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MEMORANDUM

TO: Honorable Paul A. Sarlo, Chairman
Senate Budget and Appropriations Committee

FROM: John J. Hoffman
Acting Attorney General 

DATE: April 28, 2014

SUBJECT: Senate Budget and Appropriations Committee
Follow-Up Questions and Answers

In accordance with your request, enclosed please find the Department's responses to the Senate Budget and Appropriations Committee Follow-Up Questions. Please contact Jennifer Fradel at 292-9660 if you have any questions.

Enclosures

c: Lee Vartan, Executive Assistant Attorney General
Deborah R. Edwards, Counsel to the Attorney General
B. Stephan Finkel, Assistant Attorney General, Director, Legislative Affairs
Jennifer E. Fradel, Administrator
Peter Traum, Deputy Administrator
William H. Cranford, Director, Budget and Grant Operations
Charlene M. Holzbaur, Director, OMB



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FOLLOW-UP QUESTIONS

Senator Sarlo:

- Please provide a list of outside counsel legal work that Gibbs and Dunn has completed for the State to date.

Other than the work currently being performed for the Office of the Governor concerning the lane closures on the George Washington Bridge, the law firm of Gibson, Dunn and Crutcher represents the State in one other matter only: National Collegiate Athletic Association, et al. v. Christopher J. Christie, et al. (sports wagering).

Senator Van Drew:

- Please describe how citizen complaints are tracked, investigated, and quantified. What training is provided to staff who handle citizen complaints.

Citizen Complaints (non-State Police): The Citizens' Services and Relations Unit (CSR) receives, evaluates and directs telephone inquiries from the public and governmental employees, including allegations and complaints against State departments and agencies as well as criminal complaints. Correspondence sent directly to the Attorney General is received by the Division of Law, where it is opened, sorted and then delivered to the CSR Unit twice daily. Correspondence is then entered into CSR Unit's Oracle database for assignment and tracking. General correspondence assigned to the Divisions is given a ten-day deadline for response. Division liaisons are required to send an acknowledgment letter to the citizen and in those instances where a particular case is currently under investigation or in litigation, the CSR Unit requests a written update. Substantive issues are referred for handling to the appropriate Division or agency, which have their own protocols for investigating and resolving such complaints, depending on the particular agency and the nature of the matter.

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STATE POLICE COMPLAINT PROCESS

The New Jersey State Police accepts, reviews, and responds to all complaints received from the public, including anonymous complaints, complaints from third-party witnesses, and complaints from parties not directly involved in an incident. Complaints may also be generated internally, from another member of the State Police. The Intake Unit of the Office of Professional Standards is the unit responsible for receiving, documenting, processing, classifying, and disseminating all complaints against sworn members of the New Jersey State Police alleging misconduct by its members.

When incidents are reported to the Office of Professional Standards, they are reviewed by the Intake Unit and classified in one of four categories: misconduct; performance; administrative; and equal employment/affirmative action. All complaints are entered into a database and tracked by the Office of Professional Standards. All new investigators assigned to the Office of Professional Standards are required to complete a forty hour training course.

In addition to the Office of Professional Standards within the State Police, the Office of Law Enforcement Professional Standards, within the Office of the Attorney General, accepts and investigates complaints, providing an alternative to citizens concerned about complaining directly to the State Police. This includes complaints made by citizens, as well as employment-related disciplinary matters.

CLASSIFICATION OF REPORTED INCIDENTS

MISCONDUCT

If the Division receives a complaint that alleges a trooper has committed a violation of the Division's Rules and Regulations, Standing Operating Procedures, or any applicable federal or state statute, the matter may be classified as Misconduct, and an Internal Investigation is initiated by the Office of Professional Standards.

PERFORMANCE

When a complaint is reviewed and it is determined that an enlisted member of the Division may have committed a minor infraction, the matter is classified as a Performance Issue. These matters are returned to the member's command for resolution. The command is required to assign a supervisor not in the member's direct chain of command to handle the complaint. The supervisor is required to submit a Performance Incident Disposition Report to the Office of Professional

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Standards through his/her chain of command detailing the corrective actions taken to resolve the issue. The intervention is non-disciplinary and intended to correct performance deficiencies.

ADMINISTRATIVE

When the Office of Professional Standards' review of the reported incident reveals that a trooper has not violated any of the Division's Rules and Regulations, Standing Operating Procedures, or applicable federal or state laws, the incident is classified as an Administrative matter and closed.

EQUAL EMPLOYMENT OPPORTUNITY/ AFFIRMATIVE ACTION INVESTIGATIONS AND/OR COMPLIANCE INVESTIGATIONS

The State Police Office of Equal Employment Opportunity (EEO) investigates all complaints related to EEO/affirmative action issues. If the allegation is substantiated, the case is returned to the Office of Professional Standards for adjudication and disciplinary action.

- Please forward any information regarding potential legislation to allow a licensed professional to access the Prescription Monitoring Program to assist the professional when deciding whether a prescription of opiates would be appropriate in certain circumstances.

At the Senate budget hearing, the Attorney General cited two possible changes to the law aimed at facilitating the use of the Prescription Monitoring Program (PMP).

Although not a legislative change, one possible change to increase use of the PMP is to consider ways to encourage PMP registration through the State CDS registration process (which pursuant to N.J.S.A. 24:21-11 is required in order to lawfully manufacture, distribute or dispense controlled dangerous substances in New Jersey). Currently, less than 20% of licensed physicians are registered with the PMP, and therefore cannot access relevant prescription monitoring information from the program. We should consider changes to increase the availability of this useful, prescriptive tool, by promoting as part of the CDS registration process avenues to ensure that a practitioner also registers with the prescription monitoring program established pursuant to section 25 of P.L. 207, c.244 (C.45:1-45). This revision would not mandate access to the PMP, but would be intended to promote

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registration and, hopefully, responsible use of the PMP by those who write prescriptions for CDS.

A second change would allow certain authorized PMP users to assign to appropriate individuals access to prescription monitoring information. Specifically, N.J.S.A. 45:1-46 authorizes the Division of Consumer Affairs to provide prescription monitoring information to certain enumerated categories of authorized recipients, including “a practitioner authorized to prescribe, dispense or administer controlled dangerous substances who certifies that the request is for the purpose of providing health care to a current patient of the practitioner” and “a pharmacist authorized to dispense controlled dangerous substances who certifies that the request is for the purpose of providing health care to a current patient.” Because the law in its current form does not allow these individuals to delegate this authority to others, physicians in busy practices or pharmacists whose time is spent overseeing an entire department or filling prescriptions may face significant time burdens that limit their ability to personally access the PMP to obtain or review prescription monitoring information. It would be appropriate to consider amendments to the law to allow such licensed, regulated professionals to delegate this authority to a limited number of licensed professionals so that the information may be made available to the professional license holder in a manner that promotes efficiency without risking unauthorized access.

- Proposed legislation limits firearm magazine size for 15 to ten rounds. If such legislation were enacted, how would the Department of Law and Public Safety assist firearm owners in collecting these illegal magazines.

It would be premature to speculate what role the Department would play with regard to the collection of ammunition magazines currently permitted under the law that in the future would be prohibited if the law were to be changed. That is, the appropriate process to deal with those ammunition magazines, and the role of the Department with respect to that process, may depend on the specific provisions of the legislation, which are subject to revision while the bill remains pending in the legislative process. Thus, it is a matter of speculation whether owners would surrender those magazines in accordance with the process authorized under current law, or whether some other disposition or means of surrender would be authorized by law. Presently, a person who possesses a prohibited large capacity magazine (i.e., “a box, drum, tube or other container which is capable of holding more than 15 rounds of ammunition to be fed continuously and directly there from into a semi-automatic firearm,” as defined in subsection y. of N.J.S.A. 2C:39-1) may voluntarily surrender that magazine to law

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enforcement in accordance with the provisions of N.J.S.A. 2C:39-12. That law provides immunity from prosecution to any person who voluntarily surrenders any firearm, weapon, destructive device, silencer or explosive who provides written notice, including the proposed date and time of surrender, to the State Police Superintendent or to the chief of police in the municipality in which the person resides (so long as the Superintendent or chief of police receives the required notice before any charges have been made or complaints filed against the person for the unlawful possession of the weapon, device, instrument or substance in question and before any investigation has been commenced by any law enforcement agency concerning the unlawful possession). Again, however, the appropriate role of the Department cannot be reliably determined until such time as the legislation is enacted.

Senator Pou:

- Please provide details on the recent settlement of the juvenile cases of Troy and O'Neill with the State of New Jersey Juvenile Justice Commission (JJC).

Two former JJC residents filed federal civil rights claims against the JJC and the University of Medicine and Dentistry (formerly UMDNJ and now Rutgers, the State University) as a result of the care and treatment they received between February and October 2009. The juveniles and their families claim that they were held in Room Restriction an excessive amount of time and that they did not receive adequate services during this time period. JJC contracted with UMDNJ for mental health services including the services provided to the plaintiffs. Without admitting liability, the JJC, and Rutgers, the State University paid \$400,000 to settle the litigation. The settlement was split equally between the two state agencies, with each paying \$200,000. Although the settlement did not mandate changes to the Room Restriction regulations, the JJC is engaged in a dialogue with the ACLU and other interested parties on revising relevant regulations.

- Please explain why the State has denied the petition for the JJC to end the use of Solitary confinement as a disciplinary measure for residents in the JJC.

The JJC has denied the ACLU's petition as overbroad; the petition sought to amend JJC regulations addressing multiple housing units, rather than only Room

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Restriction. In the petition, the ACLU categorized many of JJC's housing units as "solitary confinement" when residents were not confined alone in a single room. These overbroad definitions of "solitary confinement" led to inaccurate requests by the ACLU for reforms.

Room Restriction refers to the confinement of an incarcerated juvenile in a single room for a defined period of time for either administrative or disciplinary reasons. Consistent with standards of the American Correctional Association (ACA) applicable to juvenile correctional facilities, the JJC limits both the frequency and duration of Room Restriction. The JJC regularly monitors, reviews and adjusts its policies and practices, including its Room Restriction policy, to ensure that the Commission is using the best methodology to promote the education, advancement and rehabilitation of the juveniles for which it is responsible.

Although the ACLU petition was denied, the JJC has been and will continue to work with the ACLU to review the housing of juveniles in Room Restriction. As regulations concerning Room Restriction are drafted, the JJC will engage interested parties, including the ACLU, for comments and feedback.

- Please explain what would prevent the JJC from conforming to the standards of placing juveniles in solitary confinement for five days or less, or 10 days or less in a 30 day period.

JJC's regulation, N.J.A.C. 13:101-6.16(b)(2), allows for a maximum of five days of Room Restriction as a sanction if an institutional violation is substantiated. This maximum is consistent with standards of the American Correctional Association (ACA) applicable to juvenile correctional facilities. N.J.A.C. 13:101-6.17(b) requires that a juvenile must spend at least two consecutive days out of Room Restriction following a five day stay, prior to any succeeding term of Room Restriction. Further, N.J.A.C. 13:101-6.17(c) prohibits a juvenile from serving an aggregate term in Room Restriction in excess of 10 days in any 30 day period.

The JJC adheres to these regulations and utilizes Room Restriction as an option of last resort when other disciplinary measures, such as change of work assignments or loss of privileges, have not remediated a resident's behavior. Since 2012, the JJC has been engaged in a number of coordinated efforts to reduce the need for Room Restriction through a combination of programmatic enhancements and disciplinary alternatives, as well as by ensuring that Room Restriction is reserved for situations where a juvenile poses a bona fide immediate threat to personal safety or institutional security.

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Senator Ruiz:

- “Operation Jacked” recovered 160 stolen cars after a ten month investigation by the Division of Criminal Justice and the Division of State Police. Please provide an update regarding the statistical decline in car thefts.

“Operation Jacked” was just announced in February, 2014. Consequently, it is slightly too soon to know how “Operation Jacked” impacted the number of car thefts in Essex County or the State. The Division of Criminal Justice and the Division of State Police will continue to aggressively monitor car thefts and will provide updated data once available.