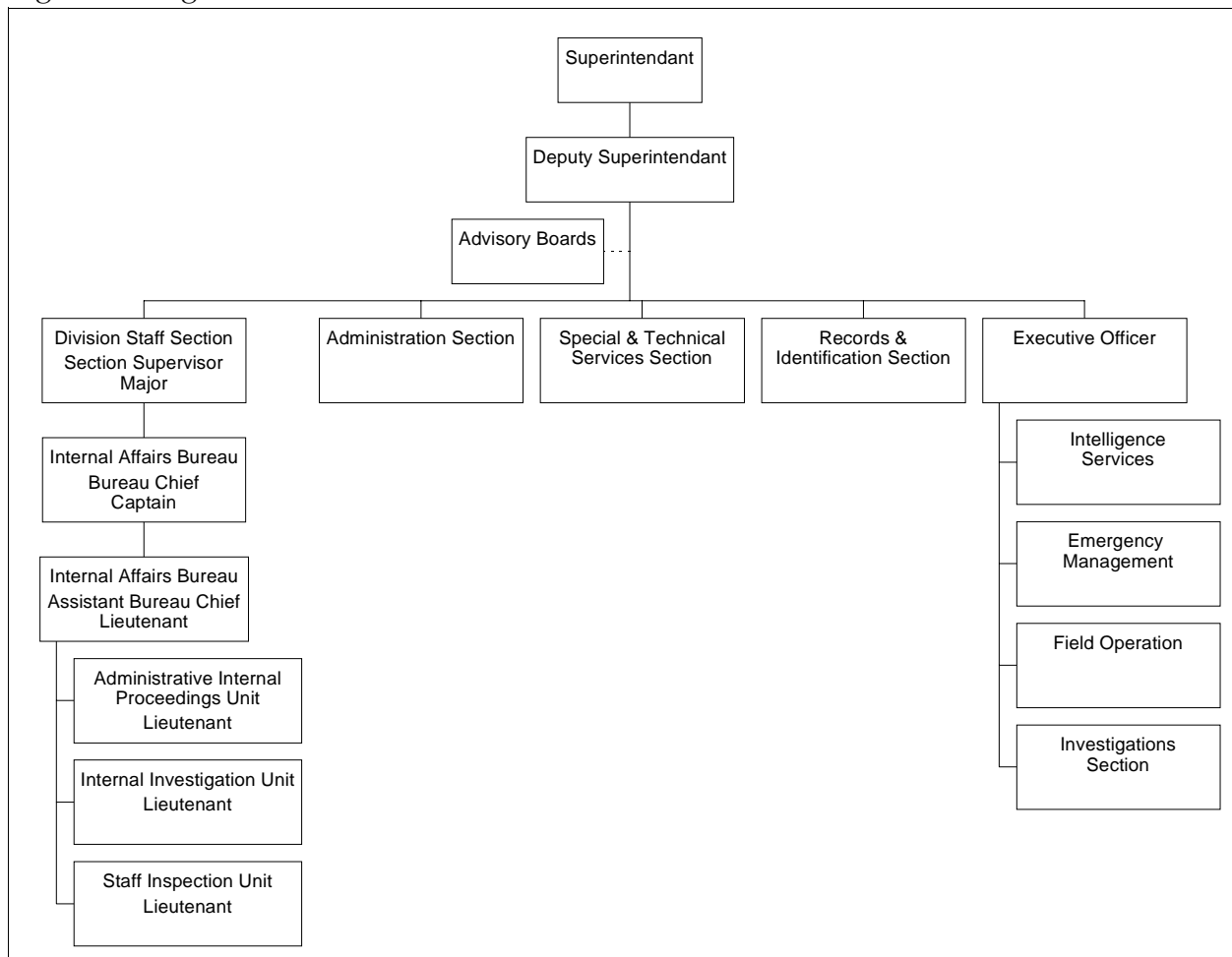
C. Organizational Structure/Chain of Command

The Internal Affairs Bureau is established pursuant to New Jersey State Police S.O.P. B3, and is located in the Division Staff Section. The Division Staff Section is commanded by a Major, who is responsible to the Deputy Superintendent.

The Internal Affairs Bureau (IAB) is commanded by a Captain, who oversees the three units of the Bureau: the Staff Inspection Unit, the Internal Investigations Unit, and the Administrative Internal Proceedings Unit. There is an Assistant Bureau Commander for the Internal Affairs Bureau, who is a lieutenant.

The Staff Inspection Unit conducts inspections to assure the activities of the Division are conducted in accordance with its policies, procedures, and rules and regulations. This unit reviews inspection procedures utilized by commanders throughout the Division, conducts periodic audit inspections, and assists in

Figure 1. Organizational Structure, Internal Affairs Bureau



providing performance counseling to troopers. (S.O.P. B3, §III.D.1.) The staffing of this unit was recently increased to five lieutenants and five sergeants first class, from one lieutenant and one sergeant first class. The purpose of this increase was to create four teams to increase the ability of the unit to conduct inspections. It should be noted that the inspections carried out by this unit are separate and distinct from the regular inspections carried out by the various commands and supervisors pursuant to S.O.P. B28.

The Internal Investigations Unit is responsible for conducting internal investigations at the Division level, reviewing internal investigations conducted at the troop/section/bureau level, and maintaining the register of all internal

complaints. (S.O.P. B3, III.D.2) This unit is staffed by a lieutenant, a detective sergeant first class, and nine detective sergeants.

The Administrative Internal Proceedings Unit prepares cases for the Advisory Board once the internal investigation has been completed, prepares and serves formal charges, assists in the administrative matters involved in summary and general disciplinary hearings, and processes discipline that is imposed. This unit also acts as liaison between the bureau chief and the Legal Advisory Unit of the Office of the Attorney General, and records and classifies civil actions against the Division and its members. The Administrative Internal Proceedings Unit is staffed by an acting lieutenant, a sergeant first class and a sergeant. However, the lieutenant is currently detailed to an employment litigation case which consumes most of his time.

D. Accepting Complaints

The official process by which the New Jersey State Police mandates the acceptance of complaints against sworn personnel is set forth in Standard Operating Procedure (S.O.P.) B10, entitled "*Internal Investigations Procedures.*" Section III.I.b.(1) of S.O.P. B10 reads as follows:

Complaints received at the Station/Troop level must be accurately recorded on the Internal Complaint Form - S.P-251 ... and in the Troop register prior to forwarding the information to Division Headquarters.

In essence, Form SP-251 is the sole means for documenting a complaint against a sworn member of the New Jersey State Police, whether the complaint is

externally generated by a citizen or internally generated by another member of the State Police, and whether the complaint alleges administrative or statutory violations. The completed SP-251 form is forwarded through the chain of command to the Internal Affairs Bureau for screening and assignment.

Annex B of S.O.P. B10 is the "*Internal Investigation Manual*," which serves as a guide for those members of the State Police who conduct internal investigations. The expressed intent of the manual, as found in the Introduction on page 2 is "...to insure that internal discipline complaint investigations are accomplished in a comprehensive and proficient manner."

S.O.P. B10 clearly requires the acceptance and registration of complaints, but it falls short of defining that which constitutes a complaint. We found a substantial difference of opinion among those members who were interviewed concerning the definition of a complaint as used in S.O.P. B10. Interviews revealed that some members believe a complaint to be an allegation of an act or omission that at a minimum constitutes misconduct in the form of a significant violation of rules, regulations, law or other required action or behavior. Others believe that a complaint also includes an inquiry from the public seeking information, explanation or comment about an encounter with a trooper.

We learned that supervisors who draw a distinction between a complaint and an inquiry may attempt to resolve relatively minor issues, procedural misunderstandings, differences of opinion and matters beyond the offending

trooper's control during the initial conversation with a complainant. The rationale for engaging in a dialogue with the complainant about the action or inaction of a trooper is not to dissuade that person from registering a complaint, but to provide an understanding to a reasonable person who is uninformed about police procedure but who may accept and appreciate a plausible explanation. For example, after a vehicle has been lawfully stopped at night, police officers will often illuminate the detained vehicle with highbeam headlights and a spotlight to see the action of the occupants. This is a perfectly acceptable practice, in the interest of officer safety, that could be resented by a law-abiding motorist who had never before been stopped by a police officer. When the practice is properly explained, a potential complainant might understand and accept this standard practice. In situations where a person does not accept the explanation and is insistent that a complaint be filed and pursued, the supervisor will complete and forward a Form SP-251.

Supervisors who successfully resolve complaints or inquiries through conversation and explanation to the satisfaction of the complainant, however, utilize various methods to memorialize their actions. Some make notes and retain them personally. Others complete a Form SP-251 and retain it at the station, while other officers forward it through the chain of command to the Internal Affairs Bureau, noting that the complainant was satisfied. In some situations there are supervisors who will resolve a minor complaint through the use of a

Performance Notice in lieu of Form SP-251 to document a counseling session or an appraisal interview with the trooper who is the subject of a complaint. A Performance Notice is maintained at the station level and referenced by the supervisor during the preparation of the trooper's next formal performance evaluation. It is removed after six months.

In situations where a complaint involves serious misconduct or involves allegations of any form of unlawful discrimination or criminal impropriety, we found without exception that supervisors would immediately prepare a Form SP-251 and forward it through the chain of command to the Internal Affairs Bureau.

The extent of guidance provided by S.O.P. B10 concerning the procedure to be followed for accepting complaints about members of the New Jersey State Police is indeed limited. There are no directions or instructions concerning the receipt and processing of complaints from juveniles, arrested persons, mentally incompetent persons, third party complainants and those who wish to remain anonymous. The strict interpretation of S.O.P. B10 arguably requires that any time a person contacts any State Police facility with a complaint about a trooper, a Form SP-251 must be completed. In practice, however, it is apparent from the relatively low number of annual formal complaints that the strict interpretation of the S.O.P. is not universally followed.

E. Criminal Notifications

We examined at length the process followed whenever an allegation is made against a trooper that may be criminal in nature, whenever a trooper has already been charged with an offense, and whenever a trooper has been involved in a shooting or other serious use of force incident.

Throughout our interviews, it became clear that the practice in the New Jersey State Police is that a prosecuting authority is not notified or contacted until a significant portion of the investigation has been completed. The "prosecuting authority" for most cases involving criminal complaints against a member of the New Jersey State Police is the Division of Criminal Justice.

There are two materially different sets of guidelines governing how internal affairs units determine when to notify a prosecuting agency of possible criminal behavior on the part of an officer within the department and when to refer the matter to the prosecutor for independent investigation. One applies to every municipal department across the State, the other to the State Police.

1. Municipal Police Departments

All municipal police departments take direction from "Internal Affairs Policy & Procedures." (N.J. Division of Criminal Justice, "New Jersey Law Enforcement Guidelines," Ch. 11.) This document is unambiguous with respect to the obligation of a municipal internal affairs unit to notify the

county prosecutor's office upon the development of information indicating possible crimes by a department member:

Where preliminary investigation indicates the possibility of a criminal act on the part of the accused officer, or the investigation involves the use of force by the officer which results in serious bodily injury or death, the county prosecutor must be notified immediately. No further action should be taken, including the filing of charges against the officer, until directed by the county prosecutor.
[Internal Affairs Policy and Procedures, p. 18.]

As the above makes plain, "immediate" notification of the county prosecutor is required under an extremely low threshold; that is, when a "preliminary" investigation reveals the "possibility" of an officer's involvement in criminality. The importance of these operative terms will become manifest when contrasted to those applicable to the State Police.

The above provision is also clear that when its notification threshold is met, "...no further action should be taken...until directed by the county prosecutor." (*Internal Affairs Policy and Procedures,* p. 18) In other words, the county prosecutor is to assume immediate and effective control over the direction of the investigation itself. Indeed, insofar as the actual conduct of the investigation is concerned, the guidelines plainly state that:

Whenever there is a possibility that the investigation may result in a criminal prosecution of the officer or that the county prosecutor may be conducting a separate investigation, the internal affairs investigator should consult with the county prosecutor prior to interviewing the officer.
[Internal Affairs Policy and Procedures, p. 32.]

They provide further that:

Pursuant to [the prosecutor's] instructions, the investigation may then proceed. The investigation must adhere to all of the restrictions of a normal criminal investigation. The Miranda warning must be given and a waiver signed prior to any questioning of the accused officer. Search and seizure restrictions and constitutional safeguards must be applied.

[Internal Affairs Policy and Procedures, p. 37.]

2. *Procedures Applicable to the State Police*

a. **The Humphreys Guidelines**

At the February 21, 1978 County Prosecutors' Meeting, guidelines were adopted concerning the handling of allegations of possible crimes by state troopers that represented the collaborative efforts of the State Police, the Division of Criminal Justice and the County Prosecutors' Association. These 1978 State Police guidelines are colloquially referred to as the "Humphreys Guidelines." The Humphreys Guidelines were unequivocal as to notification by the State Police to the Division of Criminal Justice and appeared to create the same low notification threshold now applicable to municipalities. They provided in pertinent part:

When a complaint or information is received by the New Jersey State Police which indicates the possibility of criminality on the part of a member of the New Jersey State Police, the Superintendent of the State Police will confer with the Director of the Division of Criminal Justice as to the further conduct of the investigation and as to the procedures, if any, required to initiate appropriate prosecutorial action, either by the Division of Criminal Justice or a County Prosecutor's Office. The Attorney General should be made aware of any decision reached by the Director and the Superintendent, and where appropriate under all the circumstances, should be involved in the discussions leading to the determination of whether the matter will proceed administratively or criminally.

In accordance with the policy of cooperation among the Division of Criminal Justice, County Prosecutors and the New Jersey State Police, the appropriate County Prosecutor or Prosecutors should usually be advised by the Division of Criminal Justice of any such investigation and the results. He may also request and be provided with progress reports.
["Humphreys Guidelines," p. 2.]

The Humphreys Guidelines created a similar notification procedure applicable to situations where the county prosecutor was the recipient of the same information:

If the Prosecutor receives such complaints or information involving criminal or other improper conduct of a member of the New Jersey State Police, the Prosecutor, should as soon as possible notify the Superintendent of the New Jersey State Police. If the matter involves criminal conduct or serious misconduct, the Director of the Division of Criminal Justice should also be notified.
["Humphreys Guidelines," p. 2.]

While similar to the present municipal guidelines in terms of the standard governing notification of a prosecuting authority, the Humphreys Guidelines differed somewhat with respect to control over the investigation once the notification threshold was met. Unlike the municipal guidelines, the Humphreys Guidelines did not mandate that "no further action be taken" by internal affairs investigators upon notification unless "directed" by the Director of the Division of Criminal Justice. Instead, they ambiguously required the Superintendent to "confer" with the Director as to the further conduct of the investigation, thus providing no clear guidance as to which entity was to assume control over the

direction of the investigation. If anything, they reflected a spirit of maintaining investigative control within the State Police providing that:

...(g)enerally, the New Jersey State Police is the appropriate agency to investigate the matters referred to above. The investigation should either be solely by the New Jersey State Police, or cooperatively with the Prosecutor or the Division of Criminal Justice as the circumstances indicate.

["Humphreys Guidelines," pp. 3, 6.]

Failing to clearly establish a chain of command in this respect, the Humphreys Guidelines provided no direction whatsoever with respect to how and when determinations regarding joint control over the investigation would be made or which entity would then be vested with ultimate decision-making authority.

b. State Police Standard Operating Procedure B10

Since March 15, 1996, the State Police Internal Affairs Bureau's operations have been guided by State Police S.O.P. B10. This more recent directive conflicts with the Humphreys Guidelines and establishes a referral process that is substantially different from the standards applicable to municipal police departments.

Section III.K of S.O.P. B10 provides as follows:

The Internal Affairs Bureau will use the following procedures during all investigations involving alleged criminality by a member of the Division of State Police:

1. Where probable cause of criminality exists, the Internal Affairs Bureau, with the Superintendent's approval, will take the appropriate action, e.g., make an arrest or refer to the appropriate prosecuting authority.

2. Where probable cause of criminality is questionable, the Internal Affairs Bureau, with the Superintendent's approval, will consult with the appropriate prosecuting authority.

3. Where no evidence of criminality exists, the investigation will be conducted as all other non-criminal investigations.

This provision seemingly envisions three distinct evidential standards: probable cause of a crime, "questionable" probable cause, and "no evidence of criminality." S.O.P. B10, therefore, empowers the State Police Internal Affairs Bureau to make a threshold determination regarding "probable cause" of a trooper's criminality before even "consulting" with a prosecuting authority. Although S.O.P. B10's standards are somewhat confusing, this language could be readily construed to set a higher standard to be met before notification of a prosecuting agency occurs than that set either by the Humphreys Guidelines or the guidelines applicable to municipal departments. Even "questionable probable cause" could easily be construed to be more rigorous than a "preliminary investigation" revealing "possible" criminality. As a result of that ambiguity, S.O.P. B10 potentially permits the State Police Internal Affairs Bureau to act as a gatekeeper, making its own legal assessment of a case before determining whether to consult with a prosecutor at all. That authority does not appear to have been envisioned by the Humphreys Guidelines, which contemplated the Superintendent's automatic conferral with the Director of the Division of Criminal Justice immediately upon receipt of any information, or even a complaint, of

possible criminality by a trooper. It differs from the municipal guidelines in precisely the same manner.

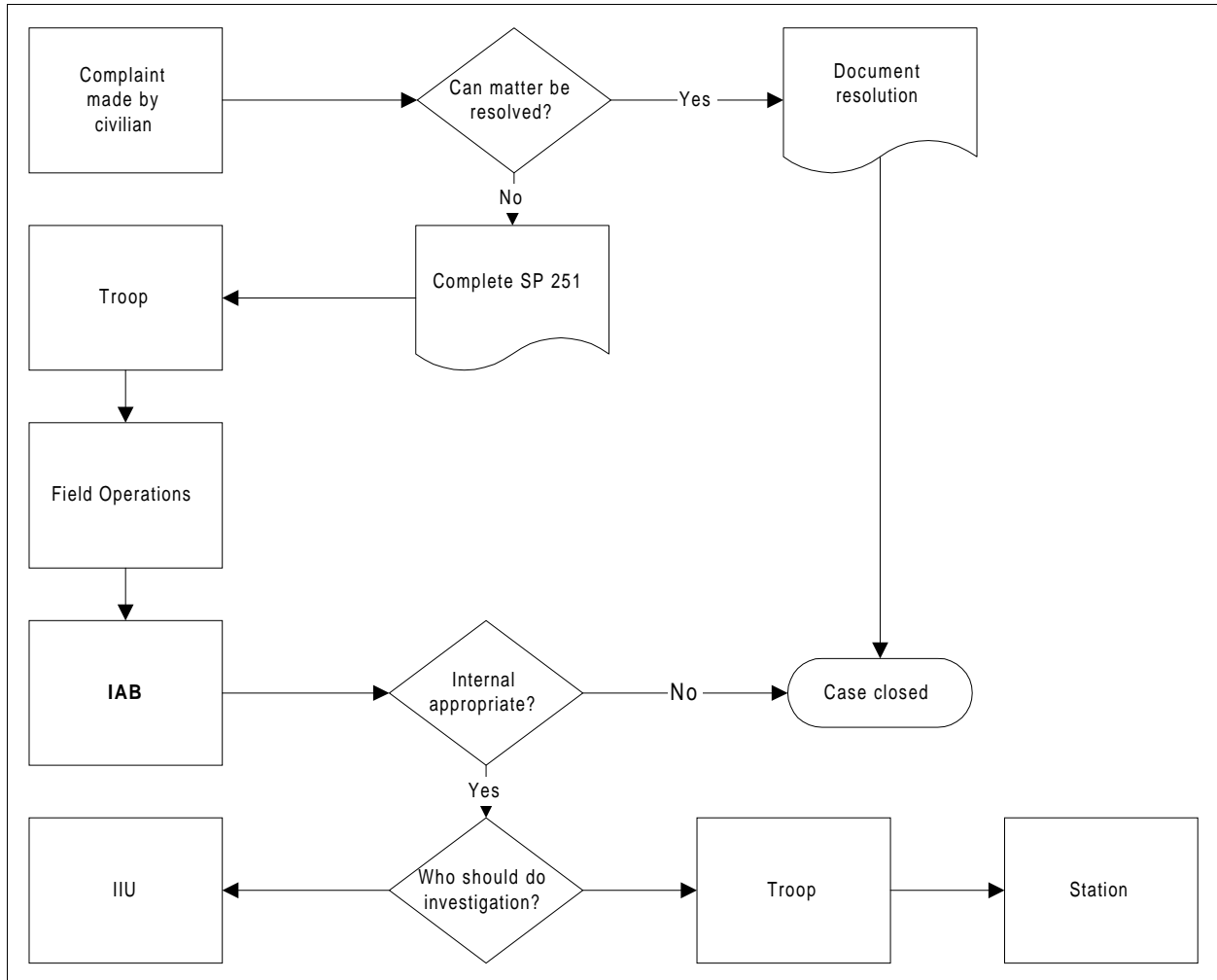
S.O.P. B10 does, however, effectively leave intact those aspects of the Humphreys Guidelines that already appeared to be inconsistent with the subsequently-created municipal procedures or, at a minimum, failed to provide clear guidance as to when control over an internal investigation would be ceded to a prosecutor. Indeed, just as the Humphreys Guidelines provided that the Superintendent would merely "confer" with the Director of the Division of Criminal Justice as to the course of any ensuing investigation, S.O.P. B10 provides that the State Police Internal Affairs Bureau "consult with" the prosecuting agency when it unilaterally determines that probable cause of a trooper's involvement in crime is at least "questionable." Also, like the Humphreys Guidelines, S.O.P. B10 contains no clear provision for turning over the direction of such an investigation in its initial stages to an independent prosecuting agency, as the municipal guidelines unambiguously do. Instead, it seems to contemplate the investigation will remain in the hands of the State Police Internal Affairs Bureau until the Bureau decides to turn the matter over. In that regard, S.O.P. B10 does not, as the municipal guidelines do, mandate consultation with a prosecutor before interviews of a suspect-officer are conducted or other investigative steps taken. In fact, its silence on prosecutorial consultation on these issues is all the more noteworthy given that it otherwise sets forth the mechanics and prerequisites to

the questioning of a suspect-officer in exhaustive detail. Furthermore, section III.L provides for review of internal investigations and states that "(w)here criminality is alleged, the initial review takes place with the appropriate prosecuting authority and may include presentment to a grand jury." (S.O.P. B10, §III.1.1) "Review," of course, implies the examination of a process already undertaken.

F. Case Assignment and Investigation of Complaints

Internal affairs complaints are often accepted by station personnel from a complainant who appears in person, as well as from complainants who communicate by telephone. The process for routing complaints to the Internal

Figure 2: Complaint screening flow chart



Affairs Bureau and assigning them for investigation is seen in Figure 2. When a complainant contacts the State Police, this contact is recorded into either the station log book or the computer aided dispatch (CAD) system. This entry captures the complainant's identity, the nature of the contact, and the date and time received. The station commander receives the complaint and determines whether it is a legitimate internal affairs problem or a citizen complaint regarding receipt of a traffic summons or a misunderstanding of procedure. The station

commander acts as a filter, and may adjudicate an internal affairs complaint regarding trooper behavior immediately at the station level. In most instances, when a station commander can not satisfy a complainant, an SP-251 is completed and forwarded to the troop level. An SP-251 is used without exception when a serious administrative or criminal allegation is received.

If the SP-251 is created at the station level, the station commander will forward it to the troop commander through the assistant troop commander. SP-251s are forwarded from the troop, to the Field Operations Section, to the Division Staff Section, and then to the Internal Affairs Bureau. The information on the SP-251 is recorded in a register maintained at each troop and section level, and at the Internal Affairs Bureau. (S.O.P. B10, §III.I.1) This record includes:

1. The date and time complaint was received;
2. nature of the complaint and internal affairs code;
3. complainant's name, address, and telephone number;
4. name of accused;
5. investigator's name;
6. disposition; and,
7. date completed.

Some of this information is not available at the time the complaint is received. The security of each register, and its contents, is the responsibility of the troop commander and section supervisor.

In some cases, the SP-251 is also faxed directly to IAB. However, this is not part of the official policy and is practiced in an inconsistent manner. Once an SP-251 arrives at IAB, it is sent to the detective sergeant first class in the Internal

Investigation Unit (IIU), who forwards it to the lieutenant in IIU. The lieutenant reviews the complaint, may or may not make a recommendation for appropriate action, and forwards it to the Assistant Bureau Chief, Internal Affairs Bureau (lieutenant). The IAB Assistant Bureau Chief reviews the complaint, may or may not make a recommendation for appropriate action, and forwards it to the Chief, Internal Affairs Bureau (captain). The Chief of the Internal Affairs Bureau reviews the complaint and decides if it should be handled as an internal affairs investigation, and if so, whether it should be handled by Internal Affairs or sent to the troop or section level for investigation. The Bureau Chief then sends the SP-251 with his comments to the detective sergeant first class in the IIU, who enters the case in a log book. This same procedure is followed for SP-251s which originate through phone calls directly to the IAB.

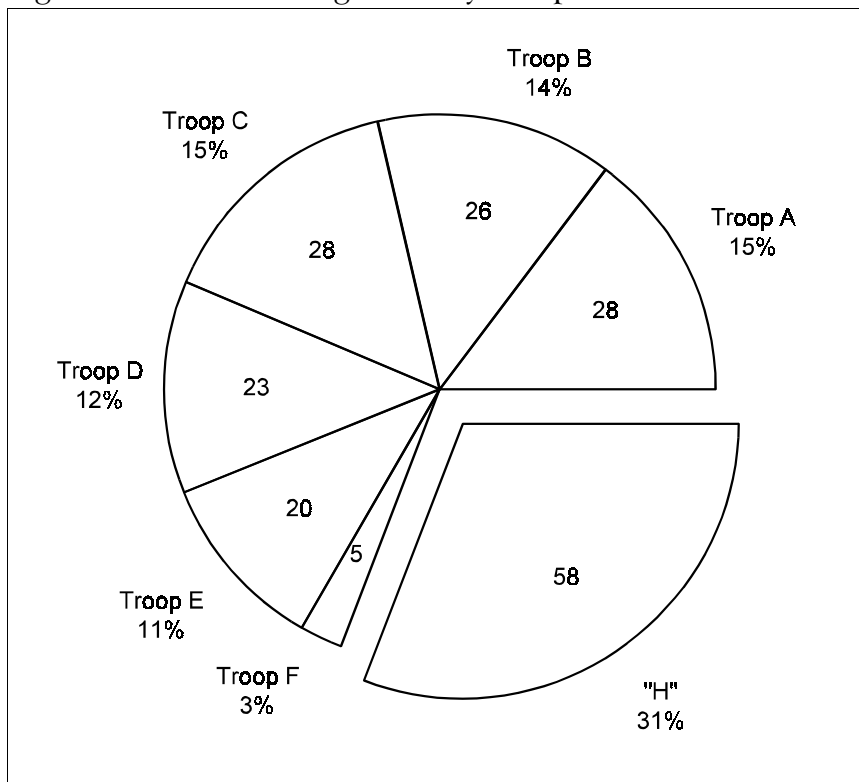
S.O.P. B10, §III.J.2 provides general guidelines for the assignment of internal investigations:

1. Appearance standards and equipment standards will be handled at the Station/Troop or Bureau/Section level.
2. Improper attitude or demeanor will be handled at the Troop or Bureau/Section level, or by Internal Affairs
3. Violations of duty standards will be handled at the Troop or Bureau/Section level, or by Internal Affairs.
4. Use of deadly force where injury or death occurs will be handled by the Major Crime Unit, and then forwarded to Internal Affairs.
5. Use of deadly force (discharging firearm) that does not result in injury or death will be handled at the Troop or Section level.

6. Allegations of criminality, violations of civil rights, and serious breaches of conduct will be handled by Internal Affairs.

The Internal Affairs Bureau Chief has the discretion to make the assignments, or to retain or assume control of any investigation. However, for 1998, the majority of investigations undertaken were assigned to the troops for investigation. As illustrated in Figure 3, a substantial majority of cases are assigned to field operations units for investigation. In this figure, Troops A through F are actual troops in the Field Operations Section, while "H" represents "headquarters" and stands for all investigations that are conducted by other sections or by IAB itself. Most investigations assigned to the six troops within the Field Operations Section were ultimately conducted by a line supervisor at the station level.

Figure 3: 1998 investigations by troop



G. Conduct of Investigations

Overall, the investigations we reviewed were very thorough. Witnesses were interviewed, New Jersey State Police documents were obtained and reviewed, and the principal member was interviewed. The investigation reports contained all relevant information. In almost every case, the report contained more information than it needed. For instance, statements were taken from citizens and members, and, even though the statement was attached to the report, the statement was included verbatim in the narrative of the investigation report.

While the assigned investigator in general did a thorough and objective job, potential investigative problems were observed. We found in some cases a tendency to automatically grant more credibility to statements given by the New Jersey State Police members than to statements given by civilian complainants and witnesses. This tendency persisted even in the face of an overwhelming showing of credibility on the part of the civilian. In one case, an individual was stopped for speeding and told to get out of his car and sit on the guard rail. The statement given by the driver included detailed, consistent accounts of the trooper cursing at him, using racial slurs, forcing him to lay on the ground, and searching the contents of the car. The details given by this complainant, especially when compared to the fragmentary statement of the trooper, gave a much higher credibility to the driver. However, the case was "unsubstantiated."

In some cases we also perceived an attempt, albeit unconscious on the part of the investigators, to "steer the investigation" in an effort to exonerate the member. We saw this occur several times through the use of several tactics. One such tactic was to clearly limit the scope of the investigation to such a narrow rendering of the allegation as to make it virtually impossible to sustain it. We also observed repeatedly statements or questions asked of the complainant or civilian witnesses in an attempt to discredit them. While it is always the duty of an investigator to attempt to establish the credibility of a witness, this was taken to the extreme in some cases. For instance, in questioning a complainant who had been stopped for speeding and subsequently complained about a trooper's attitude or behavior, the interviewer would aggressively seek admissions by the complainant of their original motor vehicle violation.

There were isolated cases where we also saw active efforts to dissuade complainants. For example, a person went to the station to complain, and was told to come back the next day. Before he could come back, the station commander called him and asked him what he was trying to accomplish. The station commander tried to discourage this person from filing a complaint, but ultimately completed an SP-251. This SP-251 went up to IAB and came back to this very same station for investigation. The investigator examined the complainant's history back to 1972 by doing criminal history checks, reviewing internal documents, and contacting other police departments where this person

had made complaints. The case was unsubstantiated, based on the complainant's "history."

In our field interviews, the commanders we spoke to were unanimous in suggesting that Internal Affairs should retain and conduct most, if not all, internal investigations. While several members felt that it is an appropriate duty of an immediate supervisor to investigate a subordinate, most felt that the practice puts an unnecessary strain on both subordinate and supervisor.

In addition, the current process from inception of a complaint to the assignment for investigation is circuitous and time consuming. There are numerous example of excessive investigative and procedural efforts on relatively minor matters. In one, a trooper lost his handcuffs. An SP-251 was filled out by his supervisor, sent to IAB through the proper chain of command, and ultimately back through the chain of command to the supervisor for investigation. The supervisor completed the investigation, forwarded it back through the chain of command, where it eventually got to the Advisory Board, which recommended to the Superintendent that the trooper receive a written reprimand.

Table 9 shows the average time, in days, for the completion of various stages in the internal process for those 1998 cases we examined. These averages are shown for internal investigations and administrative inquires. It should be noted that these average durations are based only on those cases which had completion of the various stages, and also had appropriate dates recorded. It is evident that

**Table 9. Average Number of Days for Stages of Internal Cases,
1998 Investigations**

	Reporting Delay	Assignment Time	Investigation Time	Review Time	Total Time
Internal Investigations	29	12	79	75	160
Administrative Inquiries	10	23	39	91	156

the two types of investigations are problematic at different stages of the process, but it is also evident that the overall duration, about 160 days, is similar for both. Clearly this process as currently constituted lacks the prompt and timely handling necessary to make internal affairs meaningful and efficient.

On a related point, we commend the personnel in IAB for recognizing this problem, and creating the "short form" administrative inquiry. (*New Jersey State Police Operations Instruction 99-05*) In this format, when a trooper is willing to accept responsibility for an infraction on a short list, the supervisor completing the SP-251 so notes, the trooper signs an admission statement (often on the SP-251 itself), and it is sent to IAB for processing. In these cases, the matter goes directly to the Deputy Superintendent who will authorize the agreed discipline. The troop commander is then notified, through the chain of command, to implement the discipline. This process, if used properly and if the trooper admits responsibility, can significantly streamline both the investigation and the disciplinary process. However, in those cases where the member does not admit

responsibility, or the supervisor does not fully understand the system, the "short form" has proven ineffective.

Allegations of administrative and procedural improprieties are handled essentially the same way as matters of integrity and possible criminality. Although the seriousness of an allegation will impact on which category is used, and appears to impact on the decision to whom to assign the investigation, it does not expedite the cumbersome process.

In addition, there is a "miscellaneous" designation. It is unclear why some referrals are considered miscellaneous matters when it appears they should be designated as internal affairs investigations or rules violations. In one particular instance, a municipal police supervisor forwarded a complaint to the internal affairs bureau from a school administrator that alleged a member of the State Police was selling drugs. This allegation was reviewed by internal affairs supervisors and deemed not worthy of further investigation. There was no indication in the case file why this decision was made.

In the course of our file review, we examined a total of 361 internal investigation, administrative and miscellaneous case files. The single most common allegation among all the allegations reviewed was improper attitude and demeanor. This is true in law enforcement nationwide. We observed in several cases a problem which, for lack of a better term, may be called "occupational arrogance." The discussion of this problem is by no means unique to the New

Jersey State Police. In fact, internal affairs detectives at one municipal police department, noting its prevalence, termed this phenomenon "contempt of cop." Simply put, it is the tendency for certain police officers to approach the public with an attitude that they, the officer, are in no way to be challenged or questioned. Among the cases we reviewed, several seem to illustrate this phenomenon.

In one case, a trooper was scheduled to appear as a witness for a fellow trooper who was a defendant in a municipal court case. The case was postponed. As the citizen-complainants in the case were driving home after court, this witness trooper stopped their car within one mile of the courthouse, and issued a summons. The trooper claimed that he did not know that they were the same people. This occurred more than 30 miles away from the trooper's station in a completely different troop area. The internal case is still open.

In another case, a trooper stopped a driver for failure to stay right. At the scene, the trooper issued a summons for obstructed view (the driver had a graduation tassel hanging from his rearview mirror), and issued a warning for failure to stay right. The mother of the driver called the station to complain about the summons being issued. After that call, the trooper then issued a summons for failure to stay right and mailed it to the driver.

This arrogance is often the precipitating factor in attitude and demeanor complaints. At issue is more than an allegation that the trooper displayed a "cold,

aloof, and unfriendly," all-business persona. At issue is an attitude perceived as "how dare you" when the trooper's decisions or authority are even slightly questioned. The two cases above indicate that retaliatory behavior is the issue to be confronted.

This is a very difficult problem to address. It undoubtedly has its roots in the selection and training process, in the varying psychological makeup of individual troopers and as a response to varying levels of provocation. It is incumbent on supervisors and commanders, whenever they observe or hear about such "occupational arrogance," to address this matter directly with the individual trooper. While it may be a difficult undertaking, and one that meets with some resistance, it is necessary that a law enforcement agency attempt to identify, confront and remediate such behavior by individual officers.

We also made efforts to identify those case files including allegations which could be categorized as racial harassment or disparate treatment. There were 24 internal investigations that dealt with such complaints, one of which was substantiated. There were also 15 miscellaneous files that were based on similar complaints. Of the 39 files, 27 could be clearly identified as alleging what is called "racial profiling," although various names were used for the allegation as reported.

Under the current New Jersey State Police practice, miscellaneous files are not disposed of in the same manner as internal investigation files. Nonetheless,

a review of this group of cases illustrates the range of issues that need to be addressed by means of the internal affairs function. Clearly, the profiling problem defined in the *Interim Report* cannot be effectively addressed by internal affairs operations alone. However, problems identified in the following examples do require improvement in the process by which they are identified by internal affairs, and in internal affairs' role in initiating remedial action agency-wide.

In one case, several Hispanic individuals were involved in a motor vehicle stop. The complainants allege that the stop was based on profiling. A search of the vehicle revealed several thousands of dollars in cash. The subjects of the car were held at the station for over five hours in order to explain and justify the origin of the cash. The ensuing investigation included telephone calls to individuals in another state from whom the stopped individuals received the cash, as well as further interrogation of the vehicle occupants. Ultimately, the individuals were released along with their cash. In this case, the investigator at the troop level concluded all allegations as unfounded.

In another case we reviewed, the complainant alleged racial harassment. When the station commander took the complaint, the complainant stated that he did not want the station commander, or anyone other than internal affairs, to investigate the matter. The case was assigned to the Internal Investigations Unit and was ultimately "unfounded."

In the one case that was substantiated, a station lieutenant used a racial epithet about and to an Asian woman. This occurred in November 1997. The investigation reached review by the Internal Affairs Bureau in May 1998, and ultimately the Superintendent authorized a written reprimand in July 1998. By that time, however, the offending member had retired. The reprimand was lodged in his personnel file. We noted during our review that the complainant had never been notified of the outcome of this matter. When we brought this to the attention of internal affairs personnel, they realized that it was an oversight and contacted the complainant immediately by telephone.

Several investigations revolved around members, often in plainclothes, making motor vehicle stops in unmarked vehicles. As a result of well-publicized cases involving persons impersonating police officers, many law enforcement agencies all over the country have taken measures to restrict such stops. Inasmuch as a number of these stops have given rise to internal affairs investigations, and the public's general suspicion of "unmarked" vehicles, the State Police should adopt a policy which restricts motor vehicle stops by plainclothes troopers in unmarked vehicles to emergency situations. If a plainclothes trooper in an unmarked vehicle observes a motor vehicle violation which needs to be addressed, they should radio to the nearest station or marked vehicle and request assistance.

The investigative process is delineated in S.O.P. B10 by reference to the *"Internal Investigation Manual."* Specific topics include interviewing the complainant, gathering reports, and physical evidence. Much detail is spent on the interviews of State Police personnel, and the manual carefully distinguishes between personnel as witnesses and personnel as principals of the investigation.

When a member of the State Police is interviewed in an internal investigation as a witness, he or she is required to complete Form SP-605A, Witness Acknowledgment. This brief form indicates that the member is a witness, and is responsible "...to answer truthfully all questions regarding any matter which is the subject of investigation." While it appears this form is used appropriately, the phrase "any matter" seems to be too broad in scope.

When a member of the State Police is interviewed in an internal investigation and that member is the principal or target of the investigation, he or she is required to complete Form SP-605, Principal Acknowledgment. This rather lengthy form sets forth the member's rights during the interview.

Of particular concern is SP-605, §(5)c. which states that, "Before any questioning takes place, I have been apprised of the following: ...c. If applicable, name(s) of the complainant and/or witness, in writing. The addresses of complainants and/or witnesses need not be disclosed." This is confirmed in S.O.P. B10, §III.C.3 and on page 12 of the *"Internal Investigation Manual."* This

requirement has been established by the collective bargaining agreements. (STFA Article XIII, C.6.b & c)

This "appraisal" requirement is fulfilled by allowing the principal to examine the complete SP-251. In many cases, the principal is also permitted to examine letters, reports, etc., that relate to the case. In one case, an off-duty trooper went into a municipal police district station to inquire about a local police action involving a relative. The trooper's behavior was confrontational, bordering on aggressive. The municipal police integrity officer, a lieutenant, had all of the personnel from that agency who had contact with this trooper submit special reports, and forwarded them to the New Jersey State Police for use in conducting an internal investigation. Prior to the trooper's internal investigation interview, he was given and allowed to read all of the municipal police reports.

While the Attorney General's policy requires that the subject officer be notified of the nature of the allegations, it is inadvisable and potentially fatal to an investigation to provide the principal with this detailed information about a civilian complainant. As a further example, a female complained about inappropriate sexual contact by an off-duty trooper. She called the station about 1:30 p.m. to make the complaint. The station commander called the trooper at about 1:50 p.m. and advised him of the complaint and the complainant's identity. By the end of the work day, the complainant called back and said she wanted the complaint dropped.

When an administrative interview of a principal takes place, that employee is entitled to have a union representative present. If the principal opts for this arrangement, the investigator will also use Form SP-605B, Weingarten Representative Acknowledgment. This form, signed by the representative of the bargaining unit and the investigator, states that:

1. The representative is not involved in the matter under investigation.
2. Once the interview begins, there will be no private consultations between the representative and the principal.
3. At the conclusion of the interview, the representative may assist and consult with the principal on clarification of issues, questions and answers.
4. If it becomes necessary to advise the principal of his or her Miranda warnings, the representative must leave the interview immediately after the principal has signed the Miranda and given his or her response.

In an interview relating to a criminal investigation, the investigators use Form SP-605C, Miranda Warning & Waiver. This is comparable to the Miranda forms used in other criminal investigations.

In addition to these various interview forms, the State Police has an Authorization for Release of Information. Civilian complainants or witnesses, as well as members of the State Police are asked to execute this in order that records may be obtained to further the investigation. One noteworthy drawback to the form, as it pertains to the privacy of the person executing it, is that it is not directed to anyone or any organization in particular, but "To Whom It May

Concern." Further, there is no place on the form to identify the types of records sought. It appears that the Authorization for Release of Information is too broad in extent and scope.

In addition to the preceding investigative powers, the State Police through the Superintendent's office is empowered to issue subpoenas. This is identical to a court order and was used to produce testimony and records in a few 1998 investigations we reviewed. This investigative power is statutorily authorized in N.J.S.A. 53:4-1 and referred to in S.O.P. B10.

The investigating officer must complete the investigation and prepare the initial report within forty-five days of being assigned. (*Internal Investigation Manual*, p. 25) The Internal Affairs Bureau may authorize additional time. This assignment is in addition to the primary assignment of the investigating officer, i.e., squad supervision, traffic enforcement, criminal investigation. In effect, the internal investigation is a secondary priority to the investigating trooper's primary duties. The trooper's duties are not modified in scope to accommodate an internal investigation. We observed that several investigators conduct investigations and review case work during off duty hours. However, the investigator is bound to produce a thorough investigation within the time outlined, unless an extension has been granted.

The *Internal Investigation Manual* goes into great detail on the preparation of the internal reports. It provides specific directions on the format and

distribution of the reports. The "*Internal Affairs Manual*" states, "The investigating officer will prepare allegations and conclusions as the final stage of the internal investigation report." (p. 19) For the State Police internal investigations, there are three possible conclusions:

Substantiated. Indicates that the accused member committed all or part of the alleged acts of misconduct.

Unsubstantiated. Indicates that the investigation produced insufficient information to prove or to disprove the allegations.

Unfounded. Is used when the alleged act(s) did not occur, or that it did occur but was justified, legal and proper.

These are similar to the conclusions available under the Attorney General's *Internal Affairs Policy and Procedures*, except that document adds "exonerated," which is covered by the State Police in "unfounded."

In several cases we noted the outcome of the internal affairs case relied too heavily on the outcome of concurrent criminal matters. If a civilian signed criminal complaints in addition to making an internal affairs complaint, it seemed that the investigator would mimic the disposition of the court if the court found the trooper not guilty. In those cases, the internal affairs complaint was very often automatically unsubstantiated or unfounded. This occurred despite the fact that administrative charges have a different threshold of proof (preponderance of evidence instead of proof beyond a reasonable doubt), as well as less restrictive rules of evidence.

H. Procedure for State Police Supervisory Review of Investigations

S.O.P. B10, the *Internal Investigations Procedures*, requires that an internal investigation report be prepared within 45 days of assignment unless an extension has been granted by the Internal Affairs Bureau. This time constraint has been interpreted to mean that the completed report should be received by the Internal Affairs Bureau within 45 days from the day it was assigned to a field command. Since a completed report is subject to intense scrutiny during the process of report flow and review, the investigator is usually required to submit the completed report to his supervisor in less than 45 days.

Report review is a necessary and important element in the internal affairs process as the Division of State Police must ensure the findings of the investigator are thorough, impartial, factual, and presented in a clear and coherent format. Unfortunately, the process of review by its very nature is time consuming, fragmented and protracted, causing undue delay in the ultimate resolution of the complaint at issue.

The New Jersey State Police is a paramilitary organization with a hierarchical structure that requires strict adherence to the chain of command for all operational matters, including the transmittal of official correspondence and the review of internal investigation reports. In essence, as a document moves through the organization from the point of origination to the point of destination, it is subject to review and endorsement at each command level through which it

investigation. Investigation reports prepared by members of the Internal Investigations Unit receive less repetitive scrutiny than those conducted by members assigned to a troop or section solely because the chain of command review is shorter. Section IV.E. of Annex B (*“Internal Investigation Manual”*) of S.O.P. B10 is entitled “Report Flow,” and specifies the path of travel and review for a completed investigation report. See Figure 4.

When looking at the figure or reading Section IV.E.2 & 3 the process seems rather straightforward:

2. The investigator, upon completion of the report, shall forward it to the reviewing authority. The reviewing authority will vary according to the relative position of the investigator, i.e.:
 - a. Troop Commander/Bureau Chief
 - b. Section Supervisor
 - c. Internal Affairs Bureau Chief
3. The reviewing authority will transmit the investigation report under an attached cover letter, as outlined in Section V of this guide, to the Internal Affairs Bureau for administrative review and/or staff action.

Our review of the 1998 internal cases revealed that only 13.7% (21 out of 153) were actually investigated by the Internal Affairs Unit, while the remaining 86.3% (132) were assigned to the troop or section level for investigation. We also found that the majority of complaints, as would be expected, were lodged against troopers assigned to the six troops throughout the State. Therefore, our examination of the report flow and review process focused on the most frequent

and at the same time most protracted cases, i.e., those which are investigated by a supervisor from the troop level.

When an internal investigation is conducted at the troop level, the deputy troop commander assigns the case, usually to the station commander, assistant station commander, or squad supervisor, depending on who he believes is most appropriate and qualified to conduct the investigation. In certain situations, the deputy troop commander may assign the investigation to a supervisor or criminal investigator from the troop staff.

The assigned investigator will usually have approximately 30 days in which to conduct and prepare the investigation. Thereafter, the completed report begins its journey through the chain of command to the Internal Affairs Bureau. Although the reviewing authority in this scenario is the troop commander, we learned that the report is formally or informally reviewed by several other supervisors before it reaches the troop commander. In the most protracted situation the report could be reviewed by the Assistant Station Commander, the Station Commander, the Deputy Troop Commander, and the Troop Commander.

Formal review is mandated by S.O.P. However, informal review occurs as a matter of organizational quality control, since no one in the chain of command wants to be held responsible for a deficient report. It should be noted that at any time during the process of review, the report may be returned to the original investigator for correction or additional work. This process of remand is known

in the Division as a “go back.” When a “go back” occurs, the process of review is by consequence further delayed.

When the investigation report finally arrives on the desk of the troop commander, it is his responsibility to review it for content and form. If the report is satisfactory, the troop commander attaches a transmittal letter to the Internal Affairs Bureau, stating whether or not he concurs with the findings of the investigator. However, in keeping with the chain of command, the transmittal letter and the report are first sent to the Field Operations Section at Division headquarters for its review and endorsement. The report is then sent from the supervisor of the Field Operations Section to the supervisor of the Division Staff Section, who then forwards it to the Chief of the Internal Affairs Bureau for review. With so many levels of review and endorsement, it is inevitable that the process of transmittal from the investigator to the Internal Affairs Bureau will become unduly delayed.

We examined all of the 1998 internal investigations and administrative inquiries that had reached conclusions by the time of our file review. Table 2 shows the conclusions reached for allegations which were received from an external source, and those conclusions reached for allegations which were generated within the State Police. The total number of allegations exceeds the

Table 10.
Conclusions for 1998 Cases by Source of Allegation

	Source of Complaint	
	External	Internal
Substantiated	20	108
Unfounded	62	23
Unsubstantiated	163	39
Total	245	170

number of cases because many cases had more than one allegation. It must be stated that the difference in conclusions between internal and external cases is typical of most law enforcement agencies.

After the completed, reviewed and endorsed investigation report arrives at the Internal Affairs Bureau, it is again administratively reviewed for content, form and command endorsement by the assistant bureau chief and by the bureau chief. Deficiencies in the report will trigger a “go back,” and the report will be returned to command for further investigation or correction. In certain situations where criminality may exist or be suspected, it may be necessary to refer the case to an appropriate prosecuting authority or to the Division of Criminal Justice for review and comment. If there are no deficiencies, the bureau chief can

recommend the case be closed administratively by the Superintendent or his Deputy, or forward the investigation to the Advisory Board for review.

In accordance with the provisions of S.O.P. B13, the responsibilities of the Advisory Board are threefold:

To review complaints against members of the State Police, including but not limited to deadly force shootings and assault complaints, and to thereafter make recommendations to the Superintendent.

To recommend disciplinary action against a member of the State Police subsequent to findings of rule and regulation violations.

To recommend methods of improving operations and efficiency within the Division of State Police.

There are two Advisory Boards, each composed of six captains appointed by the Superintendent to review investigation reports. The fact that the Advisory Board meets only once each month adds to the delay in the review process. We learned that most supervisors believe the Advisory Board serves an important function in the disciplinary process by providing a forum for discussion and critical analysis of the facts and merits of a complaint against a trooper. The majority of those members interviewed believe the Advisory Board provides fairness and consistency when discipline is recommended.

The findings and recommendations, if any, of the Advisory Board are forwarded to the Deputy Superintendent for review and action. In certain situations where no further action is recommended, the Deputy Superintendent has the authority to close the case. In other situations where discipline is

recommended, the Deputy Superintendent will concur or disagree with the findings of the Advisory Board and forward his recommendations to the Superintendent.

The Superintendent is the final authority within the Division of State Police with respect to matters of discipline. He can accept and order the recommendations of the Advisory Board and the Deputy, impose a higher or lower penalty than that which is recommended, convene a summary or general court martial, or direct that no further action be taken.

This arduous and time consuming process was unquestionably designed in the best interest of justice and fairness, but has unwittingly become a burden on the system and an impediment to efficiency and timely resolution. With a decentralized organization and multiple layers of review, many variables involving schedules, personnel, agendas and work load exacerbate the best intended efficiencies with respect to the review and resolution of completed internal affairs investigations.

One area of concern was brought to our attention repeatedly. Very often, in the course of an internal investigation, the investigator would uncover relatively minor procedural violations which were essentially unrelated to the original allegation. Division personnel refer to these as "spinoffs." For instance, an investigator may be looking into an alleged assault case, and in the process discovers that a trooper (principal or witness) had violated a minor regulation.

This discovery then became the basis for a "spinoff" and subsequent disciplinary action against the member. We did observe some cases where the "spinoff" involved allegations as serious or more serious than the initial complaint. However, the vast majority of "spinoffs" we observed were for very minor, administrative and procedural violations.

I. Disciplinary Procedures

If the Superintendent decides that disciplinary action is called for, he directs the Administrative Internal Proceedings Unit, through the chain of command, to initiate the action. Depending on the seriousness of the case, this may be anything from a written reprimand through dismissal. The Administrative Internal Proceedings Unit prepares all of the necessary charges and specifications, schedules the proceedings, and notifies all of the parties.

The Superintendent may impose a written reprimand or suspension of up to five days without a hearing. If the employee wishes, he or she can grieve this discipline through contractual provisions. The Superintendent can call for a summary court martial, in which the employee may receive up to a thirty day suspension. In a summary court martial, a captain is the hearing officer. There can also be a general court martial, in which the Superintendent is the hearing officer. A general court martial may result in sanctions up to and including dismissal. Other than in a summary or general court martial, the employee does not have the opportunity to speak on his or her own behalf. This is mitigated to

a degree by the contractual access to the grievance procedures prior to implementation of penalties, but represents a departure from the practice utilized in other law enforcement agencies throughout the State.

J. Internal Affairs Records

The current record keeping system in the Internal Affairs Bureau is simple in concept, but complicated and dysfunctional in implementation. It consists of:

- log books for tracking cases;
- a computerized database of cases referred to as the "trooper synopsis"
- index cards maintained for each badge number;
- separate filing cabinets for internal investigation files, administrative inquiry files, miscellaneous files, civil action files, and administrative ("AP") files;

1. Log Books

There are five separate log books in use in the IAB, although not all are mutually exclusive. The first is the internal investigation log book, which is generally reserved for significant complaints usually from a source outside of the New Jersey State Police. The entries in this log book are in the format "yy-###," e.g., 98-022. The second is the Administrative Inquiry log book, which is used to record significant complaints usually from within the organization, such as lost equipment, insubordination, lack of prosecution, etc. The entries in this log book are in the format "AI yy-###," e.g., AI 98-022.

There is also a log book for miscellaneous matters, which may be SP-251's that are deemed insignificant, or not specific enough to warrant an investigation. Also included here are letters from the public and internal memorandum which, in the opinion of IAB staff, did not warrant an investigation. These are in the format "M yy-###," e.g., M 98-022.

The other two log books relate to civil actions ("CA") and miscellaneous administrative matters ("AP"). Entries in these books may or may not be related to internal investigations, administrative inquiries, or miscellaneous log entries.

The log books are the central tracking mechanism for all files in the Internal Affairs Bureau. There is a separate log book for each of the different types of cases, just as there are different filing cabinets for the files. Each log is a bound book, with lined paper onto which column headings have been printed. For the internal investigation cases and the administrative inquiry cases, these column headings are:

1. Case Number
2. Date
3. Crime/Incident
4. Investigator (name & badge number)
5. Victim
6. Accused
7. Number of other arrests
8. Township and county
9. Status [used for date of status]
10. Blank [used for conclusion]
11. Blank [used for final status and date]
12. Blank [used for IAB code number]

Entries are made by hand. Entries of initial allegations are typically made in blue or black ink. When the investigation reveals other potential infractions, these are added in red ink. If mistakes are made or changes are necessary, "white-out" is often used to correct the entries.

Cases are assigned the next number in sequence for that category. At the end of the calendar year, the log begins again on a new page with a new numbering sequence, or in a new log book if necessary.

2. *"Trooper Synopsis" Database*

During an early site visit to the Internal Affairs Bureau, we asked the staff about the source of a computer printout of internal affairs information we had reviewed. We were advised that this printout had probably come from the "trooper synopsis" database. We learned that the primary function of this database was to generate a list of prior complaints by badge number for inclusion in an internal affairs file.

The source file is a FoxPro database table which resides on the network system. It has over 15,000 records. According to IAB staff, this file contains all internal affairs cases going back to about 1986. Each record has the following fields:

- | | | | |
|----|-------------------------|-----|----------------------|
| 1. | Case number | 7. | Offense code 1 |
| 2. | Report date | 8. | Conclusion offense 1 |
| 3. | Incident date | 9. | Offense 2 |
| 4. | Complainant's last name | 10. | Offense code 2 |
| 5. | Principal badge number | 11. | Conclusion offense 2 |
| 6. | Offense 1 | 12. | Offense 3 |

- | | |
|--------------------------|-----------------------------|
| 13. Offense code 3 | 19. Status |
| 14. Conclusion offense 3 | 20. Colonel's determination |
| 15. Offense 4 | 21. Penalty |
| 16. Offense code 4 | 22. Suspension days |
| 17. Conclusion offense 4 | 23. Related case |
| 18. Conclusion date | |

Much of the information in this database is identical to information maintained in the log books. The detective sergeant first class who oversees the record systems not only enters the information into the appropriate log book, but also completes a sheet of paper with the information for entry into the computer by a secretary.

We also observed that, for the most part, the staff in IAB was unfamiliar with this database and unaware of its potential for data analysis beyond the trooper synopsis. In addition, it did not seem to matter that great effort was being exerted to maintain two systems which were tracking almost identical information.

3. Categories and Types of Complaint

Each internal matter is given a complaint code and classified for entry in the log books and the database. However, we observed that this classification is inconsistent. For instance, allegations of a racial profiling motor vehicle stop could be classified as a "profile stop," "racial discrimination," "harassment," or "questionable conduct." From the codes alone and the entries in the log books and database, it is not possible to get a clear picture of the types of allegations processed by Internal Affairs.

4. Index Cards for Each Badge Number

The detective sergeant first class maintains a card file of 3" x 5" index cards, one for each badge number. On each card is listed the internal affairs case numbers relating to that member for at least the duration of his or her career. The information in this record is redundant with some of the information in the log books and the trooper synopsis database.

5. Security of IAB Files

The filing cabinets are separated by type of case (i.e., internal investigations, administrative inquiries, miscellaneous, civil action). Within type of case, they are ordered by case number. Open and closed files are in the same filing cabinet. One positive note about the filing system used by the IAB is the security. All of the filing cabinets are located within the IAB office, which has adequate security given its location within Division headquarters.

A typical internal investigation file is a hanging file folder which contains a manila jacket consisting of the complete investigation file. This includes the SP-251, inter-office communications (IOC) referencing the case, all investigative reports and attachments, cover letters, endorsements, findings of the advisory board, deputy superintendent and superintendent, correspondence with the complainant, and notices of applicable disciplinary action. The contents of this manila folder are considered the "official" file. Also in the hanging file folder is a duplicate package, called the "hanging file," which may or may not contain all of

the items found in the manila folder. The same applies to Administrative Inquiry files.

Of significant concern is the practice of relocating the manila folder in order to accommodate the process. The folder may travel from desk to desk during the review process or while pending Advisory Board action, sometimes reposing in a temporary storage area for several days. Once that level of review or action is completed, the manila folder would then travel to another area for appropriate action. This creates a situation in which, while most files can be located somewhere within IAB, it sometimes requires great effort on the part of staff to do so.

Older files are archived to locked filing cabinets maintained in a separate building within the Division headquarters compound in West Trenton.

6. Record Keeping Staff

As we have seen in far too many law enforcement agencies, the critical responsibilities for maintaining the filing system fall on one person's shoulders. In this case, it is the detective sergeant first class assigned to the Internal Investigations Unit. This person is to be commended for the effort he extends and the internal consistency of the current system. Unfortunately, we perceived that the system relies too much on this individual. No significant system or process in any organization should be dependent on one key person.

K. Early Warning Indicators

In any large law enforcement organization, it is to be expected that a few employees are the subjects of a disproportionate number of complaints. This is also true of the New Jersey State Police. Based on the trooper synopsis printouts we observed in the 1998 internal affairs files, we reviewed the histories of seventeen such employees. Some of these employees had twenty or more internal complaints spanning the time that the computerized records have been kept.

Two examples of individual troopers will demonstrate the potential problem and liability posed by such employees.

11/20/87	Unauthorized use of car, failure to promptly report accident	Substantiated
7/8/88	Assault, attitude and demeanor	Unsubstantiated; Unfounded
11/1/88	Attitude & demeanor, failure to issue summons	Unsubstantiated
8/26/89	Lost manual, lost certifications	Unfounded, Unsubstantiated
12/29/89	Failure to appear in court	Substantiated
10/3/90	Discharge of weapon	Substantiated
9/29/92	Harassment, questionable conduct, attempt to invade privacy	Unfounded
1/30/94	Failure to investigate	Unsubstantiated
3/31/94	Assault, harassment, attitude & demeanor	Unsubstantiated
7/1/94	Using his position to have summons dismissed	Unfounded
7/24/95	Abuse of prisoner	Substantiated
5/31/96	Attitude & demeanor, unsafe operation of troop car, failure to provide ID	Unsubstantiated, unsubstantiated, substantiated
1/5/98	Lost ID card	Substantiated

8/27/87	Illegal search, attitude & demeanor, failure to properly record	Unfounded, unsubstantiated, substantiated
1/3/89	Theft	Unsubstantiated
1/28/91	Failure to appear in court	Unfounded
4/4/92	False arrest, false imprisonment	Unfounded
6/23/93	Harassment	Unfounded
5/12/93	Bias stop, excessive time on stop	Unsubstantiated
6/12/95	Attitude & demeanor, assault, disregard of S.O.P.	Unsubstantiated, unfounded,
8/6/96	Illegal search, questionable conduct	Unfounded
1/14/98	Questionable conduct	Unsubstantiated

Our observations in the field, interviews of various commanders, and detailed examination of the circumstances surrounding internal complaints, all reinforce the finding that the level of first line supervision in the field is currently inadequate. First line supervisors who have sufficient time and resources to properly perform their duties should be able to identify officers with performance and conduct issues in a timely fashion. In many cases, patrol squads operate at minimum staffing levels. Squad supervisors are often not sergeants, but senior troopers.

The State Police do utilize performance counseling by supervisors and the Staff Inspections Unit to address problem employees, and some of these counseling incidents were noted on some of the trooper histories. However, based on the extent of our review, it is evident that the identification of these problems

and the use of remedial measures are not consistently applied through either policy or practice.

Further, the response of the New Jersey State Police to troopers whose fitness for duty is questionable is vague at best. The State Police have a policy entitled "Duty Status Review Board" (S.O.P. C50) which establishes and outlines the duties of a board to "...assess the duty status of members who have been referred by the Medical Services Bureau." (S.O.P. C50, §III.E). This policy outlines four duty status classifications: full duty, temporary limited on duty, temporary off duty, and permanent disability duty. This policy appears to deal exclusively with "medical" conditions.

S.O.P. C37, "Employee Assistance Program (EAP)," states that, "The EAP will not provide fitness for duty evaluations to the Division." (S.O.P. C37, §IV.M.1)

The policy goes on to state that:

In situations where medication, psychological/psychiatric status, treatment prognosis, or clinically extended leave of absence present a performance risk or liability, members will be referred by the EAP to the Division Physician for a fitness for duty determination.
[S.O.P. C37, §IV.M.2.]

There is little else in terms of requiring a fitness for duty examination, or in separating a member from active duty under specific circumstances warranting such measures. It appears that the State Police have not codified in any clear manner those courses of action which may be taken with respect to members who exhibit conduct raising questions as to their suitability to perform their required duties. Further, it appears that the even simple reassignment of a member

pending the outcome of the investigation of a very serious matter is not commonly done.

When criminal allegations have been made, we found that often no intervening actions were taken to protect the agency from further problems with the accused employee. In one case, troopers assigned to the casinos were being investigated for the unauthorized release of NCIC information and other intelligence information to casino security. While the investigation was being conducted, the target officers continued to have full access to this sensitive information.

L. Analysis and Recommendations

In general, the New Jersey State Police internal affairs function should be conducted in a manner consistent with the Attorney General's Statewide Internal Affairs Policy. All municipal police departments take direction from Chapter 11 of the *"New Jersey Law Enforcement Guidelines,"* entitled "Internal Affairs Policy & Procedures." This chapter was promulgated in August 1991 and revised in November 1992 by the Division of Criminal Justice. Further, N.J.S.A. 40A:14-181. states that:

Every law enforcement agency shall adopt and implement guidelines which shall be consistent with the guidelines governing the "Internal Affairs Policy and Procedures" of the ... Division of Criminal Justice in the Department of Law and Public Safety... .

Accordingly, we recommend that New Jersey State Police procedures be revised to be consistent with the *"Internal Affairs Policy and Procedures"* in general, and more specifically in the following areas.

The existing structure under which the internal affairs function now operates results in unreasonable delays in resolving complaints against New Jersey State Police personnel. At the same time the micro-managing of discipline, especially with respect to relatively minor transgressions, significantly reduces the potential effectiveness of a process clearly designed to promote the highest of professional standards. The current cumbersome process unnecessarily consumes a significant amount of time of those assigned to investigate minor administrative complaints and that of supervisors in the chain of command review process, all without any discernable benefit. In fact, the existing process removes key operational supervisors and commanders from any meaningful role in the discipline of their subordinates.

There exists a perplexing dichotomy surrounding the role of the Superintendent in the critically important operation of internal affairs throughout the State Police. On one hand, the rigid and repetitive accountability structure within the State Police, and the assignment of most internal affairs investigations out to decentralized field personnel often places this function too far from the chief executive officer. On the other hand, the current procedure by which virtually all discipline, from the relatively trivial to the monumentally serious, must be imposed by the Superintendent makes him too involved in many incidents which could be handled more effectively at subordinate command levels.

In most law enforcement agencies, regardless of size, the internal affairs function should be organizationally responsible directly to the chief executive. Such an arrangement helps to ensure the prompt review and disposition of internal complaints involving matters of agency-wide significance. It also facilitates the conduct of often difficult investigations by virtue of the direct authority of the chief executive. Finally, there is no area of agency operation where it is more important for the chief executive to have systematic, rapid and unfiltered access to current information.

M. Recommended Action Steps

1. Creation of State Police Professional Standards Bureau

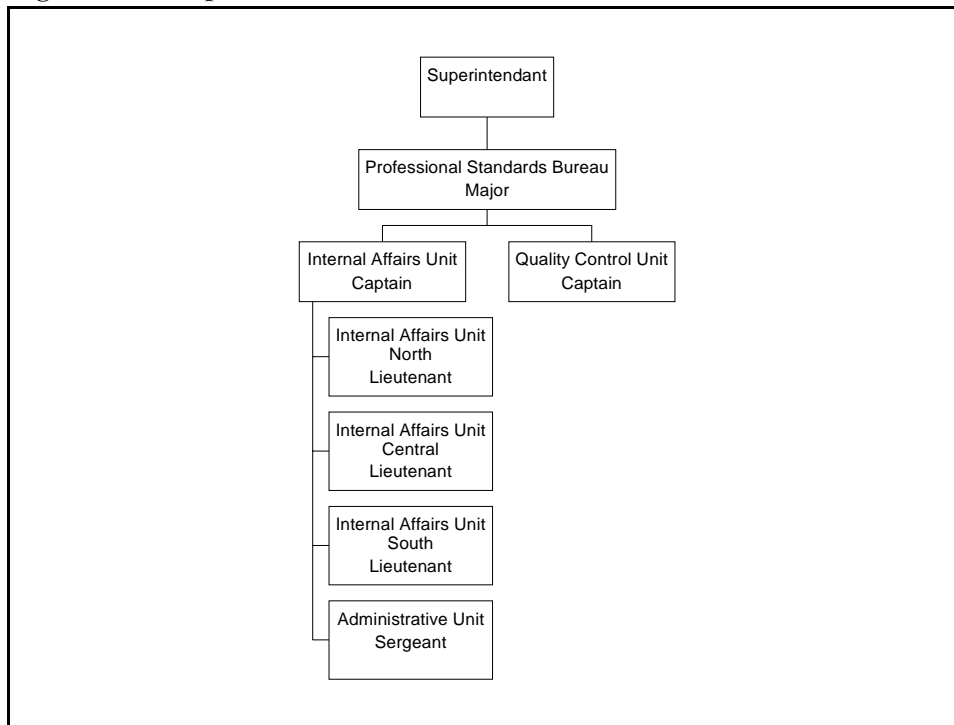
We recommend that the Internal Affairs Bureau be renamed as the Professional Standards Bureau. Following a progressive trend throughout the law enforcement community, the goal of internal affairs should be to promote and recognize the integrity and professionalism within the law enforcement agency as much as it is to address problems and infractions that might arise. Accordingly, the change of name to Professional Standards helps communicate this emphasis to the members of the agency.

We recommend that the Professional Standards Bureau be relocated on the table of organization to a staff position reporting directly to the Superintendent of the New Jersey State Police, recognizing that such action could require statutory revision. The Professional Standards Bureau should be commanded by a major,

and should be divided into an Internal Affairs Unit and a Quality Control Unit, each commanded by a captain. The major should be located at Division Headquarters in West Trenton. See Figure 5.

The proposed Professional Standards Bureau is intended to put in place the structure and process necessary to protect the integrity of the New Jersey State Police while insuring that complaints against Division personnel are fairly, fully and expeditiously investigated and resolved. Minor administrative disciplinary matters, such as demeanor, lost or damaged equipment and other minor rules

Figure 5: Proposed Professional Standards Bureau



violations should be investigated and resolved at the troop or bureau level according to an approved schedule of possible penalties. Serious administrative rule violations and all citizen complaints beyond those relating to demeanor, such as allegations of bias, and all criminal allegations are to be handled by specially trained Internal Affairs Unit investigators.

The several components of the Professional Standards Bureau should report their activities on a regular basis, through the major, to the Superintendent.

2. Internal Affairs Unit

The Internal Affairs Unit should be divided into three regional components with far greater responsibility for actively conducting investigations than is now the case. The offices chosen for these regional units should not be located in existing State Police facilities. The State should obtain space in office complexes, professional buildings, or similar properties. These geographical units should be located in areas of the State to best accommodate both the public and the need for investigators to go to local New Jersey State Police stations. Each of the three units should have adequate office space for the personnel assigned, as well as a conference area.

The Internal Affairs Unit will have jurisdiction over and be responsible for all major rule violations, allegations of criminal conduct, and civilian complaints other than undeserved summons and demeanor. The Internal Affairs Unit captain should be located at Division Headquarters. This captain's responsibilities will be to supervise and oversee the regional offices. In addition, this captain will be

responsible to review cases with the Professional Standards major, to establish and implement standard procedures for the conduct of internal investigations, and to ensure that operations and investigations at the three regional offices are consistent. The captain should have the authority to move investigators among the offices to adjust to changing workload or to handle unusual assignments. The captain should meet regularly with the deputy attorney general to be assigned from the Office of the Attorney General to oversee and monitor internal affairs. The captain should also meet regularly with the three lieutenants, and periodically with the entire internal investigations staff. These meetings should be used to share information and discuss problems encountered and as a vehicle for providing additional training, particularly on administrative law and judicial decisions relating to internal affairs investigations. There should be at least one clerical support person assigned to the Internal Affairs Unit captain.

This regionalization accomplishes several purposes. It allows the internal investigative staff to be closer to both the civilian complainants and the various State Police stations. By being in non-police facilities, it will be less stressful to civilian complainants and encourages cooperation from the public.

The North, Central and South Internal Affairs Units should each be commanded by a lieutenant, and staffed by such number of detective sergeants, detective sergeants first class or other personnel necessary to accommodate their

increased responsibilities. In addition, we recommend that each regional unit have sufficient clerical support personnel, and adequate office equipment, including computers. The computers should be linked over a secure network to enable the sharing and transfer of data.

Once an Internal Affairs Incident Report Form has been completed, one copy will be faxed or forwarded to the Professional Standards Bureau as soon as practical independent of the regular review and distribution of other copies through the routine chain of command. It is critical to the integrity of the internal affairs process that complaints be acted on as quickly as possible. Therefore, it is important that the Professional Standards Bureau be in a position to review and evaluate complaints as soon after they are made as possible.

The Professional Standards Bureau will be notified, by the quickest possible method, that a complaint has been made. The bureau will review the complaint, and within the framework of general criteria and at the discretion of the bureau, assign the case for investigation. All allegations of possible criminal activity or other serious misconduct should be investigated by Internal Affairs Unit personnel. Allegations of minor misconduct should be investigated and appropriately disposed at the troop level.

Each office will be responsible for conducting internal affairs investigations in its region and those otherwise assigned to it. Once an investigation is completed it will be forwarded to the Internal Affairs Unit commander for review.

If the allegations are sustained, the Internal Affairs Unit commander will determine whether the investigation is to be referred to the member's troop commander for a hearing and resolution or forwarded to the Professional Standards major for the convening of a disciplinary hearing. The appropriate charges will be drafted by the personnel assigned to the Administrative Unit.

3. *Quality Control Unit*

The Quality Control Unit in the Professional Standards Bureau should be commanded by a captain. This unit may be located at Division Headquarters, but is primarily a field unit.

The Quality Control Unit in the Professional Standards Bureau should conduct periodic, unannounced, operational inspections at the various New Jersey State Police facilities. The focus of the Quality Control teams should be on specific task performance, such as the conduct of motor vehicle stops, interactions with members of the public, roll call briefings, etc. These inspections should minimize, as much as possible, overlap with regular command inspections. Particular attention should be given to matters which involve trooper safety and the effectiveness of existing policies and procedures. As an example of such operational inspections, in those stations which currently have the mobile video recorders (MVR) in troop cars, supervisors are assigned to routinely review tapes selected at random to observe the performance of their subordinates in actual field situations. The State Police are to be commended for this proactive quality control

they have already put in place. We recommend that, in addition to supervisory review, the Quality Control teams randomly review these tapes and, if appropriate, identify possible solutions to observed problems. These solutions could include remediation or closer supervision of individual troopers, enhanced training, or policy adjustment.

4. Administrative Unit

The Administrative Unit, under the command of the Internal Affairs Unit, should maintain the computer and filing systems for the Professional Standards Bureau. Included in this is the screening and distribution of cases for investigation, the entry of information into the computerized database, the maintenance of the filing systems, the preparation of formal charges, and assistance in the administrative matters involved in disciplinary hearings. This unit should also act as liaison between the Division and the Office of the Attorney General on civil actions against the Division and its members. The Administrative Unit should be commanded by a sergeant, and staffed by civilian employees.

5. Advisory Boards

The existing Advisory Boards should have no formal role in the adjudication of any allegations of misconduct. The Advisory Boards should no longer perform their existing function of reviewing investigations, determining culpability and recommending penalties. It is recommended that disciplinary hearings be

conducted by a designee or designees of the superintendent, who will be the trier of fact and assessors of appropriate penalties.

We observed, however, that the Advisory Boards provide an excellent venue for discussing operational issues and identifying possible solutions. For this reason, it is appropriate that the Advisory Boards, or similar committees, continue to examine these issues while not being directly involved in the disciplinary process.

6. Minor Discipline

Troop or bureau commanders should be given the authority and responsibility for the disposition of minor disciplinary matters. Minor disciplinary matters, such as lost equipment and minor attitude and demeanor complaints, are to be handled completely at the troop or bureau level unless the Professional Standards Bureau decides to assume direct jurisdiction over the investigation. The investigation should be assigned, by the troop commander, to a person within the troop other than the principal's immediate supervisor. Once the investigation is completed, it is reviewed by the troop commander. If the allegations are admitted to by the accused trooper, the troop commander is to implement the appropriate penalty according to the range of penalties authorized at the troop level. If the investigation sustains the allegations but the trooper does not accept responsibility, the troop commander will provide the trooper an opportunity to be heard on the matter. If after the hearing the trooper is found

guilty, the troop commander will impose a penalty from within the range authorized for the troop level. The completed investigation and records of the actions taken are to be forwarded to Professional Standards Bureau where they may be reviewed and entered into the computer system. The entire original investigative case file must be permanently retained in an appropriate filing system.

7. Internal Communications

A procedure should be established permitting State Police Personnel to contact the Internal Affairs Unit directly, regardless of their rank, assignment or position in the chain of command. All members of the State Police should be able to contact the Professional Standards Bureau directly about any issue or concern, without fear of repercussion for violating the chain of command. Clearly, no one knows more about the inner workings of an organization than its employees. However, in law enforcement and paramilitary organizations, employees often feel restricted (and in fact, often are restricted) from conveying important information outside the chain of command. While this may be necessary for certain operational commands, it is not appropriate for the internal affairs function. In order to be truly effective, each employee must be free to discuss any matter with the Professional Standards Bureau without retaliation.

8. *Training*

It is important that all personnel assigned to the Professional Standards Bureau receive appropriate training in this function. This should consist of training in general investigative skills, interviews of citizens and employees, employee rights issues, and subject areas often integral to the internal affairs process. For example, our review of case files illustrates that Fourth Amendment rules were often of central importance. In some cases troopers, reviewers and investigators seem not to have understood basic search and seizure principles. It is, of course, important that all possible steps be taken to remedy constitutional violations of this sort. While the responsibility for doing so lies initially with supervisors and in the training of troopers, Professional Standards Bureau personnel are in a strategic position to identify such shortcomings. The Internal Affairs and Quality Control Units should be in a position to initiate processes of individual or group retraining and standard operating procedure revisions, as well as disciplinary measures when warranted. The State Police should identify sources for this training to provide their staff with a broad exposure to these complex issues. The Professional Standards Bureau should also belong to and participate in national organizations which provide information and programs in this area.

9. *General Process for the Acceptance of Complaints*

The State Police should accept and document all reports of trooper misconduct 24 hours a day, 7 days a week. While the current S.O.P. implies this, it must be clearly stated in the revised procedures. The only course to a truly effective system for the management of internal problems is a fully open system for accepting allegations. Given the breadth of the New Jersey State Police operations, the procedures must provide clear guidance as to who will accept complaints and in what manner under various circumstances.

The State Police should establish a statewide toll free telephone number to simplify the process by which citizens can contact the Professional Standards Bureau. Inasmuch as the State Police cover an area which now incorporates at least six telephone area codes, not to mention the fact that many people who have contact with the State Police are from out of state, it is important to make it relatively simple for those with complaints to contact the Professional Standards Bureau. One mechanism to simplify those contacts is through the use of a single, toll free telephone number, accessible to the deaf as well.

Toward the goal of informed cooperation, all State Police personnel accepting reports of trooper misconduct will provide complainants with information regarding the internal affairs process in a uniform and consistent manner. The New Jersey State Police should develop and print a brochure that can be provided to anyone who makes an internal complaint. This brochure will

inform the complainant, in general terms, of the investigative process, the possible outcomes, the importance of their continued cooperation and truthfulness, and also provide telephone, mail and E-mail contact information.

Information about the State Police internal affairs process should be readily available to the public and throughout the State Police. Internally, this can be accomplished through the distribution of the revised S.O.P. on the internal affairs process, and through role call and in-service briefings. To the general public, the State Police should make this information available at each of its field stations using the brochure described above. The Professional Standards Bureau should provide the brochure by mail upon request. Also, if requested, the State Police should provide individuals with a copy of the relevant S.O.P. The New Jersey State Police should also include general information about the internal affairs process, along with contact telephone numbers, on the World Wide Web site. This information should be available in English, Spanish, and other appropriate languages.

All reports of misconduct by State Police personnel, regardless of the source, should be uniformly documented on the Internal Affairs Incident Report Form. Whether a complaint is initiated by a citizen or from within the State Police ranks, it should be reported in the same format. It is recognized that in certain situations it may not be reasonable to immediately accept a complaint from a person who appears incoherent or incapable of providing minimally necessary

information. However, it must be clear that no condition, such as a person in custody or a complainant who is a juvenile, is a de facto disqualifier for making a complaint.

Anonymous reports of misconduct by State Police personnel will be accepted. All efforts will be made to encourage full cooperation by the complainant. The investigation of anonymous complaints can be particularly troublesome. However, accurate information about trooper wrongdoing may be received from someone who, for any number of reasons, does not want to be identified. The report should still be accepted and investigated as fully as possible.

We recommend that supervisors be authorized to informally resolve minor complaints, whenever possible, at the time the report is made. If the complainant is not satisfied with such a resolution, the complaint will be forwarded to the Professional Standards Bureau for further action as warranted. We understand and endorse the practice of resolving, or attempting to resolve minor complaints or inquiries when first received. The example we heard several times during the interview process provides a good illustration. A motorist who is stopped on a heavily traveled road may complain about a trooper's demeanor, specifically that the trooper speaks in a raised voice as if yelling at the motorist. Given the opportunity a supervisor might explain to the motorist that the trooper was probably yelling to be heard over the noise created by passing traffic. The motorist

acknowledges this is a plausible explanation and is satisfied that under the circumstances the trooper's actions were proper. This resolution process requires a great deal of discretion on the part of the supervisor. In many cases the proper exercise of discretion cannot be codified, but is indeed a routine part of a law enforcement supervisor's duties and should be extended beyond operational decisions to include complaint resolution when appropriate.

We recommend that all complaints or inquiries made by a citizen or private individual be recorded on Form SP-251, and that the form be modified to include a status of "Resolved to the satisfaction of the complainant." Such resolution should be recorded and monitored by the Professional Standards Bureau. Regardless of the means of resolution, the integrity of the complaint reception process demands that all complaints and inquiries be uniformly documented for future reference.

10. Legal Advice

We recommend that the Assistant Attorney General/Director of State Police matters in the Office of the Attorney General, assign a Senior Deputy Attorney General full-time to oversee, monitor, and provide legal advice and guidance to the Professional Standards Bureau. In particular, the Deputy Attorney General assigned should receive notification of all complaints received from citizens concerning the conduct of troopers and monitor the progress of investigations and the imposition of discipline.

11. Criminal Notifications

At some point the investigation of complaints of police misconduct invoke actions by the subject officer which constitute potential violations of the criminal law. The question arises as to what procedures are in place to guide police internal affairs units with respect to notifying prosecutorial agencies when an internal investigation reveals possible criminality on the part of a member of the department. A necessarily connected question involves the subsequent conduct of such investigations, i.e., the extent of coordination between the prosecutorial and police agency.

With all of the above in mind, one recommendation follows: *We recommend that the State Police should operate under guidelines like those applicable to all other police agencies in this State with respect to the conduct of internal investigations into possible crimes by its members. This includes the immediate notification of the Division of Criminal Justice when a preliminary investigation reveals possible criminal activity by State Police personnel. The Division of Criminal Justice should have the discretion to assume direct control over an ensuing investigation, refer that function back to the State Police Internal Affairs Unit or refer the matter to a county prosecutor.* The State Police will have to establish a protocol through which this notification takes place. We recommend that the member accepting the complaint contact the appropriate Division duty officer, who can then contact the Professional Standards Bureau representative.

The Professional Standards Bureau representative is then charged with contacting the Division of Criminal Justice as soon as possible.

The guidelines applicable to municipal police provide the clearest guidance in several key respects. First, they unambiguously compel the "immediate" notification of a prosecutor's office when even a "preliminary investigation" reveals "possible" crimes by local officers. Second, they plainly provide that it will then be the prosecutor's office that has the authority to either assume direct control over an ensuing investigation or delegate that power back to the police agency.

State Police guidelines concerning the same issues range from unclear to non-existent. S.O.P. B10 only seems to require notification after a completed in-house investigation instills an impression among Internal Affairs Bureau officers that "probable cause" is at least questionable. Nothing requires that notification take place "immediately" upon the satisfaction of that standard while the investigation is in progress. And nothing mandates that control over the direction of any ensuing investigation be conferred upon an independent prosecuting agency. While these ambiguities may have no effect over the conduct of individual cases, the fact remains that they well might. Indeed, that lack of clarity is perhaps the central shortcoming of S.O.P. B10. That is particularly so given that all ambiguities in its terms are given a final, unreviewable interpretation by the very entity whose actions the same terms are meant to guide-- the State Police Internal Affairs Bureau.

The guidelines applicable to all local departments mandate immediate notification and then establish a clear chain of command headed by the prosecutor for good reason. Not only is statewide uniformity advanced, so is public confidence. Public confidence in integrity is the lynchpin to any police agency's ability to fulfill its central mission of combating crime and maintaining public safety.

The Division of Criminal Justice should be immediately notified when the use of force by State Police personnel results in death or serious injury to any person. The Division of Criminal Justice should have the discretion to assume direct control over the ensuing investigation, refer that function back to the State Police Internal Affairs Unit or refer the matter to a county prosecutor. The use of force by a law enforcement officer which results in death or serious injury requires a thorough, objective examination from the outset. This can only be accomplished if all relevant parties, including the appropriate prosecuting authority, are involved.

The Division of Criminal Justice General should establish a procedure for the provision of legal advice directly to Internal Affairs personnel on a 24-hour/on-call basis. If the State Police must contact the Division of Criminal Justice concerning these emergent matters, it is incumbent upon the Division to provide access to the appropriate legal staff on a 24 hour per day basis. This access procedure should be in place immediately.

Legal staff of the Office of the Attorney General should conduct periodic reviews of ongoing investigations consistent with criteria to be established in operational protocols. The Assistant Attorney /Director in charge of State Police matters will monitor all complaints involving possible criminal activity to ensure that appropriate notification to and coordination with the Division of Criminal Justice is occurring. When a case has been referred to back to the State Police Internal Affairs Unit or to a county prosecutor, the Office of the Attorney General should monitor and review the status of such investigations.

In addition, it is important that certain types of cases be reviewed regularly to ensure that appropriate conclusions and resolutions are being made. To that end, Office of the Attorney General legal staff should conduct a complete file review prior to formal closure of all matters involving possible criminal activity, excessive force, differential treatment or such other types of complaints as determined by Attorney General protocol.

Although there are complaints against troopers that are legitimate and based upon facts, there are others that are contrived and maliciously pursued, often with the intent to mitigate or neutralize legal action taken against the complainant by a trooper. The New Jersey State Police must fully and impartially investigate the former, while taking a strong stand to minimize the latter. We noted during many of the field interviews that members of the New Jersey State Police realize citizens can and do in some situations make knowingly false or

contrived allegations against a trooper with impunity, and with the intent of establishing a quid-pro-quo position from which to “negotiate” a pending judicial action initiated against them by a trooper. In some such situations the internal “counter-complaint” is filed upon the advice of the complainant’s attorney. This tactic trivializes the internal complaint process, and must be dealt with decisively in order to underscore the commitment of the State to fundamental fairness and equal justice for all, including state troopers. Consequently, the State Police should notify the Division of Criminal Justice in any case where a complainant has fabricated or intentionally misrepresented material facts to initiate a complaint of trooper misconduct.

12. Case Assignment and Investigation of Complaints

Under current practice, most investigations assigned to the Field Operations troops are ultimately conducted by a line supervisor at the station level. This presents two problems for the line supervisor and the internal investigations system itself. First, the supervisor must investigate an immediate subordinate who works for him or her on a daily basis. The supervisor must motivate, manage, and mentor this trooper outside the scope of internal investigations. This investigation may impair the supervisor-trooper relationship, and reduce the independent role necessary for the supervisor to fairly investigate an internal affairs complaint. Secondly, there may be a disincentive for a supervisor to fairly and objectively weigh the facts and circumstances involved in a subordinate’s

alleged misconduct, given the possibility that improper supervision or lack of training is a potential finding.

The review of investigation files convinced us that overall, investigations are completed in a thorough and objective manner. Nonetheless, potential problem issues were evident in some of the investigations reviewed. In some cases the credibility attached to civilian statements, as opposed to statements by State Police personnel, was questionable when assessed in the context of other facts evident in the case. In other cases we observed various tactics seemingly designed to steer the outcome of an internal investigation to a predetermined or at least favored outcome. In still other investigative files we were left with the impression that measures were undertaken by State Police personnel to dissuade complainants from filing or pursuing complaints of trooper misconduct.

Unfortunately, no strategy can eliminate entirely the problems noted above. Nothing can be done in the context of the internal affairs function to ensure that none of the 2,700 State Police personnel will at some time exhibit the inclinations evident above. However, we believe that their frequency will be minimized by the recommendation to increase the investigative involvement of Internal Affairs personnel, and the assignment of minor violation investigations to the troop level rather than immediate supervisors. It is also our belief that the legal review recommendations forwarded in this Report will provide an ongoing check against any unwarranted slant in the internal investigative process. We further

recommend that the following steps should be taken to improve the current system of investigating internal complaints.

It is evident that, although the Internal Affairs Bureau does conduct some investigations, its primary role is currently that of caretaker of the internal affairs function. The Bureau receives, reviews, sorts and routes the many documents relating to this function. This, of course, is a necessary task. However, we feel that a central Internal Affairs Unit should exist primarily to conduct the investigation of these complaints, not merely catalog and track them.

We recommend that all allegations of possible criminal activity or other serious misconduct should be investigated by Internal Affairs Unit personnel. Allegations of minor misconduct should be investigated and appropriately disposed at the troop level. This will permit full-time, trained, experienced investigators to focus on the serious matters, while not diverting the supervisory resources at the station and troop level to this function. Through the restructuring previously discussed, the Internal Affairs Units will be capable of handling the investigation of all serious allegations. Minor, internal matters should be investigated and disposed of at the troop level. In addition to providing for more effective investigations, this will eliminate much of the chain of command routing and review which currently slows down the movement and ultimate disposition of internal cases. It should also serve to eliminate the potential conflict of interest of having a supervisor investigate allegations of criminality within his/her

command that may reflect poorly on the supervisor. State Police personnel who are the subject of misconduct allegations should be notified that such an allegation has been reported as soon as practical, except when doing so would interfere with the proper investigation of the complaint. The integrity and viability of a professional standards system is ensured, in part, by avoiding clandestine activities. If a complaint has been made and a trooper is being investigated, they should be advised of that fact as close to the receipt of the complaint as possible. This should be a consistent, written notification. Of course, if such notification would impede the investigation in any way, it may be waived.

We recommend that when the use of force by State Police personnel results in death or serious injury to any person, Internal Affairs Unit personnel should be notified at the time of the incident in order to properly execute their responsibilities in such matters. Of course, this is in addition to the mandatory notification of the Division of Criminal Justice and county prosecutor.

Internal Affairs Unit personnel must develop alternate procedures regarding the provision of allegation-related information to the subject officer. The current practice of providing the full complaint report, and in some cases other material, is unacceptable. While it is critical to fundamental fairness to inform the principal as to the purpose of the interview, there are times when too much information is disclosed by providing him or her with the entire SP-251. Therefore, we recommend that this practice be discontinued, recognizing that issues of past

practice with respect to existing contractual provisions need to be taken into account. Prior to interview, the principal should be informed by the interviewer as to the nature of the allegation and such other information as can be disclosed without compromising the investigative process.

We recommend that Form SP-605A, Witness Acknowledgment, be modified to indicate the subject matter of the investigation. Similarly, we recommend that the Authorization for Release of Information be modified to include the proposed recipient of the release, as well as the type of records or information sought. These modifications will provide more focus to these important documents.

We recommend that the New Jersey State Police add the conclusion of "exonerated" to their internal investigation options. Exonerated means that the alleged incident did occur, but that the trooper's conduct was consistent with law, rules and regulations, and accepted practice. It has a fundamentally different meaning than unfounded, which usually means the incident did not occur. For a variety of management purposes, as well as simple fairness with respect to the subject trooper, these conclusions should be differentiated.

We recommend that supervisors who may investigate internal matters receive at least sixteen hours of training in how to effectively investigate internal affairs complaints. The content of this training shall include a detailed review of the Attorney General's internal affairs procedures, New Jersey State Police investigation procedures for internal affairs complaints, interview and

interrogation, case law, and any other relevant training topics pertinent to the internal affairs function. The training should also address complaint resolution and documentation guidelines and procedures.

Complainants and State Police personnel who are the subject of misconduct complaints should be advised in a uniform and consistent manner as to the outcome of completed investigations. We observed that this notification of conclusion was made consistently for New Jersey State Police personnel. However, there were cases where civilian complainants were not notified. By placing this responsibility with the Professional Standards Bureau, notifications of outcomes should be made on a more consistent basis.

13. Investigation Review Procedures

The most significant and pervasive problem associated with the investigation review procedures is the inordinate amount of time required for the report to pass from the investigator to the Superintendent or his designee for resolution. It is interesting to note that S.O.P. B10 imposes a time limit on the investigator of 45 days from assignment of the internal investigation to completion of the finished report, but fails to attach similar time management constraints on the layers of administrative review of the completed report. We saw many examples of seemingly unnecessary multi-level review that stifled the progress of case disposition and closure. The clear purpose of such intense and time consuming review is to ensure an excellent work product. However, conscientious

investigative efforts are somehow diluted by a system which encourages sluggish review and delayed resolution. No one benefits from a process characterized by its redundancy. Eroding confidence is the price of unnecessary delay.

We believe that many of the impediments to the timely review and resolution of internal investigations are associated with organizational structure and staffing, the decentralized assignment of cases, the inability of troop commanders to impose discipline for minor offenses and the lack of sufficient and recurrent training in the fundamentals of internal investigations for those supervisors assigned to investigate complaints.

Recommendations have been made in other sections of this Report that if implemented will have a positive effect on expediting the process of case review. To effectively reform the current system there must be a willingness and commitment to reorganize and restructure the current Internal Affairs Bureau, and make it more directly responsible and accountable to the Superintendent for the management of internal affairs investigations.

We recommend that through a process of reorganization, the Professional Standards Bureau be given increased responsibilities, personnel, and equipment to directly conduct and manage the significant internal investigations that are required in response to complaints of misconduct that cannot or should not be resolved summarily at a command level. The State Police report review procedure

should be re-assessed for internal affairs incidents in light of the need to expedite the handling of such matters.

We also recommend that whenever a minor "spinoff" violation is uncovered, it be handled at the lowest possible level. We understand that a thorough investigation may uncover any number of minor procedural violations. However, when discovered, they should be dealt with at a level appropriate for the infraction and the member. For instance, when a "spinoff" reveals a member entered a station for a brief period without notifying communications, a performance notice with counseling by a supervisor should be sufficient to resolve the matter. In only the exceptional situation should something like this proceed to formal discipline.

14. Disciplinary Procedures

No public officials in the entire range of government are given such broad discretion in dealing with the daily lives of citizens as are law enforcement officers. The primary purpose of discipline is not, as most suppose, to punish errant behavior on the part of employees. The primary purpose of discipline is to establish a framework in which management can reasonably anticipate and predict the behavior of its subordinates, even when they are not directly supervised. Management has the obligation to ensure its rules, policies and procedures are followed. Discipline is essential to building agency integrity and sustaining effective organizational performance. Appropriate administration of a well conceived, consistently applied disciplinary system helps officers meet

expectations and stay within acceptable behavioral limits. Discipline is the foundation upon which the integrity of the individual officer is supported and the organization's culture of professionalism and public service is maintained.

We recognize that the implementation of any recommendations having to do with the disciplinary process must be undertaken in the context existing statutes, contractual provisions and regulations governing discipline among members of the State Police. However, we believe the improvement of the disciplinary process that will be forthcoming with implementation of these recommendations clearly warrants the effort necessary to modify such provisions as may be necessary.

The current system by which all allegations of misconduct are adjudicated by the Superintendent should be changed. *In cases involving allegations of minor misconduct, adjudication should be the responsibility of the troop commander with notification to the Professional Standards Bureau. Upon a finding of guilt in minor misconduct incidents, discipline should be determined and imposed by the troop commander.*

The Professional Standards Bureau should develop a schedule of progressive penalties for misconduct in consultation with the several employee representative associations. This schedule should be reviewed by and receive the approval of the Superintendent and the Attorney General. Once adopted, the

schedule should be codified in the Division's rules and regulations and disseminated throughout the Division.

Troop commanders must have the authority and the responsibility to discipline subordinates directly consistent with the approved schedule. Troop commanders should have the capacity to impose disciplinary sanctions up to and including a five day suspension.

When an investigation sustains allegations of misconduct, the subject trooper is entitled to due process before being penalized. When the subject trooper accepts responsibility for minor violations, the "short form" SP-251 is utilized and constitutes due process. In those situations where a trooper does not admit guilt, however, due process must be provided. This may be provided in situations not warranting a Superintendent hearing by conducting what is known as a Loudermill hearing. Simply stated, the accused employee is advised as to the specific rules he or she is accused of violating, is given an explanation of the evidence against him or her, and is provided an opportunity to respond to the charges. Loudermill type hearings are informal and do not require testimony under oath or other legal trappings associated with a formal hearing. The Loudermill hearing may be held by a troop commander or other unit commander having jurisdiction over the offending trooper and the investigation.

In cases involving allegations of serious misconduct, adjudication should be under the direct authority of the Superintendent through a hearing process.

Upon a finding of guilt in serious misconduct incidents, discipline should be determined and imposed under the direct authority of the Superintendent.

The existing Advisory Boards should have no formal role in the adjudication of any allegations of misconduct. The current two-tiered court martial process should be replaced by a single hearing procedure as determined by the Superintendent. We recommend that the New Jersey State Police adopt a single hearing mechanism, and discontinue the use of separate "summary" and "general" courts martial. Sustained allegations warranting a hearing shall be conducted by a hearing officer or a hearing board as directed by the superintendent. Some agencies prefer a single hearing officer, while others prefer a board comprised of an odd number of members, often three. In any case, the hearing body or officer bases its findings upon the preponderance of evidence presented.

Where allegations are sustained as a result of the hearing process, prior to the penalty being assessed, the employee should be given an opportunity to be speak on his or her behalf as to mitigating circumstances.

Upon a finding of guilt in cases of serious misconduct, the penalty must be swift and severe, with a presumption that the appropriate course is dismissal. The solemn oath taken by a trooper when he enters into service with the State Police is an oath that the public and his fellow officers has an expectation with be upheld. When the oath is breached, the officer forfeits his claim to the privilege of serving as a sworn member of the State Police. A trooper that has engaged in

serious misconduct harms not only the citizen at large but also harms his fellow officer by tainting his badge and the reputation of the overwhelming majority of troopers who serve the public with honor each day.

15. Internal Affairs Records

We recommend that the New Jersey State Police establish a comprehensive and secure computerized system for the tracking of all internal affairs matters. The current computer hardware in the IAB office (networked personal computers) is capable of handling most PC based applications. After reviewing the needs of the internal affairs function, we recommend that the New Jersey State Police examine and implement the internal affairs tracking software developed by the International Association of Chiefs of Police (IACP). The program was designed by the IACP specifically for this purpose and is available without charge. This software requires the user to have Microsoft Access database software, which has been adopted by the Department of Law & Public Safety as the standard PC based database application.

One additional benefit of this software is its list of codes for various types of allegations. While it is still up to the data entry person to properly categorize a complaint, the predefined types in the software may make this process more consistent.

It should be noted that use of this software or any other internal affairs specific software may be abrogated by the current discussions between the New

Jersey State Police and the Office of the Attorney General. It is our understanding that those discussions involve the procurement of a multifaceted computer system which will also address the needs of internal affairs.

Regardless of the product or system ultimately selected, the internal affairs software must provide sufficient security to protect the confidentiality of these records. To be effective, the data must be accessible to the three proposed regional offices as well as the central office at Division headquarters.

In any case, the Professional Standards Bureau should eliminate the redundant use of log books and multiple filing systems currently employed to document and record internal affairs workload. The computerized tracking system will be the only source necessary for finding individual files, cross-referencing cases by type of complaint, location, etc., retrieving trooper histories, or producing regular reports. This can only occur once a new system has been implemented and sufficient data have been back-loaded to be effective. Concerns about the failure of a computer system can be addressed through regular, frequent data backups.

The central computerized tracking system will also provide the Professional Standards Bureau with the ability to track and locate files without imposing cumbersome, manual devices. There will be no need to assign different case numbers (e.g., "AI...", "M...") or to maintain separate filing cabinets. Accordingly, we recommend that the IAB establish a single numbering and filing system for all

cases received in a given year. It is appropriate to use a similar numbering system, but without the leading prefix (i.e., "99-###").

In addition to type of case, the current numbering system also provides the identification of the troop which handled the investigation. For instance, the investigation for case "98-138E" was handled by Troop "E". This type of information, along with the type of case, can be entered into separate fields in the computerized tracking system, thus enabling inquiries similar to the ones currently conducted. This step will simplify the overall process. When State Police personnel need to examine, for instance, how many attitude and demeanor complaints were handled by Troop "C" in a given year, a simple computer query will suffice.

This "single filing system" further extends to the filing cabinets themselves. It will be necessary to have only one location for all files for any given year. They should continue to be filed in order of case number, and separated by year. It is appropriate to continue to mix open and closed files in a single filing cabinet system.

We recommend that, as much as possible, the original case files should stay in the filing cabinet until needed. The file should be retrieved for review or some other action, and then returned to the filing cabinet. When cases are actively being handled by Internal Affairs investigators from one of the three offices, the official case file should be at that office. Upon completion of the investigation, all

materials should be sent to the Professional Standards Bureau. This will make it easier to locate files, enhance the integrity of the filing system, and reduce the possibility of misplacement. When it is necessary to remove the file, we recommend the Professional Standards Bureau use a standard file in-out card.

We support the production of a second copy of the investigation file, currently called the "hanging file," as a backup to the original.

The Professional Standards Bureau should have sufficient personnel knowledgeable and proficient in its computer filing system. This will enhance the day-to-day operations of the bureau, and make future transitions of personnel smoother. In addition, we recommend that the Professional Standards Bureau establish written protocols for file handling, as well as maintain user manuals for whatever computerized tracking system they adopt.

The Professional Standards Bureau should report to the Attorney General, at least quarterly, a summary account of all Internal Affairs cases opened and disposed during that period. At a minimum, that report will include the nature of all misconduct allegations received as well as the manner of disposition for those cases closed. This Report should also be available to the public on an annual basis. This Report should be similar to that submitted by municipal police departments to their respective county prosecutors. This Report consists of a count of cases open and disposed of, by type of case and type of disposition.

16. Early Warning Indicators

The "Interim Report of the State Police Review Team Regarding Allegations of Racial Profiling" stated that it was necessary to establish an "...'early warning system' to detect and deter the disparate treatment of minority citizens by State Police members assigned to patrol duties." (*Interim Report*, p. 94) This system should indeed be put in place, but with a much broader scope. We recommend that an early warning system should be designed to identify any pattern or practice by any member of the New Jersey State Police which warrants intervention or remediation. The early warning system discussed in the Interim Report should be the responsibility of the Professional Standards Bureau.

A broad range of variables should be examined regarding their suitability for inclusion in the "early warning system."

- Motor vehicle stop data, as collected on the Traffic Stop Report Form. (*Interim Report*, p. 97)
- Search and seizure data, as collected on the Search Incident Form. (*Interim Report*, p. 101)
- Internal complaints, regardless of outcome.
- Civil actions filed, regardless of outcome.
- Incidents of force usage, including firearms discharges and use of non-deadly force.
- Claims of duty-related injury.
- Arrests for resisting arrest.
- Arrests for assault on a police officer.

- Criminal investigations or complaints made against the member.
- Incidents of arrested persons injured.
- Vehicular pursuits.
- Vehicular accidents.
- Cases rejected or dismissed by the prosecutor.
- Evidence suppressed by the court.

This information should be structured and maintained to facilitate analysis with respect to individual members, squad, station, troop, section and assignment. Ideally, the computerized early warning system will be equipped with algorithms to reveal the presence of an abnormally high number of particular incidents or the presence of particular patterns of incidents. Due to the complexity of this system and the size of the New Jersey State Police, we recommend that this analysis function be located within the Professional Standards Bureau. By virtue of its responsibilities and placement in the organizational structure, the Professional Standards Bureau is best able to maximize the benefits of an early warning system.

In the event that the early warning system reveals a potential problem, the appropriate troop commander should be notified and provided with all relevant information from the system. The troop commander must review the data provided, along with the more detailed information available at the station or troop level, in consultation with the Professional Standards Bureau. If this review

indicates that the early warning system has returned a "false positive," the troop commander should report that, in writing, to the Professional Standards Bureau.

If the review reveals that the member has violated State Police rules, regulations or policies, the troop commander in consultation with the Professional Standards Bureau should proceed with an internal investigation and possible disciplinary action. If the review reveals that the member has engaged in conduct which indicates a lack of understanding or inability to comply with accepted procedures, the troop commander shall consult with the Professional Standards Bureau and the member's supervisor to determine the appropriate course of remedial action. We recommend that intervention may include training, retraining and counseling. Internal disciplinary action and remedial training or counseling are not mutually exclusive, and both should be pursued if appropriate.

When remedial action has been undertaken, the Professional Standards Bureau should be formally notified of such efforts. This information will be recorded in the internal affairs computer system. No entry should be made in the employee's personnel file, unless the action results in disciplinary action. If the remedial action was attendance at an appropriate training program, it should be noted in the member's training record.

In addition to the regular review by the early warning system, the Professional Standards Bureau should query the early warning system and review an individual employee's history any time a new complaint is made. Using this

information and their experience, the staff of the Professional Standards Bureau may be able to identify employees who may need counseling, training or other remediation even before such is indicated by the early warning system's ongoing data review.

It must be noted that the purpose of an early warning system is to detect patterns and trends before the conduct escalates into more serious infractions. As such, employees must understand that the early warning system is not identical to the disciplinary process. Although it is possible that disciplinary action may be taken as the result of clear and convincing evidence that rules and regulations were violated, this is not the sole or even primary intent of the system. The primary intent of an early warning system is to address potential problems through the use of appropriate management and supervisory strategies before formal discipline is warranted. It must also be made clear, however, that an early warning system does not substitute for effective supervision.

17. Fitness for Duty

In many cases, serious allegations require immediate action to protect the agency, the subject officer and the public. These actions can include immediate suspension, administrative reassignment, or compelling the trooper to undergo a fitness for duty examination. We found that these steps were not always used or provided for within the New Jersey State Police. As one supervisor told us, "You're either working or you're not."

We recommend that the New Jersey State Police establish, by policy, a clear protocol for handling those cases in which a member is unfit for duty, is a hazard to self or other persons if permitted to remain on the job, or has been formally charged with a crime of the first, second or third degree, or a crime of the fourth degree on the job or directly related to the job. We further recommend that the State Police adopt a policy permitting the administrative reassignment of members as appropriate pending the outcome of an internal investigation.

In addition, the State Police should have a clear procedure through which any supervisor can request, through the chain of command, a fitness for duty examination based on articulable reasons.

PART V. CONCLUSION

It is the overall assessment of the Review Team in regard to the areas of State Police operations and processes which were reviewed that there is a need for significant change. It is the hope of the Review Team that its Report and the blueprint for change set out therein will assist the Division move into the 21st Century as a cutting-edge state law enforcement agency which has the support and respect of all law-abiding citizens of the State.

In closing, it is important to note that in all of our dealing with members of the State Police during the review process, they have been professional, cooperative, and efficient in providing us with information and assistance as we have required. The Report could not have been produced without their efforts and assistance. Based upon these and other contacts with the State Police, it is our belief that the fine professionals in the force with appropriate direction and leadership can successfully accomplish the tasks set forth in this Report.