

NEW JERSEY STATE LEGISLATURE
OFFICE OF LEGISLATIVE SERVICES

IN RE:)
)
SENATE JUDICIARY)
COMMITTEE INVESTIGATION)
HEARINGS)

TRANSCRIPT
OF
ELECTRONICALLY
RECORDED TESTIMONY

Place: Office of Legislative
Services
State House Annex
Trenton, NJ 08625

Date: April 3, 2001

Time: 10:00 a.m.

MEMBERS PRESENT:

SENATOR WILLIAM L. GORMLEY, CHAIRMAN
SENATOR JAMES CAFIERO, VICE-CHAIRMAN
SENATOR LOUIS F. KOSCO
SENATOR ROBERT J. MARTIN
SENATOR JOHN J. MATHEUSSEN
SENATOR NORMAN M. ROBERTSON
SENATOR JOHN A. GIRGENTI
SENATOR JOHN A. LYNCH
SENATOR EDWARD T. O'CONNOR, JR.
SENATOR RAYMOND J. ZANE
SENATOR GARRY J. FURNARI

ALSO PRESENT:

Senate Democratic Staff
By: JO ASTRID GLADING, ESQ.

Senate Republican Staff
By: CHRISTINE SHIPLEY, ESQ.

Transcriber, Patricia A. Kontura
J&J COURT TRANSCRIBERS, INC.
268 Evergreen Avenue
Hamilton, NJ 08619
(609)586-2311
FAX NO. (609)587-3599

ALSO PRESENT: (Continued)

Latham and Watkins

By: MICHAEL CHERTOFF, ESQ.

SCOTT LOUIS WEBER, ESQ.

Office of Legislative Services

By: JOHN TUMULTY, OLS Aide

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Exhibits

Ident.

SJC-14	Anonymous Document	101
	Regarding Cipola Grievance	

1 SENATOR GORMLEY: Committee members, please
2 take their seats.

3 General, would you please stand. Raise
4 your right hand.

5 J O H N J. F A R M E R, JR., SWORN

6 SENATOR GORMLEY: Be seated.

7 We'd appreciate your opening statement at
8 this time.

9 ATTORNEY GENERAL FARMER: Thank you,
10 Senator Gormley, and good morning everybody.

11 Nearly two years ago I came before this
12 Committee seeking its approval for my nomination to
13 be Attorney General of this state. In so doing, I
14 pledged to make the issue of racial profiling my
15 earliest priority. I pledged to do whatever I could
16 to move the State forward and to restore the public's
17 trust of the State Police in enforcing our law
18 evenhandedly.

19 I'm before you again today at a critical
20 juncture in the process of change. On the positive
21 side, we broke ground yesterday on a new building to
22 house the State Police forensic labs and
23 communication center. When completed, the building
24 will house the most advanced high-tech facility of
25 any state law enforcement agency.

1 This morning, 120 in the State Police class
2 will be graduating. Although my testimony here
3 precludes me from addressing the class, were I to do
4 so, I would tell them that I am proud of them for
5 choosing public service in the New Jersey State
6 Police despite the negative publicity of the past few
7 years.

8 I'd also tell them that notwithstanding the
9 recent publicity, the future of the State Police is
10 bright. The state of the art adult-based learning
11 and training they received at the Academy will be
12 followed up by the most aggressively-prepared trooper
13 coaching program ever developed. Their arrival will
14 free more supervisors for road duty so that their
15 training and coaching can be further reinforced.
16 They are entering an organization dedicated as never
17 before to accountability, both in its dealings with
18 the public and in its treatments of its members. The
19 mechanisms for guaranteeing that accountability are
20 in place and I believe that this change is both
21 positive and irreversible.

22 At the same time, I cannot ignore current
23 reality and the shadow it casts over both past and
24 future. I have watched play out in the proceedings
25 before this Committee the conflict within my

1 Department that I have lived each day and many nights
2 since taking office. It has been painful to live and
3 now to relive. But I have lived it and I've tried at
4 every turn and in every way to address it.

5 Although as I will outline shortly, and as
6 the federal Monitors have repeatedly affirmed, the
7 groundwork for lasting reform has been laid. These
8 hearings are the best illustration that in a
9 fundamental way I have failed to heal the division
10 within my Department. That remains my greatest
11 challenge.

12 When I testified before you in May 1999, I
13 harbored one fundamental misconception about the task
14 before me. I believed that I had a clear mandate to
15 bring about fundamental reform in the New Jersey
16 State Police. Almost from the day I took office,
17 however, as I began to reach out for varying
18 perspectives to current and former members of the
19 State Police of all ranks, I began to realize that
20 far from accepting the conclusions of the interim
21 report, many members of the State Police believed
22 with almost religious fervor and belief to this day
23 that they had been used. Used to fight the war on
24 drugs, when fighting drugs was the fashion of the
25 day, then abandoned when the consequences of that war

1 became unpleasant. Even those, and there were many,
2 who are open to the need for reform, questioned the
3 timing and method of the review and the report.

4 At the same time, many in the civil rights
5 community demanded radical change immediately,
6 arguing with justification that the humiliation of
7 disparate treatment had to end and that those who
8 persisted in it must be disciplined.

9 To make matters worse, as I spoke at
10 various meetings with troopers on the one hand and
11 the civil rights community on the other, it became
12 clear that there was no commonly-accepted definition
13 of what racial profiling is to begin with. Everyone
14 agrees that law enforcement decisions predicated
15 solely on race are reprehensible and should be
16 forbidden. When for years the State Police denied
17 that profiling was occurring, at least systemically,
18 this is what they were referring to.

19 The civil rights leaders on the other hand,
20 any consideration of race as a factor in forming a
21 law enforcement decision, a decision to stop or once
22 stopped to investigate further, constitutes racial
23 profiling and should be prohibited.

24 Complicating matters further was case law
25 that conflicted on the constitutionality of race as a

1 factor in law enforcement decision-making. Indeed,
2 as Professor Randall Kennedy points out, decisions
3 "permitting race to be used on a routine basis is a
4 negative signal of increased risk of criminality
5 represent an influential, indeed dominant, view
6 within the judiciary."

7 Notwithstanding this precedent, New Jersey
8 has chosen, in both the interim report and the
9 consent decree, to forbid the use of race as a factor
10 as a matter of policy rather than of constitutional
11 compulsion. Still, one can understand the bitterness
12 of some members of the State Police for being
13 condemned for using race as a factor when many courts
14 have upheld its use and when race was prominently
15 featured in law enforcement intelligence routinely
16 provided by the Justice Department and other law
17 enforcement entities.

18 Given the bitter conflict at the heart of
19 this dynamic, I believe that our progress in
20 addressing the issue has been remarkable. I've
21 decided early on that this debate, this fissure,
22 could not be resolved until we were able to obtain a
23 truly accurate picture of what was actually occurring
24 on the road. We had statistics but did not know
25 whether they were accurate. And we have radically-

1 conflicting views as between drivers and troopers
2 about the nature of their exchanges.

3 Put simply, we had to design and instill a
4 system in which accountability was assured. That has
5 been my consistent focus. I'd like to take a few
6 minutes now to update you on our progress in
7 designing and instilling such a system and to brief
8 you on what we've learned about recent trooper
9 conduct as a result of this progress.

10 For the first six months of my tenure, my
11 focus was three-fold. First, I sought to complete
12 the comprehensive review of State Police management
13 and structure that had begun in February. A report
14 that was issued called for fundamental changes in the
15 way State Police was operating. The EEOAA function
16 within the State Police was transferred to my office
17 so that the State Police were treated like the other
18 Divisions in my Department.

19 Internal Affairs has been reorganized.
20 Recruitment and training has been substantially
21 augmented. The Office of State Police Affairs has
22 created a bridge between my office and the Division
23 of State Police that did not exist before.

24 My second priority was hiring a new
25 Superintendent, Carson Dunbar, and a Director of

1 State Police Affairs, Martin Cronin. They came
2 onboard in the fall of 1999.

3 My third priority was to conclude
4 negotiations with the United States Department of
5 Justice. Those negotiations were spearheaded first
6 by Paul Zoubek and ultimately by Martin Cronin. Many
7 of the recommendations contained in the reports were
8 ultimately embodied in the consent decree, which we
9 signed at the end of December 1999, and thus has the
10 force of law.

11 State Police members are now required by
12 law to report via the Computer Aided Dispatch System
13 all of the basic facts about their stops as follows:
14 The name and identification number of the trooper who
15 initiated the stop. The names and badge numbers of
16 troopers who actively participated in the stop. The
17 time at which the stop commenced and which it ended.
18 The license number and state of the stopped vehicle.
19 The gender and race or ethnicity of the driver and
20 his date of birth, if known. Whether the driver was
21 issued a summons or warning and the category of
22 violation and the reason for the stop; moving
23 violation, non-moving violation, probable cause, be
24 on the lookout, et cetera. That requirement applies
25 now to all stops. In approximately ten percent of

1 stops, those where troopers called for stopped
2 motorists to exit their cars, where motorists are
3 frisked or searched or where a consent to search is
4 requested, troopers will be required to fill out a
5 motor vehicle stop form. These forms must include
6 whether the vehicle occupants were requested to exit
7 the vehicle. Whether the vehicle occupants were
8 frisked. Whether a consent to search was requested
9 and granted. Whether a drug detection canine was
10 deployed and whether an alert occurred. Whether a
11 non-consensual search was conducted. Whether any
12 contraband was seized. Whether the vehicle occupants
13 were arrested and if so, the specific charges. And
14 whether the vehicle occupants were subjected to
15 deadly, physical, mechanical or chemical force.

16 The consent decree embodied this new SOP
17 for stops. Required training consistent with the SOP
18 and provided that all information generated would
19 fall into a computerized system designed to maintain
20 and retrieve information that would help supervise
21 and manage the State Police.

22 Training pursuant to this new SOP was
23 concluded by September of the year 2000. The
24 computerized system known as the Management Awareness
25 Program, or MAP, will begin to be put in place this

1 month and is the final major element needed to place
2 the State in full compliance with the consent decree.

3 The decree also provided for quarterly
4 reports to be issued by federally-appointed Monitors,
5 assessing the State's efforts to comply with these
6 provisions. We've had two such reports issued to
7 date, both of which have been extremely positive.
8 The first Monitor's report states unequivocally,
9 "Members of the Monitoring team were unanimously
10 impressed with the commitment, focus, energy and
11 professionalism with which members of the New Jersey
12 State Police and the Office of State Police Affairs
13 applied themselves and their organizations to
14 implementation of the changes required by the decree.
15 While the Agency is not in complete compliance, this
16 is to be expected. The Monitoring team knows of no
17 Agency action which could have been completely
18 complied with the requirements of this decree in the
19 period of time available. Many of the tasks required
20 by the decree are generally considered to be multi-
21 year tasks by those familiar with the process of the
22 system's design and development in policing.

23 "Particularly with respect to training,"
24 the report notes, "the methodology they have used in
25 developing this training reflects state of the art in

1 the field and their commitment to doing the job right
2 is exceptional. In many cases, the Agency goes well
3 beyond the requirements of the decree and simply
4 seeks the best answer to any given question or
5 issue."

6 The second Monitor's report concludes, "The
7 State has established the state of the art for ethics
8 and integrity training for a large law enforcement
9 Agency. Furthermore, the Monitoring team's field
10 tests of the electric reporting system for motor
11 vehicle stop reports indicates that the system is
12 robust and provides accurate and timely data to
13 Managers and Supervisors. Error rates are extremely
14 low."

15 To date, the federal Monitors have found us
16 to be at level one of the policy compliance with 88
17 of 96 potential tasks or 92 percent.

18 We are at level two, or full compliance,
19 with respect to 52 of the potential tasks.

20 Our progress has truly been extraordinary.
21 But what does progress mean in this context? Does
22 full compliance with the consent decree guarantee an
23 end to racial profiling? It's too soon to tell.
24 What full compliance will guarantee, however, is the
25 emergence within the State Police of a cultural of

1 accountability that will make profiling impossible to
2 conceal and thus highly unlikely to occur. The best
3 illustration of this is with respect to consent-to-
4 search data for the year 2000. Let me walk you
5 through the analysis and describe the process that
6 we've undertaken.

7 Presented late last year with data
8 concerning the rates at which various ethnic groups
9 were stopped in the area patrolled by the Moorestown
10 station, the State Police and Office of State Police
11 Affairs commenced a management inquiry. This inquiry
12 extended to the collection and analysis of consent-
13 to-search documents for the Turnpike during 2000.
14 Subsequently, this document analysis was augmented to
15 review the mobile video recorder tapes from each
16 consent search.

17 Let me run through the numbers quickly with
18 you. First, a traffic population survey conducted
19 pursuant to the consent decree concluded that whites
20 comprised from 60 to 65 percent of the drivers on the
21 southern end of the Turnpike, while blacks comprised
22 14 to 20 percent, and Hispanics nine to 13 percent.

23 The stop figures reflected, however, that
24 whites comprise approximately 54 percent of the
25 stops, while blacks comprised 32 percent, and

1 Hispanics comprised eight percent --

2 SENATOR GORMLEY: Excuse me, General. Do
3 you have copies?

4 ATTORNEY GENERAL FARMER: What I will be
5 passing out is a -- when I get through running
6 through the numbers, we have a graphic breakdown that
7 we'll be showing you.

8 SENATOR GORMLEY: Okay. But what I'm
9 saying, is there an extra copy of your statement?
10 I'd like to have it run off now so the members could
11 --

12 ATTORNEY GENERAL FARMER: I will make it
13 available to you.

14 SENATOR GORMLEY: Okay.

15 ATTORNEY GENERAL FARMER: Yes.

16 SENATOR GORMLEY: They're paying attention,
17 I'd just like...

18 SENATOR ROBERTSON: I can't write that
19 fast.

20 ATTORNEY GENERAL FARMER: I'll slow down.
21 These discrepancies, while cause for
22 concern, are not conclusive. As the Justice
23 Department noted in its national survey on contacts
24 between the police and public released this month,
25 "Because a survey has no information on how often

1 people of different races break traffic laws,
2 analysis of the data cannot settle the question of
3 whether or to what extent racial profiling exists."

4 The numbers were sufficiently troubling,
5 however, to prompt me to launch a full-scale
6 management inquiry earlier this year. The Department
7 is currently in the process of conducting a form of
8 violator survey, specifically a speed survey, to help
9 address the issue from a stops point of view. But we
10 decided to go further. Specifically, I ordered the
11 consent search numbers to be broken down for Troop D.
12 Those numbers showed for Moorestown that whites were
13 subjected to consent searches 19 percent of the time,
14 while blacks were at 53 percent, and Hispanics at 25
15 percent, while Asians were at three percent. These
16 numbers are lower than the numbers for 1994 and 1996,
17 but on a par with those from the interim report.

18 Thus, blacks and Hispanics were subjected
19 to consent searches at rates higher than their
20 presence on the road and higher than their stop
21 rates.

22 We broke the numbers down further. I asked
23 that each report be scrutinized on its face to
24 determine whether the report reflected the presence
25 of probable cause as opposed to reasonable suspicion.

1 And we defined probable cause for purposes of this
2 inquiry in a limited way to mean only plain view of
3 contraband, plain smell of contraband or admission
4 that contraband was present. The results were that 54
5 percent of consent searches of whites reflected one
6 of these three factors; whereas, 26 percent of
7 searches of blacks and eight percent for Hispanics
8 reflected probable cause.

9 Thus, requests to search of whites are
10 based on probable cause at more than double the rate
11 for blacks and more than six times the rate for
12 Hispanics.

13 Requests for consent to search blacks and
14 Hispanics seem thus to be made based upon the lower
15 quantum of proof. These disparities are reflected in
16 the find rates which are as follows: Seizures result
17 in the consent searches of whites 25 percent of the
18 time. For blacks, 13 percent of the time. For
19 Hispanics, five percent of the time. Let me state it
20 otherwise. Consent searches are twice as likely to
21 yield seizures when conducted for whites as opposed
22 to blacks and five times as likely for whites as for
23 Hispanics, which yield nothing 95 percent of the
24 time.

25 We went further. I ordered the searches

1 broken down by squad and ultimately by trooper. We
2 had found that those troopers who had four or more
3 consent searches last year averaged 80 percent of
4 black or Hispanic searches with find rates lower than
5 the average.

6 I have now ordered that every video-taped
7 consent search be viewed individually. First for
8 Moorestown and ultimately for the entire Turnpike.
9 While this review is not complete, I can state the
10 following: Now, we have proof. Some of the video
11 tapes we have reviewed confirmed what the numbers
12 suggest. Not only is the use of race or ethnicity as
13 a factor in making a decision to ask for consent
14 subject to abuse based on prejudice, it is also quite
15 simply bad law enforcement. The case that we are
16 building will result in discipline where appropriate
17 and that is on an individual basis, because in the
18 end we simply cannot have law enforcement by the
19 numbers. In order to move forward, we simply had to
20 reach a point where our level of analysis could focus
21 on individual conduct. When the MAP system is
22 operational, I believe we will have taken the last
23 step.

24 And at this point we have a series of
25 graphics that illustrate what I just went through.

1 (Slide presentation)

2 The first one that you see are the gross
3 numbers for the Troop D consent searches for 2000.
4 And you can see that on a Turnpike-wide basis, 27
5 percent white, 46 percent black, 25 percent Hispanic,
6 two percent Asian. The total number of searches
7 being 271, reaches a significant fall-off from prior
8 years.

9 The next slide. Now, we're going to go
10 station by station. This is the Newark station.
11 It's interesting because not only do they have fewer
12 consent searches conducted in Newark, but the
13 percentages are roughly those suggested by a
14 population survey. So it's pretty much in line with
15 what you would expect given the population survey
16 that we conducted with the Justice Department.

17 The next slide. Now, moving south are
18 Cranbury. The numbers are somewhat worse. Forty-
19 four percent black, 32 percent white, 24 percent
20 Hispanic. Disproportionate to what would be
21 suggested by the portion of drivers on the road.

22 And then we get to Moorestown, which is by
23 far the most disproportionate of the numbers we
24 looked at. Fifty-three percent consent to search
25 black, 25 percent Hispanic, and Moorestown also had

1 by far the greatest number of consent searches
2 conducted.

3 Now, we have broken down, as I requested
4 that they do, probable cause versus reasonable
5 suspicion. This is for the Moorestown station. You
6 can see that with white drivers, it's almost half of
7 the reported searches containing elements of probable
8 cause. When you turn to blacks, it's 74 percent do
9 not have those elements. Have a lesser quantum of
10 proof identified by reviewing the reports that were
11 filed. When we get to Hispanics, it's even lower.
12 Probable cause in only eight percent of the searches
13 identified.

14 SENATOR GORMLEY: Excuse me. We need to
15 clarify a particular fact. Senator Matheussen.

16 ATTORNEY GENERAL FARMER: Okay. Yes.

17 SENATOR MATHEUSSEN: General, maybe I
18 missed it. Could you tell us the year these
19 statistics were based on?

20 ATTORNEY GENERAL FARMER: This is 2000.

21 SENATOR MATHEUSSEN: The year 2000. Thank
22 you. I'm sorry.

23 ATTORNEY GENERAL FARMER: The year 2000,
24 yeah.

25 SENATOR LYNCH: And when were they

1 accumulated? When did you prepare this report?

2 ATTORNEY GENERAL FARMER: It was prepared -
3 - well, I ordered the review to be conducted in
4 January and it's still going on. So --

5 SENATOR LYNCH: When did you prepare these
6 slides?

7 ATTORNEY GENERAL FARMER: In the last
8 couple days.

9 Now we get to actual find rates for the
10 different kinds of searches. And you have -- this is
11 for white drivers. Seventy-five percent of the time
12 they don't find anything, but they do have the
13 highest find rate when you add the probable cause and
14 reasonable suspicion searches, it's 25 percent. And
15 turning to blacks, your find rate is basically 13
16 percent. Interestingly, only five percent were
17 probable cause, as reflected in the reports, which is
18 something that we're looking at.

19 And finally, for Hispanics there were in
20 Moorestown, there were no reports that evidenced any
21 kind of probable cause and only five percent recovery
22 from those stops and searches.

23 It's important to note, though, that this
24 is really a national problem and I would refer the
25 Committee to -- and I can provide you with this

1 report from the Department of Justice issued this
2 month. Contacts between police and the public.
3 Interestingly, 19.3 million contacts or stopped
4 drivers were reported. 1.3 million searches or 6.6
5 percent of those contacts. That rate is higher than
6 the rate in New Jersey of searches, at least in
7 recent years. And of those 1.3 million searches,
8 86.7 percent found basically nothing, which is on a
9 par with what we found in New Jersey.

10 Searches of white drivers, again, found
11 criminal evidence 17 percent of the time. Blacks
12 were eight percent of the time. Hispanics were ten
13 percent of the time. So the problem really is not
14 limited to New Jersey, although I think we've done
15 more to address it than any other state.

16 The process has been slow and painful. It
17 will continue to be. It's clear we have not solved
18 the problem. We have taken steps to address it that
19 are a model for the nation. And let's be clear, this
20 is a national problem, as you've just seen in the
21 Justice Department's 1999 study of contacts between
22 the police and the public.

23 So far as I know, we're the first state to
24 have taken the proactive measures necessary to
25 evaluate conduct as it should be evaluated, on an

1 individual basis.

2 One final note before taking your
3 questions. I believe in the mission of my
4 Department. I'm proud of the Department's
5 willingness to undergo the kind of scrutiny we have
6 undergone for the past two years and the past two
7 weeks. Serving as Attorney General has been the
8 greatest, most humbling honor and challenge I can
9 hope or desire to obtain. I have no aspiration to
10 serve past my term in January. I promised my wife I
11 would say that under oath.

12 (Laughter)

13 Or for any other position. I want to get
14 this right. I hope that the Committee will endorse
15 the progress we've made for the past two years so we
16 can heal the wounds of the past and move forward as
17 one department and one state.

18 Thank you.

19 SENATOR GORMLEY: Senator Matheussen.

20 SENATOR MATHEUSSEN: General, let me first
21 say I was proud to vote for your nomination two years
22 ago and I, quite frankly, think that we still should
23 be very, very happy with the progress, the attempts
24 that you are making to bring this situation to the
25 progress where we are right now and I commend you on

1 the report that you've given today.

2 I also would like to say to you that it's
3 refreshing that somebody has to answer to a higher
4 calling, your comments at the very end, but perhaps
5 as we move ahead, people will reflect on some of the
6 things that you're doing now and put them to good use
7 either with you or a successor, or whatever it might
8 be, but so far what you've laid out to me certainly
9 has some very important items to it.

10 Let me ask you, the first thing out, you
11 said you believed in -- you believed in your
12 Department's message or -- I forget the word --

13 ATTORNEY GENERAL FARMER: Mission.

14 SENATOR MATHEUSSEN: Mission, excuse me.
15 Tell me what that mission is, if you would, General.

16 ATTORNEY GENERAL FARMER: I think the
17 overriding mission of the Department of Law and
18 Public Safety is really to work to ensure the
19 public's trust in government. And that's something
20 that we do across the board. Whether it's with
21 respect to this issue or whether it's with respect to
22 consumer confidence in Consumer Affairs, Criminal
23 Justice, Gaming Enforcement, that's our primary
24 mission and I believe it's -- you can't do more
25 important work in government than that.

1 SENATOR MATHEUSSEN: You had a difficult
2 choice, I'm certain, today having to forego speaking
3 before the new state trooper class and being here.
4 And I'm sure if it was a choice, you would have made
5 a different one perhaps. But this is an overriding
6 issue and I'm happy that you're here before the
7 Judiciary Committee but I'm also, at at time we're in
8 right now, somewhat -- it's unfortunate that you
9 could not be with the state troopers. Tell me, what
10 would you have told them regarding racial profiling
11 and what the future holds for them in the state
12 trooper division.

13 ATTORNEY GENERAL FARMER: I would have told
14 them that they are entering the Division at the
15 perfect moment because what we are establishing in
16 the Division is essentially a culture of
17 accountability so that they can be assured that
18 they're going to be treated fairly as troopers within
19 the State Police and by my Department and that they
20 can go out and do the right thing and not have to
21 worry. In the past, I think one of the problems that
22 led to racial profiling was an absence of the kind of
23 accountability and supervision that we're putting in
24 place, so that the actions of a few could come to
25 characterize an entire Division and you could run

1 into law enforcement by the numbers. And so I think
2 we're getting away from that. They can rest assured
3 that they're going to have the best equipment.
4 They're going to have the best training. They're
5 going to have the best everything to do their jobs.

6 SENATOR MATHEUSSEN: I'd like to get some
7 technical questions, if I could, but let me ask you
8 one more perhaps philosophical question. If you had
9 the opportunity to address a large assemblance of
10 young black and Latinos at this very moment, what
11 would your address contain to them when it came to
12 the issue of racial profiling?

13 ATTORNEY GENERAL FARMER: I would tell them
14 basically that we are being more aggressive than any
15 other state in the country to ensure that people are
16 treated evenhandedly and not treated differently
17 because of the color of their skin. I would not try
18 to tell them that we've completely solved the
19 problem, clearly the numbers that I just laid out for
20 you indicate that we have not as of the year 2000. I
21 think there are reasons for that. I think any kind
22 of reform of this magnitude is going to entail some
23 kind of a lag time and that's what we experienced in
24 the year 2000. Just for instance, the training with
25 respect to the new standard operating procedure on

1 stops was not completed until the end of August. So
2 in some respects, the consent search numbers are not
3 fair -- are not a fair way to characterize the
4 current actions of the troopers because they've now
5 all been trained and we'll see what the results of
6 that training was.

7 But I think we're more attuned to this
8 problem than anybody else and that we're moving
9 aggressively to redress it.

10 SENATOR MATHEUSSEN: Some would say that
11 these numbers are very troubling that you just showed
12 us and that --

13 ATTORNEY GENERAL FARMER: They are
14 extremely troubling.

15 SENATOR MATHEUSSEN: And that there have
16 been -- there have been at least two years since the
17 interim report came out. There has been at least
18 four years since the Department of Justice took a
19 careful look at New Jersey over these statistics.
20 What do you say to your critics that say these
21 numbers are still troubling and we're not doing
22 either not enough or not doing anything at all?

23 ATTORNEY GENERAL FARMER: I would say that,
24 as I just did, this kind of reform of this magnitude
25 takes time. And as the Monitor has taken pains to

1 point out, we are committed to doing it right. There
2 are no quick fixes in a situation like this. A quick
3 analogy is in the early eighties in Miami when they
4 had a problem in the police department, they
5 basically tried to clean house. They fired everybody
6 at the upper echelons. They diversified by leaping
7 people over ranks and the end result was actual
8 rioting within the police department itself and
9 ultimately 80 indictments were issued.

10 We have to get to this what I've called the
11 culture of accountability, but we have to do it the
12 right way. And it has taken too long, there's no
13 question about that. That's not something that the
14 Department would dispute. But I think what I want to
15 get across to you is our good faith in trying to get
16 there.

17 SENATOR MATHEUSSEN: You mentioned in the
18 beginning that there was a deep division. One of the
19 things when you took over the Department, that there
20 was a deep division among State Police and among
21 people within your own Department. Tell us about
22 that division and tell us the status of that division
23 now.

24 ATTORNEY GENERAL FARMER: Well, that
25 division is something I realized early on, as I said.

1 I started to reach out to members of the State Police
2 and hear their concerns. I have tried aggressively
3 to address it and addressing the troopers to
4 basically say we are one Department. The
5 responsibility rests at the top. It's with the
6 Attorney General.

7 SENATOR MATHEUSSEN: I was going to ask
8 you, who is the top?

9 ATTORNEY GENERAL FARMER: That's the
10 Attorney General. I bear ultimate responsibility for
11 what happens. And the only way for any of us to
12 succeed is if we move together as one Department and
13 heal some of these wounds that have existed. The
14 current state of it, I think temporarily it's, you
15 know, some wounds have been reopened by these
16 hearings. I have come to believe that these hearings
17 were necessary and if not inevitable. I at one time
18 was frustrated by the likelihood of these hearings
19 because I thought I was making progress and actually
20 brining people together and I saw the potential for
21 the hearings to drive a wedge. But I think in a way
22 it's been good. It served as a catharsis for the
23 Department and when this is over, I'm going to resume
24 aggressively trying to address that situation. I
25 think, frankly, one of the most important things

1 we've done to bring about that kind of healing is
2 establishing the State Police Affairs. That office
3 works very closely with the State Police. There are
4 State Police members within that office are also
5 lawyers. And it's really broken down a lot of the
6 walls and barriers that had existed before and I'm
7 hoping to build on that in the future.

8 SENATOR MATHEUSSEN: General, I realize,
9 and certainly sitting through these hearings for the
10 last numbers of days, I realize that you are
11 responsible for what some has estimated to be at
12 least a 7,000 Department, counting State Police and
13 people within the Attorney General's Office, and I
14 realize that on a day-to-day basis you cannot fathom
15 or even begin to be responsible for every single
16 issue in a way that you would know all the details.

17 ATTORNEY GENERAL FARMER: That's correct.

18 SENATOR MATHEUSSEN: However -- however,
19 having said that, there seems to me to be at least
20 somewhat of a conclusion in my own mind that you need
21 to have people who are subordinate to you that are in
22 places of responsibility who are, in fact, taking on
23 these issues on a day-to-day basis and know all the
24 details. Assure me, if you would, by going through
25 the people that work for you, who they are, what

1 their backgrounds are, who are in charge of number
2 one, keeping lines of communication opened up with
3 State Police. Keeping lines of communication open
4 with the Department of Justice. And most
5 importantly, keeping information flowing into your
6 office that you need to use to make decisions on on
7 how to rectify this problem. Three areas.

8 ATTORNEY GENERAL FARMER: One of the truly
9 gratifying experiences I've had as Attorney General
10 is the quality of the people who have agreed to work
11 with me. Paul Zoubek, who's actually my Supervisor
12 in the U.S. Attorney's Office not too long ago. And
13 I think the world of Paul. You've heard a lot from
14 him over the last --

15 SENATOR MATHEUSSEN: Yes, we have.

16 ATTORNEY GENERAL FARMER: -- few days. And
17 he is -- and he's aggressively engaged in these
18 issues. Probably the most pivotal person is another
19 former colleague of mine from the U.S. Attorney's
20 Office, Martin Cronin, who's the head of the Director
21 of State Police Affairs. Marty is somebody who is
22 extremely blunt. I wanted someone who was a
23 prosecutor, but an investigative prosecutor. Someone
24 who really knew how to make cases. Someone who knew
25 how to work with police. Marty is from a police

1 family and he fit the bill perfectly. And I couldn't
2 have asked for a better person. I think there's one
3 thing the people around me have in common, whether
4 it's Cathy Flicker, who's now the Director of
5 Criminal Justice, or Paul or Marty or for that matter
6 Carson Dunbar, I want people who are going to tell me
7 the truth even if -- even if they think I won't like
8 it. I want people who are going to be extremely
9 blunt and tell me bad news, because one of the
10 difficulties in a job like this when you're sitting
11 on top of a Department of that size is knowing when
12 you're getting in trouble. And if you don't have the
13 people who are going to come to you and tell you this
14 is a problem, then ultimately you're going to be in
15 trouble yourself.

16 So I've surrounded myself with people who -
17 - we have some very interesting and fiery meetings,
18 but they are people who I respect and who respect me
19 enough to tell me bluntly what they think is going
20 on.

21 SENATOR MATHEUSSEN: These are perhaps
22 questions that have never been asked before, but I
23 think they are appropriate to ask. The other person
24 who is responsible for answering to the Department of
25 Justice and --

1 ATTORNEY GENERAL FARMER: That would be
2 Martin Cronin also.

3 SENATOR MATHEUSSEN: Okay. Your
4 relationship, both professionally -- more importantly
5 professionally with the Colonel, how does that work
6 and what is your contact with him on a weekly basis
7 or a day-to-day basis?

8 ATTORNEY GENERAL FARMER: It varies from
9 week to week. Some weeks it's every day. Some weeks
10 we have several meetings during the course of a week
11 and other weeks it's not -- it's not that active,
12 depending on what my schedule is and depending where
13 my intentions are being directed. It's been a
14 pleasure to work with Carson Dunbar. He is like
15 Marty in some ways; very, very direct. Very blunt.
16 He may not -- you may not agree with his opinion, but
17 you're going to hear it and as I said, an
18 organization like this, you have to have that. We
19 don't -- we have not always agreed. We don't
20 necessarily agree on even most issues, but we have a
21 kind of mutual respect where we can hash out our
22 differences and move beyond them.

23 SENATOR MATHEUSSEN: May I ask what major
24 issues are you in disagreement about when it comes to
25 the area of racial profiling?

1 ATTORNEY GENERAL FARMER: Well, one of the
2 things we've been talking about since we started this
3 management inquiry is what do you do about consent
4 searches. And I know that's something that's
5 occupied the Committee --

6 SENATOR MATHEUSSEN: Yes, it has, so go
7 right into it if you would.

8 ATTORNEY GENERAL FARMER: -- and, you know,
9 what the proper steps to take are. A month ago I was
10 of the view that I should simply issue a directive
11 ending the practice. We had a long meeting on that
12 and Carson persuaded me that -- and with actually
13 Marty joining him, that would not be the right
14 approach because consent searches can be a useful law
15 enforcement tool as I think Sergeant Gilbert
16 testified in front of this Committee. I recall a
17 federal case from ten or 15 years ago involving a
18 terrorist on his way to New York City who was
19 stopped, I believe on Route 78 or Route 80, by the
20 State Police and a consent search basically disclosed
21 the explosives that he was going to New York with.
22 So if you had a doctrine that prohibited consent
23 searches, you might loses tens of thousands of people
24 in a case like that.

25 So once you've concluded that it's not

1 right to prohibit it, what do you do? Because
2 clearly there's a problem.

3 I think Carson favors the approach of
4 increased supervision on the road. Have a Supervisor
5 at every -- at every consent search. And frankly,
6 one of the advantages that we're gaining from
7 graduating these classes is that it is freeing
8 Supervisors up so that they can actually have one in
9 the barracks and one on the road so that they will be
10 available for that kind of mission. Our concern with
11 that is the length of time it will take the
12 Supervisor to actually get to the stop. That could
13 conceivably jeopardize officers' safety in some
14 circumstances if it takes too long. It could also,
15 frankly, turn the stop into a custodial arrest based
16 on U.S. v. Dickey, if you take too long to get there.

17 So we are wrestling with the same issue
18 that the Committee has wrestled with and I can't tell
19 you at this point that we -- that we have come to
20 terms exactly with what we're going to do. One of
21 the things that I'm strongly in favor of is where
22 we've identified a trooper who seems to have a
23 problem with his consent searches, to suspend his
24 ability to perform until he is -- his case is
25 disposed of and he's either retrained or transferred

1 or depending on how severe the infractions, terminate
2 him.

3 SENATOR MATHEUSSEN: Have you reached out
4 at all to community activists, community leaders and
5 to find out from them their opinions as to where
6 State Police have been, where they're going to, and
7 your relationship as the Attorney General with those
8 community leaders?

9 ATTORNEY GENERAL FARMER: Yes, I have.
10 Carson and I have both spoken on numerous occasions
11 in front of community groups. And, in fact, one of
12 the things I think we really need to do in this state
13 is to have some kind of a dialogue where community
14 leaders and State Police folks are really in the same
15 room talking, because it's in that kind of forum that
16 I think you'll see the people's different definitions
17 of racial profiling emerge.

18 SENATOR MATHEUSSEN: Well, explain the
19 forum a little bit, because you said you've spoken
20 before these groups. Tell me what the forum was
21 like. Because if you had spoken before them, that
22 doesn't to me transcend that you're getting a lot of
23 information back from them. It sounds like you're
24 talking to them. Tell me about the forum.

25 ATTORNEY GENERAL FARMER: Well, I've spoken

1 at, you know, the Black Ministers Council last year.
2 I've spoken at numerous community forums of varying
3 sizes. So the level of feedback that you get depends
4 on the size of the group you're addressing and how
5 free they feel to talk to you afterwards. But it's
6 been one of my constants on my schedule is going out
7 and speaking on this issue, both to community groups
8 and to law enforcement groups. And as I said, the
9 perspectives you get are different enough that it's a
10 cause for concern.

11 SENATOR MATHEUSSEN: General, you have a
12 lot on your plate obviously. There has been some
13 accusations, and perhaps rightfully so, that there
14 are a lot of people responsible for racial profiling.
15 That at one time or another State Police were getting
16 conflicting instructions saying that hey, look, if
17 you do certain -- do a certain profiling, you'll
18 probably catch a lot of bad guys that are out there.
19 And then Civil Justice saying but if you do that,
20 you're violating people's civil rights. We have
21 community activists who say that a lot of people are
22 being offended by this line of work. But let's talk
23 about government for a moment. There's plenty of
24 responsibility to be shared by a lot of folks here.
25 What do you say to the Legislature? What can we do

1 to help you in what you've now addressed as your
2 number one issue for the last two years? What do you
3 need from the Legislature to do this, to undo what
4 has been done and where we want to head to?

5 ATTORNEY GENERAL FARMER: Well, I think a
6 year ago when I testified at my budget hearings, I
7 opposed at that time codification of the reforms for
8 a couple of reasons. One, they were embodied in a
9 consent order so they had the force of law. But more
10 importantly, we needed to find out what worked before
11 we codified. I think if the Legislature were to move
12 in any direction immediately, I would suggest that
13 you codify and clarify the lines of responsibility
14 with respect to the Office of State Police Affairs
15 and my office.

16 SENATOR MATHEUSSEN: And have you issued a
17 report on that codification?

18 ATTORNEY GENERAL FARMER: No, I have not.

19 SENATOR MATHEUSSEN: Would you --

20 ATTORNEY GENERAL FARMER: I'd be happy to
21 work with you though on developing some kind of
22 proposal along those lines. The Office has proven
23 invaluable in attempting to build a bridge between my
24 office and the Division of State Police and I think
25 it's really the key to the future of this

1 relationship.

2 SENATOR MATHEUSSEN: Whether through me or
3 through any of the other 119 members of the
4 Legislature, I'm sure that we all would be willing to
5 work with you and accept your offer to work with you
6 on codification. So please accept that as our
7 invitation to find out more about that.

8 What else besides the codification,
9 General?

10 ATTORNEY GENERAL FARMER: You know, I've
11 seen the various proposals that are out there. I
12 think one thing that's absolutely essential that it
13 occur, and this doesn't pertain strictly to State
14 Police, I believe there should be cameras in every
15 police car in the state. I think a law ought to be
16 passed that provides for that. It's good law
17 enforcement. It's also -- it's also a form of
18 property tax relief to the extent that some towns
19 have already spent property tax money to put these
20 cameras in their cars. The cameras in the cars are
21 absolutely crucial to getting to where I think we
22 need to be which is to evaluate these cases on an
23 individual basis. Because with the cameras in the
24 cars, you have -- you have proof where you never had
25 it before. Where before you just had, you know, one

1 person's word against another, the cameras give you a
2 window into what really goes on. And that's what
3 we're finding to be so valuable in this management
4 inquiry that we're doing now.

5 SENATOR MATHEUSSEN: The reforms that you
6 talked about in your opening statement, the
7 computerization, the request of detail that is now
8 required in every stop, has that transcended down to
9 county and local police departments?

10 ATTORNEY GENERAL FARMER: I don't know the
11 answer to that question. I think we're probably
12 doing more than most, but I don't know. I think
13 there's quite a bit of variance among local and
14 municipal police departments. That's something that
15 I should look at.

16 SENATOR MATHEUSSEN: As chief law
17 enforcement officer of the State, do you think it's
18 appropriate that all Departments act in uniformity,
19 regardless of whether they're the local PD or the
20 State Police? Do you work in uniformity with regard
21 to these standards?

22 ATTORNEY GENERAL FARMER: I'm not sure,
23 because, you know, the State Police have a unique
24 mission as a highway patrol in the state and I'm not
25 sure that with respect to local police departments

1 that you would need to require as much of them
2 because they don't do as much of the road type work
3 that the State Police does. To the extent that you
4 have a road-intensive police department, I think they
5 should look at doing something like what we've done.

6 SENATOR MATHEUSSEN: But certainly there
7 are stops that are made by county officers and local
8 officers that would be using the same profiling
9 tactics, whether they're on the highway or they're on
10 the street as pedestrians. You don't think that's an
11 important element to include in all departments?

12 ATTORNEY GENERAL FARMER: Frankly, that's
13 the reason I think that they should all have cameras
14 in their cars. I'm just not sure beyond that whether
15 towns should incur the cost of computerization that
16 we're incurring and require the level of reporting
17 that we're requiring.

18 SENATOR MATHEUSSEN: Well, I'm not so sure
19 that the municipalities would disagree with you.
20 They shouldn't probably incur the cost. I think that
21 would be a cost that they would look for the State to
22 absorb but, quite frankly, it sounds to me like this
23 is the grounds for a very short debate because it
24 would seem to me that uniformity in treating the
25 community at large is more important than the cost

1 that we have to concern ourselves with right now.

2 ATTORNEY GENERAL FARMER: If it could be
3 done economically, I would support it.

4 SENATOR MATHEUSSEN: I'm asking if you
5 would as a chief law enforcement officer look into
6 that and report back to this Committee --

7 ATTORNEY GENERAL FARMER: Sure.

8 SENATOR MATHEUSSEN: -- of your results to
9 make that a uniform practice throughout the state.

10 Is there anything else, General, that you
11 would like to add in painting this picture of how we
12 wrestle with the issue of profiling?

13 ATTORNEY GENERAL FARMER: Not at this time,
14 no.

15 SENATOR MATHEUSSEN: One last question.
16 Yesterday First Assistant I guess it is --

17 ATTORNEY GENERAL FARMER: Yes.

18 SENATOR MATHEUSSEN: -- Attorney General
19 Zoubek appeared before us and indicated that there
20 was an RFP out regarding doing a statistical base
21 analysis of stops, consent searches, speed searches.
22 Where are we with that RFP and can you please tell us
23 when it's going to be completed?

24 ATTORNEY GENERAL FARMER: What he is
25 referring to there is this is what I've referred to

1 as a partial violator survey. And what it involves
2 is basically the taking through a high-speed, high-
3 tech camera that is incredibly accurate, pictures of
4 cars as they drive by. It's being done at 14
5 different locations throughout the state. The RFP
6 has already come back. We've actually started the
7 actual work. I don't know how long it's going to
8 take to complete it. What we're hoping to get is a
9 snapshot, so to speak, of if there are any
10 differences, based on race or ethnicity among the
11 driving population, of speeds.

12 SENATOR MATHEUSSEN: Nothing further.

13 SENATOR GORMLEY: Senator O'Connor.

14 SENATOR O'CONNOR: Thank you, Mr. Chairman.
15 General, good morning.

16 ATTORNEY GENERAL FARMER: Good morning.

17 SENATOR O'CONNOR: It's good to see you.

18 I think that there is a feeling around this
19 table that had you been at the helm back when this
20 all started, we wouldn't be here today having the
21 hearings. But in any event, I'd like to ask you a
22 few questions just to follow up.

23 This class that is graduating today, are
24 there minority members in the class?

25 ATTORNEY GENERAL FARMER: Yes.

1 SENATOR O'CONNOR: And I know that there's
2 been some effort made to recruit minorities. Would
3 you care to comment on that?

4 ATTORNEY GENERAL FARMER: Yes. We have --
5 we have tripled the budget for recruiting and have
6 been attempting to diversify. We entered into a
7 consent decree with the NAACP last -- I think
8 February, February of the year 2000, in which we set
9 forth our goals with respect to recruiting.
10 Diversity is our goal. We have obviously not gotten
11 there yet. I think the current class is a little bit
12 under 20 percent minority which is not where we want
13 to be. But, you know, frankly, this is an issue that
14 Departments around the country have been struggling
15 with and I believe Portland, Oregon recently dropped
16 its four-year degree requirement because of the
17 difficulty they were having in attracting qualified
18 women and minorities to the police department.

19 I think we've done quite well given the
20 struggles that every Department around the country
21 has been having. But we can do better.

22 SENATOR O'CONNOR: What was your goal in
23 terms of minority representation for this class?

24 ATTORNEY GENERAL FARMER: Well, obviously
25 we want to stay away from unconstitutional quotas.

1 So what we agreed with the NAACP is that we would
2 have a target of 30 percent minority and women
3 entering the pool to take the test. In other words,
4 so that there would be a screening process after the
5 quota and our feeling was that that process would be
6 constitutional as opposed to setting an absolute
7 number.

8 SENATOR O'CONNOR: How many classes have
9 there been since you became Attorney General of the
10 State Police?

11 ATTORNEY GENERAL FARMER: This is the
12 second. But they're smaller classes. I don't want
13 to mislead you. There will be five graduating in the
14 next two months. We've changed the way that the
15 Academy is structured so that the classes aren't as
16 large as they were. We've gone to an adult base
17 learning curriculum that's used by the Royal Canadian
18 Mounted Police, among others, and found them to be
19 very effective. So the class sizes are smaller.
20 It's still the same essentials that are being taught,
21 but they're being taught in a different way. And as
22 I said, there will be three more classes graduating
23 in the next few weeks. So it's a very positive
24 development and we have another series of classes
25 coming this summer.

1 SENATOR O'CONNOR: How have the minority
2 numbers shaped up in the two -- well, you said there
3 are since you became, and then there are three more
4 coming onboard.

5 ATTORNEY GENERAL FARMER: Gradually, I
6 don't have the exact numbers, but there is gradual
7 increase representation in the subsequent classes.

8 SENATOR O'CONNOR: Okay. And how about the
9 numbers of NCO's and officers in the State Police
10 ranks? How are they in terms of minority
11 representation?

12 ATTORNEY GENERAL FARMER: I don't know
13 numbers, but I'll get them for you.

14 SENATOR O'CONNOR: The studies that you did
15 on the numbers of stops and consent searches, et
16 cetera, was there any breakdown in terms of the
17 numbers as they were done by minority troopers?

18 ATTORNEY GENERAL FARMER: No. No.
19 Interestingly though, the Justice Department survey
20 that I talked about basically found no difference
21 with respect to the race of the officer, which I
22 guess is consistent with what they found several
23 years ago in New Jersey. But we did not do that, no.

24 SENATOR O'CONNOR: Now, you talked
25 originally about there being some resistance, both

1 within the State Police ranks as well as in the
2 Office of the Attorney General, even in light of what
3 appeared to be, you know, very, very convincing
4 numbers that indicated that racial profiling was
5 going on. How, now that you've made the efforts that
6 you've descried for us, how has the morale been in
7 the State Police and in the Attorney General's
8 Office?

9 ATTORNEY GENERAL FARMER: I think the
10 morale in the State Police is low. It's been low for
11 a couple years. It's going to take a while to turn
12 it around because we're going through a period of
13 really convulsive change. But what's really
14 impressed me is that the cooperation with respect to
15 getting these reforms done does not seem to have been
16 affected by the low morale. We have had cooperation
17 from the State Police, not just from Colonel Dunbar,
18 but from the people around him and I'm very gratified
19 by that.

20 SENATOR O'CONNOR: You mentioned before
21 that the people that have been identified as having
22 been offenders in terms of racial profiling have been
23 pretty much identified and you talked about in terms
24 of disciplinary proceedings, perhaps suspension of
25 these people until the disciplinary matter is

1 resolved, is there anything that's anticipated in the
2 way of retraining for these people? Assuming that --
3 ATTORNEY GENERAL FARMER: Actually the --
4 the way the consent decree treats problematic conduct
5 is, and what we're trying to get to with this MAP
6 system that we're putting in place, is a system that
7 we can identify problems in their incipient stages so
8 that we can intervene very early on in a trooper's
9 career if he seems to be going down the wrong path
10 and effect that retraining. That is what -- that is
11 what the consent decree contemplates. To the extent
12 that you have people who, you know, who may be more
13 serious offenders, obviously, you know, disciplinary
14 steps will have to be taken.

15 SENATOR O'CONNOR: You've given us the
16 statistics which indicate that racial profiling is
17 not unique to New Jersey, it's pretty much a national
18 problem. And I'm wondering, do you have any
19 statistics as to how this problem evidences itself in
20 other law enforcement agencies around the State of
21 New Jersey; local level, county level, et cetera?

22 ATTORNEY GENERAL FARMER: I'm aware of
23 other State Police forces that are encountering this
24 problem. I think in Texas they're encountering the
25 problem. North Carolina is actually doing a Justice

1 Department funded violator survey similar to the one
2 that we're now doing. You know, I go occasionally to
3 meetings of the National Association of Attorneys
4 General and basically everyone is asking us what they
5 should do. We met last month in Washington and I met
6 with Attorney General Ashcroft at the time. And the
7 two of us went out and spoke to the other 49
8 Attorneys General about this issue and we are looked
9 to as the cutting edge jurisdiction with respect to
10 this issue. But it is coming up in multiple
11 jurisdictions.

12 SENATOR O'CONNOR: I've been told that, you
13 know, what we know of racial profiling is really the
14 tip of the iceberg in that I mean it goes on in a
15 variety of things, you know, not the least of which
16 are airports and, you know. Do you have any
17 statistics or any evidence of any of that?

18 ATTORNEY GENERAL FARMER: Airports? Well,
19 I can tell you that one of the problems that I've
20 alluded to was the problems in the case law and one
21 of the cases that is cited frequently by law
22 enforcement when I have spoken to them is a case from
23 the 8th Circuit, United States v. Weaver. In that
24 case a young black male was arrested coming off a
25 flight from Los Angeles to Kansas City and the DEA

1 agent testified that the reason that he absolutely
2 took his race into account because he had information
3 that young black males from California were carrying
4 dope into Kansas City. And the 8th Circuit basically
5 said look, it's an unpleasant fact of life, but that
6 was good information and this arrest was valid. And,
7 you know, what we've been confronted with with the
8 State Police is you have case law that upholds that
9 kind of conduct and arguably that's what the State
10 Police police have been doing, using the drug courier
11 profiles. It's legitimate information. It usually
12 has to do with people coming, you know, from the
13 South with drugs or from the North with money. And
14 the real question is not a legal question, it's a
15 policy question. The policy question is is it worth
16 it? Is it worth it to pursue those practices when
17 your success rates are so low? When you have a
18 success rate with Hispanics of five percent, is it
19 worth the civil liberties angst that you incur by
20 tossing all those cars and finding nothing? And
21 we've answered the question, no, it's not. And the
22 measures we're trying to put in place are measures
23 that will stop that practice in the future.

24 SENATOR O'CONNOR: You said that you came
25 very close to issuing a directive saying that there

1 would be no more consent to search in New Jersey.
2 You backed off that. Is that something that you're
3 sort of reserving your decision on or what?

4 ATTORNEY GENERAL FARMER: No, I'm persuaded
5 that you can't take that away from the police. It's
6 a valuable law enforcement tool. I mentioned the
7 case of a terrorist going to New York, if they're
8 forbidden from asking for consent, that person gets
9 into New York and a lot of people get killed. So
10 it's a valuable law enforcement technique. What we
11 have to make sure is that it's used judiciously on
12 the roads.

13 And the other thing, it's always of
14 paramount concern and something that we have to
15 emphasize is, you know, if you make a decision like
16 that and you say you can't ask for consent to search,
17 maybe you make the officers hesitant to act. Maybe
18 when they have something in their mind that this
19 doesn't look right, maybe they're afraid to act and
20 maybe someone gets hurt. Maybe an officer gets shot.
21 And you can't -- you absolutely can't afford that.
22 We've made that clear with the Justice Department in
23 our negotiations, that our primary concern was that
24 whatever we do in this way, does not jeopardize
25 officer safety because that's simply unacceptable.

1 And the Justice Department frankly was very flexible
2 in that regard.

3 SENATOR O'CONNOR: Thank you very much,
4 General.

5 SENATOR GORMLEY: Senator Zane.

6 SENATOR ZANE: General, I recognize that
7 you were saying that we have a lot to do and I
8 recognize that you are telling us a number of things
9 that you, in concert with others, have suggested that
10 begun and I'm not critical of any of those things
11 that you're suggesting. And I compliment you for
12 them. However, you as the chief law enforcement
13 officer, really the head of the State Police and the
14 Attorney General's Office, how do you explain why
15 it's happening?

16 ATTORNEY GENERAL FARMER: That's a tough
17 one. I think there are a myriad of reasons and I say
18 that because -- frankly, because we have that
19 information now. I've had the opportunity to view
20 some of these videos and, you know, I viewed one
21 video that did not seem to be malicious conduct at
22 all, but the reality of the video was that a black
23 driver was pulled over. Wasn't speeding. He was in
24 the left-hand lane. And he ultimately was given a
25 ticket for having an odor -- an air freshener hanging

1 from the rear-view mirror. Hard to account for that.
2 I've seen other video tapes that are more disturbing
3 than that where a carload of Hispanic drivers was
4 detained on the side of the road for over an hour.
5 Where obscenities were used. Where ultimately
6 consent to search was given by the Hispanic driver
7 and nothing was found. And I think you're dealing
8 with two different -- you're dealing with two
9 different troopers in those situations. I would say
10 that the second one is a lot more problematic than
11 the first. The first may simply be someone who needs
12 sensitivity training. The second one may be somebody
13 who needs to be terminated. I can't account for why.
14 In fact, one of the reasons I did consider basically
15 directing that no more consent searches happen is,
16 given all the publicity that's occurred over the last
17 few years over this issue, I can't account for why
18 some of this is still going on other than perhaps a
19 belief that no one is going to look. And that's
20 simply not going to be true anymore.

21 SENATOR ZANE: General, I asked the former
22 Attorney General what he thought were the three most
23 important issues that he faced and he put racial
24 profiling as number one. Do you have the same view
25 as to where your efforts have been directed to be,

1 the most significant issue that you dealt with?

2 ATTORNEY GENERAL FARMER: I would say so,
3 yeah, because it so directly affects public
4 confidence in government. The contact, the
5 interaction between the public and the police is the
6 most basic interaction there is and if the public
7 doesn't have confidence in that interaction, you
8 know, you have a problem.

9 SENATOR ZANE: I think the obvious thing
10 you think of when you see these numbers, and the
11 numbers are still reflective of the same kind of
12 numbers that we saw in 1995 and 1996, would you agree
13 with that?

14 ATTORNEY GENERAL FARMER: They are a little
15 bit lower but --

16 SENATOR ZANE: I understand.

17 ATTORNEY GENERAL FARMER: -- ball park,
18 yes.

19 SENATOR ZANE: Yeah. And I think the
20 obvious thing you think of is prejudice. Sometimes
21 in my mind I guess I balance that against what you
22 said -- and we saw figures also in somebody else's
23 testimony beforehand that the number of minority
24 troopers stopped the same proportion of black
25 troopers as did white troopers. I don't think that

1 totally dispels the issue of prejudice, but it makes
2 one wonder.

3 ATTORNEY GENERAL FARMER: Well, it could be
4 prejudice harbored by law enforcement regardless of
5 race.

6 SENATOR ZANE: Okay.

7 ATTORNEY GENERAL FARMER: As to who the
8 likely offenders are.

9 SENATOR ZANE: And you can put all the
10 bells and whistles and TV cameras and everything else
11 in a car to record all this, but don't you have to do
12 something with that very basic problem somehow?

13 ATTORNEY GENERAL FARMER: Well, we
14 obviously try to address that through training and
15 the training is as the Monitors notice, state of the
16 art. But you're right, I mean ultimately it gets
17 down to the individual officer on the road vested
18 with discretion by virtue of his training and his
19 badge. And we've got to make sure that those people
20 have the best training and that if they have
21 attitudes that are nefarious, that we root them out.
22 But it's a tough issue because I mean this
23 Legislature just last year passed the primary
24 seatbelt law, largely based on information that black
25 males are more than twice as likely not to wear their

1 seatbelts and that was a position that was endorsed
2 by the Council of Ministers and Reginald Jackson.
3 But what is that going to result in if it's enforced
4 evenhandedly? If the truth is that young black males
5 are more likely not to wear seatbelts, that means
6 they're going to be ticketed more under that law.
7 Does that mean -- does that mean that law enforcement
8 is prejudiced then? These are tough issues and I
9 think not enough attention has been paid to the
10 consequences of passing bills like that. I know in
11 Massachusetts they didn't pass the primary seatbelt
12 law for exactly that reason, that it would result in
13 a disproportionate number of tickets being given to
14 young black males not wearing seatbelts.

15 But I don't think we can turn a blind eye
16 to those realities and ask, you know, not ask those
17 questions.

18 SENATOR ZANE: How do you differentiate the
19 numbers out of Newark versus the numbers of Cranbury
20 and even further down in Moorestown? What do you
21 think the difference is?

22 ATTORNEY GENERAL FARMER: I don't know.

23 SENATOR ZANE: I mean you're doing the same
24 thing in all three places now, am I correct?

25 ATTORNEY GENERAL FARMER: Yes. Yes.

1 Although I have to tell you, to date we're working
2 our way north. We've done Moorestown. We're doing
3 Cranbury. We'll ultimately do Newark. But I can't
4 account for the difference, why Newark seems to be
5 more in line with where you'd expect it to be. What
6 I've heard is it's a busier roadway. So there isn't
7 as much free time, so to speak.

8 SENATOR ZANE: But the numbers -- but the
9 numbers in the north were essentially the same as the
10 numbers in the south, '95, '96, '97 and '98, correct?

11 ATTORNEY GENERAL FARMER: You know, I don't
12 know that. I'm not sure.

13 SENATOR ZANE: I think they were.

14 When you say that the morale is low among
15 the state troopers, how is that reflecting itself?
16 What are you seeing that tells you that?

17 ATTORNEY GENERAL FARMER: You know, I don't
18 know that it's manifested itself in conduct
19 necessarily, but you hear it. You know, when I go
20 around and speak to various groups and there are
21 troopers there, you know, they'll tell me and you
22 hear it from troopers at work that morale is low and,
23 you know, people -- I think there is a sense that
24 we're on the right path but, you know, it's tough for
25 any Agency to take that kind of publicity that it's

1 taken for several years now and not for it to have
2 some effect on people's general satisfaction at work.

3 SENATOR ZANE: Thank you.

4 SENATOR GORMLEY: Senator Girgenti.

5 SENATOR GIRGENTI: Thank you very much.

6 Good morning, General.

7 ATTORNEY GENERAL FARMER: Good morning.

8 SENATOR GIRGENTI: General, you know, you
9 gave a very good presentation earlier in terms of an
10 update, but some of these questions I had thought
11 about on the way down and I may be overlapping some
12 of the things you may have said, but I think it's
13 important for the record to get them out.

14 You know, what has struck me in all the
15 testimony we've heard so far is almost the complete
16 lack of empathy for the rights of the public in the
17 past. Everyone was more worried about, quite frankly
18 from my opinion, CYA; cover yourself. As AG of this
19 state, you are also the public advocate, in my
20 opinion, because we no longer have a public advocate.
21 So that role would fall within your offices. Can you
22 tell me how policies and practices are different than
23 what I have just described in terms of lack of
24 empathy, CYA, under your administration now?

25 ATTORNEY GENERAL FARMER: Well, I think the

1 key to addressing the CYA issue is something that's I
2 think endemic to any bureaucracy. And the key is to
3 have the right structure in place so that the
4 confusion doesn't result and I think the CYA
5 mentality takes root really where there's, you know,
6 a lack of clear direction in the hierarchy and, you
7 know, I think by creating the Office of the State
8 Police Affairs we've tried to address that and by
9 surrounding myself with people who I, you know, who
10 are candid to the point of being blunt with me, I'm
11 hoping that that message gets down that that's
12 something that I value and I want people to tell me
13 the unpleasant news.

14 SENATOR GIRGENTI: All right. Well, you
15 know, this is not a reflection on you. You happen to
16 be here now, but I'm talking about the history
17 leading up to this point.

18 ATTORNEY GENERAL FARMER: Right.

19 SENATOR GIRGENTI: I know that you are
20 making positive strides, I just hope you will
21 continue to.
22 I don't know if it's intentional, you know, from
23 again the testimony leading up to this point,
24 everyone seems to be working in isolation. You know,
25 we were talking about different individuals in the

1 bureaucracy you just mentioned. Very little
2 communication. People not knowing who is supervising
3 who we've heard. I don't know if you've been paying
4 attention to the testimony. What communication
5 mechanisms have you put in place to coordinate or
6 overcome the problems that we've seen in this lack of
7 communication?

8 ATTORNEY GENERAL FARMER: Well, basically
9 every communication between my office and State
10 Police goes through Martin Cronin. And he has a
11 staff of 20. You know, if you decide to codify his
12 office, you might want to augment their budget. They
13 could double in size, I think, and still have plenty
14 to do. But I think that's something that did not
15 exist in the past. A single point of contact for
16 issues as they arise for the Superintendent, or for
17 anybody else for that matter. I think that's the
18 key. If you have clear lines of communication and
19 people understand who they're supposed to be talking
20 to, that's a key.

21 We also put together -- and this was done
22 by Paul Zoubek really before I arrived, a working
23 group comprising people from my Administrator's
24 Office, from Criminal Justice, from State Police,
25 State Police Affairs that meets once a week, and

1 basically keeps tabs on where we are with these
2 reforms. What's moving forward. What's lagging.
3 Where do we need to push. Who do we need to push.
4 And I think that's also been helpful.

5 SENATOR GIRGENTI: All right. Now, you did
6 cover some of this, but just as an update now. What
7 kind of reports do you get in terms of updates and
8 how often do they come in in terms of this racial
9 profiling issue? Is it something that you go over
10 weekly? How do you handle this?

11 ATTORNEY GENERAL FARMER: It varies from
12 week to week. At least a couple times a week I will
13 have
14 a --

15 SENATOR GIRGENTI: But you have been
16 focused on this and so you're --

17 ATTORNEY GENERAL FARMER: Yes.

18 SENATOR GIRGENTI: -- getting updates all
19 the time. And what type of data are we collecting?
20 Is it just the stops or consent to search? What's
21 being collected?

22 ATTORNEY GENERAL FARMER: It's very
23 comprehensive. I mean I know Senator Zane, he's not
24 here, but had a question yesterday about are we
25 collecting data with respect to those who refuse

1 consent? And the answer to that is yes. We are
2 collecting that data. We have not isolated that data
3 at this point, but I think it's a valuable thing to
4 do.

5 We are collecting information, which I went
6 over in my statement, but it's very comprehensive
7 with respect to every stop and every roadside
8 encounter. And that's something that's different and
9 allows us to make the kind of individual assessments
10 that I've been talking about.

11 SENATOR GIRGENTI: All right. And then we
12 kept talking throughout the period up until now about
13 throughout the years there was talk of this violator
14 survey.

15 ATTORNEY GENERAL FARMER: Yes.

16 SENATOR GIRGENTI: Now, where are we with
17 it? Did you say you are in the process of doing it
18 or --

19 ATTORNEY GENERAL FARMER: It's being
20 conducted, yes.

21 SENATOR GIRGENTI: Okay.

22 ATTORNEY GENERAL FARMER: It started a
23 couple of weeks ago. I'm not sure when it will be
24 finished. As I said, it's these high-tech cameras at
25 14 different locations. One of the reasons we didn't

1 announce we were doing it when we started it was we
2 don't want -- we don't want people to know that
3 they're being -- having their picture taken because
4 it might affect their behavior and that will skew the
5 results. But since it's out, it's out. And we do
6 have a couple weeks worth of data to work with and
7 I'm not sure exactly, as I've said, when it's going
8 to end. One of the problems in doing a violator
9 survey, frankly, and we did talk about this with the
10 Justice Department when we were negotiating the
11 consent decree, is reliability. How do you know you
12 have a workable result? The Justice Department did
13 not want a violator survey in the consent decree. We
14 were -- we were not sure whether we needed one or
15 not. But when we got the stop numbers at the end of
16 last year, they remained problematic. I decided to
17 go ahead and do it.

18 SENATOR GIRGENTI: Do other states
19 presently, have you seen background in terms of other
20 states doing these violator surveys or --

21 ATTORNEY GENERAL FARMER: I know of one in
22 North Carolina, yes. It's being conducted.

23 SENATOR GIRGENTI: All right. Another
24 question I have. How are we continuing to conduct
25 drug interdiction on our major highways? How has

1 this affected that? I know, you know, I don't have
2 to go through the history, Operation Pipeline, going
3 back and now -- has there been a change in philosophy
4 during your tenure in terms of the emphasis being in
5 certain areas?

6 ATTORNEY GENERAL FARMER: Yes.

7 SENATOR GIRGENTI: Could you --

8 ATTORNEY GENERAL FARMER: We have obviously
9 de-emphasized interdiction as a primary policy goal.
10 We have told troopers that if it's there, I mean if
11 they have reasonable suspicion, that they should
12 proceed. If they have probable cause, they should
13 proceed. But basically what we have done is we are
14 trying to emphasize longer term investigative
15 interdiction and we have assigned state troopers to
16 each of the 21 county narcotics task forces, which
17 had been curtailed in the past. We think that that's
18 the level where it's most appropriate. So the State
19 Police, in other words, would be concentrated at the
20 street level in the counties where the drugs hit and
21 they would have longer term investigative efforts
22 underway to seize larger shipments.

23 SENATOR GIRGENTI: And then just finally,
24 despite the stain on the reputation of the State
25 Police as a result of what's gone on, it's important,

1 as we all know, to recognize and award excellent
2 behavior. How are you recognizing the top
3 performers? For instance, such as in the past
4 there's been trooper of the year. There's been a
5 criticism of that program because of just looking for
6 aggressiveness or numbers. Quality sometimes instead
7 of quantity. What have you done or has been your
8 involvement in terms of changing this or what --

9 ATTORNEY GENERAL FARMER: We still have --
10 there was a suggestion at one point to end trooper of
11 the year. We still -- we have retained trooper of
12 the year. We have changed the criteria by which that
13 award is defined. For example, last year it went to
14 one of the officers in the community policing area.
15 And basically the area where he was patrolling saw a
16 decrease in complaints and violent incidents. That
17 was several fold over a period before he got there.
18 So there was a marked decrease in crime based on his
19 efforts. In the future we're going to be looking at
20 things like acts of heroism and community policing
21 and those kind of areas rather than simply arrest
22 statistics.

23 SENATOR GIRGENTI: Because, you know, that
24 sends the message from the top. If you're going to
25 encourage -- not that we do not want an aggressive

1 pursuit of wrongdoers, but the fact is that that
2 would encourage just numbers as opposed to what
3 you're saying in terms of characteristics that have
4 heroism and things of that order. So no, I think
5 that's a good idea. I had known that there had been
6 a change. There was a great criticism of the program
7 a while back and I think you're on the right track.

8 Thank you.

9 ATTORNEY GENERAL FARMER: The award should
10 be about character, yeah.

11 SENATOR GORMLEY: Senator Kosco.

12 SENATOR KOSCO: Thank you, Mr. Chairman.

13 First of all, a couple comments. There are
14 a number of reasons why the morality in the police
15 department is low. I don't believe it's simply
16 because of the racial profiling hearings, but I
17 believe that the State Police in many instances feel
18 that they're not consulted when things are needed.
19 For example, the problem that you're going through
20 with the guns right now. It took a number of years
21 for the police department, for the State Police to
22 get new weapons and when they finally did get them,
23 they didn't work. And, you know, these are the
24 things that add up to --

25 ATTORNEY GENERAL FARMER: No question.

1 SENATOR KOSCO: -- a whole package of
2 problems that we experience with the State Police.

3 A second comment is that you spoke about
4 the seatbelt law. When that seatbelt law was passed,
5 the things that you brought up and wanted discussed,
6 it was passed for a person's safety reasons and to
7 help provide safer highways.

8 ATTORNEY GENERAL FARMER: Exactly.

9 SENATOR KOSCO: It had nothing to do with
10 what types of people or who wore seatbelts and who
11 didn't wear seatbelts.

12 ATTORNEY GENERAL FARMER: I think Reverend
13 Jackson's position on that was that the safety
14 concern overrode any concern he might have about
15 disproportionate arrests. So, you're right, that was
16 the predominant concern.

17 SENATOR KOSCO: Do we know what the policy
18 is on the states that are surrounding us as it
19 pertains to consent searches?

20 ATTORNEY GENERAL FARMER: I don't know the
21 extent to which they require what we do, which is
22 reasonable suspicion. I'm not sure. Some states --
23 there are a few states that require probable cause
24 before you do a consent search. Most states require
25 nothing, because the nature of a consent search is

1 that you don't have constitutional grounds to search
2 the car, so you ask permission. We are -- we are one
3 of the few states that require reasonable suspicion
4 and we were the first to go in that direction. I
5 don't know what the contiguous states require.

6 SENATOR KOSCO: During these hearings we've
7 experienced a number of times when people weren't
8 quite sure who reported to them. Who was responsible
9 for what. In one case we had one of the top
10 officials in the Department said that he didn't know
11 that the person that was supposedly handling the
12 reports going to the Department of Justice worked for
13 him until he was there for several months. And that
14 was of deep concern to us. Do you have an
15 organizational chart in your Department with names of
16 who's responsible for what? What their positions
17 are? And who answers to who?

18 ATTORNEY GENERAL FARMER: We can provide
19 that if you're interested in looking at it. But
20 basically the Office of State Police Affairs is the
21 point -- is the point office with respect to all of
22 those issues now. So there shouldn't -- that
23 particular confusion should not arise again.

24 SENATOR KOSCO: But do you have an
25 organizational chart so someone can look at it and

1 say, well this is the Deputy Attorney General that's
2 responsible for this reporting. This person is
3 responsible for providing the information to the
4 Department of Justice or whoever requests --

5 ATTORNEY GENERAL FARMER: We can provide
6 one to you.

7 SENATOR KOSCO: You do have a chart.

8 What would your reaction be to establishing
9 the head of the police, the State Police, as a
10 Cabinet position?

11 ATTORNEY GENERAL FARMER: Separate from my
12 Department?

13 SENATOR KOSCO: Yeah.

14 ATTORNEY GENERAL FARMER: I would oppose
15 that.

16 (Laughter)

17 I think it makes very little sense -- you
18 know, other states -- other states do have a Highway
19 Patrol that is separate from the Attorney General's
20 Office, but in those other states, the Highway Patrol
21 is a Highway Patrol, and it doesn't -- the mission
22 does not have the scope in terms of law enforcement
23 that our State Police does. In doing that, that I'm
24 the chief law enforcement officer, I'm supposed to
25 have the -- functions under me, I think it makes no

1 sense to break them out separately unless you reduced
2 the responsibilities in a way that I don't think
3 anybody really wants to do.

4 SENATOR KOSCO: Well, if we had a situation
5 where the head of the State Police wants to institute
6 a policy and has to go through the Attorney General's
7 Office in order to get it, and then the buck gets
8 passed, if you will, because I didn't get the
9 information back. And the Attorney General's Office
10 says well, I didn't get the information or I don't
11 remember seeing that and we constantly don't know
12 where we can -- we can say well, it's your
13 Department, why haven't you made the correction
14 rather than going through a number of cases in order
15 to do it?

16 ATTORNEY GENERAL FARMER: I think we've
17 corrected that. I think we've corrected that
18 situation with the Office of State Police Affairs.

19 SENATOR KOSCO: Is there a specific person
20 in your Department that the head of the State Police
21 goes to now?

22 ATTORNEY GENERAL FARMER: Yes, it's Martin
23 Cronin.

24 SENATOR KOSCO: Thank you.

25 SENATOR GORMLEY: Senator Robertson.

1 SENATOR ROBERTSON: Thank you, Mr.
2 Chairman.

3 Good morning, John.

4 ATTORNEY GENERAL FARMER: Good morning.

5 SENATOR ROBERTSON: I was wondering if you
6 could help me by walking through a little bit the
7 steps that resulted in the formulation of these
8 diagnostics? Let me, first of all, say that we've
9 had many discussions starting back in 1999 and this
10 Committee and with representatives in the Attorney
11 General's Office about the need for better management
12 information so that we can draw a conclusion.
13 Obviously, they're just a starting point, but at
14 least we can draw some conclusions. And even with
15 the former Superintendent of the State Police,
16 Colonel Williams, when he was here, and one of the
17 other troopers, even with what little information we
18 had then based upon our review, I would ask how do
19 you account for these numbers? And in both instances
20 they said I don't know we explain them. And I think
21 that's a telling point. And now that we have the
22 consent search numbers and the find rates, because
23 one of the primary things that I've been concerned
24 about and I've said it on more than one occasion is,
25 that it tells an important story if the find rates

1 are similar throughout the races or if the white find
2 rate happens to be higher than the black find rate,
3 why then is the suspicion rate three or four times
4 higher if the find rate is similar? And I think
5 that's an important lesson for everybody to take to
6 heart and to take note of. Especially troopers who
7 don't feel that they have race hate in their heart
8 when they go out there and do their jobs. And I
9 think that sometimes they do get a bad rap when, in
10 fact, they're trying to do their jobs as they've been
11 trained. So these diagnostics are very important.

12 So the question is, walk me through again
13 how you came to the point of the development of the
14 diagnostics. Does this flow out of the consent
15 order, for instance?

16 ATTORNEY GENERAL FARMER: Yes. The consent
17 order basically incorporates by reference or embodies
18 the SOP's that Mr. Cronin's office, in consultation
19 with the State Police, developed for roadside stops.
20 And the fundamental change in those SOP's had to do
21 with the level of detail required. For example, when
22 you ask for consent to search, it's not enough simply
23 to say well, I had reasonable suspicion. You now
24 have to articulate what exactly was it that made you
25 suspect that something was afoot. And it has to be

1 somehow, it has to be linked to your reason for
2 asking for the search. That information really
3 didn't exist in prior reports and that's why we can
4 do the kind of analysis that we've done --

5 SENATOR ROBERTSON: Other than as comments.

6 ATTORNEY GENERAL FARMER: Right.

7 SENATOR ROBERTSON: But not in any
8 organized way.

9 ATTORNEY GENERAL FARMER: But not in any
10 organized way. And that's enabled us to do the kind
11 of analysis that we demonstrated this morning. And
12 when you couple that kind of data with what you have
13 on videotape, you really are moving toward a system
14 where you can make individual judgments and you're
15 not going to be really a captive of gross statistics
16 anymore.

17 To answer your question, the SOP's, they're
18 now being used. The provision for the
19 computerization, beginning to put in place this
20 month. The MAP system which will basically be an
21 integration of a trooper's road record, his Internal
22 Affairs file. Everything will be in one place so you
23 can really start to see trends developing with
24 respect to individual troopers. Video cameras, all
25 of that is embodied in the consent decree.

1 SENATOR ROBERTSON: And as a manager, do
2 you find this information to be helpful?

3 ATTORNEY GENERAL FARMER: Terrifically,
4 yes. I mean what I tried to demonstrate this morning
5 with those slides is, we can do a level of analysis
6 that we never could do before and with an assurance
7 of reliability that we never had.

8 SENATOR ROBERTSON: Now, I know it's in the
9 nature of the consent order that both parties
10 consent, but is there anything in the nature of that
11 consent order that's required -- that requires
12 something of New Jersey that is really undesirable in
13 your opinion?

14 ATTORNEY GENERAL FARMER: I don't think so.

15 SENATOR ROBERTSON: All right. I have to
16 ask this question. Given the fact that there's
17 nothing in the consent order that's really
18 undesirable, given the fact that the methodologies
19 that are embodied in the consent order are extremely
20 useful to you, given that this is such an important
21 and brush-fire issue, why then -- and you were around
22 in your prior incumbency as Governor's counsel --

23 ATTORNEY GENERAL FARMER: That's correct.

24 SENATOR ROBERTSON: -- why did it take the
25 threat of a consent order or the filing of a suit or

1 a shooting incident on the Turnpike before we really
2 moved into the development of these sort of tools?

3 ATTORNEY GENERAL FARMER: I don't have an
4 answer to that question. I don't think anyone really
5 does. I think everybody regrets it. My Department
6 has, for quite some time now, acknowledged that we
7 didn't act fast enough. And I think it's something
8 that we all regret. I don't have a good answer to
9 that question.

10 SENATOR ROBERTSON: Is it fair to say, and
11 I'm asking this to you as an attorney as well as
12 Attorney General, isn't it a fair statement to think
13 that when you're in an environment, legal
14 environment, which concentrates on statistics, that
15 you are well advised to use the absolute best
16 statistics and the most -- well, that you're well
17 advised to use the best statistics available to you
18 at any given time?

19 ATTORNEY GENERAL FARMER: Yes, I would say
20 so.

21 SENATOR ROBERTSON: Do you have any
22 knowledge or can think of any reason why when the
23 existence of some statistics was known to people in
24 the hierarchy of your Department, not when you were
25 there but in the previous administration, why those

1 statistics would have been -- were not marshaled or
2 would have been ignored?

3 ATTORNEY GENERAL FARMER: No.

4 SENATOR ROBERTSON: When you developed your
5 methodologies, because one of the things that I'm
6 concerned about is the same thing that Senator Kosco
7 made reference to, which is the degree to which the
8 state troopers are brought into this process. In
9 speaking to troopers myself, they express a great
10 deal of frustration, as law enforcement personnel
11 would, at being given mixed messages. Not really
12 being sure what they're supposed to do. Worried
13 about the next Appellate Division decision that comes
14 out and are they going to make a mistake the next day
15 that's going to cost us an arrest or create problems
16 for them. During the development of these
17 methodologies, have you conducted any line focus
18 groups or anything of that sort that involved on-the-
19 road troopers and their representatives?

20 ATTORNEY GENERAL FARMER: There's a -- the
21 SOP's were actually developed by -- well, largely by
22 troopers, yes. That was not something that was --
23 one of the issues that we negotiated with the Justice
24 Department about it was -- was exactly that. They
25 had -- they had advanced a proposal, which when we

1 ran it by troopers, they said it was completely
2 unworkable, and so we said well let us draft an SOP
3 and see if you can live with that. And that's what
4 we did. In consultation with the State Police, we
5 developed the SOP and Justice signed off.

6 SENATOR ROBERTSON: But apart from the
7 representatives, did you have any -- I mean you know
8 what a focus group is.

9 ATTORNEY GENERAL FARMER: Right. Nothing
10 formal like that, no.

11 SENATOR ROBERTSON: Yeah. Because I mean
12 one of the things that you might want to do as you go
13 along you're going to be developing these things
14 further, and further SOP's and whatnot, you know, is
15 ask a group to come in and conduct some sort of line
16 focus groups where troopers don't have to worry about
17 being identified or worry about what they're saying
18 and can give you some idea of what it's like to be
19 out on the road today. I mean the representatives,
20 obviously, are very good and many of them -- some of
21 them are out on the road and some aren't but, you
22 know, perhaps you can get a cross-section. It's just
23 a suggestion.

24 A question was asked a little earlier, and
25 I just want to go back to is, as to whether or not

1 data was broken down by minority versus non-minority
2 troopers. You indicated that you had not yet done
3 that. Do you have any --

4 ATTORNEY GENERAL FARMER: Certainly --
5 we're certainly capable of doing it, but it hasn't
6 been a focus.

7 SENATOR ROBERTSON: Okay. Well, the only
8 reason I come back to it is because one of the things
9 that struck all of us, I think, when we took a look
10 at what little statistics were available, is that
11 there wasn't a huge difference between minority
12 troopers and non-minority troopers with respect to
13 the -- I'm going to use the suspicion rate, when it
14 came to consent searches. And I think therein lies
15 an important lesson, you see. Because I think one of
16 the things that we're seeing as we're trying to
17 figure out these numbers and, you know, more than one
18 person has sat in that chair and said I don't know
19 how to explain these numbers because we know we're
20 doing everything we can. I mean it's interesting to
21 hear you saying it now because you know you're trying
22 everything you can. And you know that people are
23 going forward in good faith. And if we asked the
24 Monitors, they would say the same sorts of things.
25 Well, a lot of the troopers have been in that

1 position now for a number of years. They're saying
2 I'm going out on the road and I'm trying to do my
3 job, but I know in my heart that I'm not segregating,
4 you know, people according to race in terms of the
5 way I do my job. And one of the numbers that would
6 tend to bolster that understanding is whether or not
7 there is a difference between minority troopers and
8 non-minority troopers. So I would simply suggest to
9 you that it might be a good idea to do that, not
10 because we want to be overly race conscious with
11 respect to who does what, but because therein lies an
12 important lesson as well. Because in my opinion part
13 of the problem that we have here and one of the
14 explanations for these numbers is the fact that we
15 all carry a certain race consciousness with us that
16 will have an effect on the various decisions that we
17 make or the perceptions that we have. So I would
18 just encourage that.

19 I have no other questions. Thank you,
20 General.

21 SENATOR GORMLEY: Senator Lynch.

22 SENATOR LYNCH: General, good morning.

23 ATTORNEY GENERAL FARMER: Good morning.

24 SENATOR LYNCH: Starting with your earlier
25 testimony related to the Troop D consent searches for

1 the year 2000. The compilation, this compilation was
2 done when?

3 ATTORNEY GENERAL FARMER: It was done in
4 the last couple of months. The stop numbers came in
5 early January. And then I at that point ordered this
6 management inquiry to take place.

7 SENATOR LYNCH: Did you ever do this in the
8 year 2000 for 1999?

9 ATTORNEY GENERAL FARMER: No.

10 SENATOR LYNCH: Wasn't there some kind of a
11 commitment made to the public, the press and maybe to
12 us back in 1999 that you were going to make periodic
13 portrayals of stop-and-search data?

14 ATTORNEY GENERAL FARMER: Well, we had
15 released stop-and-search data, but we hadn't done the
16 kind of analysis that's reflected in these charts.
17 We did release data last year, but not with this
18 level of analysis attached to it.

19 SENATOR LYNCH: From what I've heard here
20 today and what we've heard before, there's no reason
21 why the same kind of analysis couldn't have been done
22 back in '95 or '96 or '97 or '98 or '99?

23 ATTORNEY GENERAL FARMER: Actually there
24 is.

25 SENATOR LYNCH: What's that?

1 ATTORNEY GENERAL FARMER: Because when you
2 go back to '95, '96, the written reports it required
3 really you would not have been able to tell whether
4 the officer's actions were grounded in probable cause
5 or reasonable suspicion.

6 SENATOR LYNCH: The consent-to-search forms
7 are very detailed. As a matter of fact, they haven't
8 even changed.

9 ATTORNEY GENERAL FARMER: No, the reports
10 that I'm talking about, you really --

11 SENATOR LYNCH: I'm talking about regarding
12 consent to search. There's nothing in this report
13 that you gave here today involving consent to search
14 that couldn't have been retrieved and put together
15 the same way back in '95, '96, '97, '98, '99.

16 ATTORNEY GENERAL FARMER: It would have
17 taken -- it would have taken more effort than it does
18 now.

19 SENATOR LYNCH: Because of your new
20 systems?

21 ATTORNEY GENERAL FARMER: Yes.

22 SENATOR LYNCH: But we've seen from
23 Sergeant Gilbert that that effort didn't take a long
24 time in putting these together, did it?

25 ATTORNEY GENERAL FARMER: I don't know how

1 long it took him to do it.

2 SENATOR LYNCH: So the answer to the
3 question is, it could have been done in '99. It
4 could have been done in '98. It could have been done
5 in '97. It could have been done in '96. It could
6 have been done in '95, correct?

7 ATTORNEY GENERAL FARMER: It could have
8 been done, yes.

9 SENATOR LYNCH: Yeah. There's a -- I don't
10 know, I've been out of law school too long and maybe
11 out of the practice too long, but there's a principle
12 in the law about risk utility. It seems to me the
13 consent to searches falls into the category of
14 weighing this on a risk utility basis and I think you
15 alluded to something similar to that earlier. And
16 the risk here is trampling on people's rights. And
17 the utility is what are you getting out of it. And
18 forgetting the fact that you have all this
19 compilation of stops and searches and so forth and so
20 on, in the consent to search category, what are you
21 retrieving in terms of contraband out of these
22 consent to searches and have you -- do you have any
23 analysis of that?

24 ATTORNEY GENERAL FARMER: Yeah. I don't
25 have it with me, but I can provide it to you. The

1 general answer is, is very little.

2 SENATOR LYNCH: So we have a risk of
3 trampling on people's rights with Latinos at 95
4 percent.

5 ATTORNEY GENERAL FARMER: Ninety-five
6 percent, yes.

7 SENATOR LYNCH: Blacks at --

8 ATTORNEY GENERAL FARMER: Eighty-seven
9 percent.

10 SENATOR LYNCH: -- 87 percent. And whites
11 at?

12 ATTORNEY GENERAL FARMER: Seventy-five
13 percent.

14 SENATOR LYNCH: And we're getting little
15 out of it.

16 ATTORNEY GENERAL FARMER: That's correct.
17 The problem with that --

18 SENATOR LYNCH: Why do we still have
19 consent to search if, in fact, people's rights are
20 getting trampled on and we're getting little out of
21 it?

22 ATTORNEY GENERAL FARMER: I think the
23 answer to that, Senator, is you don't always get
24 little out of it. I alluded to the case, the federal
25 case from a few years ago where a potential terrorist

1 was stopped on his way to New York City and via
2 consent search they discovered the explosives in his
3 trunk. If you --

4 SENATOR LYNCH: A potential terrorist
5 signed a -- voluntarily signed a consent to search
6 form?

7 ATTORNEY GENERAL FARMER: I believe so,
8 yes.

9 SENATOR LYNCH: And that isolated case
10 rationalizes for you that the risks involved outweigh
11 the -- the utility here outweighs the risk?

12 ATTORNEY GENERAL FARMER: I think you have
13 to do it right. I think it would be a mistake to
14 take that tool away from law enforcement and
15 obviously we haven't been doing it right.

16 SENATOR LYNCH: There's another reason why
17 this is accomplished, is it not, and that is the
18 forfeitures that occur out of this process?

19 ATTORNEY GENERAL FARMER: That's one of the
20 -- one of the byproducts of interdiction has been
21 forfeitures.

22 SENATOR LYNCH: So that anyone who has
23 signed a consent to search form and would have a
24 positive finding, their vehicle and its contents and
25 what's on them in terms of cash, jewelry, et cetera

1 is confiscated?

2 ATTORNEY GENERAL FARMER: Potentially
3 subject to forfeiture, that's correct.

4 SENATOR LYNCH: And if they're found guilty
5 or if they sign -- if they plead guilty even to a
6 lesser offense, then in most cases it is forfeited.

7 ATTORNEY GENERAL FARMER: That's true. I
8 should tell you that the forfeiture numbers have
9 dropped, have, in fact, plummeted in the last few
10 years because the number of consent searches has
11 declined.

12 SENATOR LYNCH: But the point is, one of
13 the things that was driving consent to search was the
14 fact that the State Police, through the policy set by
15 the Attorney General, were budgeting based upon
16 forfeiture funds.

17 ATTORNEY GENERAL FARMER: I don't know that
18 to be true.

19 SENATOR LYNCH: And that that number
20 reached as high as \$8 million, correct?

21 ATTORNEY GENERAL FARMER: I've heard that
22 number.

23 SENATOR LYNCH: And have you also heard
24 that the -- and you know there's a reporting
25 requirement to the Legislature every six months on

1 the use of these forfeiture funds, et cetera --

2 ATTORNEY GENERAL FARMER: That's correct.

3 SENATOR LYNCH: -- and did you also hear
4 that in terms of that reporting requirement, that at
5 one point in time the Office of Attorney General was
6 having the Superintendent of State Police sign those
7 reporting forms and somewhere around 1985 -- 1996 or
8 '97, someone on Williams' staff figured out that the
9 reporting wasn't accurate and they refused to sign
10 those forms and the Attorney General's Office took
11 back the reporting?

12 ATTORNEY GENERAL FARMER: I had not heard
13 that.

14 SENATOR LYNCH: And who was responsible in
15 your office for that reporting?

16 ATTORNEY GENERAL FARMER: Who in my office
17 today? It's put together by my administrative staff.

18 SENATOR LYNCH: Mr. O'Reilly?

19 ATTORNEY GENERAL FARMER: Tom O'Reilly is
20 the head of that, yes.

21 SENATOR LYNCH: And he was the head of that
22 back in 1985 as well?

23 ATTORNEY GENERAL FARMER: I don't know if
24 he went back that far. He may have been the
25 administrator of CJ back in 1985.

1 SENATOR LYNCH: And Herb Clark works for
2 him?

3 ATTORNEY GENERAL FARMER: I don't know
4 Herb.

5 SENATOR LYNCH: You don't know.

6 ATTORNEY GENERAL FARMER: No.

7 SENATOR LYNCH: He's in a report we
8 referred to yesterday. My understanding is he was
9 the financial officer of the State Police, retired.
10 Went over to the Attorney General's Office.

11 You're not familiar with the fact that
12 there may have been misreporting to the Legislature
13 on the use of those forfeiture funds?

14 ATTORNEY GENERAL FARMER: No, I'm not.

15 SENATOR LYNCH: Have you ever looked at any
16 of those reports?

17 ATTORNEY GENERAL FARMER: I have perused
18 the reports, yes.

19 SENATOR LYNCH: Have you seen in the
20 reports or in any documents surrounding forfeitures,
21 that they give projections of what they expect to
22 receive by way of forfeiture for the following
23 several years?

24 ATTORNEY GENERAL FARMER: I don't recall
25 seeing that.

1 SENATOR LYNCH: Is that based upon what's
2 contained in the vault in Trenton where you keep cash
3 and jewelry and cell phones and cameras and all that
4 stuff?

5 ATTORNEY GENERAL FARMER: I don't know.

6 SENATOR LYNCH: Do you have an inventory of
7 that?

8 ATTORNEY GENERAL FARMER: I don't know.

9 SENATOR LYNCH: The point is, it appears as
10 if there was at least a point in time a bounty system
11 structured. You've got to go chase these funds to
12 support your budge and, therefore, you have -- one of
13 the byproducts of that is you have an enormous number
14 of searches with little utility and trampling on
15 people's rights, yielding a few million dollars a
16 year to subsidize a budget. Someone looking from
17 afar could make that assessment, couldn't they?

18 ATTORNEY GENERAL FARMER: I don't know if
19 it's -- I don't know if it's accurate to make that
20 assessment. I mean you could certainly say that the
21 aggressive interdiction program did generate
22 forfeiture revenue.

23 SENATOR LYNCH: Did you ever consider that?

24 ATTORNEY GENERAL FARMER: No.

25 SENATOR LYNCH: Is it possible for your

1 office to put together an analysis and compilation of
2 the amount and value of contraband from consent to
3 searches versus probable cause searches?

4 ATTORNEY GENERAL FARMER: We can do that.

5 SENATOR LYNCH: On a year-to-year basis?

6 ATTORNEY GENERAL FARMER: We can do that.

7 SENATOR LYNCH: I think that would be
8 helpful, and again going back to the risk utility
9 analogy. You were nominated by Governor Whitman,
10 then Governor Whitman, on the same day that -- to be
11 Attorney General, on the same day that Peter Verniero
12 was nominated to be a Justice of the Supreme Court.

13 ATTORNEY GENERAL FARMER: That's correct.

14 SENATOR LYNCH: And that was February 23rd
15 or something?

16 ATTORNEY GENERAL FARMER: Something like
17 that.

18 SENATOR LYNCH: At that time, what was your
19 job?

20 ATTORNEY GENERAL FARMER: I was chief
21 counsel for the Governor.

22 SENATOR LYNCH: And how long had you been
23 chief counsel?

24 ATTORNEY GENERAL FARMER: Since the prior
25 January; January '98.

1 SENATOR LYNCH: And prior to that you were?
2 ATTORNEY GENERAL FARMER: I was deputy
3 chief counsel.
4 SENATOR LYNCH: For how long?
5 ATTORNEY GENERAL FARMER: A year and a
6 half.
7 SENATOR LYNCH: Starting when?
8 ATTORNEY GENERAL FARMER: Starting when
9 Harry Durman became Chief of Staff and Mike Torpe
10 (sic) went over to chief counsel, I became his
11 deputy.
12 SENATOR LYNCH: So that would have been in
13 '96?
14 ATTORNEY GENERAL FARMER: I think so.
15 SENATOR LYNCH: And prior to that where
16 were you?
17 ATTORNEY GENERAL FARMER: Assistant
18 counsel.
19 Prior to that I was in the U.S. Attorney's Office.
20 Prior to that I was in private practice. And prior
21 to that I law clerked. Just to complete the resume'.
22 SENATOR LYNCH: After you were nominated on
23 or about February 23, 1999 to be the Attorney
24 General, did you embark on a transition period?
25 ATTORNEY GENERAL FARMER: Yes, I did.

1 SENATOR LYNCH: And when did that begin?
2 ATTORNEY GENERAL FARMER: That's difficult
3 to say. The --
4 SENATOR LYNCH: Well, when did you begin
5 spending time each week at the Attorney General's
6 Office?
7 ATTORNEY GENERAL FARMER: I'd say almost
8 immediately.
9 SENATOR LYNCH: And where were you
10 physically located when you would go to the Attorney
11 General's Office every week for a day or two or parts
12 of a day --
13 ATTORNEY GENERAL FARMER: Different
14 offices.
15 SENATOR LYNCH: But what did that consist
16 of in say the early part of March 1999?
17 ATTORNEY GENERAL FARMER: I don't recall
18 the early part of March per se, but I was meeting
19 with different people in the Department to try to get
20 a sense of the scope of my responsibilities.
21 SENATOR LYNCH: When did you first learn of
22 the Department of Justice inquiry, or investigation
23 or whatever you want to call it?
24 ATTORNEY GENERAL FARMER: I believe it was
25 in the days leading up to the law enforcement summit,

1 which was late -- late '98.

2 SENATOR LYNCH: And how did you --

3 ATTORNEY GENERAL FARMER: The law
4 enforcement summit, I believe, in December of '98 and
5 I believe around that time I learned about the --
6 there was some kind of ongoing relationship with the
7 Justice Department.

8 SENATOR LYNCH: How did you learn that?

9 ATTORNEY GENERAL FARMER: I don't remember
10 whether Peter Verniero told me or whether David Hesse
11 told me.

12 SENATOR LYNCH: And when you started
13 visiting the Attorney General's Office as part of
14 this transition in the late part of February of 1999
15 or early March of '99, did you make inquiry about the
16 status of that Department of Justice inquiry or
17 investigation?

18 ATTORNEY GENERAL FARMER: Not specifically,
19 no.

20 SENATOR LYNCH: When was the first time you
21 did?

22 ATTORNEY GENERAL FARMER: I guess the first
23 conversation I had with respect to that was with Paul
24 Zoubek sometime in April.

25 SENATOR LYNCH: Do you recall that

1 conversation?

2 ATTORNEY GENERAL FARMER: Yes. At the time
3 it was communicated to us that there was going to be
4 a report completed with respect to racial profiling
5 and in the context of that conversation the Justice
6 Department inquiry was mentioned.

7 SENATOR LYNCH: Did Mr. Zoubek tell you how
8 information had been retrieved and forwarded to the
9 Department of Justice?

10 ATTORNEY GENERAL FARMER: No.

11 SENATOR LYNCH: When did you first learn
12 about that procedure, for lack of a better term?

13 ATTORNEY GENERAL FARMER: Subsequent to --
14 well, that's not true. I was going to say subsequent
15 to my becoming AG, but I believe I had learned
16 something about that procedure after the interim
17 report was out.

18 SENATOR LYNCH: Was the procedure that you
19 learned about that we've heard this enormous amount
20 of testimony about troubling to you when you learned
21 about it?

22 ATTORNEY GENERAL FARMER: Troubling in what
23 way? I guess I --

24 SENATOR LYNCH: Troubling with regard to
25 the lack of accountability and oversight?

1 ATTORNEY GENERAL FARMER: Well, it struck
2 me as an extremely informal process, both from our
3 end and from the Justice Department's end.

4 SENATOR LYNCH: Let's just take it from our
5 end, however, for the moment, since there are other
6 obligations that flow from this information that was
7 being retrieved, particularly with regard to
8 discovery in the pending criminal and civil actions.
9 Was that troubling to you?

10 ATTORNEY GENERAL FARMER: I guess I thought
11 it was unusual, yes.

12 SENATOR LYNCH: Three words come to mind
13 here in terms of the roles of the Attorney General
14 and the Attorney General's Office relative to the
15 State Police and they are leadership and
16 accountability and oversight. With all of the hue
17 and cry surrounding the activities and events of the
18 -- from February through June of 1999, with a lot of
19 finger-pointing as to who knew what, when and why,
20 and with indications that people in your office were
21 blaming the State Police for not forwarding
22 information, and with clear indications now that
23 people in your office were saying that Rover didn't
24 do what he was supposed to do, didn't you believe
25 that it was incumbent upon you when you were sworn in

1 as Attorney General in early June of 1999 to get to
2 the bottom of who knew what and when? Who was
3 accountable? How do we fix this problem? How could
4 it have ever occurred?

5 ATTORNEY GENERAL FARMER: I guess the
6 answer to that is yes and no. I mean yes in the
7 sense that I knew we had to move forward. I knew
8 that we -- that we couldn't stay with the same
9 structure we had in the past. And that's why the
10 Office of State Police Affairs became so prominent in
11 my thinking, but --

12 SENATOR LYNCH: How do you ever move
13 forward without finding out how you got to where
14 you're at?

15 ATTORNEY GENERAL FARMER: Well, I thought
16 the interim report and the final report that we did
17 was a good -- was a good jumping-off point. As I
18 testified --

19 SENATOR LYNCH: Does the interim report or
20 the final report lay responsibility on who failed to
21 communicate information to the Attorney General's
22 Office?

23 ATTORNEY GENERAL FARMER: No, they do not.
24 No, they don't.

25 SENATOR LYNCH: Does it make a

1 determination as to whether it was the hierarchy in
2 the State Police that failed in its charge to
3 communicate this information?

4 ATTORNEY GENERAL FARMER: Not really, no.

5 SENATOR LYNCH: Does the interim report say
6 anything about the failed structure of the Attorney
7 General's Office with regard to the retrieval and
8 forwarding of information to the Department of
9 Justice?

10 ATTORNEY GENERAL FARMER: The interim
11 report does not. The final report though in its
12 discussion of the Office of State Police Affairs, I
13 don't know how explicit it was in criticizing the
14 entire structure, but by implication. You're filling
15 something that wasn't there before.

16 SENATOR LYNCH: I'm talking about the
17 structure inside the Attorney General's Office where
18 you have a guy by the name of Rover who's at ABC and
19 then in -- and then gets promoted to Gaming
20 Enforcement in January of '99. Is reporting to now
21 Judge Waugh for some period of time. And then if you
22 want to believe what's in the record, was reporting
23 to no one for the next 16 months. Didn't you find
24 that in need of accounting for how it got to that
25 point and how do we make sure in the future nothing

1 like that can happen again?

2 ATTORNEY GENERAL FARMER: I think we knew
3 that that -- I think we knew that that structure
4 hadn't worked and that's why we created the Office of
5 State Police Affairs so that could not happen again.

6 SENATOR LYNCH: Hadn't worked by whose
7 standards?

8 ATTORNEY GENERAL FARMER: Well, based on
9 what occurred.

10 SENATOR LYNCH: Don't you think it was
11 important to the public and to your charge of
12 responsibility to determine how those things
13 occurred?

14 ATTORNEY GENERAL FARMER: No. I think it
15 was important for the public that they be fixed.

16 SENATOR LYNCH: How can you fix something
17 if you don't know how it occurred?

18 ATTORNEY GENERAL FARMER: You can fix it if
19 you know it hasn't worked and you can think of
20 something that will. And that's what we did.

21 SENATOR LYNCH: You don't think it was
22 important for accountability sake and credibility
23 sake that a determination be made as to whether the
24 State Police failed to communicate information that
25 they were charged with the responsibility of

1 retrieving and sending along?

2 ATTORNEY GENERAL FARMER: I don't quite
3 understand the question. Do I think it was
4 important --

5 SENATOR LYNCH: Well, there's two clear
6 issues here. One is the Rover structure and the
7 other one is this business that somehow
8 Superintendent Williams and the hierarchy at the
9 State Police didn't do what they were told, namely to
10 communicate all of this data to the Office of the
11 Attorney General. Clearly that's still hanging out
12 there, correct?

13 ATTORNEY GENERAL FARMER: I don't think so.
14 I mean I --

15 SENATOR LYNCH: Well, do you have the
16 answer?

17 ATTORNEY GENERAL FARMER: I think the
18 answer is what we've done. The answer is what we've
19 done to move forward. And we've replaced structures
20 that hadn't worked with structures that are working
21 and, you know, I don't think it's appropriate in an
22 issue of this complexity, and I don't think it's
23 helpful for my Department, frankly, to -- an
24 atmosphere where State Police and the Attorney
25 General's Office continue to point fingers at one

1 another. One of the things that I tried to do --

2 SENATOR LYNCH: How do you ever get
3 accountability if you can't determine how it came
4 about that there was a lack of accountability and a
5 lack of oversight?

6 ATTORNEY GENERAL FARMER: I think we've
7 acknowledged that there was a lack of accountability
8 and oversight and I think we've acknowledged that.
9 And, you know, the information that did come over was
10 acted upon too late. We've acknowledged that. I
11 don't know what more we can do or should do in the
12 way of going back and laying blame when I think the
13 important thing is to marshal our resources so that
14 we can move forward.

15 SENATOR LYNCH: Did you ever see the Lion
16 King?

17 ATTORNEY GENERAL FARMER: The movie or the
18 play?

19 SENATOR LYNCH: Either one.

20 ATTORNEY GENERAL FARMER: Yes.

21 SENATOR LYNCH: Where the line comes in,
22 you know, "Sometimes the past hurts, but you have to
23 deal with it before you can move forward"? Do you
24 think that's applicable here?

25 ATTORNEY GENERAL FARMER: I think that's

1 what we're doing.

2 SENATOR LYNCH: Did you deal with the past?

3 ATTORNEY GENERAL FARMER: Well, as I said
4 in my testimony, I tried to repeatedly in the sense
5 of bringing the Department together. Listening to
6 people's views. Listening to people at State Police
7 who told me that, you know, that the way that the
8 interim report came out made them look bad. I
9 listened to our people with their frustration with
10 the State Police. And I tried repeatedly to address
11 it. I mean at the retirement banquet last fall, I
12 basically said look, you know, I acknowledge that my
13 office bears responsibility for what happened. I
14 said that --

15 SENATOR LYNCH: That's a nice general term,
16 but --

17 ATTORNEY GENERAL FARMER: -- seven months
18 ago.

19 SENATOR LYNCH: That's a nice general term
20 and I don't mean to interrupt you, but I just want to
21 talk about some of the things that actually occurred
22 that point to whether or not, you know, we're
23 accepting responsibility without getting to the
24 facts. And it appears to me that in the context of
25 what occurred in those early months in 1999 and the

1 finger-pointing that went on and the need, the crying
2 need to get answers, that all we got was a bunch of
3 people wound up getting jobs and promotions. And
4 that in many of those cases you are involved in those
5 machinations. Whether it's the Blaker appointment as
6 the Assistant -- the Acting Prosecutor in Cape May
7 after he can't get through the bar review. Whether
8 it's another one that went to the ABC or Roberson's
9 brother as the Assistant Commissioner of
10 Transportation or --

11 ATTORNEY GENERAL FARMER: I don't --

12 SENATOR LYNCH: -- or Brennan becomes a
13 Major and my understanding is that maybe that wasn't
14 through the recommendation of the Superintendent but
15 through yours, is that correct?

16 ATTORNEY GENERAL FARMER: Not true.

17 SENATOR LYNCH: That Fedorko winds up going
18 to the Casino Control Commission amid some
19 discussions that brought yourself to come testify to
20 this Committee about the fact that an Internal
21 Affairs probe was completed. That Hesse winds up
22 becoming the Commissioner of Education. That Waugh
23 becomes a Judge. That Dunlop is offered a
24 significant job. And by the way, did you offer him a
25 significant job?

1 ATTORNEY GENERAL FARMER: I would have, but
2 I didn't. Let me explain that.

3 SENATOR LYNCH: Did you discuss it with
4 him?

5 ATTORNEY GENERAL FARMER: We had lunch
6 after his retirement and the reason was I was not
7 able to make his retirement dinner. I asked him what
8 he was going to do after retirement. Bob Dunlop is
9 considered to be one of the best investigators in the
10 State Police and has been for years. He informed me
11 that he was planning to move to Idaho. And I said
12 well, if you change your mind and decide to stay, you
13 know, we should talk. I have absolutely no
14 compunction about offering someone of his caliber a
15 job. Many of the retired State Police work for my
16 department in other divisions and --

17 SENATOR LYNCH: Is that a good thing?

18 ATTORNEY GENERAL FARMER: I think it's a
19 great thing.

20 SENATOR LYNCH: I mean where you have
21 oversight responsibility and you have eight to ten
22 people --

23 ATTORNEY GENERAL FARMER: I think it
24 promotes --

25 SENATOR LYNCH: -- in administrative

1 positions. Maybe 12 to 15 in investigative
2 positions. Do you think that's a good thing?

3 ATTORNEY GENERAL FARMER: I do. I think
4 they have developed invaluable expertise as members
5 of the State Police and we would be foolish as a
6 Department not to take advantage of that.

7 SENATOR LYNCH: And then, of course, we
8 have George Rover who was promoted a couple months
9 before you got there.

10 ATTORNEY GENERAL FARMER: That's correct.

11 SENATOR LYNCH: Did you ever look at that?

12 ATTORNEY GENERAL FARMER: No.

13 SENATOR LYNCH: As to how and why?

14 ATTORNEY GENERAL FARMER: No.

15 SENATOR LYNCH: Senator O'Connor, I
16 believe, asked you questions surrounding the
17 recruitment practices and I know that you've been
18 trying to broaden the scope of attracting candidates
19 and there's a class graduating today.

20 ATTORNEY GENERAL FARMER: That's correct.

21 SENATOR LYNCH: Are you satisfied with the
22 composition of that class; racially, ethnically?

23 ATTORNEY GENERAL FARMER: I think we need
24 to do better. I don't recall the precise
25 percentages, but it's not -- it does not meet the

1 targets that we set in the consent decree with the
2 NAACP and I think the -- it's a difficult issue. I
3 mean police departments all over the country are
4 having trouble in this regard and we're no exception.
5 I think actually we're doing better than other --
6 than other police departments. But there's no
7 question that we need to do more.

8 SENATOR LYNCH: There was a great deal of
9 controversy surrounding the 118th class in the
10 Academy, correct?

11 ATTORNEY GENERAL FARMER: I believe so,
12 yes.

13 SENATOR LYNCH: That's one where you had to
14 come in here and clear the record with regard to --

15 ATTORNEY GENERAL FARMER: Yes.

16 SENATOR LYNCH: -- candidates who were
17 admitted at the 11th hour and where Colonel Fedorko
18 was invoked as maybe having something to do with
19 getting them admitted at the 11th hour.

20 ATTORNEY GENERAL FARMER: Yes. I believe I
21 wrote the Committee a letter. I didn't testify, I
22 wrote the Committee a letter summarizing the
23 findings, yes.

24 SENATOR LYNCH: Were there findings or was
25 the fact that he retired did that end the Internal

1 Affairs investigation?

2 ATTORNEY GENERAL FARMER: I believe my
3 letter summarized what the findings were with respect
4 to his activity.

5 SENATOR LYNCH: I want to show you a
6 document regarding a grievance that we received
7 anonymously, but it seems to be -- it seems to be a
8 clear copy of what's in your office and the Office of
9 State Police. It's involving a grievance filed by
10 Sergeant Robert Cipola involving the 118th class.
11 Are you familiar with that?

12 ATTORNEY GENERAL FARMER: I've heard --
13 I've heard his name, but I don't know the specifics.

14 SENATOR LYNCH: Coincidentally, he was
15 originally from New Brunswick, as a matter of fact,
16 but I have not talked to him nor has anyone on my
17 staff associated with this and we came by this
18 anonymously. But it appears to be credible as being
19 a copy of what's contained in the Attorney General's
20 records and State Police records.

21 Can we have this marked and a copy given to
22 the Attorney General and to the members?

23 MS. GLADING: SJC-14.

24 SENATOR LYNCH: And you know what? While
25 maybe some of the members have a chance to peruse

1 this, can I ask you some questions about finalizing
2 on the consent to search and search issues generally?

3 ATTORNEY GENERAL FARMER: Sure.

4 SENATOR LYNCH: There's a clear distinction
5 in the law between the New Jersey Supreme Court
6 interpretation of the New Jersey Constitution as it
7 relates to the standard of probable cause for search
8 and seizure, correct?

9 ATTORNEY GENERAL FARMER: That's correct.

10 SENATOR LYNCH: From the federal Supreme
11 Court determination of the standard of probable cause
12 in the U.S. Constitution.

13 ATTORNEY GENERAL FARMER: That's correct.

14 SENATOR LYNCH: And therefore, when it
15 comes to search and seizure in New Jersey, we follow
16 the higher standard which is the New Jersey Supreme
17 Court interpretation of the New Jersey Constitution.

18 ATTORNEY GENERAL FARMER: They've been very
19 -- they have over time freely interpreted the State
20 Constitution --

21 SENATOR LYNCH: Right.

22 ATTORNEY GENERAL FARMER: -- more
23 liberally, yes.

24 SENATOR LYNCH: But as a practical matter,
25 isn't that distinction sometimes at the heart of our

1 problem here in terms of why a consent to search is
2 employed? In other words, we have a higher --

3 ATTORNEY GENERAL FARMER: Well, I think --

4 SENATOR LYNCH: -- we have a higher
5 probable cause standard in New Jersey which resulted
6 in a lot more cases getting thrown out early on which
7 ultimately led to the, as I would characterize it,
8 the over-utilization of consent to search?

9 ATTORNEY GENERAL FARMER: That may be.

10 SENATOR LYNCH: If we had the same standard
11 on the federal -- as we have on the federal side, do
12 you see any need to continue a consent to search
13 program in New Jersey?

14 ATTORNEY GENERAL FARMER: Well, consent to
15 search I think is what you do when you don't have --

16 SENATOR LYNCH: Well, consent to search is
17 founded in something called reasonable suspicion
18 which is --

19 ATTORNEY GENERAL FARMER: Well, not --
20 consent to search actually in most states is founded
21 on nothing.

22 SENATOR LYNCH: I'm talking about New
23 Jersey. I don't care what they do in Iowa. I care
24 about what we're doing here in New Jersey. We can do
25 something about it. We can't do anything about

1 what's going on on border states in Texas and
2 California where they have a lot of interdiction and
3 maybe a lot of people's rights getting trampled on.
4 But we can do something about it in New Jersey. So
5 armed with that, do you think that if we had a more
6 reasonable standard of probable cause for law
7 enforcement, that we would be able to abandon this
8 ruse of a consent to search?

9 ATTORNEY GENERAL FARMER: I don't think so.
10 I think in most jurisdictions that do have, which
11 you're referring to, frequently they ask for consent
12 to search even when there is probable cause as kind
13 of a insurance. Because you're never quite sure what
14 the courts are going to say and if you have consent,
15 it basically gets you over that issue.

16 SENATOR LYNCH: But it seems to me somewhat
17 illusory to believe that someone carrying a large
18 amount of contraband is ever going to sign a consent
19 form voluntarily and --

20 ATTORNEY GENERAL FARMER: It does happen.

21 SENATOR LYNCH: Huh?

22 ATTORNEY GENERAL FARMER: It does happen.

23 SENATOR LYNCH: It happens in one fashion
24 or another. If they had to sign a -- if they first
25 had to sign a form that said if you don't consent,

1 we're not going to search because we don't have
2 probable cause, it wouldn't happen, would it?

3 ATTORNEY GENERAL FARMER: I don't know.

4 SENATOR LYNCH: Of course you know.

5 ATTORNEY GENERAL FARMER: I prosecuted a
6 couple consent cases off the Turnpike when I was in
7 the U.S. Attorney's Office and they were signed
8 consent forms. So...

9 SENATOR LYNCH: I'm not saying that they
10 weren't signed, I'm saying under what guise they were
11 signed. If someone had a Miranda type warning saying
12 hey, look, we don't have probable cause, but we want
13 to search but we want you to sign this form that says
14 you know we don't have probable cause and we can't
15 search your vehicle if you don't sign this form, do
16 you think people would sign a consent to search?

17 ATTORNEY GENERAL FARMER: Well, the
18 officers are supposed to advise them that they have
19 the right not to consent to search.

20 SENATOR LYNCH: No, if you -- I framed it
21 differently. If they were advised that we don't have
22 probable cause and we therefore can't search your
23 vehicle unless you sign this form, do you think you'd
24 have anybody signing the form?

25 ATTORNEY GENERAL FARMER: I think there's

1 Supreme Court case law to the effect that they don't
2 have to it that way.

3 SENATOR LYNCH: I'm not talking about the
4 Supreme Court, I'm talking about us right here. What
5 makes sense. How do we get rid of this problem where
6 people's rights are getting trampled on to huge
7 numbers percentage-wise with very little coming back
8 the other way in terms of utility. Do you think
9 under those circumstances that it would make sense to
10 properly advise the motorists?

11 ATTORNEY GENERAL FARMER: Oh, they should
12 be properly advised, yes.

13 SENATOR LYNCH: That namely that if you
14 don't sign this document, we can't search your
15 vehicle because we don't have probable cause?

16 ATTORNEY GENERAL FARMER: With the
17 exception of that last clause. I think that is --

18 SENATOR LYNCH: Well, why would you not
19 have the last clause, because that would be the
20 truth, wouldn't it?

21 ATTORNEY GENERAL FARMER: Yes, it would.
22 In some cases. Some cases they have probable cause
23 and that's --

24 SENATOR LYNCH: Well, if they have probable
25 cause, they don't need his consent to search.

1 ATTORNEY GENERAL FARMER: Not technically
2 they don't.

3 SENATOR LYNCH: Well, not in any way they
4 don't.

5 ATTORNEY GENERAL FARMER: Well --

6 SENATOR LYNCH: They'd have to go to court
7 and sustain it.

8 ATTORNEY GENERAL FARMER: The problem is
9 that -- that yes, you may believe you have probable
10 cause and find out ultimately that you don't. And
11 that's why frequently, even when they have probable
12 cause, they seek to get consent because then they
13 don't have to deal with that issue in court.

14 SENATOR LYNCH: I suggest to you the
15 definition of consent in this terminology is much
16 different than the definition of consent in *Webster's*
17 *Dictionary*.

18 Getting back go the -- what I believe --
19 has it been marked?

20 MS. GLADING: Yes.

21 SENATOR LYNCH: The Cipola grievance.

22 MS. GLADING: SJC-14.

23 SENATOR LYNCH: SJC-14.

24 On Page 4, running page, it's not numbered,
25 Sergeant Cipola writes to Colonel Dunlop in October

1 of 1999 asking for the ability to talk to the press
2 about this incident or his problems, is that correct?

3 ATTORNEY GENERAL FARMER: It appears to be,
4 yes.

5 SENATOR LYNCH: And on Page 3, which is an
6 October 6th, 1999 response from Lieutenant Colonel
7 Dunlop, he's told that that's not -- that he can't
8 unless he can separate out the Internal Affairs
9 issues and keep them confidential.

10 Well, regardless of how you characterize
11 it, getting back to the fourth page, which is the
12 October 4th, '99 --

13 ATTORNEY GENERAL FARMER: I don't think
14 I've got that fourth page. I've got the letter --

15 SENATOR LYNCH: It purports to be a -- it's
16 dated at the bottom left corner, October 4, 1999.
17 It's from Sergeant R. Cipola and it's to Lieutenant
18 Colonel R. Dunlop.

19 ATTORNEY GENERAL FARMER: I go from -- my
20 Page 4 is Dunlop's letter to him.

21 SENATOR LYNCH: Well, they probably put it
22 in chronological so maybe it's your Page 3 then.

23 ATTORNEY GENERAL FARMER: Okay.

24 SENATOR LYNCH: Do you have that document?

25 ATTORNEY GENERAL FARMER: Yes.

1 SENATOR LYNCH: Starting at Paragraph 2 it
2 says, "I'm also dismayed by the October 2nd, 1999
3 *Star Ledger* article in which the Attorney General's
4 Office said they only became aware of allegations on
5 September 24, 1999 which was after Lieutenant Colonel
6 Fedorko's background check was completed. Either the
7 New Jersey State Police failed to forward my EEO
8 complaint which I filed in early July 1999, or member
9 of the Attorney General's Office are not completely
10 telling the truth."

11 Either of these circumstances, if true, would depict
12 an attempt at a coverup. Have you seen this before?

13 ATTORNEY GENERAL FARMER: No.

14 SENATOR LYNCH: Have you heard this
15 allegation before?

16 ATTORNEY GENERAL FARMER: No.

17 SENATOR LYNCH: The next paragraph says,
18 "Also disturbing is the fact that the State Police
19 and the Attorney General's Office are withholding
20 information on the circumstances behind the admission
21 of the two psychological rejects into the Academy.
22 For instance, when we left work at 5:00 p.m. on the
23 Friday before the Academy training for the 118th
24 class commenced, 176 recruits were scheduled to begin
25 training on Sunday. However, when we returned to

1 work on Monday, we learned that 178 recruits were now
2 in the training process. Certainly this information
3 is significant, newsworthy and sheds new light on the
4 admission of the two psychological rejects." Are you
5 familiar with that?

6 ATTORNEY GENERAL FARMER: I remember that
7 this is the issue that arose in Colonel Fedorko's
8 nomination process.

9 SENATOR LYNCH: And the next paragraph
10 says, "At the time I filed the EEO complaint, I did
11 not know whether Lieutenant Colonel Fedorko had any
12 involvement in the incident and did not know that
13 Lieutenant Colonel Fedorko would receive a nomination
14 to the Casino Control Commission. I did know that
15 something did not seem quite right and subsequently
16 requested an investigation." You didn't know about
17 that until today?

18 ATTORNEY GENERAL FARMER: I'm not sure what
19 you mean. The --

20 SENATOR LYNCH: The allegations here by
21 Cipola.

22 ATTORNEY GENERAL FARMER: I did become
23 familiar with this allegation in the context of his
24 nomination, yes. Because I think this may have been
25 what prompted us to go back and inquire as to what

1 his role was.

2 SENATOR LYNCH: Now, going forward to the
3 report or memo from Sergeant Cipola dated November
4 8th, 1999. It says, "While reading the November 6,
5 1999 edition of the *Star Ledger*, I became distressed
6 upon learning that the New Jersey State Police and
7 the Attorney General's Office conspired to cover up
8 the sordid details relating to the 118th State Police
9 class selection process. Apparently both
10 organizations felt that saving the Governor further
11 embarrassment was more important than reporting the
12 truth about the selection process, including the
13 abuses of the written test, the background
14 investigation and the oral boards. As a result, the
15 Attorney General's Office provided half truths
16 designed to give former Lieutenant Colonel Michael
17 Fedorko a free ride through the Casino Control
18 Commission nomination hearing. This decision to
19 withhold damaging information was obviously designed
20 to mislead the public. Any claim by either
21 organization that the omission of information was
22 acceptable because of plan changes to the selection
23 process, would ring hollow." Have you ever seen that
24 document?

25 ATTORNEY GENERAL FARMER: No.

1 SENATOR LYNCH: Did you ever hear of these
2 allegations before?

3 ATTORNEY GENERAL FARMER: No.

4 SENATOR LYNCH: Now, on the following page,
5 he seems to get into the heart of these allegations
6 about the testing, which is a memo of November 15th,
7 1999 from Cipola. Paragraph 2. "Investigations of
8 the above areas, namely the law enforcement candidate
9 record, the psychological examination and the oral
10 interview board. The investigation of the above
11 areas, however, are clearly necessary. For example,
12 approximately 90 applicants received perfect scores
13 on the law enforcement candidate record, LECR. This
14 number of perfect scores is excessive and should have
15 raised a red flag. Frank Irwin of RBH, which is the
16 company that designed the LECR, stated that no more
17 than one or two applicants should receive scores of
18 100 each time the LECR is administered. The high
19 number of applicants who received perfect scores of
20 100 on the 118th class LECR suggests that many of
21 them might have lied on the biographical portion of
22 the LECR to receive those perfect scores. Frank
23 Irwin also stated that the Division was instructed to
24 conduct background investigations focusing on the
25 biographical portion to counter any attempts at

1 lying. Frank Irwin told me that he made this point
2 clear to high-ranking Division members. However, the
3 Division did not carry out these investigations.
4 Thus, the organization refused to verify the
5 biographical information supplied by the candidate,
6 although the organization had approximately 80
7 background investigators readily available.
8 Moreover, the Division was aware that certain
9 training schools were advising pupils to list
10 erroneous biographical information on the LECR to
11 improve scores. Thus, the Division spent thousands
12 of taxpayer dollars to administer a test instrument
13 improperly to enable relatives and friends of
14 Division members to continue in the selection process
15 at the expense of more deserving candidates,
16 including minorities." Are you familiar with that
17 allegation?

18 ATTORNEY GENERAL FARMER: Actually I am
19 because we have since moved away from the LECR. We
20 abandoned that test last year in the course of our
21 negotiations with the NAACP.

22 SENATOR LYNCH: And that's when you went to
23 some form of a blind screening?

24 ATTORNEY GENERAL FARMER: And we went to a
25 new form of test.

1 SENATOR LYNCH: Again, however, as in the
2 case of the Rover, Waugh, Hespe, Verniero structure,
3 as well as the finger-pointing about who didn't
4 forward documents, did anyone do anything about this
5 allegation to determine whether or not it was true?

6 ATTORNEY GENERAL FARMER: I don't know.

7 SENATOR LYNCH: Do you know whether or not
8 the complaint that was filed by Sergeant Cipola has
9 ever been heard anywhere?

10 ATTORNEY GENERAL FARMER: I'm not sure.

11 SENATOR LYNCH: But the Internal Affairs
12 investigation about Fedorko ended by September,
13 October of 1999?

14 ATTORNEY GENERAL FARMER: I don't remember
15 the exact time frame.

16 SENATOR LYNCH: Again, can we ask you to
17 look into this and give us a report as to whether or
18 not this was investigated?

19 ATTORNEY GENERAL FARMER: Yes.

20 SENATOR LYNCH: Whether the facts --
21 whether the allegations contained herein are true?
22 And if so, what punishment will be meted out to those
23 who were involved?

24 ATTORNEY GENERAL FARMER: I will look into
25 it and provide you a report.

1 SENATOR LYNCH: Thank you, General.

2 SENATOR GORMLEY: Senator Cafiero

3 SENATOR CAFIERO: Thank you, Mr. Chairman.
4 General, welcome, my friend.

5 ATTORNEY GENERAL FARMER: Thank you.

6 SENATOR CAFIERO: Something you said
7 earlier to questions coming from this side of the
8 table and again repeated to Senator Lynch aroused my
9 curiosity when you were describing and defining what
10 these consent searches were. And the thought
11 occurred to me you said there are some sister states
12 I take that have no basis, whether it's probable
13 cause or reasonable suspicion.

14 ATTORNEY GENERAL FARMER: That's correct.

15 SENATOR CAFIERO: Because they mean what
16 they say, they're consent searches. Have you had any
17 experience as to what the -- it seems to me it's like
18 a self-fulfilling prophecy for us to have reasonable
19 suspicion in ours and it gives the occasion and the
20 opportunity, I guess, for the trooper that makes the
21 stop either to eliminate it, not fill it out or to
22 make a wrong statement. What has the experience been
23 of our sister states who don't ask anything, just
24 simply ask for the consent search, period, with no
25 reasonable suspicion?

1 ATTORNEY GENERAL FARMER: You know, I don't
2 know the answer to that question, but I can -- I
3 believe there is some discussion of it in the Justice
4 Department's report on police community contacts and
5 I will look at that and I'll get back to you.

6 SENATOR CAFIERO: I wonder if they
7 generated the same racial profiling issue that
8 plagued us? And as I said, I think ours, having to
9 state a reasonable suspicion, may be, as I said, a
10 self-fulfilling prophecy in giving us the problems
11 we've had. And I just wondered as an alternative how
12 much sense it would make if we took some random, not
13 that we want to ask everybody that gets stopped, but
14 if we randomly selected those who we would ask for a
15 consent search, if every fifth stop, regardless of
16 color or Asian or black or what, were given the
17 request for the consent search, that would eliminate
18 any risk for possibilities for that stop and that
19 request being initiated because of the race or the
20 ethnic background of that person who was stopped.

21 ATTORNEY GENERAL FARMER: Well, I think --
22 if you look at how the reasonable suspicion
23 requirement started in New Jersey, it was really a
24 response back in 1990 to the first early wave of
25 complaints about racial profiling. And what the

1 thought was and remains is that if you give the
2 police a higher threshold, you're going to deter
3 abuse of conduct because they will be less likely to
4 just randomly pull people over and ask them to
5 consent. So I think the theory behind it was exactly
6 the opposite of what you're suggesting, but I will
7 look into what the experience in other state is.

8 SENATOR CAFIERO: Well, another question.
9 What would be wrong with randomly selecting those
10 that you request a consent from? There would be no
11 basis at all to say every fifth one that we stop, it
12 doesn't make any difference, we're stopping the fifth
13 one. If it happens to be five blacks in a row or
14 five Asians in a row or five whites in a row, that
15 element would be removed completely, I would think,
16 General. For what it's worth, my friend.

17 ATTORNEY GENERAL FARMER: Okay.

18 SENATOR CAFIERO: Thank you, sir.

19 SENATOR FURNARI: Thank you.

20 Good afternoon, General.

21 ATTORNEY GENERAL FARMER: Good afternoon.

22 SENATOR FURNARI: I've got a few things to
23 say, bear with me, leading up to my question.

24 You know that we've heard a lot of
25 testimony about a lot of different things. At least

1 one of the members of this Committee has concluded
2 that this tribunal was at one point misled by someone
3 trying to put a favorable spin on previous conduct
4 that might have not been favorable if looked on in
5 its appropriate way. We've also heard about
6 confusion in the Attorney General's Office where the
7 former Attorney General testified that he had
8 directed everyone to cooperate fully with the
9 Department of Justice, and yet one of the persons
10 responsible for giving over the documents, the
11 Assistant Deputy Attorney General clearly heard a
12 direction that told him not to fully cooperate and to
13 slow the process down and crawl. And we've heard in
14 the State Police -- and, quite frankly, the State
15 Police have come across, at least, and might be
16 pretty good on this, they seemed to have immediately
17 jumped at issues when questions were raised. They
18 did investigations. They produced documents. From
19 everything that we've seen, they turned over
20 documents, whether they were favorable or not
21 favorable. I wish that many of the attorneys, as an
22 attorney, I wish they had seemed as candid and
23 forthright.

24 I have a question though that relates to
25 some of the additional testimony and I'd like to hear

1 your comments on it after I go through it.

2 Mr. Zoubek was testifying -- was questioned
3 about indictments dealing with Hogan and Kenna on
4 falsification. And what we know from the testimony
5 that's here before is that an investigation had been
6 completed in December, or at least in early January.
7 That that matter had not been presented to a Grand
8 Jury yet, although there was a Grand Jury empaneled
9 to hear charges arising out of the shooting incident.
10 That it wasn't the intention of anyone who was
11 handling those matters to move forward with any
12 indictment. That when the Attorney General learned
13 in March that it was going to take a number of more
14 months to move the shooting indictments before the
15 Grand Jury, that he addressed the falsification
16 issue. And that he made a decision that he wanted to
17 move the indictment at this time because the
18 anniversary of the shooting was coming up and there
19 was a substantial focus, pressure and criticism on
20 the length of time that the shooting investigation
21 was taking. There was absolutely no other legal
22 reason that the falsification indictment was to be
23 moved at this time instead of being moved with the
24 shooting indictment.

25 Now, I raise that as a question about

1 whether that was a reasonable and viable
2 consideration in moving the indictment and Mr. Zoubek
3 said absolutely. My question was, is criticism for
4 failing to do a timely investigation, is that an
5 appropriate consideration for an Attorney General to
6 move an indictment and he indicated to me yes, that
7 was true. And that he had been vindicated in that
8 decision. So did the Justice indicate they had been
9 vindicated in that decision by an Appellate Division
10 decision issued by Judge Baime, Wallace and Carchman.
11 Judge Baime and Judge Carchman are former
12 prosecutors, very precise with their words. So I
13 just had an opportunity to look at that case today
14 and I'm going to read you a section of this case and
15 it says, "The decision to conduct two separate Grand
16 Jury proceedings was designed to prevent the Grand
17 Jury investigating the shootings from considering
18 charges that were not germane to the factual issues
19 presented. While there was no legal requirement that
20 the State conduct separate Grand Jury proceedings,
21 bifurcation was intended to insulate each panel to
22 the extent possible." Now, Deputy Attorney General
23 Richard Berg was with your office and I believe this
24 was during the period of time that you were the
25 Attorney General that this case was on.

1 Now, it seems to me that what the genesis
2 of that indictment was described to us in full as to
3 why that happened and yet for some reason the Court
4 suffered under the impression that there was a design
5 here to benefit the defendants in bringing this
6 charge. Now, those seem to be kind of inconsistent
7 to me. Could you address how, you know, is this one
8 of those lack of communications between the Director
9 of Criminal Justice and the attorney arguing before
10 the Court?

11 ATTORNEY GENERAL FARMER: I don't see it as
12 that at all. I think the Appellate Division opinion
13 is sound. You know, I can't speak to circumstances
14 that existed in the Office at that time, but we did
15 prosecute the appeal because we thought that the
16 trial Court's decision was in error and we were
17 vindicated on appeal and the Supreme Court denied
18 certification.

19 SENATOR FURNARI: But did anyone know that
20 the reason that that indictment was brought -- the
21 reason, yeah, the genesis of the indictment took
22 place in the rooms where life -- where criminal
23 lawyers were sitting around telling the Attorney
24 General that this is not a good idea. Our intention
25 is -- there's a lot of problems, you have Brook-

1 Murphy problems. You know, we might have to
2 bifurcate this case. I mean that clearly isn't a
3 decision that was by design to prevent one Grand Jury
4 from considering charges not germane to the other
5 factual issues. That was a decision to move an
6 indictment because the Office was receiving criticism
7 for not properly -- or not investigating and moving
8 forward on a shooting indictment. Those two things
9 are --

10 ATTORNEY GENERAL FARMER: I think what the
11 Appellate Division -- I think you're taking that
12 somewhat out of context. I think the Appellate
13 Division opinion in its entirety basically just
14 affirms the broad discretion of the Attorney General
15 to make those kinds of decisions. And so that the
16 part that you're reading is a bit out of context.

17 SENATOR FURNARI: Do you think -- I mean if
18 you know, did they know -- did they know what we know
19 today how the decision process was made? Somewhere
20 was that presented?

21 ATTORNEY GENERAL FARMER: I don't know.

22 SENATOR FURNARI: See, the only thing that
23 concerns me is we go through with reforms and we sit
24 here as many of us being lawyers and we're looking at
25 an issue of racial profiling that, you know, I agree

1 may have happened because of these problems in
2 relationship with the police and what we asked them
3 to do. But I'm also afraid that we're not addressing
4 concerns all the way up to ourselves. As lawyers
5 sometimes we end up as advocates and don't address
6 the issue. So do you think that there's some
7 changes? Do you think that there is a way that -- or
8 anything that needs to be done? Again, not focused
9 at the State Police but focused on what the Attorney
10 General's Office did. What lawyers did. What people
11 that are trusted with the responsibility of telling
12 the layman, you know, where the law is. Are there
13 changes that we need to make here?

14 ATTORNEY GENERAL FARMER: I don't think so.
15 No. I think anytime you're dealing with a
16 bureaucracy you have to be ever vigilant of the issue
17 of communication and that's just -- that's something
18 that, you know, you pay a lot of attention to.

19 SENATOR FURNARI: Well, we heard an awful
20 lot of testimony from government lawyers who said
21 that they had a difficult time with this -- even
22 described as schizophrenic role of representing both
23 the State Police and representing -- and prosecuting
24 and recognizing the responsibility to Justice. Is
25 there an additional training program that we should

1 have for anyone coming into the Attorney General's
2 Office? I mean, quite frankly, in my view something
3 that all, you know, lawyers learn in law school right
4 off the bat and they forget it by the time they get
5 to the Attorney General's Office? Is there some
6 additional training that we need to do in that area?

7 ATTORNEY GENERAL FARMER: Well, one of the
8 ways I've attempted, I think, to address that issue
9 is I did start Advocacy Institute within the
10 Department, one of whose functions is the training of
11 lawyers, both to represent the State of New Jersey
12 and also to act within the Department. So that is an
13 issue that I've actively addressed.

14 SENATOR FURNARI: Thank you.

15 SENATOR GORMLEY: I'll ask a question.

16 In terms of recruitment of counsel, have
17 there been any changes in terms of attracting counsel
18 to the Office? Is there any assistance you would
19 need -- I mean we're talking about -- you know,
20 through these hearings we've engaged in the
21 complexity of some of these matters and what you want
22 is both the citizens, troopers and the State to be
23 able to have the very best counsel available. Are
24 there any needs in terms of additional counsel, in
25 terms of additional wherewithal, that would assist

1 the Office because that person who is the trial
2 counsel has an enormous weight on their shoulders and
3 I'd be curious if, in fact, you have any thoughts in
4 that area?

5 ATTORNEY GENERAL FARMER: Well, we've
6 thought for some time that the pay scale in the
7 Department is out of whack with respect to the
8 private sector. I know when I -- when I got finished
9 clerking the Attorney General's Office, it was one of
10 the places that I considered going and I ended up
11 going to Riker, Danzig. But at the time the
12 difference in starting salary was, if my recollection
13 is correct, about ten to \$13,000. Now, you have
14 private firms which it's not unusual for people to
15 start at around \$100,000 a year and -- Jeff is --

16 SENATOR GORMLEY: He's got all the numbers
17 memorized.

18 ATTORNEY GENERAL FARMER: And our lawyers
19 start at 42.

20 One of the other problems that we've had
21 over the years is defining a career path within the
22 Department. Sort of the senior associate level
23 lawyer is a lawyer that over the years we have tended
24 to lose, so we've been working to try to design a
25 career path for our attorneys. So, you know, I think

1 our attorneys should start at a higher level and
2 there should be a defined career path for them.

3 SENATOR GORMLEY: Mr. Chertoff?

4 MR. CHERTOFF: I guess good afternoon,
5 General.

6 ATTORNEY GENERAL FARMER: Good afternoon.

7 MR. CHERTOFF: I just have literally three
8 or four questions.

9 Going back to your presentation at the
10 beginning. As I understood the lesson that you drew
11 from the statistics with respect to 2000, it is that
12 even from the standpoint of law enforcement issues
13 and what's efficient, it turns out that the practice
14 of profiling is bad law enforcement because it winds
15 up focusing on people who actually are less likely to
16 result in found contraband.

17 ATTORNEY GENERAL FARMER: That's correct.
18 As Senator Lynch points out, if you weigh -- if you
19 weigh what you gain in terms of law enforcement in
20 the finds that you make against the humiliation that
21 the people feel whose cars are searched and nothing
22 is found, it's pretty clear that there's an imbalance
23 on the side of not doing it this way.

24 MR. CHERTOFF: But also you're letting
25 proportionately more people go by that are more

1 likely to have contraband if you're going to use this
2 as a way of detecting drugs. I don't know, did you
3 watch Colonel Williams' testimony or --

4 ATTORNEY GENERAL FARMER: I read it.

5 MR. CHERTOFF: There was a point in the
6 testimony when he said something which was a little
7 ambiguous but which being charitable we'll say it was
8 ambiguous, but it seemed to suggest that he believed
9 that the justification for some amount of profiling
10 is that fact that there's a lot of narcotics moving
11 up the Turnpike and he seemed to correlate that in
12 some way with ethnic factors. Would you agree with
13 me that the statistics that you've put out today
14 absolutely totally destroys that concept?

15 ATTORNEY GENERAL FARMER: Yes.

16 MR. CHERTOFF: And do you think that it
17 would be helpful, one of the things that would be
18 helpful in terms of getting the troopers to
19 understand that profiling is bad law enforcement is
20 the fact that you've now been able to actually
21 demonstrate that it's bad law enforcement? So that
22 it's no longer the troopers feeling that you have a
23 bunch of do-gooders handcuffing them and doing their
24 jobs, but they come to realize that actually
25 profiling is bad in terms of doing their jobs?

1 ATTORNEY GENERAL FARMER: I think that's
2 the message that we have to get to rank and file
3 because I think that's the attitude that we have to
4 change more than any other.

5 MR. CHERTOFF: And my last question is
6 this. I mean obviously the video cameras were not
7 around back in the mid-nineties and the late
8 nineties, but the sources of information that you
9 used to pull together these statistics was basically
10 the files and the documents generated on consents to
11 search, right?

12 ATTORNEY GENERAL FARMER: That's correct.

13 MR. CHERTOFF: So that would have been
14 material which was available if someone had pulled it
15 together back in '96 or '97 or '98?

16 ATTORNEY GENERAL FARMER: It could have
17 been done. It would have take more work. Yeah.

18 MR. CHERTOFF: I have nothing further.

19 SENATOR GORMLEY: Thank you, General.

20 ATTORNEY GENERAL FARMER: Thank you.

21 MS. GLADING: Senator?

22 SENATOR GORMLEY: Oh, I'm sorry. I
23 apologize. I'm sorry. I apologize. I didn't
24 realize.

25 MS. GLADING: Good afternoon, General.

1 ATTORNEY GENERAL FARMER: Good afternoon.

2 MS. GLADING: The statistical information
3 that you outlined earlier, was any of that produced
4 as a result of the CAD system?

5 ATTORNEY GENERAL FARMER: I believe so,
6 yes.

7 MS. GLADING: Is Troop D computerized on
8 the CAD system now?

9 ATTORNEY GENERAL FARMER: I believe Troop D
10 is on the CAD system.

11 MS. GLADING: Okay. The consent decree
12 that the State entered into in December of 1999
13 requires -- requires semi-annual public reporting of
14 stops and consent search data, is that correct?

15 ATTORNEY GENERAL FARMER: That's correct.

16 MS. GLADING: Has the State complied with
17 that requirement of the consent decree?

18 ATTORNEY GENERAL FARMER: I believe so,
19 yes.

20 MS. GLADING: When did you report consent
21 search data previous to today?

22 ATTORNEY GENERAL FARMER: I don't recall,
23 but I believe we had.

24 MS. GLADING: I looked through your second
25 semi-annual pubic report of aggregate data, which was

1 provided -- which was made public on the 10th of
2 January 2001. Would consent search data have been
3 included in this?

4 ATTORNEY GENERAL FARMER: I don't know. I
5 don't know if it was or not.

6 MS. GLADING: So if it wasn't in this, was
7 it reported separately from this?

8 ATTORNEY GENERAL FARMER: I don't remember.
9 It might not have been. I don't know.

10 MS. GLADING: Okay. Perhaps your office
11 can provide the Committee with previous reports of
12 consent search data because we're a little confused
13 about what's been reported previously.

14 The MAP system, the Management Awareness
15 and Personnel system, is that functionally going to
16 perform the function of the early warning system that
17 was discussed in the interim report?

18 ATTORNEY GENERAL FARMER: Yes.

19 MS. GLADING: When will that be up and
20 running?

21 ATTORNEY GENERAL FARMER: We're beginning
22 to -- we're beginning to implement it starting in
23 April and we're hoping to have it completely
24 operational by September.

25 MS. GLADING: Be functional April where?

1 ATTORNEY GENERAL FARMER: I don't know.

2 I'll get you that information too.

3 MS. GLADING: And fully operational, do you
4 mean all of Troop D or the entire State Police force?

5 ATTORNEY GENERAL FARMER: I think all of
6 Troop D, but I'll check that for you.

7 MS. GLADING: And as you just said, the
8 early warning system was called for in the April 1999
9 report and it was required, I guess, under the
10 consent decree.

11 ATTORNEY GENERAL FARMER: That's correct.

12 MS. GLADING: When did work begin on the
13 MAP system? Did the State begin work on it in April
14 or May of '99 or did it wait until after the consent
15 decree?

16 ATTORNEY GENERAL FARMER: I think we waited
17 until after the consent decree because we weren't
18 quite sure what the architecture we would need would
19 be.

20 MS. GLADING: And the CAD system, does that
21 include a records management system?

22 ATTORNEY GENERAL FARMER: I believe it does
23 but I'm not sure.

24 MS. GLADING: Is that records management
25 system operable at this point?

1 ATTORNEY GENERAL FARMER: I'm not sure.

2 MS. GLADING: I noticed that there was non-
3 compliance with consent decree in January in the
4 Monitor's second report in areas involving the CAD
5 system, call-ins of stops, call-ins of the end of
6 stops. And the reasons were that the data file that
7 the Monitor received was incompatible with the
8 Monitor's computer, I guess. And another reason was
9 a misinterpretation of a Monitor's request that had
10 been made. Do you know if that problem has been
11 addressed and if the Monitors have been provided with
12 compatible data at this point?

13 ATTORNEY GENERAL FARMER: I'm not sure but
14 I do know that the Monitor was in the first week of
15 March and I did meet with them to give an --
16 interview. They didn't raise this as a continuing
17 concern at that time.

18 MS. GLADING: They did raise it?

19 ATTORNEY GENERAL FARMER: They did not.
20 And I believe their next report is going to be out
21 next week sometime so we will know.'

22 MS. GLADING: Okay. Do you know -- well,
23 you've been looking, I guess, at videotapes of stops.

24 ATTORNEY GENERAL FARMER: Yes.

25 MS. GLADING: And I guess there was a

1 fairly significant level of non-compliance in terms
2 of the audio recording of the videotapes. Are many
3 of the tapes that you're looking at silent movies?

4 ATTORNEY GENERAL FARMER: Most of the tapes
5 I've looked at actually the sound is quite good but
6 there are tapes that have problems.

7 MS. GLADING: Do you know if compliance has
8 improved with that requirement, that there be audio
9 and video?

10 ATTORNEY GENERAL FARMER: I believe that it
11 has. Sometimes the problems have been mechanical and
12 sometimes we're not sure whether it's mechanical or
13 whether someone is turning the microphone off. But
14 we're looking into that.

15 MS. GLADING: The Monitor's report raised a
16 number of concerns about compliance with item number
17 87, which was the attempt to complete internal
18 investigations within 45 days.

19 ATTORNEY GENERAL FARMER: Yes.

20 MS. GLADING: And it noted that for nearly
21 nine months in 1999 the former Superintendent failed
22 to finalize any pending discipline within the New
23 Jersey State Police. Many of those cases obviously
24 had been initiated in 1998. Do you know the status
25 of the backlog of those cases at this point?

1 ATTORNEY GENERAL FARMER: I believe we've
2 made great progress in eliminating the backlog. I
3 know Carson Dunbar has focused a great deal of
4 attention to the backlog that existed in Internal
5 Affairs and I'm not sure that he's totally eliminated
6 it. But I know he remarked to me early on that he
7 had some cases that were three and four years old and
8 that took him quite a bit of time to get to it.

9 MS. GLADING: While a case is pending, an
10 individual cannot be promoted, is that correct?

11 ATTORNEY GENERAL FARMER: That's correct.

12 MS. GLADING: Do you now know how many
13 cases reach that level of being more than a year old?

14 ATTORNEY GENERAL FARMER: I don't know.

15 MS. GLADING: Do you -- we've heard some
16 testimony -- the Committee has heard some testimony
17 that the cases, administrative and discipline cases
18 resulting out of the Troop D audit that activity was
19 increased recently on those cases to try to get them
20 resolved. Are you monitoring the progress of those
21 cases?

22 ATTORNEY GENERAL FARMER: Personally?

23 MS. GLADING: Um-hmm.

24 ATTORNEY GENERAL FARMER: No. The Office
25 of State Police Affairs is overseeing that process, I

1 believe.

2 MS. GLADING: Do you have concerns that
3 those cases are still outstanding --

4 ATTORNEY GENERAL FARMER: Yes.

5 MS. GLADING: -- nearly two years after the
6 audit was ceased?

7 ATTORNEY GENERAL FARMER: Yes.

8 MS. GLADING: Do you have concerns that
9 some of those cases may rise to the level of -- at
10 least one case, perhaps more, may rise to the level
11 of seriousness that was alleged in the Hogan and
12 Kenna records falsification indictment?

13 ATTORNEY GENERAL FARMER: I have been told
14 that no cases rise to that level. But if one did, I
15 would have concerns.

16 MS. GLADING: Do you have concerns that
17 none of the troopers that were audited were actually
18 audited at the level that Hogan and Kenna were
19 audited, where every stop was examined, so we can't
20 really know what the level of wrongdoing or records
21 falsification was by troopers in Troop D during that
22 period of time because they were never completely
23 audited? Is that a concern?

24 ATTORNEY GENERAL FARMER: Well, my
25 understanding is that the -- what I was told was that

1 the ten cases where some serious deficiencies were
2 identified were forwarded for further investigation.
3 That the remainder of the violations were
4 administrative in nature and relatively minor.

5 MS. GLADING: Do you know why then the ten
6 cases have never been prosecuted through the Internal
7 Affairs process?

8 ATTORNEY GENERAL FARMER: I believe that
9 there has been -- there has been admittedly some time
10 lag here but the ten cases went to Criminal Justice
11 for review and then they were declined and sent back
12 to the State Police and subsequent to that they were
13 referred to the Office of State Police Affairs and --

14 MS. GLADING: So they were -- let me back
15 up a second. They were sent from State Police to
16 Criminal Justice. When was that?

17 ATTORNEY GENERAL FARMER: I don't know
18 exactly.

19 MS. GLADING: They were sent back to State
20 Police?

21 ATTORNEY GENERAL FARMER: Yes.

22 MS. GLADING: When was that?

23 ATTORNEY GENERAL FARMER: I don't know
24 exactly.

25 MS. GLADING: Okay. And then they were

1 sent back to the Office of the Attorney General,
2 Office of State Police Affairs?

3 ATTORNEY GENERAL FARMER: State Police
4 Affairs, yes, for their input on the potential
5 discipline.

6 MS. GLADING: And when was that?

7 ATTORNEY GENERAL FARMER: I believe that
8 was about a year ago.

9 MS. GLADING: And then they were sent back
10 to State Police again?

11 ATTORNEY GENERAL FARMER: Yes. Office of
12 State Police Affairs reviewed them and made their
13 comments and they've been returned to the Colonel.

14 MS. GLADING: And they were determined
15 again not to rise to a level of criminal culpability?

16 ATTORNEY GENERAL FARMER: That's correct.

17 MS. GLADING: And they were sent back to
18 State Police? Do you know when that was?

19 ATTORNEY GENERAL FARMER: I don't know.

20 MS. GLADING: So essentially nearly two
21 years passed. The shutdown of the Troop D audit.
22 Ten cases were identified as being possibly
23 warranting criminal action and not a single trooper
24 has been disciplined or been subject to a complete
25 Internal Affairs investigation, is that right?

1 ATTORNEY GENERAL FARMER: I don't know if
2 ten is an accurate number. Hogan and Kenna might
3 have been two of them. I'm not sure.

4 MS. GLADING: Are you familiar with the
5 changes being made to the formal promotional process
6 within the State Police?

7 ATTORNEY GENERAL FARMER: Yes.

8 MS. GLADING: What rank -- up to what rank
9 will that promotional process apply?

10 ATTORNEY GENERAL FARMER: I'm not sure that
11 we finalized that yet.

12 MS. GLADING: It's not in place then yet?

13 ATTORNEY GENERAL FARMER: I don't know.

14 MS. GLADING: Do you know if the stop data
15 that you've talked with the Committee, do you know if
16 that includes construction detail stop data?

17 ATTORNEY GENERAL FARMER: I don't know.

18 MS. GLADING: You've done a pretty
19 extensive traffic survey that shows varying levels of
20 minority ridership and different times of the day and
21 different days of the week. Have you compared the
22 stop and the consent search data? Have you done an
23 analysis that compares it to --

24 ATTORNEY GENERAL FARMER: Of the time of
25 day?

1 MS. GLADING: -- the survey that you've
2 done? The actual benchmarks you have.

3 ATTORNEY GENERAL FARMER: We haven't gotten
4 to that level yet, but we're planning to. I assume
5 you're talking about finding out when the consent
6 searches happened. What time of day and then
7 comparing it with our population survey? Yeah, we
8 haven't gotten to that level of detail yet.

9 MS. GLADING: You said it more artfully
10 than I did.

11 I understand that the State has just
12 entered into a contract with a testing company that
13 can provide testing, psychological testing for racial
14 bias, is that correct?

15 ATTORNEY GENERAL FARMER: I don't know.

16 MS. GLADING: Do you have a projection at
17 this point of how much the State anticipates it will
18 be spending in settling civil claims or criminal
19 claims -- or civil claims in connection with racial
20 profiling allegations?

21 ATTORNEY GENERAL FARMER: No.

22 MS. GLADING: Do you know how many cases or
23 files there are outstanding at this point?

24 (Pause)

25 ATTORNEY GENERAL FARMER: We have two class

1 actions and then a few other cases. Apparently under
2 five.

3 MS. GLADING: Have the classes been
4 certified in any of those class actions?

5 ATTORNEY GENERAL FARMER: Class
6 certification was denied at the state level in one.
7 There's a motion in the federal court which has not
8 been decided.

9 MS. GLADING: Okay. And the State is
10 opposing class certification?

11 ATTORNEY GENERAL FARMER: We have been,
12 yes.

13 MS. GLADING: Can you explain why you're
14 opposing class certification?

15 ATTORNEY GENERAL FARMER: Oh, because we
16 think it's a very difficult thing to prove. We'd
17 basically be taking at face value people's assertions
18 that this conduct occurred and I don't think that's
19 appropriate.

20 MS. GLADING: And do you -- have any cases
21 been settled in the last 60 days?

22 ATTORNEY GENERAL FARMER: Since the --
23 well, we settled the Tobia (sic) case at the end of
24 the year and we settled the 7A case -- I don't know
25 if that was 60 days ago or not.

1 MS. GLADING: There's been no other
2 settlements other than those two in the past three or
3 four months?

4 ATTORNEY GENERAL FARMER: Not that I'm
5 aware of.

6 MS. GLADING: Okay. The 15-year old boy
7 who was the subject of the frisk search by Governor
8 Whitman down in Camden, is that an open filed in your
9 office at this point?

10 ATTORNEY GENERAL FARMER: No.

11 MS. GLADING: Has there been any notice of
12 tort claim?

13 ATTORNEY GENERAL FARMER: Not that I'm
14 aware of.

15 MS. GLADING: Do you now of any pending
16 civil action in that case?

17 ATTORNEY GENERAL FARMER: No.

18 MS. GLADING: I won't call it a case then.
19 Have there been any negotiations?

20 ATTORNEY GENERAL FARMER: Not that I'm
21 aware of.

22 MS. GLADING: That's all I have. Thank
23 you, Mr. Chairman.

24 SENATOR GORMLEY: I'll thank you again.
25 Thank you again for your testimony, Mr. General.

1 ATTORNEY GENERAL FARMER: Thank you.
2 SENATOR GORMLEY: We'll take a half hour
3 break.

4 (Off the record)

5 SENATOR GORMLEY: Colonel, I'd ask you to
6 come forward to be sworn, please. Raise your right
7 hand, please.

8 C A R S O N D U N B A R, SWORN

9 SENATOR GORMLEY: Be seated.
10 Colonel, we'd appreciate your comments at
11 this time.

12 Make sure the red light is on.

13 COLONEL DUNBAR: Let me begin today by
14 stating that I am glad that you have undertaken these
15 hearings. I strongly supported Attorney General
16 Farmer in his decision to release documents
17 concerning the State Police. I have watched the
18 State Police die a death of thousands of small cuts.
19 My sincere hope is that with these hearings we can
20 begin the road back to normalcy.

21 I will try to answer your questions to the
22 best of my ability. I am sure that I have not moved
23 the State Police far enough and you will have
24 questions about this. Yet at the same time I say
25 with great pride, we have moved considerably in all

1 that we do. As I sit here today and look at this
2 Committee, I ask which of you, which of us, have not
3 had a prejudicial thought or action. Is the issue
4 that we are here to discuss an issue of the State
5 Police or an issue of our society? I make no excuses
6 for the State Police, yet are we alone? Why is it
7 that whenever I attend a police leadership seminar
8 that we discuss the very topic that has brought this
9 Committee together? Why is there a national
10 discussion on profiling and statistical collection?
11 Is it all due to the New Jersey State Police or is it
12 that the issue that faces this entire country an
13 issue, a sub-issue of how we review race in this
14 country?

15 The issues I found in the State Police
16 involve much more than racial profiling. They
17 involve promotions, specialist selections, personnel
18 actions, Internal Affairs investigations and how we
19 treat each other. In order to address what we do on
20 the outside, we must also solve our problems within.

21 The documents you have reviewed reflect the
22 issues we face today are not one year old, they are
23 not two years old, they are not even three years old.
24 They are decades old. It is refreshing to see your
25 interest in this subject but my question is where was

1 this interest years ago?

2 I will tell you that there has been a
3 disconnect between the leadership of the State Police
4 and the Attorney General's Office for some time.
5 Both depend on each other, yet it is clear to me that
6 there was no bond of trust. Each eyed the other with
7 suspicion. In fact, when I was hired, there were,
8 and most likely still are today, those who believe me
9 to be the puppet of the Attorney General's Office. I
10 would submit that anyone that really knows me, knows
11 that I am many things, but I am not a puppet of
12 anyone.

13 What I have found interesting is that both
14 in the Attorney General's Office and in the State
15 Police, the vast majority of the personnel are
16 hardworking individuals dedicated to public service.
17 The years of animosity are clear to see, yet during
18 my 18 months I have seen countless personnel working
19 side-by-side to overcome problems we face. What
20 progress we have made has been the result of these
21 people working together and getting to know each
22 other. I will tell you that both the Attorney
23 General and I have had to push people in an effort to
24 build trust, but like everything else we do, we
25 accept small steps and we have moved things forward.

1 The Office of State Police Affairs within
2 the Attorney General's Office works side-by-side with
3 us. There are occasions that I strongly object to
4 some of the things that they recommend. We argue and
5 in some cases fight, however, in most cases we come
6 to agreement. I think this process is healthy for
7 the State of New Jersey.

8 As the Superintendent of State Police, I am
9 dependent upon a bank of attorneys within the
10 Attorney General's Office. I find it hard to believe
11 that anyone would warrant or authorize the
12 disbandment of the Legal Affairs Office in the State
13 Police. However, this was done. Frankly, I don't
14 know how things were done without this office. Don't
15 get me wrong, like most people, I don't love
16 attorneys, yet in today's world, you just can't
17 survive without them. Unfortunately, I must call
18 upon them every day to provide some form of
19 counseling. How can you possibly do your job in
20 today's world without good legal counsel.

21 Let me address the very painful topic of
22 racial profiling. I certainly, and I believe that
23 each of you, would agree that racial profiling is an
24 unacceptable practice. However, what do you do when
25 someone partakes in this action unwittingly? I think

1 it is time for some real honesty. When you think of
2 someone involved in a crime, whom do you think of?
3 What flashes into your mind? The problem with what
4 flashes into your mind is that it is perception. The
5 problem with perception is that it turns into
6 reality. We in law enforcement come into contact
7 with a small portion of our population. Our
8 encounters are often under difficult circumstances.
9 We add to the perceptions we bring to the job, those
10 perceptions we develop during law enforcement
11 encounters. The problem with all this is that we
12 become tainted of what we experience. This then
13 becomes our reality. It is based on a perception
14 brought about through contact with a very limited
15 part of our society. Sadly, we end up in many cases
16 treating people based upon our perceptions. And
17 those perceptions are based on a very small part of
18 our overall public.

19 The same thing occurs with our troopers.
20 Make no mistake, the vast majority of our troopers
21 are hardworking individuals who love their job and
22 whose main goal is and has been to make a difference.
23 These troopers were enlisted in a war against drugs.
24 Through years of law enforcement they develop
25 perceptions. They acted on these perceptions for the

1 most part in good faith. The question is, were their
2 perceptions accurate?

3 While we have struggled through the last
4 three years, the Appellate Courts have made some
5 decisions that will have great impact on what we do.
6 Just within the last several weeks in State v. Keith
7 Leslie, the Appeals Court limited the scope of search
8 of a motor vehicle, even with consent. Based upon
9 recent decisions by the Appeals Court, I would submit
10 they do not concur with the perceptions of the police
11 officers. Further cases can be explored in State v.
12 Kardi, State v. Chapman, State v. Hampton, State v.
13 Hinton.

14 Since taking office, what I have attempted
15 to do is have us look at everything that we do. How
16 we organize our personnel policies, our training, our
17 discipline, our uniform. How we work with others to
18 include the Attorney General's Office. In almost
19 every case I saw a need for change.

20 Furthermore, we are moving in all these
21 areas at the same time. A very difficult process. I
22 strongly believe that in order for us to really
23 resolve issues involving racial profiling, we must
24 examine our perceptions. I mean a real examination.
25 We must determine what we want and how we plan to get

1 there. We have volumes of rules and regulations. We
2 must understand what the rules are and we must be
3 held to them. I know there is consideration to pass
4 a new legislation, however, unless there is both
5 voluntary and mandatory compliance with these rules
6 and regulations, as well as legislation, the value of
7 any new legislation will be limited. One need only
8 look at the civil rights laws of the 1960s. They are
9 now almost four decades old, yet we still face issues
10 of non-compliance with the rule and the spirit of
11 these laws. In the Soto case, one of the issues
12 cited by the Judge was the fact that a large portion
13 of motor vehicle stops were missing. The failure to
14 call in stops have a long history. It was part of
15 how things were done for a long time and even upon my
16 arrival, it was something that was very problematic.
17 Yet without accurate information regarding stops,
18 statistical data is all questionable.

19 It was issues such as failure to call in
20 stops and non-compliance with Division policy that
21 led me to my emphasis on discipline. All their
22 timeliness of discipline is still a major concern.
23 Our Internal Affairs investigations I believe to be
24 of excellent quality, an issue that the federal
25 Monitor has commented upon and we'll comment upon in

1 the very near future.

2 I have also increased most of the
3 discipline as of March 1, 2000. I firmly believe
4 that we in the law enforcement must be held to a
5 higher standard. I have an expectation that all my
6 personnel must be counted upon to do their job the
7 right way every day.

8 I have commented several times now that I
9 believe that the vast majority of the members of the
10 New Jersey State Police to be hardworking, very
11 dedicated personnel, yet I will also tell you there
12 is a very small, very small, very vocal cell of
13 individuals that believe there is no need for change.
14 This small group will do whatever is possible to
15 eliminate disappointment and return to the past.
16 Frankly, they are bullies and enjoy being bullies. I
17 know that. I will struggle with these individuals
18 throughout my tenure. They are the ones that lie to
19 you and others. I have dealt with people like this
20 before. They do not represent true law enforcement.
21 I recognize what they are and know they have no place
22 within the State Police. They will certainly invoke
23 the term "morale" as their rallying call. Today we
24 are near a crossroad in the history of the New Jersey
25 State Police. This crossroad can lead to a future

1 that will have difficulties, however, it is the road
2 that will never have us travel the path we have
3 traveled during the last three years. It is the road
4 where we examine our perceptions as individuals and
5 determine what reality really is.

6 The second road is a road that leads to the
7 past. I know that in examining documents, you know
8 that the State Police in the early 1990s came to the
9 same crossroad. Today's Committee reflects where the
10 road taken has brought us. You will play a part in
11 deciding what road we take in the future.

12 When I appeared before this Committee
13 during my confirmation hearing, I told you then that
14 I had no magic wand. I told you that the change
15 ahead would take about four years. I also told you
16 that I did not know the problems that I would
17 encounter. Today I can tell you that the problems
18 are much more than the racial profiling. And yes, it
19 will still take the four years that I predicted.

20 One of my proudest days was graduating from
21 the New Jersey State Police Academy. In some ways it
22 was one of the major achievements in my life. I
23 understand the pride that the men and women of this
24 organization have. It is my pride in them that
25 forces me to speak out against those within our

1 organization that must either change or leave.
2 Everything I do is with their well being in mind.
3 Like a parent watching over a child, you must do the
4 right thing for the long term. There are those that
5 believe that the way to making a child happy is
6 giving them everything they want. I don't think that
7 is the answer. I will not be intimidated. I know
8 things will be difficult. I have met resistance and
9 I am sure that I will continue to meet resistance. I
10 ask only that you consider the last three years and
11 determine if we should ever go through such a period
12 again.

13 You as a Committee confirmed my nomination
14 just under two years ago. I can tell you I have
15 never worked as hard as I have in the last two years.
16 I am not interested in making friends or having
17 people love me. I want the New Jersey State Police
18 to take its rightful place of leadership in the
19 American law enforcement. Where some troopers may
20 lament the fact that they are part of a kinder,
21 gentler State Police, I believe it to be the
22 beginning of an organization that dedicates itself to
23 ideals of performing all of its duties,
24 constitutionally and with compassion.

25 Sir William McPherson, who conducted an

1 inquiry somewhat similar to this in the tragic
2 Lawrence case in London, England stated, "The
3 collective failure of an organization to provide an
4 appropriate and a professional service to the people
5 because of their color, culture, ethnic origin, can
6 be seen or detected in processes added to its
7 behavior which amount to discrimination. Through
8 unwitting prejudice, ignorance, thoughtlessness and
9 racist stereotyping, which disadvantages the minority
10 ethnic people, I submit what we struggle with here
11 today, whether it be wittingly or unwittingly, is an
12 issue that not only affects the New Jersey State
13 Police, the State of New Jersey, the United States,
14 but much of our world. My sincere hope is that we
15 take this opportunity to truly examine the issues and
16 make a commitment to take the road to understanding
17 and respect in dealing with the difficult law
18 enforcement issues. For I believe that only with
19 partnerships of all our communities will we overcome
20 our law enforcement concerns and provide for the
21 safety of those we strive to serve.

22 It is my hope that after you review, you
23 will see that this has been a long-term issue that is
24 extremely complex that has developed as a result of
25 both witting and unwitting intent. More importantly,

1 this is an issue that we in New Jersey can dedicate
2 ourselves to working through. I believe that New
3 Jersey deserves this as do the men and women of the
4 New Jersey State Police.

5 Finally, I can state that I have only been
6 here for 18 months and know that change was and is
7 needed. Many of you have served the state for many,
8 many years. Already I have heard some state that the
9 change is needed is my departure. I strongly
10 disagree. What is needed is the courage to continue
11 change. The courage not to confuse morale with the
12 painful process of bringing about change. What is
13 needed is a willingness to learn and understand that
14 people resist change. What is also needed is an
15 examination of all voices and not just those that are
16 vocal.

17 Monsignor Sheeran, at our graduation today,
18 quoted Eric Hoffer, the workingman's philosopher of
19 the 1960s, "In times of change it is a learner who
20 will inhabit the future." You can draw whatever
21 conclusions you desire. You can place blame wherever
22 you wish, however, in the end you fail to bring about
23 progress if you fail to allow the seeds of change to
24 grow. Other will undoubtedly sit in these chambers
25 years from now and address these very same issues.

1 How we treat each other and what kind of public
2 servants we are is important. For me, law
3 enforcement has never been a political enterprise.
4 However, I also understand political reality. In the
5 end, I will follow the words of William Shakespeare,
6 "This above all, to thine own self be true." I know
7 what road to take and I plan on taking it.

8 SENATOR GORMLEY: Senator Girgenti.

9 SENATOR GIRGENTI: Thank you very much, Mr.
10 Chairman.

11 Good afternoon, Colonel.

12 COLONEL DUNBAR: Good afternoon.

13 SENATOR GIRGENTI: You said that you've
14 been here 19 months now?

15 COLONEL DUNBAR: Eighteen months.

16 SENATOR GIRGENTI: And could you tell me or
17 the Committee how the practices have changed to
18 prevent racial profiling during the period of time
19 that you have been there?

20 COLONEL DUNBAR: Well, probably the biggest
21 thing is that I've met with every trooper in the
22 State of New Jersey. I did that within about the
23 first six or seven months. During those sessions I
24 spent approximately four hours with every trooper.
25 And I explained to them what my expectations are. I

1 told them that whatever happened in the past,
2 basically has happened in the past, that people
3 deserve to be treated the way that you want to be
4 treated. And as simple as that is, that has been the
5 message that I have given them. And as I indicated
6 in my opening statement, the other thing that I've
7 done is taken a very intense look at our Internal
8 Affairs process to reinforce what I believe should
9 happen. And people now have to make a choice, they
10 either follow our instructions, follow the law,
11 follow our rules and regulations, or they will be
12 disciplined or they will be asked to leave.

13 SENATOR GIRGENTI: Presently how are you
14 training people now to do stops and consent searches?
15 Have there been more instructions? More hours of
16 training with new individuals that are coming in?
17 What is the procedure with that?

18 COLONEL DUNBAR: During the last year, if
19 you look at our -- if you look at our SOP's in
20 September of 2000, we reissued all new SOP's
21 regarding stops, about stop reports. And the purpose
22 of that was to again reinforce what we expected of
23 personnel and also it goes along with the consent
24 decree. The second part of the meetings that we had
25 with all the troopers in phase one training was to

1 explain to them what was going to be expected of
2 them. And that's been reinforced with phase two
3 training. Not only the new people that are going
4 through the Academy, we've gone back and we've
5 retrained every single trooper in the State Police.

6 SENATOR GIRGENTI: So part of your
7 curriculum or course is a block and instruction in
8 this area? I mean because there was talk of that
9 going way back to Soto and they said --

10 COLONEL DUNBAR: But, you know, let me just
11 -- Senator, the key issue really isn't the training
12 by itself, the key issue, I think, is there's always
13 been rules. There has always been -- I think you can
14 go back to the nineties and you can see that Colonel
15 Dintino put into place rules. An example of that is
16 that there has been a rule for a long time that you
17 called in all stops. But as I said in my opening
18 statement, when I came in there were a number of --
19 there were a number of issues that stops weren't
20 called in. And if you look at the Soto case, one of
21 the major criticisms was that there wasn't any
22 accurate information. And unless we can get people
23 to understand that they have to follow the rules and,
24 you know, I would submit that one of my problems with
25 the Association, with the Troopers Association, is is

1 that starting March 1 when I said that the discipline
2 would be increased, you know, that did not make some
3 people happy. It's a gradual progression. But the
4 training by itself just accomplishes one thing.
5 That's just like if you pass a law, that law by
6 itself, unless it's enforced, unless people
7 understand that they have to follow that and there is
8 no exception to it, then, you know, the law it will
9 be on paper, but it really doesn't get anything
10 accomplished.

11 SENATOR GIRGENTI: I understand that, but I
12 mean part of the instruction is on search and seizure
13 and so forth right?

14 COLONEL DUNBAR: Search and seizure. I
15 mean, you know, you can pretty much name it. Search
16 and seizures, call-in procedures, stop reports, MVR
17 training. Another thing, you know, that I'll throw
18 out to you, for example, when I took this job, even
19 though we had MVR's, there were guys that when they
20 were making a motor vehicle stop, they would turn off
21 the microphones once they got back to their cars. I
22 mean that's unacceptable. And, you know, we took
23 some disciplinary action and after that we made it
24 known that when a car is stopped, from the time the
25 car is stopped until the time that -- until the time

1 you clear that stop, you have the microphone on. And
2 now, we're seeing a reasonable degree of compliance.
3 I'm not going to sit here and tell you that I have a
4 hundred percent compliance, but things are moving
5 forward.

6 SENATOR GIRGENTI: All right. So how do
7 you -- do you measure this on a daily basis? Is
8 somebody doing this to see -- in a go-forward way,
9 you know, the issues surrounding racial profiling?
10 Are you -- how do you oversee it?

11 COLONEL DUNBAR: How do I oversee it? I
12 mean I guess my biggest responsibility is to set the
13 tone. And if -- you set the tone of what the
14 expectations are. And then, and I think this was
15 something that was missing, if people don't live up
16 to that tone, you take action.

17 SENATOR GIRGENTI: Okay. So according to
18 your feelings, since your tenure there now, they are
19 -- everybody to your knowledge is recording race?
20 They're doing everything in terms of what has been
21 brought out at this point in time? Are we fully
22 computerized too, because that was a big problem in
23 the past?

24 COLONEL DUNBAR: No, we're -- well, fully
25 computerized in what respect? Are we talking about

1 fully computerized as far as --

2 SENATOR GIRGENTI: For data, for
3 information.

4 COLONEL DUNBAR: Well, the CAD, as of
5 February 19th, CAD, the Computer Aided Dispatch
6 system, the last element of that, the Parkway went on
7 line. So we now have the information, the basic
8 information. But the big computer project that we're
9 working on, the MAPS program, probably won't be
10 implemented, I would say, four, five, six months.
11 That's a personnel, that's part of the consent
12 decree. But as far as gathering the data, the raw
13 data of stops and such, that is now pretty much fully
14 computerized and based on my -- based on what the
15 Monitor has reviewed, based on my own daily exposure
16 to the radio system, everybody that's making stops is
17 complying. But as I've said, with probably 1,700
18 people in the field, I can't speak to every single
19 individual.

20 SENATOR GIRGENTI: Well, what happens if
21 they don't comply?

22 COLONEL DUNBAR: They have a problem.

23 SENATOR GIRGENTI: And what would that
24 entail?

25 COLONEL DUNBAR: It depends on how bad, you

1 know, it depends on how -- what they do. For
2 example, if it's a -- if it's a -- if you don't call
3 in a stop and we learn about it, you know, chances
4 are you're going to get suspended. Now, if that was
5 an intentful thing, now there's a whole bunch of --
6 there's a whole bunch of ways you can get there. We
7 have some cases where individuals don't call in the
8 stop the way it's supposed to be done, but there's no
9 intent to deceive or anything like that. And we try
10 to work with that. But the thing that I've been
11 trying to do for the last 18 months is to try to
12 enforce that we're going to follow the rules.

13 SENATOR GIRGENTI: And then when you get
14 this data, who gets the reports? Do you get them or
15 what do you do with the data?

16 COLONEL DUNBAR: Okay. Which reports --
17 which reports are we talking about?

18 SENATOR GIRGENTI: The information on the
19 stops and the data that's been compiled. I'm sure
20 you're overseeing it to make sure that it's being
21 complied with. Where does it go from there? Do you
22 get it and then you pass it on or where does it go?

23 COLONEL DUNBAR: Well, there's all kind of
24 different data, and I'm a little bit unclear.

25 SENATOR GIRGENTI: Well, stops, search --

1 COLONEL DUNBAR: Are you talking about
2 cumulative stops or are you talking about individual
3 stops or --

4 SENATOR GIRGENTI: Well, I would assume
5 cumulative in the end. You know, to get background
6 and information, the data that's a result of stops on
7 the Turnpike or Parkway, whatever. Where does that
8 go once it's put together? Who --

9 COLONEL DUNBAR: Senator, the big -- I
10 guess the big thing that most people want to know
11 about is the overall data collection.

12 SENATOR GIRGENTI: Right.

13 COLONEL DUNBAR: And what happens with the
14 overall data collection is that the computer -- I
15 mean it's called into CAD, then reports are run off
16 CAD and you get an idea of what your various stations
17 are doing as far as percentages of stops, who's being
18 stopped, you know, what they're being stopped for and
19 so on. We also have patrol charts. We also have
20 individual reviews. So the overall data is produced
21 on a period of time and then is analyzed to see if
22 there's anything there that basically we're
23 uncomfortable with. And then we go back and we look
24 at individuals. We look at individual patrol charts.
25 We look at individual videotapes and try to find out

1 what's happening, why is that happening.

2 SENATOR GIRGENTI: How closely is that
3 monitored? Is it --

4 COLONEL DUNBAR: How closely is that
5 monitored?

6 SENATOR GIRGENTI: Yes.

7 COLONEL DUNBAR: I would say it's pretty
8 closely monitored.

9 SENATOR GIRGENTI: All right. Are there
10 any other ways of measuring if people are being
11 stopped inappropriately besides -- I guess through --
12 you said there's more supervisors on the road I
13 heard?

14 COLONEL DUNBAR: Well, not yet. I mean
15 we're in the process of doing it. You know, one of
16 the major things that we've looked at is that I think
17 back in 1998 there was something like 225 Internal
18 Affairs cases. Last year there were 584 Internal
19 Affairs cases. This year we're on a projected rate,
20 if we keep going the way we are now, we could
21 possibly hit as many as 900 cases. The bulk of
22 those, four-fifths of those case are cases from the
23 outside. And many, many of those are cases of
24 complaints against troopers of disparate treatment,
25 racial profiling and so on. In every one of those

1 cases, we go back and we look at the videotapes, the
2 videotapes available. We look at the patrol charts.
3 We review all of that. And what we've found is that
4 in the bulk of the cases, in the vast majority of the
5 cases, there is no issue. You know, the information
6 just is not accurate. But we also have found some
7 cases that are problematic and those cases are being
8 addressed. And what I believe is that as people
9 understand that if you're doing something
10 intentionally or wittingly, that you're going to have
11 a problem. And that information, as time goes on,
12 people are just going to understand that the
13 standards have changed.

14 SENATOR GIRGENTI: Okay. But the Attorney
15 General mentioned the fact that you were going to put
16 additional supervisors --

17 COLONEL DUNBAR: Yes. That's --

18 SENATOR GIRGENTI: How would that work?

19 COLONEL DUNBAR: The additional road
20 sergeants?

21 SENATOR GIRGENTI: Supervisors.

22 COLONEL DUNBAR: Yeah. We're in the
23 process right now, and probably within the next 60
24 days, we will have a road sergeant that will be
25 basically assigned full time to road supervision.

1 There will be one watch commander that will be in the
2 station and there will be another sergeant on the
3 road. And that individual's responsibility will be
4 to oversee stops. If there's a consent search to go
5 to the scene of the consent search and provide some
6 expertise. Now, that was one of the things that was
7 recommended in the Attorney General's report and
8 probably the only reason we haven't had the position
9 so far is the fact that we've been waiting for the
10 contract to be concluded. And the last of the three
11 contracts was just signed, I believe, last Monday.

12 SENATOR GIRGENTI: I spoke earlier with the
13 Attorney General and I said, you know, and I feel
14 this way despite the stain on the reputation of the
15 New Jersey State Police because of things that have
16 happened in the past, it's important to recognize and
17 award excellent behavior, and I'm sure you agree with
18 that. You know that we had a problem in the past in
19 terms of the trooper of the year program. The
20 emphasis, perhaps was in the wrong area. It was on
21 numbers and aggressiveness. How do you, as the head
22 of this Agency, reward top performers and what
23 criteria do you use?

24 COLONEL DUNBAR: Let me just --

25 SENATOR GIRGENTI: I mean a committee does

1 it, right?

2 COLONEL DUNBAR: Well, let me just tell you
3 who this year's trooper of the year was. This year's
4 trooper of the year was an individual named
5 Everingham from the Bridgeton station. And what
6 Trooper Everingham did was he reduced the calls for
7 assistance at what I know as Seabrook Village, which
8 has a different name now, which is a low-income
9 housing project in the Cumberland County area. He
10 reduced calls for assistance from a thousand down to
11 500 in one year. He also, in the local high school
12 there, reduced calls for assistance by 40 percent.
13 That trooper, even as young trooper myself assigned
14 to Bridgeton, I used to go to Seabrook Village all
15 the time. It never dawned on me to get to the heart
16 of the problem. He got to the heart of the problem.
17 He resolved that issue. That is why he was selected
18 as the trooper of the year. As you said, there are a
19 lot of people in the State Police that do an
20 outstanding job and I think this Trooper Everingham
21 is an example of that. And you know how Trooper
22 Everingham was found? He wasn't found through the
23 normal way. What I dictated, I instructed that every
24 road station would submit one name of an individual
25 who they deemed to be the best trooper. In addition,

1 I also recommended that -- I also instructed that our
2 Traffic Bureau and our Patrol Support Bureau submit
3 one individual. The Patrol Support Bureau, which has
4 community policing, had Trooper Everingham. That's
5 how his name surfaced. So there are a lot of good
6 people out there doing good things on a daily basis
7 and they're overlooked. You know, what I've tried to
8 do is just look in different places and find an
9 individual like him. And let me just say something
10 else too. That in law enforcement, one of the things
11 that -- one of the things that people get involved in
12 law enforcement for is to basically to be involved in
13 arrests and do things. There's nothing wrong doing
14 that as long as you do it the right way. And the two
15 key words that I say over and over again, and we've
16 made it part of our -- part of our code. In fact, I
17 have it written on a little -- on a card that's
18 issued to every trooper, and basically it says that
19 we will do our job constitutionally and with
20 compassion. And what that means is that -- and I
21 tell my troopers, I said you have to have the courage
22 that if you don't have probable cause and if you
23 don't have reasonable suspicion, that you're willing
24 to walk away.

25 I will also submit to you, Senator, that --

1 and I find this kind of interesting because I know
2 there will be a lot of -- there are issues about
3 Troop D, which is the Turnpike. When the arrest
4 statistics came out for Troop D some months ago,
5 there was a very critical article in one of the major
6 media outlets about the fact that arrests had dropped
7 in Troop D from I believe 1,300 right to about 350.
8 I will not tell my troopers to go out and push the
9 envelope. I want them to go out -- I would rather
10 have three or four or 500 solid arrests with no
11 questions, then have 1,300 arrests and be in a
12 situation that we're in now. Maybe the arrests will
13 get up again, but if they're going to get up there
14 again, then I want to make sure that every single
15 arrest we do is done the correct way.

16 SENATOR GIRGENTI: All right.. And prior
17 to your tenure, one of the priorities was drug
18 interdiction on the highways, the Turnpike and so
19 forth. Have you -- has the emphasis been changed,
20 not so much to on this, you know, as much of an
21 emphasis on the drug interdiction on our highways?

22 COLONEL DUNBAR: No.

23 SENATOR GIRGENTI: What has happened as a
24 result of all this?

25 COLONEL DUNBAR: The emphasis hasn't been

1 changed. What the emphasis has been on is doing the
2 job the right way. And the arrests are going to be
3 the arrests. And I would suspect that probably if
4 the arrest windowed dramatically, that then the
5 question would be why aren't we making more arrests?
6 But, you know, my emphasis is, has been and probably
7 will be till the day that I leave, that I want people
8 to do the job the right way. And let me just, you
9 know, I went back and one of the sayings in the State
10 Police is traffic enforcement isn't police work.
11 Well, I went back and I looked at the number of
12 people killed in New Jersey and there are three times
13 as many people killed in New Jersey by automobile
14 accidents as there are by guns -- murders. I don't
15 know how many by guns. I think there's been roughly
16 between 250 and 280 murders a year. We have between
17 almost 800 vehicle deaths. What I believe is that if
18 we're out there and we're doing the job the way it's
19 supposed to be done, if we're making motor vehicle
20 stops the way they're supposed to be done, we're
21 going to encounter the public and as we encounter the
22 public, we're going to run across people who have
23 stolen cars. We're going to run across people who
24 have, you know, who were involved in different
25 criminal acts. And we're going to make the arrests.

1 But the key is that whatever we do, we have to have a
2 sound basis for what we do. I mentioned in my
3 opening comments, there's been five cases that I know
4 of in the last -- in the last year that have all gone
5 to the Appellate Division. All five cases involved
6 State Police personnel and each one of those cases
7 have resulted in the Appellate Division overturning a
8 Superior Court decision and basically changing the
9 law. And, for example, even with consent, according
10 to the Leslie case, we can no longer search the trunk
11 of a vehicle. That's going to restrict what we do.

12 So the emphasis isn't on -- hasn't been
13 changed from arrests. The inferences are now, as far
14 as I'm concerned, is on doing the job the way it
15 should be done.

16 SENATOR GIRGENTI: Just a couple more
17 questions.

18 In light of the past controversy, what are
19 you doing to keep up the morale of the State Police
20 and how is the morale presently?

21 COLONEL DUNBAR: Well, as I said in my
22 opening statement, the term "morale" -- I'm glad you
23 brought that up because I think morale is somewhat of
24 a misnomer. Look, in the last couple of years the
25 State Police has received better equipment than it's

1 ever had in the history. The contract that was just
2 recently signed is probably one of the best contracts
3 they've ever had. I will support everything that the
4 troopers do that is up to what the standards that I
5 believe that we should have. If -- I don't want to -
6 - I'm not going to be held hostage to morale, because
7 morale, as I said before, morale is something -- in
8 fact, I'll go back to 1973. There was a major
9 article in the newspaper, "State Police morale on an
10 all-time low." You know, morale is what people want
11 it to be. Morale is something that people use. And
12 as I said, it's the vocal -- it's the vocal group of
13 people who are disenchanting. People who don't want
14 to change. The question I ask is that do we bring
15 about change or do we concern ourselves strictly with
16 morale? I mean what is the more important part? And
17 if it is, you know, if it is morale, then we just let
18 people do whatever they want to do. You know, I
19 can't -- you know, trust me, there would be nothing
20 that would make me happier than if I could be
21 everybody's friend and if I could say, hey,
22 everything is great. We've got no problems. But I
23 don't think that's why we're here.

24 SENATOR GIRGENTI: All right. Just two
25 more.

1 Are troopers now receiving, and I believe
2 you've touched on it already, a clear message on what
3 the responsibilities are and how to properly conduct
4 themselves with respect to the rights of motorists?

5 COLONEL DUNBAR: I think that -- first of
6 all, I think the bulk of the troopers always had
7 that. I think that we've gone back and reinforced
8 things that we want to have happen. And again, I go
9 back to this simple card, as simplistic as it is, you
10 know, "Perform your duties constitutionally and with
11 compassion." All this really is is a reminder and I
12 -- one of the things that I get, Senator, all the
13 time is that, you know, we need to update our core
14 values. We need to update our mission statement.
15 You know, if you look at what Norman Schwarzkopf
16 said in general order number one, you don't have to
17 update this. I mean General Schwarzkopf, when he
18 wrote this, really had vision. And that's one of the
19 things that -- we talk a lot about tradition in the
20 State Police and I'm not changing this because I
21 think it says everything that you could possibly
22 want. It says that "The prevention of crime is more
23 important than the punishment of criminals. The
24 force, individually and collectively, should
25 cultivate and maintain the good opinion of the people

1 of the state by prompt obedience to all lawful
2 commands, by a steady and impartial line of conduct
3 and the discharge of their duties and by cleanly and
4 sober and orderly habits and by respectful bearing to
5 all classes." We can change the terminology a little
6 bit, but this pretty much says everything. The
7 question is, are you held to it?

8 SENATOR GIRGENTI: The interim report, when
9 we first went over it and the report that came out,
10 said it was really a few "bad apples," to use the
11 expression, or a few individuals that were the
12 problem. Do you believe that was the case or do you
13 think it was more pervasive than that? Do you think
14 based on figures we see and statistics that we've
15 looked at, is it beyond just a few bad apples or
16 would you say -- how would you --

17 COLONEL DUNBAR: Well, it all depends on
18 how you want to define "few bad apples."

19 SENATOR GIRGENTI: Well, bigoted, you know,
20 different words we use.

21 COLONEL DUNBAR: Some people -- you know,
22 there is -- again, as I said in my opening statement,
23 there is a -- there is a vocal cell within the State
24 Police that don't -- that doesn't particularly care
25 for me. They want to continue doing the business the

1 way they were doing it. But the heart of what I said
2 before, and this is -- this is the difficult part and
3 this is the thing, people will ask questions about
4 laws, about rules, about a whole bunch of things, but
5 perception. If you perceive what you're doing is the
6 right thing, if you believe that and you happen to
7 not be doing the right thing, does that really change
8 what you're doing? And that's one of the dilemmas
9 that -- if you think -- if you believe that the only
10 thing you have to do is arrest people, and if you're
11 willing to push that envelope beyond where it should
12 be pushed, you could still in some respects be a good
13 trooper, but you're just not going the right way.

14 SENATOR GIRGENTI: And then this --

15 COLONEL DUNBAR: But I think your point
16 though, your point that -- and this is something else
17 that kind of saddens me and I can give you a story
18 where a trooper was telling me about his son or
19 daughter in grade school being questioned by a
20 teacher or another classmate. "Is your dad one of
21 those troopers that do all those bad things?" And
22 that was
23 -- that's rather unfortunate because I think that the
24 vast majority of the people in the organization are
25 good, wholesome people. And, you know, I sit here

1 today and I wouldn't have a prayer in hell if it
2 wasn't for the fact that there are a lot of good
3 people in the State Police that believe in the same
4 thing that I believe in and that had been working --
5 they worked before I got there and they're working
6 now and are working towards the future of the
7 Division.

8 SENATOR GIRGENTI: Finally, just one last
9 thing.

10 What happens now if there's a falsification
11 of records? What is the procedure?

12 COLONEL DUNBAR: It depends -- well, if
13 your falsification of records, you're more than
14 likely you're going to end up --

15 SENATOR GIRGENTI: It could be ghosting.
16 It could be --

17 COLONEL DUNBAR: Well, you're going to end
18 up with an Internal Affairs case and then it depends
19 on what you do. And, you know, it can be anything
20 from a written warning up to termination, depending
21 on how serious that the issue is. But you have to
22 take things in perspective. You know, for example,
23 some of them, you know, I hate to admit this, but we
24 have some people that are just sloppy. We have some
25 people that are just lazy. You have some people who

1 are very, very hard workers and they do a tremendous
2 amount of work and they're just forgetful. But then
3 you have some people that just have every intention
4 of hiding things and not complying. The last group
5 is the one that's most important to me. The first
6 three are people that we will -- we will have to deal
7 with because their conduct also cannot be condoned.
8 The ones that I'm concerned about are the people that
9 purposely act to deceive.

10 SENATOR GIRGENTI: All right. And during
11 your tenure, how widespread is this banner? Has
12 there been a problem of what magnitude of
13 falsification of records?

14 COLONEL DUNBAR: Well, I would like to say
15 that during my tenure it has not been that great.
16 And I can tell you, you know, I just recently had a -
17 - I just recently had a disciplinary proceeding in
18 which an individual received what I considered to be
19 a pretty severe penalty for a one-time occurrence
20 because in that case I think that there were
21 questions about whether that person was trying to
22 deceive or not deceive. I can also tell you that
23 although it didn't occur in my tenure, it occurred
24 during my tenure in the sense that I reviewed the
25 cases for Internal Affairs and there have been quite

1 a few cases. In fact, there was one major case that
2 involved almost 50 people in which I took
3 disciplinary action.

4 SENATOR GIRGENTI: And what would
5 disciplinary action be --

6 COLONEL DUNBAR: Disciplinary action could
7 be anything from a written -- it could be anything
8 from a verbal warning to a written warning to
9 suspension. And in the big case I was talking about,
10 most of them were suspensions -- were written
11 warnings to suspensions.

12 SENATOR GIRGENTI: What does a suspension
13 entail? What is it?

14 COLONEL DUNBAR: A suspension, in that
15 particular case, I think the longest term suspension
16 was five days. But we're talking a few incidents. A
17 few incidents in about a three or four-month period
18 of time.

19 SENATOR GIRGENTI: Okay, thank you,
20 Colonel.

21 SENATOR GORMLEY: Senator Zane.

22 SENATOR ZANE: Colonel, for my edification,
23 can you explain to me, there essentially are five
24 separate Divisions, am I correct, A, B, C, D and E?

25 COLONEL DUNBAR: Five troopers, right.

1 SENATOR ZANE: Five troops. Are those
2 troops by location and do troopers get transferred in
3 and out of the different troops? Or if you graduate
4 and you're assigned to D Troop, are you in that troop
5 the rest of your life? How does that work?

6 COLONEL DUNBAR: Troops A, B and C are
7 regional troops. A is South Jersey. B is North
8 Jersey. C is Central Jersey. Troop D is the
9 Turnpike. Troop E is the Parkway. No one that I
10 know of gets assigned to Troop D or Troop E right out
11 of the Academy. Generally, I believe you have to
12 have at least a minimum of one year, possibly two
13 years before you go out what we call a toll road,
14 Troops D and E. And people are, in fact, rotated
15 around. One of the things that occurred I think just
16 prior to my arrival was that on the Turnpike, for
17 example, there were a number of people who had been
18 on the Turnpike for an extended period of time and a
19 decision was made that people would be rotated off
20 the Turnpike, at least for one year, after they do
21 five or six years. The same thing is now taking
22 place in Troop E where we have either completed or in
23 the process of transferring people that have been out
24 there for a long period of time back to a non-toll
25 road assignment.

1 SENATOR ZANE: Is the tenure, for example,
2 once you go, let's say, to Troop D, how long might a
3 trooper anticipate being there?

4 COLONEL DUNBAR: As I understand, right now
5 that you're not supposed to be there more than five
6 years.

7 SENATOR ZANE: Colonel, I don't know
8 whether this is -- whether it's accurate or not, but
9 I believe that for the months of January through
10 April of 1999, within the entire State Police there
11 were 118,000 stops. Thirty thousand -- roughly
12 31,000 of those stops were members of a minority.

13 COLONEL DUNBAR: What time frame are we
14 talking about?

15 SENATOR ZANE: January through April of the
16 year 2000.

17 COLONEL DUNBAR: Okay.

18 SENATOR ZANE: And that works out to a
19 percentage of 25.6. Troop D, which is the Turnpike,
20 the stops during that same period of time were 27,000
21 -- rounding off, 27,900 and that which were
22 minorities was a little less than 11,000 for a total
23 minority stops of 38.3 percent. That contrasted with
24 the other troops. They had a balance of 90,382
25 stops. Twenty thousand were minorities. 22.1

1 percent was therefore then minority stops. The total
2 New Jersey population, according to the 1998 census
3 at that time for purposes of this, was 8.1 million.
4 Minorities were 1.7 million. The State percentage was
5 20.5. Now, recognizing that people are traveling and
6 they're not necessarily the same minorities that
7 we're talking about, but if this is accurate, what
8 this points out is that in the non-Turnpike troops,
9 the percentage of stops is consistent with the
10 population of minorities in the state, whereas the
11 Turnpike stops are nearly double. And at this point,
12 having sat through these hearings and listened to the
13 testimony and read more documents than I'd like to
14 think about, it's clear to me that what has been
15 going on has been going on for quite some time. And
16 it seems that it's indigenous to the Turnpike, not
17 necessarily the State Police. Are these figures that
18 I'm telling you about new?

19 COLONEL DUNBAR: No, they're not new.

20 SENATOR ZANE: You're familiar with these?

21 COLONEL DUNBAR: I'm familiar --

22 SENATOR ZANE: Tell me why then, if you
23 can. And I'll be glad to show them to you if you
24 want.

25 COLONEL DUNBAR: I don't know the answer to

1 that yet, Senator. I've looked at a lot of things.
2 For example, and there's no, you know, you know as
3 well as I do that if you look at those numbers that
4 Moorestown station is even more graphic and, you
5 know, one of the things that Moorestown station has
6 that virtually no other station has is 295 running
7 alongside of it. Just last Sunday, not this past
8 Sunday, a week ago Sunday, I traveled down the
9 Turnpike and I made a point of looking at license
10 plates when I got down to Exit 7. By the time I
11 reached Exit 4, there was virtually no New Jersey
12 vehicles because the people, I think, are using
13 either 295 or using 130. The Turnpike is a different
14 road. In fact, the Turnpike is really three roads.
15 If you take a look at the Turnpike, you have up to 7,
16 which is the Moorestown patrol area. You have one
17 kind of a road. When you get to Cranbury, we really
18 start picking up commuter traffic. And if you look
19 at Cranbury itself, you'll see that the roads divide
20 into I think it's ten or 12 lanes at that point. And
21 then when you get up to Newark, it's yet another
22 road. And if you look at those statistics, if you go
23 back and you examine Newark and you examine Cranbury,
24 they have different issues -- they have different
25 numbers than the Moorestown station has.

1 One of the things -- and I know this is a
2 somewhat controversial issue, one of the things that
3 I wanted to see done, and I think we're in the
4 process of doing it, is I want to see a violator
5 survey.
6 SENATOR ZANE: I'm sorry?
7 COLONEL DUNBAR: A violator survey. I want
8 to see who is, you know, do we -- what is it that we
9 have -- look, Senator, when I approached this, when I
10 came into this job, I didn't have any pre-conceived
11 notions. There are things about Moorestown, the
12 Moorestown station, that I will tell you that I still
13 don't understand. We've changed all the commanders.
14 We've changed the troopers. There's something about
15 that station, and I don't know whether it's 295. I
16 don't know whether it's -- whether it's the way the
17 road is designed. I don't know whether it's the out-
18 of-state drivers. I don't know whether people drive
19 faster down there. But Moorestown is different than
20 almost every other station. Cranbury is somewhat
21 akin to Moorestown. We are looking at the Turnpike.
22 I think the Turnpike has made good progress. One of
23 the things that -- one of the things that I have
24 found, and this goes back to the other question that
25 I got about a few bad apples, if you -- if you take -

1 - if you figure out that -- if a trooper makes 50
2 arrests a year, and an active trooper would have made
3 about 50 arrests a year, if a trooper made 50 arrests
4 a year and he stopped ten vehicles or conducted ten
5 searches for every arrest that he made, pretty soon
6 you'd end up with a number, if you had 50 troopers,
7 you'd end up with a number of about 25,000. You'd
8 end up with 2,500 arrests, but you'd have 22,500
9 people who would have been stopped. Who really, you
10 know, they were just average citizens not having, you
11 know, they're people who basically would have been
12 violated.

13 You know, do I believe that there was an
14 over-emphasis on drug interdiction? Yeah, I do. Is
15 that -- one of the other things, Senator Zane, that -
16 - I'm not making excuses for troopers, but if -- and
17 this will go right back again to my issue of
18 perception. If people believe that -- if people
19 believe that what they're doing is right, it's very
20 difficult to -- it's very difficult to -- for them to
21 understand that what they could be doing is yes,
22 they've arrested somebody, but in the long term, in
23 the long run, they haven't -- they haven't really
24 followed the spirit of the law. And, you know, I
25 don't -- and this gets to be a very touchy subject

1 because I have never been an individual that's been
2 soft on crime. I think drugs are a scourge in our
3 society. But I learned, in fact, I learned from an
4 attorney a long time ago when I was 21 years old, 22
5 years old --

6 SENATOR ZANE: He must have been an
7 exceptional attorney.

8 COLONEL DUNBAR: You know what? Today I
9 know who he was; then I wanted to -- I didn't think
10 he was that exceptional. What he said was, "Don't
11 take it personal." And it took me ten years, ten
12 years to figure out what he was talking about. And,
13 you know, we're teaching now in the Academy in Essex
14 corruptions of -- corruption of -- noble cause
15 corruption. And what that means is that if you don't
16 -- the ends -- if you don't -- how you do something
17 is important as what you accomplish. And that's a
18 difficult message for some people to understand. And
19 I remember when the article came out about drug
20 arrests plummeting on the Turnpike, first of all, it
21 sounds pretty hypocritical of the newspaper outlet to
22 question the drop in crime after all of the negative
23 -- the drop of arrests after all the negative
24 comments that were made about the Turnpike and what
25 they were doing. But there's something more

1 important to me and I think there should be something
2 more important to the State Police than just making
3 arrests and that is making, you know, if we're going
4 to make arrests, let's make them the right way.

5 You know, all of those statistics that you
6 have, and this is one of the things that I really
7 worry about, is we have gotten so hung up in stats.
8 I mean I've got -- I have stats coming every single
9 day. I mean -- in fact, one of the things that I got
10 very angry about was -- I guess I'm not supposed to
11 get angry, but I do, but one of the things I got very
12 angry about was is that the State Police decided at
13 some point that they were going to track white
14 Hispanics because what they were afraid of was that
15 if somebody was stopped and they had an Hispanic
16 surname but they appeared Caucasian, that there be a
17 question made that they were trying to falsify their
18 documents. That they were trying to alter something.
19 So they created the category of white Hispanics.
20 Now, if we're talking about profiling, just profiling
21 by itself, if you stop an individual that appears to
22 be a Caucasian, I find it very difficult that that
23 number will be included in the numbers for minority
24 stops. But not through any surprise of mine, it's
25 been included every single time. And that's okay

1 too, because we'll learn to -- we'll learn to adjust
2 to that. But that's the type of problems that stats
3 bring up.

4 You know, and I'll say something else to
5 you. That I've looked at the national statistics and
6 the -- part of the Department of Justice has
7 published or is in the process of publishing a report
8 talking about searches and talking about stops and
9 the interesting thing is is that the numbers are
10 somewhat akin -- this is based on 1.3 million
11 searches that were conducted throughout the country
12 where they got voluntary information from. According
13 to that number, the Moorestown numbers are right in
14 the average and the rest of the state is doing a heck
15 of a lot better.

16 SENATOR ZANE: Colonel, coming back to
17 these numbers. Don't they -- what percentage of your
18 troopers are in Troop D versus what percentage are in
19 the other troops?

20 COLONEL DUNBAR: Troop D has got somewhere
21 between 210 and 220 --

22 SENATOR ZANE: And the total population of
23 the State Police is what?

24 COLONEL DUNBAR: Well, you would want --
25 you would want the total A, B, C. I think A's got

1 between 350 and four. B's got about the same. And D
2 -- E and D are about the same. And then C is the
3 smallest troop, it's got about 250 people.

4 SENATOR ZANE: And again, you indicated
5 that you are familiar with the statistics that I
6 mentioned. Doesn't it really say to you and
7 shouldn't it say to Attorneys Generals that the
8 problem is on the Turnpike, period? It's not with
9 the rest of the State Police?

10 COLONEL DUNBAR: I don't agree with that.

11 SENATOR ZANE: Isn't that what the numbers
12 sort of bear out?

13 COLONEL DUNBAR: No, no. See, this is why
14 I don't agree with that. And this is a question that
15 I asked every one of the troopers when I met with
16 them. If we have one person in a troop profiling,
17 one person profiling, is that acceptable? I don't
18 think it is.

19 SENATOR ZANE: Yeah, but would you agree
20 that you don't have to go out and address the issue
21 of profiling in A, B and C, you have to address it
22 with Troop D?

23 COLONEL DUNBAR: I disagree with that.

24 SENATOR ZANE: You do?

25 COLONEL DUNBAR: I disagree with that, and

1 then go back to the same answer that I just gave you
2 a minute ago. That my position is that as law
3 enforcement officers we have an absolute
4 responsibility and as a Superintendent, I will never
5 sit here and tell you that -- if I had one person in
6 the entire State Police profiling, I'd be looking for
7 that person.

8 SENATOR ZANE: Well, then let me try one
9 more time. Wouldn't that suggest that something
10 needs to be done differently on the Turnpike?

11 COLONEL DUNBAR: Yes.

12 SENATOR ZANE: And that something need not
13 necessarily be done differently where A, B and C
14 patrol?

15 COLONEL DUNBAR: I disagree with that.

16 SENATOR ZANE: Okay.

17 COLONEL DUNBAR: The reason I disagree with
18 that is that I think on the Turnpike we have to look
19 -- we have to and we are looking much closer to see
20 what it is that's causing this problem. For example,
21 I'll tell you --

22 SENATOR ZANE: That's what I'm saying.

23 COLONEL DUNBAR: Let me tell you. For
24 example, you know, I have another station that's --
25 you're in Gloucester County, right?

1 SENATOR ZANE: Yes.

2 COLONEL DUNBAR: I have another station
3 that borders your county that I have some concerns
4 about and we've taken some pretty dramatic action
5 there too because the numbers -- that's why I said,
6 you know, this fascination with the numbers,
7 Moorestown -- Troop D is one thing, Moorestown within
8 Troop D is another thing. But there are pockets --

9 SENATOR ZANE: But since you are rotating
10 troopers, and I recognize you're saying a five-year
11 basis, but if the problem has persisted there,
12 doesn't it suggest that it's not the troopers, it's
13 something indigenous to the Turnpike?

14 COLONEL DUNBAR: And that's the thing that
15 I'm struggling with. That is the thing that I'm
16 trying to find out what's causing this. And where
17 people may be opposed to the idea of a violator
18 survey -- you know, Senator Zane, if a trooper is out
19 there doing the job the way it's supposed to be done,
20 I feel I have to support him or her just as much as
21 somebody, you know, just as much as I would be after
22 somebody who's not doing the job. And that's why
23 this to me has become a real challenge and, you know,
24 I said in my opening statement about sometimes I kind
25 of feel like a parent, that this is something that is

1 very important to me. I'm looking for the answers.
2 I want to find the answers. And I know it's my
3 responsibility. It's not the Attorney General's
4 responsibility, it's my responsibility. It's always
5 been the Superintendent's responsibility to make sure
6 that his or her people are protected. That we're
7 doing the right thing. And, you know, I have been
8 lobbying for this violator survey, not because I
9 think it's going to be the only answer. You know, I
10 was the one in the Attorney General's Office that,
11 you know, we had a meeting and I said, you know --
12 because I'm from South Jersey. I said, nobody in
13 South Jersey use the Turnpike. I mean they use 295.
14 They use 42, they use 295. So, you know, again,
15 unscientifically, when I look -- when I look at that
16 road and I see just out-of-state people, what are
17 they looking to do? They're looking to go from down
18 in the Woodstown area, straight up to New York, just
19 going through -- going through our state, and the
20 chances are that they may be driving faster than even
21 New Jersey residents would drive. That road is not
22 as crowded as the road up north is. So there's a lot
23 of things that could be bringing this about. And I
24 also think, and this is something that I also think
25 that education plays a part in this and this is why I

1 say the perceptions that you bring -- the perceptions
2 that you bring to the table -- and again, I go back
3 to my opening statement, if you think certain types
4 of people are involved in --

5 SENATOR ZANE: What do you mean by that?

6 COLONEL DUNBAR: Pardon me?

7 SENATOR ZANE: What do you mean by that?

8 COLONEL DUNBAR: What do you mean?

9 SENATOR ZANE: Well, you just said if you
10 bring the perception that certain types of people --

11 COLONEL DUNBAR: If you think --

12 SENATOR ZANE: Let me ask you this, because
13 I had a question similar to this and this gets to it
14 clearer.

15 What went through your mind when you said
16 certain types of people?

17 COLONEL DUNBAR: What went -- well, when I
18 used the term "certain types of people," I was
19 referring to minorities.

20 SENATOR ZANE: Minorities.

21 COLONEL DUNBAR: Go ahead.

22 SENATOR ZANE: Well, you said something
23 earlier and, frankly, I didn't get it all down so
24 feel free to correct me. But I noted here to ask you
25 what did you mean when you said something to the

1 effect that law enforcement has a better idea who
2 commits most of the crimes.

3 COLONEL DUNBAR: I didn't say that.

4 SENATOR ZANE: You said something, I
5 thought, pretty close to that.

6 COLONEL DUNBAR: No, I don't think I said
7 anything close to that at all. I talked about law
8 enforcement deals with a small percentage of the --

9 SENATOR ZANE: You said something about
10 let's talk frankly, let's be honest. We don't
11 necessarily come into contact with a lot of people --

12 COLONEL DUNBAR: Right.

13 SENATOR ZANE: -- in law enforcement.

14 COLONEL DUNBAR: Right.

15 SENATOR ZANE: We have a sense of who -- I
16 thought you said, who commits most of the crimes.

17 COLONEL DUNBAR: No, no, absolutely not.
18 What I said is that, and this is I think pretty
19 accurate, is that when you come to law enforcement,
20 you come with your own perceptions. In law
21 enforcement you deal with a small portion of the
22 population.

23 SENATOR ZANE: Do you, as the head of the
24 State Police, have a perception that minorities
25 commit more crimes?

1 COLONEL DUNBAR: No.

2 SENATOR ZANE: Okay.

3 COLONEL DUNBAR: I think -- and I think
4 that's one of the big mistakes. I think --

5 SENATOR ZANE: I wanted to ask you that
6 because I had the impression that's what you were
7 saying.

8 COLONEL DUNBAR: No, no.

9 SENATOR ZANE: Okay.

10 COLONEL DUNBAR: No, you're dead wrong on
11 that.

12 SENATOR ZANE: Okay.

13 COLONEL DUNBAR: What I'm saying to you,
14 Senator Zane, is that, you know, in fact, it was an
15 interesting thing, that I saw an article -- this goes
16 back to 1994 in the *Atlanta Journal* in which they
17 talked about the fact that nobody ever writes or
18 nobody ever publishes -- it was a convention of
19 minority media personnel, and they said that nobody
20 ever publishes the fact that 95 percent of minority
21 youths are not involved in crime. That figure, based
22 on my experience in law enforcement, was, you know, I
23 thought that it was a high figure, but then I went
24 back and I looked at the figure and I looked at what
25 the prison population is and so on, and -- or, for

1 example, the prison population may be
2 disproportionate. We have, I think, 2 million people
3 in prison and we have 266 million people. That's
4 still a very small, very small percentage of people.
5 Where you run into a danger is that when you allow
6 your perceptions of who's involved in crime to govern
7 your actions, and I think that's what I was talking
8 about.

9 SENATOR ZANE: Within what other major
10 troop is there a program of drug interdiction other
11 than D?

12 COLONEL DUNBAR: I don't know, I don't
13 think we have a drug interdiction program in D.

14 SENATOR ZANE: Isn't there -- isn't there
15 some sort of a program or something? Aren't there
16 some federal funds tied to some program that deals
17 with the Turnpike?

18 COLONEL DUNBAR: There used -- well, I
19 think there used to be.

20 SENATOR ZANE: Not any longer?

21 COLONEL DUNBAR: No.

22 SENATOR ZANE: Is there a greater emphasis
23 by the hierarchy of the State Police placed on the
24 troopers that are on the New Jersey Turnpike to deal
25 with "the drug problem?"

1 COLONEL DUNBAR: No.

2 SENATOR ZANE: Okay.

3 COLONEL DUNBAR: I can't -- and again, when
4 I say that, Senator Zane, I can't speak about before,
5 but I can speak about now.

6 SENATOR ZANE: Okay.

7 COLONEL DUNBAR: I can also tell you that
8 there hasn't been one day I have not had one
9 discussion with a trooper commander in Troop D in
10 which I said go out and make more drug arrests. My
11 counsel to the troop commanders has been that look,
12 go out, do your job. Do it to the best of your
13 ability. Do it constitutionally. Have your people
14 show compassion. Build bridges. I have also said, I
15 have also told them -- as a matter of fact I told
16 every trooper, I'm not going to defend the
17 undefendable. But if we do the right thing, I'll
18 defend it. And it doesn't, you know, matter to me
19 who criticizes it. We're out there, we're trying to
20 do the job the right way and if you can demonstrate
21 to me that we're doing the right thing, even if it
22 doesn't work out okay, I'm going to defend you.

23 SENATOR ZANE: You are a strong proponent
24 of consent searches, I gather?

25 COLONEL DUNBAR: No, I'm not.

1 SENATOR ZANE: You're not. The Attorney
2 General indicated today that in this state he would
3 have stopped consent searches but for your strong
4 convincing arguments --

5 COLONEL DUNBAR: No, that's --

6 SENATOR ZANE: -- that we should have it.

7 COLONEL DUNBAR: Again, I wasn't here and
8 what he said -- what my position is is that I don't
9 think that you should take away tools from law
10 enforcement personnel without there being a reason.
11 To be honest, if we don't -- if we don't do better,
12 I'm not going to have to worry about anybody taking
13 it away, because the Appellate Court is going to take
14 it away. And if you go back and you look at the
15 decisions, it involves consent search. It involves
16 what we used to be able to do. For example, if a
17 person didn't have a registration in their car. It
18 involves what we were used to be able to do if a
19 person didn't have a driver's license on them. All
20 of those things have been taken away from us. And
21 I'll tell you something else, too, I have found that
22 when these decisions were being made, this was never
23 conveyed to the troopers. So, I mean, I've started
24 now a program where when these court decisions are
25 made, that they are distributed to the troopers so

1 they know what the current law is.

2 You know, when I say about the rules, the
3 rules let us have consent searches and I don't want
4 to take away tools that we need to fight in law
5 enforcement. But -- and this is the thing that I
6 when I talk to the troopers I tell them that to some
7 degree with some people we've lost the benefit of the
8 doubt. We have to fight to get back the benefit of
9 the doubt. We have to fight to keep -- to keep
10 things such as consent decrees -- I mean consent
11 searches and so on, because if we don't, we're going
12 to end up losing. But if the Committee or if the
13 Senate says, you know, that there should be a bill
14 passed to take consent searches off the table, then
15 that's what we'll do.

16 SENATOR ZANE: I have more confidence in
17 the State Police. I think that given the right
18 climate, given the right instructions, that again,
19 the bulk of the people will do it. There will always
20 be those that don't get it.

21 SENATOR ZANE: Colonel, I think everybody
22 on this Committee feels the exact same way about the
23 State Police. That brings me to one other point.
24 You had mentioned about, in regards to a question
25 from I think Senator Girgenti, you had made reference

1 to the "bullies." Do you recall that?

2 COLONEL DUNBAR: Um-hmm.

3 SENATOR ZANE: Tell me what you meant.

4 COLONEL DUNBAR: Just that, bullies.

5 People --

6 SENATOR ZANE: Within the State Police?

7 COLONEL DUNBAR: Yes.

8 SENATOR ZANE: And how are you dealing with
9 them?

10 COLONEL DUNBAR: Well, you know, I'm trying
11 to take them on --

12 SENATOR ZANE: Are they identified?

13 COLONEL DUNBAR: Are they identified? Some
14 of them are. Some of them we have cases on. Others
15 are out there. Bullies are individuals that, you
16 know, and I've used other terms for them. They are
17 people who I don't think have any place in law
18 enforcement. And I guess bullies is probably about
19 as good a word as any in the sense that they need
20 their authority to prop them up. They don't believe
21 in what I believe in. I believe that there's a part
22 of law enforcement that is compassionate. I believe
23 that we are here to serve the people of the state.
24 All of the people of the state. I believe that the
25 law is as important as making an arrest, for example.

1 Bullies believe that you can -- because you're in law
2 enforcement -- and they exist not just in the State
3 Police, they exist throughout law enforcement. But
4 they believe because you are in law enforcement you
5 can pretty much do whatever you want to do. They
6 believe that in some cases they don't have to do
7 anything. They're just not good employees. They're
8 not good people. But the State Police isn't unique
9 in this. I just returned from a conference of the
10 National Executive Institute with Major Chese from
11 across the country and that was one of the number one
12 topics. You know, and I will also tell you that
13 having gone there, you know, one of the things that -
14 - one of the things that I found in the State Police
15 is that where other departments have major corruption
16 problems, we don't. I mean we have this problem, but
17 this is still a very good, very strong, very proud
18 organization. And you know what? If it wasn't, I
19 don't think I'd be sitting here today, you know,
20 talking to you the way that I'm talking to you. I
21 mean I am very proud -- you know, the thing that I'm
22 probably the proudest is that despite everything
23 that's happened in the last two or three years -- and
24 I don't know of any agency that has been through more
25 -- that has been through more review and, you know,

1 whatever, but they haven't missed a beat. Every call
2 has been answered. Every major -- every major event
3 that's happened. Y2K. Liberty -- the thing in
4 Liberty State Park, the National Republican
5 Convention. All of the things that they've been
6 called upon to do, they have done. And you know
7 what? Even beginning this year, our statistical
8 accomplishments as far as traffic enforcement and
9 everything, all of those things for the most part
10 have also increased.

11 So these are some resilient people. And,
12 quite frankly, I'm tired of the people who don't want
13 to -- who want to make all the noise, but don't bring
14 anything to the table, getting all the credit. Or
15 getting all of the press. I just -- a good 90
16 percent, 80, 90 percent of this organization -- we
17 just graduated a class of people today and they were
18 extremely proud. I met one police officer, he had
19 been a police officer for 15 years and he came with
20 us as a State Police. He's a brand new recruit
21 trooper. Why do people do that? Why is that across
22 the country when I go to the meetings, that other
23 departments can't find enough recruits? Portland,
24 Oregon just dropped its college requirement because
25 it can't find enough recruits. LAPD has to go across

1 the country because it can't find enough recruits.
2 We not only find enough recruits, but we have the
3 highest percentage of minorities that we've had in 11
4 or 12 years and I'm told it isn't good enough? I've
5 graduated 20 to 25 percent minorities in every one of
6 the classes that have graduated and probably will
7 graduate the same in the rest of the classes and
8 they've met all of our standards and I'm still told
9 that that's not good enough? You know, we're doing
10 pretty good. And do we have all our problems solved?
11 No.

12 SENATOR ZANE: Colonel, I think, and I'm
13 speaking for myself, but I'm not -- I certainly heard
14 comments from other Senators that sit on this
15 Committee, and if they want to chastise me for
16 speaking for them, let them do so, but I don't think
17 they will. I think the vast majority of us sitting
18 here through these days, hours, long nights, and I
19 certainly have myself walked away with the feeling
20 that the State Police, as far back as 1996, wanted to
21 address this issue of racial profiling, made every
22 effort to address the issue of racial profiling by
23 bringing things to the attention of those in
24 authority. And I found that those in authority
25 turned their back on those efforts. And I think some

1 of the -- some of where we are today is because
2 people didn't listen to the State Police. And I hope
3 what I'm saying to you makes you proud of the State
4 Police. Certainly the ones that I've seen here that
5 came in and testified, because they sure as hell made
6 me proud of them. They recognized the problem,
7 whatever the problem was from within, they made an
8 effort to address.

9 Thank you.

10 COLONEL DUNBAR: Senator Zane, if I just
11 can comment on that.

12 I agree with you to a point. Leadership I
13 think is a key issue. In fact, I think when I was
14 here, you probably asked some of the more difficult
15 questions my first time --

16 SENATOR ZANE: Is that why you didn't speak
17 to me when I bumped into you in Salem? Just kidding.
18 Just kidding.

19 COLONEL DUNBAR: Hey, you know, what goes
20 around, comes around.

21 (Laughter)

22 COLONEL DUNBAR: But I'll speak to you next
23 time.

24 SENATOR ZANE: Good.

25 COLONEL DUNBAR: In fact, if you give me

1 your license plate number, I'll speak to you right
2 after we get done here.

3 (Laughter)

4 SENATOR ZANE: Z-1.

5 COLONEL DUNBAR: You know, let me just tell
6 you something about leadership. If you look back at
7 Title 53, the Superintendent in this state has some
8 unique powers and authority. I am not one to cast
9 blame on those outside. I have a tremendous amount
10 of authority within the organization. And one of the
11 other things that I tell my people is that the
12 Superintendent has a responsibility that his job or
13 her job, for that matter, should never be so
14 important to that individual that they're afraid to
15 walk. And I will tell you, in dealing with John
16 Farmer, there have been occasions where we've come to
17 the point where I'm like I'm not going to do that.
18 And you can order me to do it, but I'm not going to
19 do that.

20 SENATOR ZANE: Now, we know what he was
21 referring to this morning.

22 COLONEL DUNBAR: Well, that was of a
23 different issue. That was on the release of some
24 names that I didn't think should be released and I
25 said you can get a court order, you can order me to

1 do it. And I'll tell you, even if they ordered me to
2 do it, if I felt that it was wrong, I would leave.
3 And that is what -- that is what -- I think one of
4 the questions that the Committee had to me before was
5 leadership. That to me is what I was taught that
6 leadership is. That you never let your people down.
7 And there are things that, you know, my question is
8 is that you have the Attorney General's Office, you
9 have the State Police. I think things need to be
10 examined thoroughly. What did the State Police do
11 for itself? What did the Attorney General's Office
12 do? And maybe, as I said, that -- Senator Zane,
13 trust me, there was an air of distrust between these
14 two agencies, something that I've really never seen
15 before. And it still exists to some degree now.
16 I've spent a lot of time working for whatever
17 distrust there was, and still exists. The progress
18 that we've made has also been a progress of the two
19 agencies working together. I don't believe that it
20 would be fair to just say that the Attorney General's
21 Office alone bears the responsibility. If, in fact -
22 - if, in fact -- and I have not seen this yet, if, in
23 fact, it got to the point where we're saying we're
24 going to do this unless you tell us we can't do this,
25 then the responsibility lies in the other. If that

1 happened, and that's fine.

2 But a lot of the things that I've seen were
3 things that really are under my control. I can't,
4 because I wasn't at the meetings and because I didn't
5 write those documents and because -- I can't speak to
6 what really happened there.

7 SENATOR ZANE: Colonel, you're there.
8 You're the Harry Truman of the New Jersey State
9 Police. The buck stops with you. What
10 recommendations do you have? And I recognize you're
11 there 18 months, but what recommendations do you have
12 to us as a legislative body to address the issue?

13 COLONEL DUNBAR: Okay. My number one
14 recommendation to you is is that don't let morale or
15 the issue of morale cloud everything. Examine what
16 morale is. Examine what people are saying. Examine
17 what we're doing. Examine if we're moving in the
18 right direction. Ask questions. I think these type
19 of -- I think these type of Committee hearings are,
20 although somewhat unusual for Trenton maybe, I think
21 they're productive. I think putting -- I think John
22 Farmer took a -- he may regret it now, but he took a
23 very brave step in releasing those documents because
24 I think it needed to be done. There are a lot of
25 people, my counterparts throughout the country, that

1 consent decrees. I'm not a big fan of them, but you
2 know what? I use my consent decree. I use it because
3 I use the Monitor to come in and I use them to tell
4 me where we're making mistakes. Where we haven't
5 gone far enough. I think that that type of -- that
6 type of an environment where you're basically called
7 to task is not necessarily a bad deal.

8 SENATOR ZANE: Well, you're saying don't
9 get distracted with issues of morale, but what in the
10 legislative area, that's the business of this body,
11 what suggestions do you have? What can we do? You
12 began your statements by sort of chastising us. I
13 think you said it's been around a long time.

14 COLONEL DUNBAR: Chastising? I would never
15 chastise you, Senator.

16 SENATOR ZANE: Began by telling us the
17 problem has been around a long time. We really
18 haven't done --

19 COLONEL DUNBAR: Well, you know what? I
20 mean --

21 SENATOR ZANE: What do you suggest we do?
22 You look at it, you live it every single day.

23 COLONEL DUNBAR: Close oversight.

24 SENATOR ZANE: I'm sorry?

25 COLONEL DUNBAR: I said close oversight. I

1 think that -- I think the State Police is a revered
2 institution in the state and I also believe that
3 absolute power can corrupt. And I think from time to
4 time, you know, whether you do it -- I don't know
5 whether it has to be in a public setting, but whether
6 you -- if you have questions about the organization,
7 that the Superintendent is called in, is asked about
8 what's going on. You know, what the issues are.
9 SENATOR ZANE: Do you think there should be
10 different standards for even requesting a consent to
11 search, since you don't want to give up that tool?
12 COLONEL DUNBAR: Do I think there should be
13 different standards? I think --
14 SENATOR ZANE: Yeah.
15 COLONEL DUNBAR: -- that there should be
16 one standard.
17 SENATOR ZANE: And should it just be
18 probable cause?
19 COLONEL DUNBAR: Well, if you have probable
20 cause -- if you have probable cause, I don't think --
21 reasonable suspicion, I think, is the -- probable
22 cause you don't have to, you know -- if I've got
23 probable cause, I don't need your consent.
24 SENATOR ZANE: You're right. You're
25 absolutely right. What should it be? What should

1 that standard be?
2 COLONEL DUNBAR: What should the standard
3 be?
4 I think reasonable suspicion is a good standard.
5 SENATOR ZANE: Reasonable suspicion and
6 articulable...
7 Suggestions?
8 COLONEL DUNBAR: I mean -- actually, I
9 mean, I guess I would -- you know, it's -- I'm in an
10 unusual situation that because of the good
11 Legislature we have, I think --
12 SENATOR ZANE: Should reasonable suspicion
13 be something else? That's really what I'm trying to
14 say.
15 COLONEL DUNBAR: Should reasonable -- no, I
16 don't.
17 SENATOR ZANE: You don't think it should.
18 COLONEL DUNBAR: I think reasonable
19 suspicion is -- the problem -- the problem that you
20 have with reasonable suspicion is, is it reasonable
21 suspicion? Knowing what reasonable suspicion is.
22 And this is one of the things actually -- and in the
23 case of Moorestown that we're working with, that
24 we're looking back is what you thought to be
25 reasonable suspicion, is that really reasonable

1 suspicion?

2 SENATOR ZANE: Senator Lynch spoke earlier
3 with the Attorney General and talked about how little
4 fruit really comes out of all of this and is it
5 really worthwhile

6 COLONEL DUNBAR: I think on a national
7 average --

8 SENATOR ZANE: Subjecting people.

9 COLONEL DUNBAR: On a national average,
10 when I told you about the 1.3 million searches, 17
11 percent of whites were found to have something.
12 Eight percent of -- I think eight percent of African-
13 Americans were found to have contraband. And ten
14 percent of Hispanics were found to have contraband.

15 SENATOR ZANE: Colonel, I don't want to
16 leave this opportunity thinking that you don't have
17 any real suggestions if you do. And if you do,
18 please tell us what they are. If you don't, well,
19 then I guess
20 that's --

21 COLONEL DUNBAR: I don't -- I don't have
22 any -- I mean I don't really have any.

23 SENATOR ZANE: Thank you.

24 SENATOR GORMLEY: In terms of morale, we're
25 going to book members of the Committee whenever

1 you're engaged in training with the next recruit
2 class. Some of the members of the Committee want to
3 run with them on the three or five-mile run to show
4 their support, okay? Mr. Chertoff and I are already
5 volunteering. The rest of the Committee, I see
6 Senator Robertson's very excited. They're very
7 excited. So in --

8 COLONEL DUNBAR: Give me the date and I'll
9 be there with you.

10 SENATOR GORMLEY: Oh, I think we will be
11 available for that.

12 Next. Senator O'Connor. Who is a marathon
13 runner, by the way.

14 SENATOR O'CONNOR: Former. Former
15 marathon.

16 SENATOR GORMLEY: Former marathon. Oh,
17 please.

18 (Laughter)

19 SENATOR O'CONNOR: Twice, but many years
20 ago.

21 COLONEL DUNBAR: That makes two of us.

22 SENATOR O'CONNOR: Colonel, I was listening
23 to your answer to Senator Girgenti early on about
24 morale. And I must admit that I had a different
25 sense of where you were on that than I do now after

1 hearing some further questioning on that by Senator
2 Zane. And I was wondering -- and the fact that you
3 have a class of state troopers that graduated today,
4 and I think you pretty much answered this in your
5 response to Senator Zane, is it your sense that these
6 new troopers have the same sense of pride in becoming
7 state troopers as classes that preceded them have
8 had?

9 COLONEL DUNBAR: Absolutely. Absolutely.
10 And I've spent two hours with each one of the -- two
11 to three hours with each of the graduating classes
12 and I do it at the end of the term and I talk to them
13 about how important it is to be able to stand up for
14 yourself and just something as simple as at the end
15 of eight weeks now we tell the recruits, if you don't
16 want to have a shaved head, grow your hair. I mean
17 you've got a military cut, and the whole point of
18 that is that I want them to be strong enough that
19 when they get out on the road, even as a brand new
20 trooper, to make decisions for themselves. I'm
21 putting these people in a very, very complex world.
22 A world that is so complex that I couldn't have
23 imagined it years ago. And one of the untold stories
24 that I have seen through the videotapes is how -- I
25 guess, you know, as I use the term bullies for

1 troopers, how nasty some of the public can be in
2 their motor vehicle encounters. And I have to
3 prepare my people for that. And there was some
4 question about well, you know, you changed this
5 standard. You changed that standard. We've been
6 changing standards all the time. But those people
7 that are graduating today, the people that graduated
8 a couple of weeks ago and the people that are going
9 to graduate three weeks from now through the 28th of
10 May, they have gone through all the same training.
11 They are just as proud. And as I indicated, when you
12 get an individual who leaves the police department
13 after 15 years of service to come onboard with us, I
14 think that says something about us. And I think just
15 like in the Marine Corps, that you have to be very
16 careful about tradition. You have to be very careful
17 about the image of your organization, because the
18 only -- the only military agency that recruits, that
19 meets its recruitment goal consistently is the United
20 States Marine Corps. And the reason for it, I would
21 submit in part, is because of their image. Because
22 there's something special. And you know something
23 interesting about the Marine Corps? Is that while it
24 has all that tradition, while it has all those other
25 things, they're the one Service that constantly

1 changes. They adapt to missions almost on a yearly
2 basis. They go anyplace, anytime and they get the
3 job done. And not that, you know, not that we're the
4 Marine Corps, but I think we're kind of the Marine
5 Corps of New Jersey.

6 SENATOR O'CONNOR: Well, as a former Army
7 officer, I would take exception somewhat to that.

8 COLONEL DUNBAR: Well, you can take an
9 exception if you want, you know. My dad spent 26
10 years in the Army and there is a difference.

11 SENATOR O'CONNOR: Like some of the other
12 members of this Committee, I started my career as an
13 attorney, as an assistant prosecutor and I had
14 experience in those days working with the State
15 Police, particularly on gambling cases. And I know
16 that long ago I had the sense that this was the elite
17 police force in the State of New Jersey. And my
18 sense from what you said about how the recruits come
19 out and how they're trained, et cetera, is that there
20 is still that sense today, that this is, in fact, the
21 elite police force in the State of New Jersey.

22 COLONEL DUNBAR: This has been -- this has
23 been probably -- no, there's no doubt, this has been
24 the worst three years I think in the history of the
25 State Police. And it's been terrible because it's a

1 constant battering that we have endured and it is
2 keeping that image, and keeping that opinion is very
3 important. And that's one of the reasons that I hope
4 that when these hearings are over and the issues have
5 all been surfaced, that we can go back and bring
6 about change in a little bit more of a closed
7 environment, because change is still very desperately
8 needed in order for us to meet the challenges of the
9 century. In order for us to be elite, you just don't
10 become elite. You become elite by going out and
11 practicing your trade craft and going out and being
12 the best. You can't just announce I'm going to win
13 the Super Bowl. You have to go out and actually win
14 it. And I'll tell you, I think that as the State
15 Police goes forward to meet the challenges of this
16 new millennium, it is going to have to be more
17 dynamic. We have a tremendous computer crime unit.
18 Those type of things are our future. But if we can't
19 -- if we lose faith with the people, we've lost
20 everything. And I think that this issue of -- this
21 issue of compassion, I think is just as important to
22 law enforcement as arresting. And again, I go back
23 to General Schwarzkopf where he talks about the
24 prevention of crime and making sure that you have the
25 good opinion of the people. I mean this is in 1921

1 he said that. And, you know, all of us in this room
2 are public servants and if we're not about getting
3 the good opinion of the people, and that means all
4 the people, then I don't think we've done our job.

5 SENATOR O'CONNOR: Colonel, what's the, if
6 there is, an average length of service for a trooper?
7 What do you expect for the average --

8 COLONEL DUNBAR: I think the bulk of the
9 State Police stay 25 years. My classmates, I think
10 probably about half my class is still around and they
11 graduated in 1973. But 25 years is really the point
12 where you're eligible to get a pension. We really
13 have very few people that leave. And the ones that
14 do leave, go to other law enforcement agencies that
15 they believe have, you know, provide more advantages
16 to them, you know, whether it be the DEA or the FBI
17 or Secret Service. But we don't have a tremendous
18 turnover rate.

19 SENATOR O'CONNOR: You've testified that
20 you've been having minority inclusion in the most
21 recent classes to the extent of 20 to 25 percent. I
22 asked the Attorney General this morning what the
23 percentage of minority in promotions were. Do you
24 have a -- he didn't know the numbers. Do you have
25 some handle on how many NCO's and officers you have

1 now?

2 COLONEL DUNBAR: I don't have that number
3 offhand. I know that -- well, see, the percentages
4 could be somewhat misleading. Like, for example, I
5 could tell you that we increased African-American
6 Lieutenants the last time by 100 percent and that
7 would sound pretty good. But if I told you the
8 number was two, it would be a little bit, you know, a
9 little bit less. And that's one of the problems.
10 The last promotional cycles we did increase
11 minorities at the rank of Lieutenant by -- we doubled
12 it. And the next promotional cycle, the next
13 promotions we have I think we'll probably see close
14 to six or seven minority or women Captains, which
15 will be the largest number in the history of the
16 State Police. Now, I say that because they're acting
17 Captains now. Unless something goes wrong, they'll
18 move forward. We still will not have a large
19 representation. We will have no women above the rank
20 of Captain. We will have one Hispanic above the rank
21 of -- above the rank of Captain. And that's out of --
22 -- let's see, we have I think nine Majors. One is an
23 Hispanic. We have no African-Americans. We have two
24 Lieutenant Colonels. But that's another thing too
25 that there are those that would have me rush and just

1 put people in positions and I think that that's
2 unfair. The people that are moving into the Captain
3 ranks, they deserve to be there. They're all good
4 people. They all know their jobs. And they will be
5 the cadre of people which we will be able to select
6 from for Majors and then possibly Lieutenant Colonels
7 later on.

8 So we are making progress. And again,
9 everyone expects or has, since I've been here -- I
10 think I was here three or four months and people
11 would say well, why aren't all the problems resolved?
12 You know, it just doesn't happen that way.

13 SENATOR O'CONNOR: Thank you very much.

14 SENATOR GORMLEY: Senator Robertson.

15 SENATOR ROBERTSON: Thank you, Mr.

16 Chairman.

17 Good afternoon, Colonel. Thank you for
18 coming today.

19 I want to ask your opinion on something.
20 The question I'm asking is not in the nature of
21 asking for an explanation, it's really in the nature
22 of asking you for your opinion, your best educated
23 opinion on everything you know.

24 We were given some statistics this morning
25 by the Attorney General concerning consent searches.

1 And those statistics included find rates as well as
2 consent search request rates and so forth. And one
3 of the things that was striking about it was that the
4 find rate was not even the same throughout the racial
5 composition, but actually was lower for minority
6 drivers than for non-minority drivers. And yet the
7 consent request rate, which I'll call a suspicion
8 rate, was actually three to four times higher,
9 depending on what barracks you looked at. And I
10 guess my question is this. Why do you think that is?

11 COLONEL DUNBAR: Perception. That's what
12 I've been talking about all day, is that, you know,
13 Senator, if you became a trooper, you would bring to
14 the job your own perceptions. Your growing up. Your
15 education. What you think is right and what you
16 think is wrong. And perception is really a difficult
17 -- really a difficult issue. There's a scholar that
18 says, "We see things as we are, not as they are."
19 And that really kind of underlines. If you see
20 things, you know, the number that you talked about,
21 the national study that I referred to, found the
22 exact same thing. It was 17, 8, 10. Eight African-
23 Americans. Ten Hispanics. And 17 white males. The
24 perceptions that you bring to a job, that's why in
25 the Lawrence case, and I had not looked at the word,

1 but the term "unwittingly," I think you can engage in
2 racial profiling unwittingly. And that becomes a
3 real sore point because you think you're doing the
4 right thing. You just think that you're acting, but
5 you're unwittingly. Now, it doesn't make it any less
6 onerous for the individual that it's happening to.
7 But that's one of the things. And I think -- my hope
8 is at some point people will seek to understand what
9 causes this as opposed to just looking at numbers and
10 looking at consequences and looking to poke
11 somebody's eye out. You know, I don't know if you
12 know this, Senator, in 1990 -- in 1990 arrests in the
13 State Police for drugs went up from 5,000 to 10,000
14 in one year because there was a zero tolerance. The
15 next year it dropped back to 5,000. Now, I fear was
16 the envelope pushed back then? Were people told to
17 go out and numbers -- numbers are the end all? You
18 know, I don't know. But perception, perception I
19 think is the real evil here and the perception can be
20 something that you want it to be or it can be an
21 unwitting perception. And one of the most difficult
22 topics to teach is cultural diversity. Everybody
23 feels -- when you teach cultural diversity, everybody
24 feels that it's automatically something that, you
25 know, you're on the defensive. What are you saying

1 is wrong with me? What are you accusing me of? You
2 know, I'll give you a solid test. You know, go
3 someplace one day and have something happen to you
4 and, you know, check your own memory bank. Jessie
5 Jackson is quoted as saying, he was walking down a
6 street somewhere late at night and when he turned he
7 was relieved to feel that it was a white face
8 following him, not a black face. That too is
9 perception. That too is -- that too is very sad. It
10 is extremely sad that you have those perceptions. We
11 have to learn -- we have to work to overcome those
12 perceptions.

13 This is no -- this racial profiling you're
14 struggling with I struggle with every single day.
15 And, Senator Zane, you said you read a lot of
16 documents? I read them by them boxfuls. There is no
17 easy answer. And when you have good people that
18 think that they're doing the right thing and they're
19 not, and they're not, and unwittingly not, trying to
20 convince them that this is not the way to go about
21 doing the job, is very, very difficult. And I'll
22 tell you something else, everybody in this country,
23 every police department in this country is going to
24 struggle with this. And if at some point crime goes
25 up, we're going to take a step back. All you need to

1 do is take a look at New York. New York in 1994,
2 1993, had 2,600 homicides. The police department
3 became very, very aggressive. Today's homicide rate
4 is seven to 800. And now we're looking at other
5 issues. They too, are going to a kinder, gentler
6 police department. Because as problems change, the
7 inferences for law enforcement also has to change.
8 You have to adjust. You have to do what the Marine
9 Corps does, adjust to the mission. And if you don't
10 do that, you run into problems. But that -- what
11 you're talking about, Senator, is really the heart of
12 it, perception.

13 SENATOR ROBERTSON: And it's funny, you
14 might be glad to note that when I made note of that
15 question, it was just above the notation I had made
16 of what you said, which was the problem comes when
17 you allow your perception to govern your action.

18 COLONEL DUNBAR: Right.

19 SENATOR ROBERTSON: And, in fact, that was
20 the answer to the question. And I'll also note to
21 you that one of the reasons I was a little late
22 coming into this particular portion of the hearing
23 was I was having the exact same conversation with an
24 observer of these hearings out in the hallway where
25 the exact same points were being made about how

1 perception enters into decisions, even of people who
2 are acting in good faith. And one of the things that
3 I've been trying to say throughout these entire
4 hearings is that there is a race consciousness that
5 is in all of us and that that's the thing that we
6 have to begin to acknowledge and to come to terms
7 with or else we'll never be able to lead each other.
8 And that's really what has to happen. To lead each
9 other out of this situation.

10 COLONEL DUNBAR: You know, if we -- Senator
11 Zane, if we could legislate what he just said, this
12 would be a home run. That's -- and that's the thing
13 that I've been struggling with. And that's the thing
14 that I think that's been missing in this whole
15 hearing.

16 SENATOR ROBERTSON: I agree.

17 COLONEL DUNBAR: Is that the issue isn't
18 who did what, where or when, I mean because we're all
19 involved in this. You're involved. The Governor is
20 involved. The State Police is involved. We're all
21 involved. And, you know, this country is unique in
22 that we have so many diverse people. What bothers me
23 a little bit is that as we struggle through this,
24 there are those out there that are taking advantage
25 of the situation and that also is taking place. And

1 I see that in the videotapes. I see that in the
2 complaints that people -- and that has led me to
3 prosecute five people for filing false complaints
4 against the State Police because they were so
5 blatant. And we will proceed to try to bring down
6 our complaints. People are blatant because they're
7 misusing this time and we're trying to -- we're
8 trying to discover what we must do.

9 But, you know, as young as this country is,
10 some of these issues we've been struggling with for
11 years, the civil rights laws really weren't passed
12 until 1963, '64 and even though it's been 36 years,
13 we still have a long way to go. And we also have to
14 be very cognizant of those people who want to take
15 advantage of the situation as opposed to those people
16 who are genuinely interested in the issues. And the
17 issue is an issue of perception. It's an issue of --
18 and for those people who are going to look for the
19 answers just in statistical data, it's important, but
20 it's not the end all.

21 SENATOR ROBERTSON: Oh, no. It's actually
22 -- but it is an important starting point.

23 COLONEL DUNBAR: It's an important starting
24 point because you need to be able to identify where
25 you have problems. And then go in and hopefully, you

1 know, one of the things that -- if I just -- we had a
2 trooper stop a person and I reviewed the tape. It
3 was a 40-minute stop. And it was, you know, it had
4 racial overtones and such and I took that tape to the
5 troop commander personally. I said I want you to
6 review this tape and I want you to look at this. And
7 then I want you to come and see me. And he came to
8 me and he said, "I can't believe this." And I said
9 now I want you to have your Sergeant and your
10 Lieutenant come in and I want them to review it. And
11 they came in and they said they couldn't -- then we
12 called the trooper in. And this trooper had a
13 master's degree. He's a hardworking trooper. And I
14 was ready for a lot of different excuses. What I
15 wasn't ready for was what he said and what he said
16 was, "I can't believe that's me." Now, I will tell
17 you, I got my master's in counseling and when I got
18 my master's, one of the things that we did is they
19 showed you videotapes. And I also couldn't believe
20 what I was doing in my counseling sessions and I
21 think that's part of it too, that that trooper did
22 things unwittingly. And I told him, I said, how
23 could I ever possibly defend -- there wasn't any
24 legality that was involved, but how could I ever
25 defend what you're doing in the public? And, you

1 know, that trooper even allowed us to take that
2 videotape and use it for training purposes. And that
3 again taught me something that there are some people
4 that are doing things that they don't know that
5 they're gruff. And, you know, you marry that up with
6 the fact that a lot of troopers end of day in and day
7 out -- we have 450,000 what I call negative
8 interactions every year. Those are the tickets we
9 give. There aren't too many people that are real
10 happy about getting a ticket. So if you're issuing
11 ten, 20, 30 tickets a month and let's say half of
12 them people are real nasty to you, you do a year,
13 two, three, by the time you get about ten, 15 years,
14 you really get worn. I mean I looked at myself in
15 the media for the last two and a half years -- or
16 last two years and, you know, things do get said. I
17 could never be a politician. I mean it's just --
18 it's just too brutal. I mean it's just -- really,
19 it's just too brutal.

20 And those perceptions, when they have those
21 negative encounters, those perceptions just build on
22 and on and on. You know, I worked down in South
23 Jersey as a trooper and after a while, whether I was
24 working in Woodstown or Bridgeton or Mays Landing or
25 whatever, after a while they would just tell you, go

1 to Jim's house, he's having another domestic dispute.
2 You'd go to the same places over and over again and
3 that becomes your whole world. You don't know
4 anything else in any other part of the community
5 except for those particular areas. And if you don't
6 think that that taints you, it does. I have read
7 every Internal Affairs investigation conducted by the
8 State Police since I've come in. Every one of them.
9 I go home with boxes every weekend because I need to
10 know what's going on. But what I fear, what I fear
11 is that that is tainting me. And yet I'm only really
12 seeing 100, 200, 300 people out of a total of 2,700.
13 And it scares me to death. On one hand, I don't want
14 to give up looking at it because I need to know
15 what's in there. I need to know that we're on the
16 right road. On the other hand, I'm telling you, it
17 frightens me what it does to me because it's changed
18 my opinion.

19 SENATOR ROBERTSON: And that really
20 permeates throughout society. Through the civilian
21 population as well. We are conditioned -- well, I
22 mentioned to the gentleman outside, I said whether
23 you're black or white or whatever, an interesting
24 exercise to do is picture in your mind a rapist.
25 Picture in your mind an embezzler. Picture in your

1 mind a gangster. And regardless of what the
2 specifics of the profile in your own mind may be, the
3 fact of the matter is that you will develop a
4 profile. You will have a picture based upon what
5 you've been conditioned from everything to which
6 you've been exposed throughout your life, whether
7 it's the evening news or the morning papers or the
8 movies or in personal experience, and you lay on top
9 of that the trooper who's received training on drug
10 interdiction, has been told what statistics are, who
11 are exposed to situations that the rest of us would
12 never want to be exposed to, and that is something
13 that is dealt with on an everyday basis, along with
14 the tension of the job, that every time they make a
15 stop and walk up to a car, there could be a real
16 problem. And when you begin to look at all that, you
17 begin to see the human element on both sides. And I
18 really think it's important, and I'm so glad that you
19 said what you said, because this is a dialogue that
20 needs to be had. And it has to be one that doesn't
21 revolve around police versus civilian, Democrat
22 versus Republican, black versus white. And I want to
23 congratulate everybody on this Committee and thank
24 you, Mr. Chairman, to the extent to which -- for the
25 extent to which this has been a bipartisan exercise

1 and we'll all, whether it's informally or formally,
2 trying to get at the same thing. Because these are
3 issues that we have been struggling with as we've had
4 to pay our fullest attention to them. And I think
5 that you've made a real contribution to that dialogue
6 today, Colonel. And I thank you and thank you, Mr.
7 Chairman.

8 COLONEL DUNBAR: Senator, you know, when I
9 talked before about morale, I don't think there are
10 many people in the State Police that feel stronger
11 about the State Police than I do. But what you
12 talked about is what I have to try to get across to
13 them. And that is -- that is, after all they've gone
14 through, that's a very difficult thing to do. And
15 that's why I said that if they need somebody to
16 dislike, if they need somebody to hate, or if they
17 need somebody to take their aggression out on, you
18 know, I got big shoulders. They can do that.

19 SENATOR ROBERTSON: Well -- is subordinate
20 to that, because you're too important.

21 COLONEL DUNBAR: But the bottom line is, is
22 that I need them, I need them to understand exactly
23 what you said, that until they come into contact with
24 their perceptions -- and there's another aspect, too,
25 you know. If the numbers are truly what they appear

1 to be disproportionately, there's a lot of people
2 getting away that we ought to be looking at that may
3 be involved in a crime.

4 SENATOR ROBERTSON: But that's why the
5 statistics are such a good starting point. You can't
6 rely on them as the bottom line to anything, but at
7 least they illustrate the questions that need to be
8 dealt with, which is good.

9 Thank you, Colonel.

10 Thank you, Mr. Chairman.

11 SENATOR GORMLEY: Thank you.

12 Senator Kosco.

13 SENATOR KOSCO: Thank you, Mr. Chairman.

14 I just have one question. I asked the
15 Attorney General this morning the same question.

16 Do you think that you would be more
17 effective in your position if your position became a
18 Cabinet member rather than under the Attorney
19 General's Office?

20 COLONEL DUNBAR: I have kind of a different
21 spin on this. When Title 53 was first started, it
22 had two provisions. One, we're a separate
23 Department. And two, the Superintendent had five
24 years tenure. And when you have -- as county
25 prosecutors have a five-year tenure, the

1 Superintendent's tenure is pretty much the same.
2 That if you have five-year tenure as a
3 Superintendent, you have a lot more freedom than you
4 do if you, you know, if you're basically just serving
5 at the pleasure of whoever. I think that -- I think
6 five-year tenure for the Superintendent, you know, if
7 you look at the FBI, for example, Director Free, when
8 Hoover died they created a ten-year tenure for the
9 Director. And that was specifically done so the
10 Director of the FBI could remain independent and
11 could basically outlast any administration. He could
12 still be removed for cause, but he has that tenure.
13 So you really can remain somewhat apolitical. And I
14 think you know, Senator Kosco, that we have some very
15 strong associations that represent their rank and
16 file and what they want and what I think is good for
17 the State Police may not necessarily be the same
18 thing. And sometimes, as I indicated just as the
19 issue was apparent, you have to -- you have to do
20 things for the good of the organization as opposed to
21 the good of the individual. I don't know -- if
22 you're talking about having a separate Department,
23 you know, you're talking about some duplication. You
24 know, you would have to have separate budgets,
25 separate -- you would actually have more

1 administrative -- I think more administrative costs.
2 As you probably know, I think the Department of Law
3 and Public Safety is 8,000 people, 4,000 of which are
4 in the State Police. We are the largest entity
5 therein. We were a separate Department I think until
6 1948, 1950. The Superintendent had the five-year
7 tenure I think until 1970. So that I think is more a
8 governmental question. I don't really -- I actually
9 feel comfortable. But the reason I feel comfortable
10 is that I have what I think is a good Attorney
11 General. A person that I can talk to. And I'll tell
12 you, I've done battle with Division heads over there.
13 I've done battle with the Director of State Police
14 Affairs. And, you know, as I said before, I'm not
15 afraid -- I'm not intimidated whatsoever by the
16 Attorney General. And if he wanted me to do
17 something I thought was wrong, I would what I felt
18 was appropriate.

19 And again, I come from a model in the FBI
20 where the Attorney General -- there's a parallel.
21 The FBI under Hoover was pretty independent. I mean
22 they pretty much were independent. When I became an
23 agent, that was changing. Today, the Attorney
24 General is, there's no question, the Attorney General
25 runs the Department of Justice. The Attorney General

1 approves all of the senior positions in the FBI. But
2 the FBI is still a very strong, it's a very
3 independent organization, to the point that the
4 Attorney General, former Attorney General Reno and
5 Director Free, both publicly fought, disagreed, but
6 they both still respected each other.

7 So I think if you have that independence,
8 you don't need to have a separate department. But
9 the issue of splitting, that's -- that's something
10 that I think that can be looked at. But I think you
11 have to weight the pros and the cons.

12 SENATOR KOSCO: Thank you.

13 SENATOR GORMLEY: Thank you.

14 Jo.

15 MS. GLADING: Good afternoon, Colonel. I
16 just have a couple of quick questions.

17 COLONEL DUNBAR: These are going to be the
18 tough ones, right?

19 MS. GLADING: No, sir. They may be harder
20 than some of the ones you've been getting though.

21 The promotional process that -- well, my
22 understanding is that there were no promotional
23 guidelines effectively prior to 1999 -- or prior --

24 COLONEL DUNBAR: I would dispute that, but
25 they were -- maybe the operative word was

1 "effective," "effectively."

2 MS. GLADING: Um-hmm. I understand you're
3 instituting new promotional guidelines, is that
4 correct?

5 COLONEL DUNBAR: We are beginning the
6 process of having stronger promotional policies.

7 MS. GLADING: You're beginning the process
8 of having a stronger promotional process?

9 COLONEL DUNBAR: Um-hmm.

10 MS. GLADING: Okay. Are you having -- are
11 you instituting guidelines for promotions?

12 COLONEL DUNBAR: Well, for example, one of
13 the things we've instituted is testing. The Attorney
14 General made a promise and we delivered that we would
15 have a test for the next promotions. And this only
16 goes up to the rank of Lieutenant. From Lieutenant
17 up is a different procedure because they're appointed
18 by me. But we have -- we've already tested
19 everybody. In fact, the last test was the 28th.
20 We've also included review of Internal Affairs and
21 EEO issues in any promotions that we do. And we are
22 still working on a master plan for promotions in the
23 future.

24 MS. GLADING: When do you think you'll have
25 that master plan completed?

1 COLONEL DUNBAR: Are you writing this down
2 or can I --

3 MS. GLADING: Beg your pardon?

4 COLONEL DUNBAR: Are you writing down the
5 date or --

6 MS. GLADING: Well, it's being recorded.

7 COLONEL DUNBAR: Let's see. We're working
8 with -- I think it will be probably within another
9 year or so.

10 MS. GLADING: So the current test that
11 applies goes up through -- goes up to and including -
12 -

13 COLONEL DUNBAR: Lieutenant.

14 MS. GLADING: -- Lieutenant?

15 COLONEL DUNBAR: Right. Now, on the
16 Captains, what I've done with the Captains is that
17 I've opened it up. I've changed it by SOP where now
18 in most cases individuals can be -- you canvas,
19 anybody can apply. You have to do a certain amount
20 of interviews. Some of the interviews have to be
21 from outside of your section. The interview panel is
22 structured a certain way where you have -- it's not
23 just the section that's selecting that particular
24 Captain.

25 So we're changing -- I have no --I mean I

1 can just appoint a Captain. And in some cases, I
2 mean, I still reserve the right that in some cases if
3 I think a particular Captain needs to be appointed,
4 we will do that. And I would say that probably maybe
5 one out of ten or two out of ten I appoint as opposed
6 to this new process that we have.

7 MS. GLADING: Okay. So you put in a
8 process for Captains -- promotions to Captains as
9 well, but you don't necessarily always use that
10 process. Sometimes you just make a decision to
11 promote someone. Okay.

12 Have you instituted new standards for
13 employee evaluations?

14 COLONEL DUNBAR: Yes, we have.

15 MS. GLADING: When did those go into
16 effect?

17 COLONEL DUNBAR: They went into effect I
18 believe -- I believe January of this year.

19 MS. GLADING: And what's new about them?

20 COLONEL DUNBAR: They're a complete new --
21 they're a complete new performance appraisal system.
22 We've also for the first time gone back to include --
23 to including Lieutenants and other officers. Where
24 before, Lieutenants got one performance evaluation
25 and that was it so we've changed it.

1 MS. GLADING: One per year you mean?

2 COLONEL DUNBAR: No, no, they just got one.
3 When they made Lieutenant, they got one the first
4 year and that was it.

5 MS. GLADING: Now, Lieutenants are getting
6 appraised annually, is that right?

7 COLONEL DUNBAR: Annually and Captains and
8 Majors and Lieutenant Colonels also.

9 MS. GLADING: You talked a lot today about
10 recruitment and initiatives undertaken to improve
11 recruitment. What was the minority representation in
12 the last class?

13 COLONEL DUNBAR: Well, you mean today's
14 class? Last week's class? This whole --

15 MS. GLADING: Well, what's the number of
16 today's class?

17 COLONEL DUNBAR: Today's class we had
18 thirty --

19 MS. GLADING: Today is the one hundred
20 and --

21 COLONEL DUNBAR: 120th. We had 36
22 graduates -- 37 graduates. Thirty were white males.
23 Four were African-Americans. Two were Hispanics.
24 And one was an Asian.

25 MS. GLADING: Okay. I'm sure you've heard

1 concerns raised by troopers about nepotism within the
2 State Police and about --

3 COLONEL DUNBAR: I think the term was
4 "nepotism and cronyism."

5 MS. GLADING: Beg your pardon?

6 COLONEL DUNBAR: Nepotism and cronyism.

7 MS. GLADING: Yeah. That's right. And
8 some of the concerns that have been raised in the
9 context of the 118th class --

10 COLONEL DUNBAR: Well, let me -- go ahead.
11 Go ahead.

12 MS. GLADING: -- raised concerns about
13 nepotism, particularly the test scores that were
14 changed. Is there any ongoing investigation into
15 activities that went on in the selection of the 118th
16 class?

17 COLONEL DUNBAR: The 118th class
18 investigations have been concluded. I've reviewed
19 them. I've recommended disciplinary action. And?

20 MS. GLADING: And has it been taken yet?

21 COLONEL DUNBAR: The disciplinary action?
22 Some of it has, some of it has not.

23 Now, I want to mention something. Since
24 you brought up nepotism. You know, nepotism can
25 also be family tradition and, you know, I think that

1 the fact that some sons or daughters choose to follow
2 their parents or their brothers and sisters into law
3 enforcement should not be viewed as negative. Now,
4 where it does become a problem, and I think it was
5 pointed out in the two investigations, when unusual
6 things happen --

7 MS. GLADING: Well, I specifically -- I was
8 not necessarily -- I didn't mean to be critical of
9 family traditions. I was asking about cases in
10 which --

11 COLONEL DUNBAR: Well, but people always
12 throw out that --

13 MS. GLADING: -- in which test scores were
14 changed or in which --

15 COLONEL DUNBAR: Well, people always throw
16 out --

17 MS. GLADING: -- a background investigation
18 had been previously failed and the person got into
19 the next class.

20 COLONEL DUNBAR: Well, see, you're not
21 quite correct on what you're saying there.

22 MS. GLADING: Correct me.

23 COLONEL DUNBAR: Well, I will. The
24 background investigation in one case could, in fact,
25 a person could, in fact, not be qualified and then

1 subsequently that person could reapply and whatever
2 issue there was could be -- could, in fact, be
3 resolved. What I will tell you, I think if you're
4 talking about the two cases in the 118th class, there
5 are two investigations I think that came out of that.
6 I share your concern and I think that there was cause
7 for concern in those particular cases.

8 MS. GLADING: They all involved the sons of
9 high-ranking officers, right?

10 COLONEL DUNBAR: Well, the issues with the
11 class, one involved the sons of two officers. I
12 don't know whether you'd call them high-ranking. You
13 know, they were officers, but I don't know whether
14 you can call them high-ranking or not. But I share
15 your concern on those particular cases. And I would
16 also submit, I think the investigations, which I
17 don't intend to go into here, were done
18 professionally and I would have no problem with the
19 Monitor looking at them and looking at what our
20 results were.

21 MS. GLADING: The testing procedure that
22 was used, the L-E-C-R?

23 COLONEL DUNBAR: LECR?

24 MS. GLADING: LECR, yeah. Was that -- that
25 was a biographical test, is that right?

1 COLONEL DUNBAR: That's history.

2 MS. GLADING: It's your life history.

3 COLONEL DUNBAR: That's history. I mean I
4 don't --

5 MS. GLADING: At the time when it was used.

6 COLONEL DUNBAR: I don't think I can really
7 talk to the LECR because, you know, I didn't have
8 anything to do with it.

9 MS. GLADING: Was that a blind-screening
10 tool?

11 COLONEL DUNBAR: I'm telling you, you can
12 ask me all the questions you want on that, and I'm
13 not going to be able to answer it because I don't
14 know anything about the LECR.

15 MS. GLADING: Let me ask you about the
16 Monitor's report in January, January 10th, 2001. The
17 Monitor discusses an extensive backlog of IAB cases.
18 Can you -- we asked General Farmer this morning and
19 he said he thought you were making good progress on
20 resolving those cases. Can you tell us how -- where
21 you are at on resolving that backlog?

22 COLONEL DUNBAR: Well, the -- again, as I
23 said in my opening statement, that the backlog is
24 still -- is still there. When I arrived I think
25 probably for about eight months there was nothing --

1 nothing had been done. I got -- when I took my job,
2 I -- and I kid you not, I mean I got boxes, Xerox
3 boxes full of cases that I hauled home every night
4 and every weekend and read. Unfortunately, a number
5 of the cases I had to send back for reinvestigation
6 because there wasn't -- the investigation conducted
7 wasn't conducted to the -- it didn't answer the
8 questions. It didn't -- there was no detail there.
9 Some things were just glossed over. And I sat there
10 with, you know, pen in hand making page after page of
11 notes.

12 Then the other thing that transpired was
13 that from 1999 to 2000, we went from, I think, 300
14 and some cases to 584 cases. Now, even though I
15 raised the IAB staff from seven investigators to 21
16 investigators, I think the overall staff from 19 to
17 51 people, we still have a tremendous backlog. And
18 it's not getting any easier because we keep getting
19 more and more cases. And a lot of the cases really
20 there is no merit to them. And unfortunately what it
21 does is that when you have so many cases, it bleeds
22 your resources so that you can't get things done very
23 timely.

24 At my end of last year, I mean I was still
25 finishing cases from '96 and '97. And now gratefully

1 we were also processing a number of cases from the
2 year 2000, but the Monitor wants us, in fact,
3 initially they wanted us to be able to turn them
4 around in 45 days, which is kind of interesting
5 because the FBI -- I can't even do that. I mean the
6 cases, even in the FBI, weren't getting done much
7 quicker than the cases here were getting done. My
8 problem was compounded by the fact that we were down
9 -- we were down probably three to 400 troopers and
10 when you increase -- when you increase Internal
11 Affairs personnel, do you -- you know, I get letters
12 from Cumberland County all the time about not having
13 enough people in Bridgeton, not having enough people
14 in Port Norris. Do I take the people off the road
15 where they're needed and put them all in IAB? I
16 think we're doing a better job. I think we're --
17 there's no question in my mind that the reports are
18 good, of good quality. But we still have to do a lot
19 better with the timeliness. And the timeliness is an
20 issue.

21 MS. GLADING: When did you make, in the
22 context of the Troop D, the cases that emanated out
23 of the Troop D audit of potential discrepancies?
24 When did you make the decision to impose the five
25 percent cutoff?

1 COLONEL DUNBAR: I made that, I think, in I
2 believe October of last year.

3 MS. GLADING: October of 2000?

4 COLONEL DUNBAR: Yeah. September or
5 October, one of the two.

6 MS. GLADING: That's all I've got.

7 SENATOR GORMLEY: Colonel, I want to thank
8 you for your testimony.

9 I'd like to add a couple points to the
10 record. One, I'm very glad that Quantico is the FBI
11 training academy. I assume it helped with your
12 appreciation of the Marine Corps.

13 COLONEL DUNBAR: Actually, PLC helped a lot
14 more.

15 SENATOR GORMLEY: PLC? Okay, that's good,
16 too.

17 For the record, Ed O'Connor did serve in
18 Viet Nam. He never talks about it, but we're very
19 proud of him.

20 And to three Deputy Attorneys General,
21 Allison Accurso, Jeff Miller and Brian Flanagan, we
22 are lucky as a state that you're three attorneys who
23 work for New Jersey. And we want to thank you,
24 because this has been very difficult for you and
25 people might not realize it, but you had a very

1 difficult job to do and you did it well and you did
2 it as professionals and you should be very proud.

3 I want that on the record.

4 This will conclude the hearing for today.
5 I'd like to meet with the members of the Committee,
6 the Republican and the Democrats, in the rear.

7 (Off the record)

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