

REPORT

A REPORT ON DISCRIMINATORY PRACTICES WITHIN THE NEW JERSEY STATE POLICE

*New Jersey Black and Latino Caucus**

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Assemblywoman Bonnie Watson Coleman District 15 (Mercer)

*now Senators

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I. OVERVIEW

A. Background

The New Jersey Legislative Black and Latino Caucus consists of nineteen members of the New Jersey Legislature - fifteen Assembly members and four Senators.¹ On April 13, 20 and 27, 1999, the Caucus held regional public hearings - in Trenton, Newark and Blackwood, respectively.²

The principal purpose of the hearings was to place a "human face" on the illegal and degrading practice of racial profiling by the New Jersey State Police.³ A second purpose was to determine the nature and scope of any discriminatory employment policies, practices and procedures within the New Jersey State Police.⁴

A series of events and circumstances contributed to the Caucus' decision to conduct hearings into the institutional policies and practices

¹ See source cited and text accompanying *supra* note *.

² *Racial Profiling on the New Jersey Turnpike: Hearing Before the Black and Latino Caucus, New Jersey State Legislature* [hereinafter *Hearing*] (April 13, 1999) (on file with the Seton Hall Legislative Journal); *id.* (Volumes 1 and 2 April 20, 1999) (on file with the Seton Hall Legislative Journal); *id.* (April 27, 1999) (on file with the Seton Hall Legislative Journal).

³ *Id.* at 5 (April 13, 1999) (statement of Senator Joseph Charles, Jr.); *id.* at 6 (April 13, 1999) (statement of Senator Wayne R. Bryant); *id.* at 10 (April 13, 1999) (statement of Assemblyman LeRoy J. Jones, Jr.).

⁴ *Id.* at 5 (April 13, 1999) (statement of Senator Joseph Charles, Jr.).

of the New Jersey State Police.⁵ These included the highly publicized incident involving four minority men along the New Jersey Turnpike in April 1998⁶, and the publication in January 1999 of State Police data which, for the first time, provided solid and reliable evidence supporting the complaints of minority motorists who were being illegally targeted by the State Police.⁷ Historically, their complaints had been trivialized, and either dismissed or stonewalled by the State Police, the Attorney General, and the State Legislature.⁸

Indeed, the Caucus' heightened attention to State Police issues began in April 1998 when state troopers fired upon four young Black and Latino men who were traveling in a van on the New Jersey Turnpike, wounding three of them.⁹ The young men alleged that they were the victims of racial profiling.¹⁰

On May 18, 1998, Senator Shirley Turner and Assemblyman LeRoy J. Jones, Jr., requested that Senate President Donald DiFrancesco and Assembly Speaker Jack Collins impanel a bicameral legislative task force to review the issue of racial profiling.¹¹ Their request was denied.¹² On May 28, 1998, Assemblyman Jones and Senator Turner introduced legislation to create a joint legislative task force to hold public hearings to investigate racial profiling and minority employment discrimination within the State Police.¹³ The legislation was not posted for consideration.¹⁴

⁵ See source cited *infra* notes 6-8 and accompanying text.

⁶ *Hearing, supra* note 2, at 9 (April 13, 1999) (statement of Assemblyman LeRoy J. Jones, Jr.).

⁷ *Id.* at 10 (April 13, 1999) (statement of Assemblyman LeRoy J. Jones, Jr.). Assemblyman Jones commented "that three-quarters of the Turnpike arrests are minority drivers, a figure that defies common sense and logic." *Id.* (April 13, 1999) (statement of Assemblyman LeRoy J. Jones, Jr.).

⁸ See *infra* notes 40-138 and accompanying text.

⁹ John P. McAlpin, *Van Shooting Investigation Gets Extension Troopers Wounded 3 People*, The Record (Bergen County, N.J.), August 29, 2000, at A3.

¹⁰ *Id.*

¹¹ *Hearing, supra* note 2, at 9 (April 13, 1999) (statement of Assemblyman LeRoy J. Jones, Jr.).

¹² See *id.* (April 13, 1999) (statement of Assemblyman LeRoy J. Jones, Jr.).

¹³ "Racial Profiling by State Police Task Force," ACR-102, 208th Leg., 1st Sess. (NJ 1998) and "Racial Profiling by State Police Task Force," SCR-59, 208th Leg., 1st Sess. (NJ 1998).

¹⁴ See sources cited *supra* note 13. ACR-102 was referred to the Assembly Judiciary Committee on June 1, 1998 and there was no further action in that legislative session. See sources cited *supra* note 13. SCR-59 was referred to the Senate Judiciary Committee on May 28, 1998 and there was no further action in that legislative session. See sources cited

All efforts by the Caucus to address these issues were met with indifference, if not outright resistance, by the Legislature's presiding officers.¹⁵ When the Caucus decided to conduct its own hearings on these enormously important issues, the presiding officers refused to authorize the use of certain legislative resources.¹⁶

In a newspaper interview published on February 28, 1999, then State Police Superintendent Colonel Carl Williams provided an unprecedented insight into the institutional mindset and culture of the State Police regarding racial stereotypes and criminal behavior.¹⁷ Superintendent Williams stated: "Today with this drug problem, the drug problem is cocaine or marijuana. It is most likely a minority group that's involved with that . . . If you are looking at heroin and stuff like that, your involvement there is more or less Jamaicans."¹⁸

Colonel Williams' statements are not supported by statistical evidence.¹⁹ For example, the 1997 *Sourcebook of Criminal Justice Statistics*, published jointly by the United States Justice Department and the University at Albany, State University of New York, documented that in 1996 Blacks made up only 38.4% of all drug arrests nationwide.²⁰

On March 3, 1999, members of the Black and Latino Caucus met with President Bill Clinton.²¹ The Caucus urged President Clinton to expedite the investigation the Justice Department launched in December 1996 into racial profiling and employment practices by the New Jersey State Police.²²

On March 9, 1999, members of the Caucus met in Washington,

supra note 13.

¹⁵ Thomas Zolper, *Lawmakers Push Tougher Reforms for Troopers*, THE RECORD (Bergen County, N.J.), August 6, 1999, at A1.

¹⁶ *Id.*

¹⁷ *Head of NJ State Police Fired*, NEWSDAY (New York, NY), March 1, 1999, at A18.

¹⁸ *Id.*

¹⁹ DEPARTMENT OF JUSTICE, BUREAU OF JUSTICE STATISTICS, 1997 SOURCEBOOK OF CRIMINAL JUSTICE STATISTICS Table 4.10 (Kathleen Maguire and Ann L. Pastore, eds., 1998).

²⁰ *Id.*

²¹ Staff Writer, *Clinton Urged to Speed Up Race Inquiry*, N.Y. TIMES, Mar. 3, 1999, at B5. Members of the N.J. Legislative Black and Latino Caucus were among a welcoming party to greet President Clinton at Newark International Airport on March 3, 1999. *Id.* State Senator Shirley Turner and Assembly members Leroy J. Jones, Jr. and Nellie Pou said they would speak to President Clinton and urge him to speed up the federal probe into allegations of racial profiling. *Id.* But, a White House official stated that "it [was] inaccurate to characterize it as a meeting." *Id.*

²² *Id.*

D.C., with United States Deputy Attorney General Eric Holder and, with the Black Ministers Council of New Jersey and again urged the Justice Department to expedite its investigation.²³ The meeting with the Justice Department was extremely positive.²⁴

It was against this compelling backdrop that the Caucus scheduled the three regional hearings.²⁵ Prior to the first hearing, the Caucus extended invitations to Attorney General Peter G. Verniero, to Acting Superintendent of State Police Michael Fedorko, and to former Superintendent Carl Williams.²⁶ Each declined the invitation.²⁷ However, prior to the third hearing on April 27 in Blackwood, the Attorney General's Office advised that Attorney General Verniero would appear and testify.²⁸ Subsequently, though, the Attorney General's Office advised that it had made a mistake and that the Attorney General would not testify.²⁹

In preparation for the hearings, the Caucus established a toll-free telephone number to enable the public to report incidents of abuse of power by the State Police.³⁰ Hundreds of telephone calls were received from persons who were either victims of, or witnesses to, racial profiling.³¹

From the outset, the Caucus emphasized that it believed the great majority of New Jersey troopers are hardworking, law-abiding professionals who discharge their duties with fairness and dedication.³² The Caucus further emphasized that its primary objectives were to identify any institutional racism and to propose institutional reform.³³

²³ James Dao, *Delay by State Police Cited in Inquiry*, N.Y. TIMES, Mar. 10, 1999, at B5. In a closed-door meeting, Mr. Holder told state legislators, members of Congress and ministers that information requested from the State Police had trickled in slowly. *Id.* Meeting participants said Holder informed them that he expected the Justice Department to reach some preliminary decisions in the next few months. *Id.*

²⁴ *See id.*

²⁵ *See* source cited *supra* note 2. The first public hearing was held in Trenton. *Hearing, supra* note 2 (April 13, 1999). The second public hearing was held in Newark. *Id.* (April 20, 1999). The final public hearing was held in Blackwood. *Id.* (April 27, 1999).

²⁶ *Id.* at 15-16 (April 13, 1999) (statement of Senator Joseph Charles, Jr.).

²⁷ *Id.*

²⁸ *Id.* at 7-8 (April 27, 1999) (statement of Senator Joseph Charles, Jr.).

²⁹ *Id.* at 8.

³⁰ *Id.* at 4. The toll-free number was 1-877-230-6200. *Id.*

³¹ *Id.*

³² *Id.* at 5 (April 13, 1999) (statement of Senator Joseph Charles, Jr.); *id.* at 12 (statement of Senator Shirley Turner).

³³ *Id.* at 5 (statement of Senator Joseph Charles, Jr.).

B. *Racial Profiling of Motorists*

Minority motorists have complained for years of being the victims of "racial profiling" at the hands of the State Police.³⁴ They have complained of being illegally targeted, stopped, harassed, searched, brutalized and humiliated by the State Police based solely upon their race or ethnicity.³⁵ They have complained of being treated differently than non-minority motorists.³⁶

The testimony and other evidence adduced at the Caucus hearings confirmed what minority motorists have known for years - racial profiling has long been the "unofficial" *modus operandi* of the State Police.³⁷ The State Police hierarchy has unofficially encouraged, condoned and rewarded the practice.³⁸ Reverend Reginald Jackson, Executive Director of the Black Ministers Council of New Jersey explained the situation in stark terms: "Racial profiling was the worst kept secret in New Jersey."³⁹

This disturbing fact was judicially exposed on March 4, 1996, when Superior Court Judge Robert E. Francis handed down the landmark decision in *State v. Pedro Soto*.⁴⁰ The *Soto* case is historic in that for the first time there was a judicial finding of fact and law that the State Police were stopping minority motorists solely on the basis of race.⁴¹ The court condemned this practice as a clear violation of the Fourteenth Amendment right to equal protection of the law.⁴² Of equal significance, the court also found that the State Police hierarchy allowed and tolerated the discriminatory practice of racial profiling.⁴³

The court highlighted the testimony of Dr. John Lamberth, Chairman of Temple University's Department of Psychology, who

³⁴ *New Jersey Releases Huge Cache of Racial Profiling Documents; Lots of Finger-Pointing; But Plenty of Blame To Go Around*, (News Online), available at <http://www.drcnet.org/wd/162.html#njprofiling> (last visited March 16, 2002).

³⁵ Michael Raphael, *Van Riders are for Civil Rights' Justice*, THE STAR LEDGER (Newark, N.J.), April 23, 1999, at 27.

³⁶ *N.J.: Minorities Remain Big Target of Car Searches*, NEWSDAY (New York, N.Y.), April 4, 2001, at A20.

³⁷ See *infra* cases and sources cited notes 56-65, 120-212 and accompanying text.

³⁸ See *infra* cases and sources cited notes 56-65, 120-212 and accompanying text.

³⁹ See *Hearing, supra* note 2, at 161-166, 172, 175-176 (April 13, 1999) (statement of Rev. Reginald Jackson); *infra* cases and sources cited notes 40-262 and accompanying text.

⁴⁰ *New Jersey v. Soto*, 734 A.2d 350 (N.J. Super. Ct. Law Div. 1996).

⁴¹ *Id.* at 359-361.

⁴² *Id.*

⁴³ *Id.* at 360-361.

testified as an expert witness.⁴⁴ Dr. Lamberth presented statistical evidence that proved the rights of minority motorists were violated through the stop and arrest patterns utilized by the State Police.⁴⁵ Dr. Lamberth documented that Black motorists traveling on the New Jersey Turnpike between exits 1 and 3 accounted for approximately 15% of the actual number of traffic violations.⁴⁶ However, while accounting for only fifteen percent of the violations, Blacks accounted for forty-six percent of the stops and 73% percent of the arrests.⁴⁷ Dr. Lamberth further documented that Blacks traveling between exits 1 and 7A accounted for approximately 35% of the stops and 73% of the arrests.⁴⁸ Based upon the evidence presented, the court found that:

The statistical disparities and standard deviations revealed are indeed stark. The discretion devolved upon general road troopers to stop any car they want as long as Title 39 is used evinces a selection process that is susceptible of abuse. The utter failure of the State Police hierarchy to monitor and control a crackdown program like DITU [Drug Interdiction Training Unit] or investigate the many claims of institutional discrimination manifests its indifference if not acceptance.⁴⁹

The *Soto* decision should have marked the beginning of reform within the State Police. Sadly, it did not.⁵⁰ The Attorney General's Office continued the sorry legacy of institutional recalcitrance, denial of institutional responsibility, and refusal to commence institutional reforms.⁵¹ The Attorney General appealed the *Soto* decision, continuing to defend the actions of the State Police.⁵² Moreover, the unconstitutional practice of racial profiling by the State Police continued unaddressed and unabated.⁵³ State Police data showed that in the first two months of 1997, minorities continued to account for 75%

⁴⁴ *Id.* at 352-353.

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.*; *Hearing, supra* note 2, at 16 (Volume 1 April 20, 1999) (statement of Dr. John Lamberth).

⁴⁸ *Id.* at 17-18.

⁴⁹ *See* case cited *supra* note 43.

⁵⁰ *See infra* cases and sources cited notes 52-54 and accompanying text.

⁵¹ *See infra* cases and sources cited note 52 and accompanying text.

⁵² *Hearing, supra* note 2, at 181 (April 13, 1999) (statement of William Buckman, Esq.); *Id.* at 182 (April 27, 1999) (statement of Dr. James Fyfe). The State never went through with the appeal. *Id.*

⁵³ *See infra* cases and sources cited note 54 and accompanying text.

of the persons arrested on the Turnpike.⁵⁴

As a result of the hearings, the public came to know the horrific human dimensions of racial profiling.⁵⁵ The human face of racial profiling was dramatically captured in the testimony of Mrs. Dorothy Cobbs, a 52-year-old homemaker from New York State.⁵⁶ She wept as she recounted her experience with state troopers on January 4, 1996, as she was traveling on the Garden State Parkway.⁵⁷ She testified that the troopers cursed, spat upon, maced and brutalized her, and then charged her with 4 multiple criminal offenses, including aggravated assault on a police officer, which carries a 5 to 10 year prison term.⁵⁸ Mrs. Cobbs recalled the immense pressure to plead to a lesser charge and thereby avoid the risk of imprisonment.⁵⁹ She knew she was innocent so she bravely stood trial, drawing strength from her trust in God.⁶⁰ The jury clearly rejected the testimony of the troopers, acquitting Mrs. Cobbs of all charges after brief deliberations.⁶¹ Thereafter, she filed a federal civil rights lawsuit against the State Police for violation of her civil rights.⁶² The state settled the case for \$225,000.⁶³

To this day, no action has been taken against the troopers involved in the victimization of Mrs. Cobbs.⁶⁴ These troopers continue to patrol the roadways of New Jersey.⁶⁵

Former state troopers testified that troopers are taught, encouraged and rewarded for racial profiling.⁶⁶ Troopers who recorded the highest arrest figures in a given year had something in common – the overwhelming majority of their arrests were of minority motorists.⁶⁷

⁵⁴ Joe Donohue, *States on I-95 Target Profiling by Their Police*, THE STAR LEDGER (Newark, N.J.), February 26, 1999, at 21.

⁵⁵ See *infra* cases and sources cited notes 56-65, 143-212 and accompanying text.

⁵⁶ *Hearing, supra* note 2, at 54 (Volume 1; April 20, 1999) (statement of Dorothy Cobbs).

⁵⁷ *Id.*

⁵⁸ *Id.* at 54, 56-58.

⁵⁹ *Id.* at 62.

⁶⁰ *Id.*

⁶¹ *Id.* at 65.

⁶² *Id.*

⁶³ *Id.*

⁶⁴ See *id.* at 74-75.

⁶⁵ See *id.*

⁶⁶ Brian Donohue, *Minorities Describe Humiliation by State Police*, THE STAR LEDGER (Newark, N.J.), April 14, 1999, at 17.

⁶⁷ Thomas Zolperi, *Racial Profiling Admitted; But Verniero Finds Most Troopers Fair*, THE RECORD (BERGEN CO., NJ), April 21, 1999, at A01.

According to Attorney General released statistics, the 1997 Trooper of the Year, Francis Burke, made more than seventy arrests between 1997 and 1998, 68% percent of which involved minorities.⁶⁸ Trooper Hogan, who was involved in the Turnpike shooting, was second to Trooper Burke with fifty-eight arrests, of which 86% percent involved minorities.⁶⁹

C. *State Police Employment Practices*

In 1921, the State Police was created as a paramilitary organization.⁷⁰ Forty years passed before the State Police employed the first black trooper, Paul D. McLemore, and fifty-four years before it employed the first female trooper.⁷¹ Former trooper McLemore was a witness at the hearings.⁷² He testified that he suffered years of racial discrimination and harassment.⁷³ He presented examples of flyers that were posted in the barracks and circulated among the troopers.⁷⁴ The flyers refer to Blacks as porch monkeys, coons, and saucer lips.⁷⁵ He painfully recounted other acts and practices which created a hostile work environment.⁷⁶

In 1975 the United States Department of Justice filed a lawsuit against the New Jersey State Police.⁷⁷ The Justice Department charged the State Police with engaging in a pattern and practice of discrimination based upon race, sex, and national origin in all aspects of employment.⁷⁸ At the time the complaint was filed, the State Police employed 1,765 troopers: 13 were Black, 5 were Hispanic and 1 was female.⁷⁹ The Justice Department found that the State Police had no "objective and standardized criteria and procedures for assignments, tenure, promotion and discipline to assure that Black and Spanish-

⁶⁸ See Peter Verniero, *Interim Report of the State Police Review Team Regarding Allegations of Racial Profiling*, available at http://www.state.nj.us/lps/intm_419.pdf (last visited Feb. 11, 2002), at 41-43.

⁶⁹ *Id.*

⁷⁰ *Hearing, supra* note 2, at 20 (April 13, 1999) (statement of Paul McLemore, Esq.).

⁷¹ *Id.* at 19-20.

⁷² *Id.* at 19-42.

⁷³ *Id.*

⁷⁴ *Id.* at 23-25.

⁷⁵ *Id.*

⁷⁶ *Id.* at 19-26.

⁷⁷ See *id.* at 20 (April 27, 1999) (statement of Renee Steinhagen, Esq.).

⁷⁸ *Id.*

⁷⁹ See *id.* at 20-21 (April 13, 1999) (statement of Paul McLemore, Esq.).

surnamed Americans and women are treated fairly and equitably.”⁸⁰ The State

Police entered into a Consent Decree on October 7, 1975.⁸¹ The Consent Decree established minority hiring goals, and provided for monitoring and oversight of the policies and practices of the State Police by the Justice Department.⁸²

On October 19, 1992, (nearly 17 years later) the Consent Decree was dissolved.⁸³ Freed of outside monitoring and oversight by the Justice Department, the State Police reverted to business as usual: minority recruitment declined, minority troopers were subjected to unfair and unequal treatment in the terms and conditions of employment, and racial hostility increased.⁸⁴ The State Police hierarchy arbitrarily and discriminatorily refused to reenlist Black troopers after two or four years of service.⁸⁵ The State Police hierarchy selectively enforced the rules and regulations against minority troopers, creating a personnel history of disciplinary actions that prevented advancement.⁸⁶ The State Police hierarchy systematically refused to consider or promote minority troopers to supervisory positions.⁸⁷

In 1991, Trooper Vincent Bellaran filed a discrimination lawsuit in the Federal District Court against the State Police.⁸⁸ Trooper Bellaran alleged that he had been subjected to disparate treatment and a racially hostile work environment.⁸⁹ The State Attorney General aggressively defended the actions of the State Police.⁹⁰ The litigation continued for almost eight years, ultimately being tried before United States District

⁸⁰ See *id.* at 20 (April 27, 1999) (statement of Renee Steinhagen, Esq.).

⁸¹ United States of America v. State of New Jersey, Civil Action No. ____, Consent Decree filed October 7, 1975; see Regina Waynes Joseph, *Testimony Before The New Jersey Senate Judiciary Committee Special Investigation Into Racial Profiling*, NEW JERSEY LAWYER, THE MAGAZINE, June 2001, at 48.

⁸² Joseph, *supra* note 81, at 48.

⁸³ *Id.*

⁸⁴ See *infra* cases and sources cited notes 85-87 and accompanying text.

⁸⁵ *Hearing, supra* note 2, at 31 (April 27, 1999) (statement of Renee Steinhagen, Esq.).

⁸⁶ *Id.*

⁸⁷ *Id.* See also Charles, Jr. Stile, *Profiling Attributed To Lack Of Diversity Blacks Ask To Testify At Senate Hearing*, THE RECORD (Bergen County, N.J.), March 22, 2001, at A1.

⁸⁸ Bellaran v. Del Tufo, No. 91-04256 (D.N.J. 1993); Matt Ackermann, *State Trooper Who Testified To Profiling Claims Retaliation*, N.J. LAW J., April 19, 1999, at 9.

⁸⁹ Bellaran v. Del Tufo, 31 F.3d 1170 (3d. Cir. 1994) (reversing and remanding the grant of summary judgment by the District Court); see also Nygaard, J. PICS Case No. 94-0992 (not for publication).

⁹⁰ Ackermann, *supra* note 88, at 9.

Court Judge Mary Cooper, without a jury.⁹¹

On March 24, 1998, Judge Cooper rendered the court's decision.⁹² The court found as a matter of fact and law that Trooper Bellaran had: established liability against defendant on both asserted grounds of recovery, that of racial discrimination against him personally, and that of racially hostile work environment as affecting him. The relief which plaintiff seeks includes damages for losses during his period of suspension, losses attributable to the defendant's alleged failure to promote plaintiff in a nondiscriminatory manner, and pain and suffering arising from the racist actions of senior officers and the racially hostile work environment.⁹³

Trooper Bellaran was the first trooper to successfully challenge the institutional racism which exists within the State Police.

While Bellaran's case was pending, now New Jersey Supreme Court Justice and then Attorney General Peter G. Verniero promoted the lieutenant who was accused by Bellaran of creating a hostile work environment, appointing him acting commander of Troop "D" - the troop responsible for patrolling the Turnpike.⁹⁴ In January 1998, that same lieutenant was promoted to the rank of Captain.⁹⁵

On April 23, 1993, minority troopers filed a complaint with the federal Equal Employment Opportunity Commission (EEOC).⁹⁶ The complaint charged a pattern and practice of consistent and systemic racial discrimination within the State Police.⁹⁷ The Office of the Attorney General (then headed by Deborah T. Poritz) vigorously and aggressively defended the actions of the State Police.⁹⁸ The State Police denied the existence of racial discrimination and refused to mediate and resolve the dispute at the administrative stage.⁹⁹

On July 27, 1993, the minority troopers appeared in Washington, D.C. before the United States Congressional Subcommittee on Education, Labor and Civil Rights.¹⁰⁰ They presented evidence of a

⁹¹ *See id.*

⁹² *Id.*

⁹³ *Id.*

⁹⁴ *Hearing, supra* note 2, at 140 (April 27, 1999) (statement of Philip Moran, Esq.).

⁹⁵ *Id.*

⁹⁶ *Id.* (testimony of Renee Steinhagen, Esq.).

⁹⁷ *Id.* at 30.

⁹⁸ *Id.* at 48-50.

⁹⁹ *Id.* at 35-36.

¹⁰⁰ *Eight Troopers Testify to Racial Bias by State Police: Tell House Panel of*

pervasive pattern and practice of racially disparate treatment, of a State Police hierarchy that condoned racially discriminatory policies and practices, and of a State Police hierarchy that tolerated a racially hostile work environment.¹⁰¹ The State Police hierarchy responded to the minority troopers' EEOC complaint with swift retribution.¹⁰² The troopers were penalized in many facets of their employment.¹⁰³ On June 11, 1997, the troopers were constrained to file a lawsuit in the federal district court.¹⁰⁴

On April 20, 1999, Attorney General Verniero issued an Interim Report on racial profiling.¹⁰⁵ At the Caucus' April 27, 1999 hearing, Dr. James Fyfe offered an assessment of the Interim Report.¹⁰⁶ Dr. Fyfe also had testified as an expert in the *Soto* case.¹⁰⁷ Dr. Fyfe stated that the Interim Report's recommendations were inadequate and bound to fail.¹⁰⁸ The recommendations would fail because the Attorney General's findings and recommendations did not acknowledge or address the systemic nature of racial profiling.¹⁰⁹ The recommendations did not hold accountable any member of the State Police above the level of the road trooper¹¹⁰ or contain any mechanism to monitor the job performance of supervisory and management personnel.¹¹¹ Dr. Fyfe warned that the failure to address this leadership issue was "bound to widen the schisms between road troopers and those who lead them."¹¹²

On April 26, 1999 the Justice Department concluded the investigation which it launched in December 1996.¹¹³ Having found sufficient evidence to charge the State Police with violating the civil, rights of minority motorists, the Justice Department authorized the

Retaliation for Federal Suit, THE RECORD, July 28, 1993, at B5.

¹⁰¹ *Id.*

¹⁰² *Hearing, supra* note 2, at 33-34 (April 27, 1999) (statement of Renee Steinhagen, Esq.).

¹⁰³ *See id.*

¹⁰⁴ *Id.* at 26-34.

¹⁰⁵ *See supra* source cited note 68.

¹⁰⁶ *Hearing, supra* note 2, at 154-166, 170-175, 177-190 (April 27, 1999) (statement of Dr. James Fyfe).

¹⁰⁷ *New Jersey v. Soto*, 324 N.J. Super. 66, 74, 78-80 (Law Div. 1996).

¹⁰⁸ *Hearing, supra* note 2, at 161 (April 27, 1999) (statement of Dr. James Fyfe).

¹⁰⁹ *Id.* at 161-162.

¹¹⁰ *Id.* at 165-166.

¹¹¹ *Id.* at 166.

¹¹² *Id.* at 166.

¹¹³ Thomas Zolper, *U.S. Ready to Sue N.J. Over Racial Profiling But Consent Decree May Be Negotiated*, THE RECORD, Apr. 30, 1999, at A1.

filing of a lawsuit.¹¹⁴ The Justice Department and the State of New Jersey are currently involved in negotiations to arrive at a new Consent Decree.¹¹⁵

D. *Caucus Findings*

Based upon testimony at the hearings and other evidence, the Caucus findings include the following:

- Racial profiling and employment discrimination is systemic within the State Police.
- Racial profiling and employment discrimination is condoned, facilitated and rewarded by the hierarchy of the State Police.
- The Office of the Attorney General knew, or should have known, about the severe and pervasive pattern and practice of racial profiling and employment discrimination within the State Police.
- The institutional policies and practices of the State Police have not materially improved since 1975 when the Justice Department found that the State Police had no “objective and standardized criteria and procedures for assignments, tenure, promotions, and discipline to assure that Blacks and Spanish-surnamed Americans and women are treated fairly and equitably.”
- As a result of the failure of the Office of the Attorney General to properly supervise the State Police where issues of race and gender are concerned, the State Police have persisted in violating the civil rights of minority motorists and minority troopers.
- Minority troopers are discriminated against in the terms and conditions of their employment.
- Personnel decisions within the State Police are not based upon

¹¹⁴ *Id.* Instead of filing a lawsuit, the U.S. Justice Department opted to negotiate a consent decree. *Id.* See United States v. New Jersey, No. 99-5970(MLC) (D.N.J. 1999) available at <http://www.state.nj.us/lps/jointapp.htm> (last visited Feb. 12, 2002).

¹¹⁵ See United States of America v. State of New Jersey, Civil Action No. 99-5970, Consent Decree filed December 30, 1999.

measurable objective standards; instead, nepotism, favoritism and discrimination play too significant a role.

- Minority troopers have been punished and penalized for challenging the discriminatory policies and practices of the State Police.
- Substantive and lasting changes will not occur in the external functioning of the State Police, *vis-a-vis* racial profiling, unless and until there is fundamental reform of the internal institutional structure.

E. *Caucus Recommendations*

To correct, remedy and prevent civil rights violations and employment discrimination, and to restore the public's confidence in the State Police, the Caucus recommendations are highlighted as follows:

(The Caucus' comprehensive recommendations are contained in Part III herein.)

- The next Superintendent of the State Police shall be appointed from outside the current ranks of the organization.
- Racial profiling shall be established as a criminal act, classified as a third degree crime.
- There shall be established an independent civilian review board with the power of subpoena to compel evidence and testimony
- There shall be established the Office of Independent Prosecutor.
- The State Police shall immediately enroll in a national accreditation program conducted by the Commission on Accreditation for Law Enforcement Agencies, Inc.
- The intentional tampering with and/or disabling of any road vehicle camera or other monitoring device shall be established as a criminal act, classified as a fourth degree crime.
- Acting under color of state law, ordinances or custom, and willfully

subjecting a person to the deprivation of any constitutional or statutory right based on that person's race, color or national origin shall be established as a criminal act, classified as a third degree crime.

II. THE PUBLIC HEARINGS

A. Racial Profiling: Evidence and Experience

Victims of profiling, former state troopers, law enforcement experts, attorneys, civil rights organizations, community-based organizations, community activists and ordinary citizens painted a clear and distinctive picture of racial profiling by members of the New Jersey State Police.¹¹⁶ The long-term existence of the unconstitutional practice was graphically documented by victims, and valuable insights into the causes, consequences, and cures were offered by experts.¹¹⁷

The practically unanimous opinion of the experts and former troopers was that the practice of racial profiling was institutional in its depth and severity, and stemmed from faulty institutional presumptions about racial stereotypes and criminal conduct.¹¹⁸ The fundamental problems are more in institutional and hierarchical shortcomings than in the individual road troopers.¹¹⁹

Dr. John Lamberth, Chairman of the Department of Psychology at Temple University, presented surveys and statistical data illustrating the frequency with which African-American motorists are stopped for traffic violations along the southern portion of the New Jersey Turnpike.¹²⁰

In addition to statistics showing that African-American motorists on the New Jersey Turnpike are 4.85 times more likely to be stopped than non-minorities, and 16.5 times more likely to be arrested, Dr. Lamberth also shed light on the institutional causes of profiling

¹¹⁶ See *infra* cases and sources cited notes 120-262 and accompanying text; *supra* cases and sources cited notes 56-65 and accompanying text.

¹¹⁷ See *infra* cases and sources cited notes 120-262 and accompanying text; *supra* cases and sources cited notes 56-65 and accompanying text.

¹¹⁸ See *infra* cases and sources cited notes 120-262 and accompanying text.

¹¹⁹ See *infra* cases and sources cited notes 120-262 and accompanying text.

¹²⁰ *Hearing, supra* note 2, at 12-38 (Volume 1; April 20, 1999) (statement of Dr. John Lamberth).

tactics.¹²¹ He testified that racially biased training films are a contributing factor in the behavior pattern of state troopers.¹²²

Dr. Lamberth cited a film by the New Mexico and New Jersey State Police departments developed as part of the United States Drug Enforcement Administration's "*Operation Pipeline*" program to train troopers in the techniques of how to search motor vehicles and how to secure the motorists' consent.¹²³ Of the thirty "offenders" arrested by police in the film, twenty-nine were depicted as Hispanics.¹²⁴ In another training film, Jamaican men—all young and with long hair—were stopped and searched in connection with drug-related offenses.¹²⁵

Former trooper Ken Ruff recalled seeing a training tape in which an African-American male was conservatively dressed.¹²⁶ The former trooper remembered being told by his instructor: "They can look like any other ordinary black guy."¹²⁷

The message conveyed by such training tapes is ugly and wrong: All minority motorists fit the "profile" of a drug offender.

William Buckman, an attorney who represented one of the defendants in the landmark *Soto* case, testified that racial bias was institutional, inculcated and perpetuated by the training, instilling tendencies to conduct race-based stops.¹²⁸

Mr. Buckman cited the Drug Interdiction Training Unit of the State Police.¹²⁹ This clandestine law enforcement unit is involved in intercepting drug traffic on the New Jersey Turnpike and other roadways.¹³⁰ Mr. Buckman noted that in the *Soto* case, the court found that this unit's training techniques targeted African-Americans and Hispanics and was, therefore, misguided and offensive.¹³¹

A former state trooper explained why many troopers park their cruisers perpendicular to the Turnpike with headlights on.¹³² He said

¹²¹ *Id.* at 18, 25-27.

¹²² *Id.* at 27-28.

¹²³ *Id.*

¹²⁴ *Id.*

¹²⁵ *Id.*

¹²⁶ *Id.* at 72 (April 13, 1999) (statement of Kenneth Ruff).

¹²⁷ *Id.* at 72.

¹²⁸ *Id.* at 178-188 (statement of William Buckman, Esq.).

¹²⁹ *Id.* at 179.

¹³⁰ *Id.*

¹³¹ *Id.* at 179.

¹³² *Id.* at 76-78 (statement of Kenneth Ruff).

troopers park in this manner not to better observe the road and traffic patterns, but rather to enable them to identify motorists by race.¹³³ He stated that troopers were trained to target cars with out-of-state license plates (particularly from Virginia, New York or Florida) or with rental plates, containing dark-faced occupants.¹³⁴

There was testimony that the use of racial epithets and other derogatory terms was widespread and institutionally tolerated.¹³⁵ Using terms such as "johnnies," "a carload of coal," "a carload of Democrats," "mutts," and "a good stop," a road trooper would radio ahead to alert the barracks and other troopers that a stop involving minorities was imminent.¹³⁶

Another cynical training concept disclosed during the hearings was "criminal programming."¹³⁷ Former trooper Ruff testified that the phrase was used by the State Police to encourage troopers, on a predetermined basis, to aggressively target blacks, Hispanics and other minorities as criminal suspects.¹³⁸

One of the most common complaints voiced during the hearings was of abusive, unconstitutional searches being made incident to a profiling stop.¹³⁹ The United States Constitution, the New Jersey State Constitution and even the State Police Standard Operating Procedures provide that no citizen should be subjected to a search unless there is probable cause.¹⁴⁰

Dozens of witnesses came forward with stories of horror, shame, anger and degradation emanating from profiled stops.¹⁴¹ Indeed, often the stop marked only the starting point of what, for many, turned into a shocking and surreal experience.¹⁴² The Caucus was stunned by the testimony of some of the victims.

One of the many disturbing examples of abuse and intimidation

¹³³ *Id.*

¹³⁴ *Id.*

¹³⁵ *Id.* at 78-79 (April 13, 1999) (statement of Glen Johnson).

¹³⁶ *Id.*

¹³⁷ *Id.* at 106 (April 27, 1999) (statement of Kenneth Ruff).

¹³⁸ *Id.*

¹³⁹ See *infra* cases and sources cited notes 143-212 and accompanying text, *supra* cases and sources cited notes 56-65 and accompanying text.

¹⁴⁰ U.S. CONST. amend. IV; N.J. CONST. art. 1, paragraph 7.

¹⁴¹ See *infra* cases and sources cited notes 143-212 and accompanying text; *supra* cases and sources cited notes 56-65 and accompanying text.

¹⁴² See *infra* cases and sources cited notes 143-212 and accompanying text; *supra* cases and sources cited notes 56-65 and accompanying text.

was the experience of Mr. Felix Morka, a Nigerian, and Ms. Laila Mayer, an Egyptian.¹⁴³ Mr. Morka is an attorney who is associated with a Human Rights Organization based in Washington, D.C., and Ms. Mayer is a member of the New York State Bar and is employed by the Association of the Bar of New York City.¹⁴⁴ In January 1996 at approximately 2:35 A.M., Mr. Morka and Ms. Mayer were driving northbound on the New Jersey Turnpike.¹⁴⁵ They were pulled over by a state police cruiser with flashing lights.¹⁴⁶ Two troopers exited the vehicle.¹⁴⁷ One trooper approached Mr. Morka, the driver.¹⁴⁸ The other trooper approached Ms. Mayer's side of the vehicle.¹⁴⁹

Mr. Morka was asked to present his driver's license, but became the victim of abuse for apparently not removing it from his pocket fast enough for the impatient trooper.¹⁵⁰ Mr. Morka testified that the trooper reached through the open window, grabbed him by the shirt, screamed directly in his face and nearly choked him while pulling him upward against a fastened seat belt.¹⁵¹ The trooper then opened the door, pulled him out of his seat, and thrust him against the vehicle while shouting orders and insults.¹⁵²

On the other side of the car, frightened and shaken, Ms. Mayer opened her door.¹⁵³ She was immediately confronted by the other trooper, who grabbed her and placed the barrel of his service revolver against her head.¹⁵⁴ The troopers continued their assault.¹⁵⁵ Mr. Morka was eventually given a ticket for speeding and told to "move on."¹⁵⁶ The State Troopers returned to their cruiser laughing. Feeling violated and humiliated, Mr. Morka and Ms. Mayer proceeded directly to the nearest

¹⁴³ *Hearing, supra* note 2, at 189 (Volume 1; April 20, 1999) (statement of Felix Morka); *id.* at 199 (statement of Laila Mayer).

¹⁴⁴ *Id.* at 189 (statement of Felix Morka); *id.* at 199 (statement of Laila Mayer).

¹⁴⁵ *Id.* at 189-190 (statement of Felix Morka); *id.* at 199-200 (statement of Laila Mayer).

¹⁴⁶ *Id.* at 189-190 (statement of Felix Morka); *id.* at 199-200 (statement of Laila Mayer).

¹⁴⁷ *Id.* at 189-190 (Volume 1 April 20, 1999) (statement of Felix Morka); *id.* at 199-200 (Volume 1 April 20, 1999) (statement of Laila Mayer).

¹⁴⁸ *Id.* at 190 (statement of Felix Morka).

¹⁴⁹ *Id.* at 199-200 (statement of Laila Mayer).

¹⁵⁰ *Id.* at 190 (statement of Felix Morka).

¹⁵¹ *Id.* at 191-192.

¹⁵² *Id.* at 192-193.

¹⁵³ *Id.* at 200-201 (statement of Laila Mayer).

¹⁵⁴ *Id.*

¹⁵⁵ *Id.* at 200-202.

¹⁵⁶ *Id.* at 193 (statement of Felix Morka).

State Police barracks to file a formal complaint.¹⁵⁷ At the Cranbury Barracks, they were met by Trooper Singletary.¹⁵⁸ Trooper Singletary initially refused to listen to the details of their ordeal, but Mr. Morka and Ms. Mayer insisted that they be permitted to file a complaint.¹⁵⁹ Trooper Singletary refused to provide them with paper to file their complaint.¹⁶⁰ Instead, he gave them two small yellow post-its. Trooper Singletary instructed them to write their names and addresses on the post-its.¹⁶¹ He then informed them that the State Police would contact them.¹⁶² Mr. Morka and Ms. Mayer insisted that Trooper Singletary provide them with paper.¹⁶³ Trooper Singletary finally relented and provided them with a couple of sheets of blank paper.¹⁶⁴ They eventually completed their report and left the barracks.¹⁶⁵ To date, Mr. Morka and Ms. Mayer have not been appropriately contacted by the State Police, nor informed about the investigation or outcome of their complaints.¹⁶⁶

Mr. Morka testified that one week before he was brutalized by the New Jersey State Police, he testified before the United States Congress on the issue of human rights abuses.¹⁶⁷ Little did he know that he would soon be the victim of human rights abuses at the hand of the New Jersey State Police.¹⁶⁸

Mr. Morka and Ms. Mayer have since filed a civil rights lawsuit against the New Jersey State Police.¹⁶⁹ The state troopers that abused and assaulted them continue to patrol New Jersey roadways.¹⁷⁰

In early 1998, Mr. Earl Henderson, a Willingboro resident, was traveling northbound on the New Jersey Turnpike with his two children, ages 7 and 12.¹⁷¹ Mr. Henderson slowed to find his way onto the ramp

¹⁵⁷ *Id.* at 196.

¹⁵⁸ *Id.*

¹⁵⁹ *Id.*

¹⁶⁰ *Id.*

¹⁶¹ *Id.*

¹⁶² *Id.* at 197.

¹⁶³ *Id.*

¹⁶⁴ *Id.*

¹⁶⁵ *Id.*

¹⁶⁶ *Id.*

¹⁶⁷ *Id.* at 198.

¹⁶⁸ *Id.* at 198-199.

¹⁶⁹ *Id.* at 186-188 (statement of Neil Mullin, Esq.).

¹⁷⁰ *Id.* at 216.

¹⁷¹ *Id.* at 52-53 (April 13, 1999) (statement of Earl Henderson).

for the interchange near Jamesburg.¹⁷² A new resident to South Jersey, Mr. Henderson was unfamiliar with this section of the Turnpike.¹⁷³

As he slowed, he saw a state trooper who was involved with a disabled tractor trailer.¹⁷⁴ Before proceeding, he signaled the trooper to confirm that he was taking the correct ramp.¹⁷⁵ Soon after signaling Mr. Henderson to proceed, the trooper stopped him because he had actually gone onto a State Police ramp.¹⁷⁶

In emotional testimony, Mr. Henderson recalled how the state trooper, with his hand placed on his gun, verbally abused, taunted and mocked him in the presence of his children.¹⁷⁷ Theodore, his twelve year old son, asked his father how the police could talk to him like that since he (Mr. Henderson) had done nothing wrong.¹⁷⁸ Mr. Henderson told Theodore not to say anything, for fear of being shot.¹⁷⁹ Mr. Henderson testified that the way the trooper continually patted his gun made him fear for the safety of his children and himself.¹⁸⁰

When young Theodore was asked to testify, his voice trembled as he related how he felt seeing his father humiliated.¹⁸¹ The terror caused by the state trooper was indelibly imprinted upon the mind of this young person.¹⁸²

The next day, Mr. Henderson contacted Governor Whitman's Office to lodge a complaint.¹⁸³ Governor Whitman's Office directed him to the Attorney General's Office.¹⁸⁴ The Attorney General's Office directed him to the State Police.¹⁸⁵ Mr. Henderson stated, "It was like a shell game. They kept passing the buck, passing the buck, passing the buck."¹⁸⁶

The Office of the Superintendent of the State Police finally

¹⁷² *Id.* at 53.

¹⁷³ *Id.* at 52, 56.

¹⁷⁴ *Id.* at 53.

¹⁷⁵ *Id.*

¹⁷⁶ *Id.* at 53-54.

¹⁷⁷ *Id.* at 54-56.

¹⁷⁸ *Id.* at 55.

¹⁷⁹ *Id.*

¹⁸⁰ *Id.* at 54-56.

¹⁸¹ *Id.* at 60-62.

¹⁸² *Id.*

¹⁸³ *Id.* at 57.

¹⁸⁴ *Id.*

¹⁸⁵ *Id.*

¹⁸⁶ *Id.*

informed Mr. Henderson that someone would contact him from the Internal Affairs Division.¹⁸⁷

Mr. Henderson testified that a state trooper came to his home.¹⁸⁸ Mr. Henderson was interrogated by the trooper and subjected to a series of questions concerning his personal life.¹⁸⁹ The trooper accused Mr. Henderson of filing the complaint as a ploy to avoid paying the ticket.¹⁹⁰ Sometime thereafter, Mr. Henderson was informed by letter that his charges against the State Police were unfounded.¹⁹¹ The state troopers who abused and humiliated Mr. Henderson continue to patrol New Jersey roadways.¹⁹²

In early December 1998, Reverend Edward Blue and his wife were traveling east on I-195, observing the posted speed limit of fifty-five miles per hour.¹⁹³ After passing Exit 16, Reverend Blue observed a state police cruiser which crossed the median to follow them.¹⁹⁴ The trooper pulled them over and ran a check on Reverend Blue's motor vehicle documents.¹⁹⁵ After returning to Reverend Blue's automobile, the trooper gave no explanation for the stop, only advising Reverend Blue to watch his speed in the future.¹⁹⁶

Reverend Blue and his wife were the victims of a second profiling stop while traveling on I-195.¹⁹⁷ Reverend Blue recalled seeing two cars and a state police cruiser stopped on the right shoulder of the west bound lanes.¹⁹⁸ After slowing to 40 miles per hour and entering the left lane to give maximum space to the cars on the right shoulder, Reverend Blue soon found himself being followed closely by another state trooper.¹⁹⁹ Although Reverend Blue was not speeding, he was issued a ticket for traveling seventy-five miles per hour in a fifty-five mile per hour zone.²⁰⁰

¹⁸⁷ *Id.*

¹⁸⁸ *Id.*

¹⁸⁹ *Id.*

¹⁹⁰ *Id.* at 59.

¹⁹¹ *Id.* at 62-63.

¹⁹² *Id.* at 59-60.

¹⁹³ *Id.* at 112 (statement of Rev. Edward Blue).

¹⁹⁴ *Id.*

¹⁹⁵ *Id.* at 112-113.

¹⁹⁶ *Id.* at 113.

¹⁹⁷ *Id.* at 113-115.

¹⁹⁸ *Id.* at 114.

¹⁹⁹ *Id.* at 115.

²⁰⁰ *Id.*

Dr. Elmo Randolph, a forty-two-year-old dentist from Bergen County, testified that he was stopped by state troopers on the New Jersey Turnpike 50-100 times over a four-year period.²⁰¹ Dr. Randolph indicated that during these years—1985 through 1989—he drove a BMW.²⁰² Troopers rarely gave him a reason for pulling him over and detaining him.²⁰³ Dr. Randolph was frequently interrogated about his destination, occupation, and the ownership of the car he was driving.²⁰⁴ He testified that troopers would bluntly ask whether he possessed weapons or drugs.²⁰⁵ Sometimes the troopers would lean their bodies into Dr. Randolph's car for an "informal search."²⁰⁶ Sometimes they would search his medical bag, the trunk and glove compartments.²⁰⁷ Dr. Randolph was never issued a ticket or charged with an offense.²⁰⁸

The evidence and experiences presented during the hearings paint a disturbing picture of improper and abusive race-based behavior by some state troopers.²⁰⁹ Where minority motorists are concerned, there are too many instances in which the "serve and protect" credo of law enforcement warps into "harass and abuse."²¹⁰ Since all minority motorists—mothers, fathers, housewives, ministers, doctors—are guilty of "D.W.B." (Driving While Black), they are ready targets and victims of racial profiling stops.²¹¹ The evidence presented during the hearings also established that the unconstitutional practice of racial profiling is institutionally rooted, facilitated and rewarded and that its elimination requires fundamental institutional reform.²¹²

B. *Employment Practices: Evidence and Experience*

The testimony presented at the hearings showed that the racial profiling to which minority motorists are subjected on the highways is an extension of the racially hostile work environment that minority

²⁰¹ *Id.* at 46 (statement of Dr. Elmo Randolph).

²⁰² *Id.* at 42.

²⁰³ *Id.* at 42-46.

²⁰⁴ *Id.*

²⁰⁵ *Id.* at 43.

²⁰⁶ *Id.* at 44.

²⁰⁷ *Id.*

²⁰⁸ *Id.* at 46.

²⁰⁹ See *supra* cases and sources cited notes 120-208 and accompanying text.

²¹⁰ See *supra* cases and sources cited notes 120-208 and accompanying text.

²¹¹ See *supra* cases and sources cited notes 120-208 and accompanying text.

²¹² See *supra* cases and sources cited notes 120-138 and accompanying text.

troopers are subjected to in their barracks.²¹³

Former state troopers described the State Police as an organization in chaos, managed by fear, intimidation, and racial discrimination.²¹⁴ Troopers who complain about the discriminatory practices are disciplined, disrespected, denied re-enlistment and labeled by the hierarchy as an "enemy of the State."²¹⁵

Trooper Arnie Abrams protested racial profiling and discrimination.²¹⁶ His locker was broken into and his uniform destroyed.²¹⁷

Trooper Sergeant James Smith protested racial profiling and discrimination.²¹⁸ He was confronted by a man wearing a Ku Klux Klan outfit while attending an affirmative action training session.²¹⁹

Trooper Vincent Bellaran protested racial profiling and discrimination.²²⁰ He was ordered by a State Police lieutenant at the Woodbridge Station to strip to his socks and underwear.²²¹ Trooper Bellaran was driven by the State Police to his home and left on his door step wearing only socks and a borrowed pair of gym shorts.²²²

Trooper Samuel Davis protested racial profiling and discrimination.²²³ Initially he was not reenlisted.²²⁴ It was only after he retained an attorney that he was reenlisted.²²⁵ The Attorney General's Office undertook an investigation of Trooper Davis' charges of

²¹³ See *supra* cases and sources cited notes 120-208 and accompanying text; *infra* cases and sources cited notes 216-258 and accompanying text.

²¹⁴ *Hearings, supra* note 2, at 21-23, 25 (April 27, 1999) (statement of Renee Steinhagen, Esq.); *id.* at 118-120 (statement of Philip Moran, Esq.).

²¹⁵ See *infra* cases and sources cited notes 216-258 and accompanying text.

²¹⁶ *Hearings, supra* note 2, at 23 (April 27, 1999) (statement of Renee Steinhagen, Esq.).

²¹⁷ *Id.*

²¹⁸ *Id.* at 25.

²¹⁹ *Id.*

²²⁰ *Id.* at 118-120 (statement of Philip Moran, Esq.).

²²¹ See *id.* at 121.

²²² See *id.*

²²³ *Id.* at 21-22 (April 27, 1999) (statement of Renee Steinhagen, Esq.). Vic Cooper, a colleague of Trooper Davis, described an incident that colorfully depicts the environment of hate that Davis was forced to endure on a routine basis. *Id.* at 37. "Sammy Davis, back in the '90's, was trying to make a stop and troopers were honking their horns and preventing to help him. He, ultimately, chased the driver, while troopers laughed because he was in civilian clothes, because he was coming from court." *Id.* (quoting Victor Cooper).

²²⁴ *Id.* at 21-22

²²⁵ *Id.*

discrimination.²²⁶ However, the Attorney General's Office subsequently turned the investigation over to the State Police.²²⁷ Now the State Police is investigating Trooper Davis.²²⁸

The record is replete with stories by minority state troopers about how they were punished, harassed and denied employment because they refused to remain silent in the face of dastardly acts of racial discrimination.²²⁹

Minority state troopers who are currently employed by the State Police were forbidden to testify at the Caucus hearings, or to publicly discuss profiling and discriminatory employment practices.²³⁰ Their silence was compelled by State Police regulation number 19.²³¹ Although the troopers could not testify, their attorneys gave valuable testimony about these issues.²³²

Renee Steinhagen, Esq., is the Executive Director of the Public Interest Law Center of New Jersey.²³³ Ms. Steinhagen testified that the Center is modestly attempting to undertake the issues and causes which, since the abolishment of the Office of the Public Advocate, might otherwise go unaddressed.²³⁴ Ms. Steinhagen is also associated with the Lawyers Committee for Civil Rights.²³⁵ Together with David Harris, Esq. and Andrea Schwartz, Esq., she represents the thirteen minority state troopers in a lawsuit alleging systemic discrimination within the State Police.²³⁶ Ms. Steinhagen testified that the minority troopers were

²²⁶ *Id.* at 22

²²⁷ *Id.*

²²⁸ *Id.*

²²⁹ See *infra* cases and sources cited notes 230-241 and accompanying text.

²³⁰ *Id.* at 66 (Volume 2; April 20, 1999) (statement of Delacey Davis). Commenting on ways in which progress could be furthered, Davis recommended, "[L]ift the gag order from the mouths of the 13 Black troopers who want to publicly testify about discrimination within the State Police ranks. That has not [yet] happened. The State Police has not allowed them to speak up and they want to come forward." *Id.*

²³¹ *Black Troopers Seek Right to Speak at Legislative Hearings* THE RECORD (Bergen County, N.J.), April 17, 1999, at A10. Regulation 19 allows "[t]he state police [to] effectively silence plaintiffs and other troopers who have been considering whether to come forward with information." *Id.* State troopers are only allowed to talk if they obtain an order from a judge allowing them to do so or by "seeking special permission for a waiver of Regulation 19, which would be reviewed by the Attorney General's Office." *Id.*

²³² See *infra* cases and sources cited notes 234-256 and accompanying text.

²³³ *Hearing, supra* note 2, at 17-18 (April 27, 1999) (statement of Renee Steinhagen, Esq.).

²³⁴ *Id.* at 18.

²³⁵ *Id.*

²³⁶ *Id.* at 18-19.

discriminated against in all terms and conditions of their employment, from hiring to retention to promotion.²³⁷ From 1993 to 1998, of the five hundred and eighty-nine (589) troopers who were hired, only twenty-four or 4.1% were black, only twenty or 3.4% Hispanic; two of the Hispanics were female.²³⁸ Of the 150 troopers in the 118th class, approximately 24% were related to other troopers.²³⁹ These numbers clearly establish the nepotism against which black troopers have long complained.²⁴⁰ Moreover, these numbers illustrate the negative impact which nepotism has on minority hiring.²⁴¹

Witnesses testified that the State Police, through discriminatory policies and practices, systemically fail to promote minority troopers.²⁴²

Mr. Philip Moran, Esq., who represents Trooper Vincent Bellaran, testified that although there are promotions within the State Police, there is no promotional system.²⁴³ He testified that a group of troop and station commanders get together and decide who they want to promote.²⁴⁴ There is no examination or objective criteria.²⁴⁵ The commanders review the qualifications of all eligible troopers, then rank the trooper based on how they "feel" about the trooper's performance in his or her job.²⁴⁶ After the commanders rank the troopers, they then fill in numbers grading them in each of five categories.²⁴⁷ In short, the commanders decide who they want to promote and then they enter the number grades to justify their decision.²⁴⁸ The promotion system is a backroom, good-old-boys network that overwhelmingly favors and benefits white male troopers.²⁴⁹ Given the State Police "system of promotion," there is little mystery about why minority troopers are rarely promoted.²⁵⁰

The testimony further revealed that minority state troopers are

²³⁷ *Id.* at 30-32.

²³⁸ *Id.* at 28.

²³⁹ *Id.* at 28-29.

²⁴⁰ *Id.*

²⁴¹ *Id.*

²⁴² See *infra* cases and sources cited notes 243-258 and accompanying text.

²⁴³ *Hearings, supra* note 2, at 126-128 (statement of Philip Moran, Esq.).

²⁴⁴ *Id.*

²⁴⁵ *Id.*

²⁴⁶ *Id.* at 127.

²⁴⁷ *Id.*

²⁴⁸ *Id.* at 127-28.

²⁴⁹ See *id.* at 126-28.

²⁵⁰ See *id.*

routinely denied positions which have direct supervisory control over sworn personnel.²⁵¹ The minority state troopers are routinely denied positions which involve policy-making functions.²⁵² Minority state troopers are routinely denied requests for job transfers and assignments to other units and locations that would lead to promotional opportunity.²⁵³

Mr. Moran represents a large number of non-minority officers in disciplinary actions.²⁵⁴ He testified that minority troopers are disciplined more severely than white troopers who have committed more serious infractions.²⁵⁵ The longest suspensions ever imposed by the State Police were against minority troopers Vincent Bellaran for eighteen months, and Henry Johnson for fourteen months.²⁵⁶ Non-minority troopers have never been sanctioned so severely.²⁵⁷

Suspensions imposed on non-minority troopers for shoplifting, theft and improper sexual conduct convictions have been for far shorter periods than the suspensions imposed on Vincent Bellaran and Henry Johnson for complaining of racial discrimination.²⁵⁸

In 1975, the Justice Department found that the State Police had no "objective and standardize criteria and procedures for assignments, tenure, promotion, and discipline to assure that Blacks, and Spanish surnamed Americans and women are treated fairly and equitably."²⁵⁹ The evidence is clear that in 1999, the Justice Department's finding is still largely true—objective and standardized criteria and procedures are largely non-existent.²⁶⁰ The evidence also is clear that since the 1975 Consent Decree was dissolved in 1992, ending monitoring and oversight by the Justice Department, the State Police has reverted to many of its old ways.²⁶¹

As was the case with racial profiling, the evidence presented during the hearings established that the employment discrimination and

²⁵¹ See *id.* at 120-29.

²⁵² See *id.*

²⁵³ See *id.*

²⁵⁴ *Id.* at 128.

²⁵⁵ *Id.* at 128-29.

²⁵⁶ *Id.* at 129.

²⁵⁷ *Id.*

²⁵⁸ *Id.*

²⁵⁹ See case cited *supra* note 80.

²⁶⁰ See cases and sources cited *supra* notes 77-87 and accompanying text.

²⁶¹ See cases and sources cited *supra* notes 83-87 and accompanying text.

hostile work environment suffered by minority troopers is institutionally rooted, facilitated and rewarded, and that its elimination requires fundamental institutional reform.²⁶²

III. Caucus Recommendations

1. The next Superintendent of the New Jersey State Police shall be appointed from outside the current ranks of the organization.

The Caucus recognizes that the changes prescribed in this report can only be effectuated by new leadership. Given the Division's history of systemic institutional racial discrimination, the next Superintendent should have no current affiliation with the State Police.²⁶³ There are serious doubts as to whether someone who has been entrenched in the existing culture has the capacity to become the agent of change that the Division of State Police so desperately needs.

The reforms recommended are institutional in scope and will no doubt be met with mixed reactions among both the hierarchy and the rank and file. While many will welcome changes that end racial profiling and discriminatory practices in the workplace, many others will resist the reforms and defend the unacceptable status quo. The new superintendent should be able to undertake his/her difficult job, free from the pressure of existing personal or professional relationships.

The next Superintendent must have an extensive background in law enforcement as well as proven executive management and leadership skills.

The appointment of someone from outside the current ranks is crucial to regaining the public's confidence in the New Jersey State

²⁶² See cases and sources cited *supra* notes 216-258 and accompanying text.

²⁶³ The current Superintendent of the State Police is Joseph J. Santiago. *Santiago Wins State Police Post; Thanks Governor For Commitment Through Uproar*, THE RECORD (Bergen County, N.J.), March 8, 2002, at A1. Santiago, who was Gov. Jim McGreevey's first choice to head the State Police, is the first Superintendent ever to never have served as a State Police Trooper and the first Hispanic ever to be appointed to the post. *Id.*; *McGreevey Picks State Police Chief; Grumbling Heard in Barracks*, THE RECORD (Bergen County, N.J.), January 12, 2002, at A1; *Santiago Must Do Without Trappings; AG Disallows Rank, Badge, Uniform*, THE RECORD (Bergen County, N.J.), March 30, 2002, at A1. Prior to his appointment as Superintendent, Santiago had served for six years as Director of the Newark Police Department. *Santiago Wins State Police Post; Thanks Governor For Commitment Through Uproar*, THE RECORD (Bergen County, N.J.), March 8, 2002, at A1; *McGreevey Picks State Police Chief; Grumbling Heard in Barracks*, THE RECORD (Bergen County, N.J.), January 12, 2002, at A1.

Police.

2. The Attorney General's complete and dismal failure to monitor the State Police where issues of race and gender discrimination are concerned requires the establishment of an independent civilian review board with the power of subpoena.

The independent civilian review board shall be composed as follows:

- a) the board shall consist of fifteen members who shall be appointed by the Governor with the advice and consent of the Senate;
- b) eight of the members shall be appointed to four year terms, seven shall be appointed to two year terms, and all shall serve until the appointment of their successors;
- c) the appointments shall reflect the diversity of the population and include three persons who are experienced in law enforcement, but not currently employed in law enforcement;
- d) the remaining members shall include representatives involved in civil rights, community and business leaders, and representatives from the academic community; and
- e) no member shall hold any elected or appointed public office or employment.

The board's authority and duties shall include the following:

- a) establish a toll-free hotline for members of the public to report complaints of trooper abuse of power;
- b) review all citizen complaints of trooper abuse of power and determine whether an investigation of a complaint is warranted;
- c) subpoena power to compel the production of documents, witnesses and testimony;
- d) conduct public hearings on the issue of individual trooper misconduct;
- e) advise all complainants in writing as to the findings of the board on allegations of abuse of power;
- f) advise complainants whether a complaint against a trooper was sustained, not sustained, unfounded or whether the trooper was exonerated. A finding of sustained shall mean that the board's

review and investigation disclosed sufficient evidence to prove the complaint or allegation; a finding of not sustained shall mean the board's review and investigation failed to disclose sufficient evidence to clearly prove or disprove the allegation; a finding of exonerated shall mean the board's review and investigation did occur but the trooper's actions were justified, legal and proper; and a finding of unfounded shall mean the board's review and investigation found the alleged event did not occur and there was insufficient information to fully review and investigate the allegation; and

- g) refer any citizen complaint alleging criminal conduct by the trooper or use of force which resulted in serious bodily injury or death to the Office of the Independent Prosecutor for investigation and/or prosecution.

3. The Attorney General shall rescind the June 1999 State Police Promotions.

The Attorney General's complete and dismal failure to monitor and supervise the State Police where issues of race and gender discrimination are concerned, is patently evidenced by the recent promotion lists formulated on the basis of racially discriminatory policies and practices. The Caucus believes the lists are tainted as a result of the State Police hierarchy's systemic discrimination against minority employees. The lists cause irreparable damage to the minority troopers' prospects of advancement. The promotions must be immediately rescinded.

4. The Attorney General shall review all civil rights complaints made by citizens.

The Attorney General shall immediately review all citizen complaints or any other complaints charging any trooper with civil rights violations including, but not limited to, racial profiling and/or creating or participating in a racially hostile work environment. The Attorney General shall within thirty days report his findings to the standing Joint Oversight Committee.

5. The Office of Independent Prosecutor shall be established.

The Attorney General's complete and dismal failure to monitor and supervise the State Police where issues of race and gender discrimination are concerned, requires the establishment of the Office of the Independent Prosecutor. This office shall be established in, but not of, the Department of the Treasury. The Independent Prosecutor's jurisdiction shall include, but not be limited to, the investigation and prosecution of both civil and criminal civil rights violations involving any member of the State Police.

6. The Legislature shall establish racial profiling as a criminal act.

Racial profiling shall be established as a criminal act, classified as a third degree crime punishable by a term of imprisonment of three to five years, a fine up to \$15,000, or both. Racial profiling is defined as any action taken by a law enforcement official incident to a motor vehicle stop that is based upon the race or ethnicity of the motorist.

7. The Legislature shall establish a new cause of action for civil rights criminal prosecutions.

Many persons detailed incidents of abuse of power which constituted violations of their civil rights by state troopers. New Jersey statutes are silent on the imposition of criminal penalties against persons which violate civil rights. Victims seeking a judicial remedy must rely on the provisions contained in federal law. This recommendation seeks to strengthen the state's ability to prosecute civil rights violations perpetrated by law enforcement personnel.

A person who, acting under color of state law, ordinance or custom, willfully subjects another person to the deprivation of any constitutional or statutory right based on that person's race, color or national origin, would be guilty of a crime of the third degree, punishable by a term of imprisonment of three to five years, a fine up to \$15,000, or both. If bodily injury results from the offense, the person would be guilty of a crime of the second degree, punishable by a term of imprisonment of five to ten years, a fine up to \$150,000, or both. If the offense involves murder, manslaughter, kidnapping, aggravated

sexual assault, or any attempt to commit these offenses, the person would be guilty of a crime of the first degree, punishable by a term of imprisonment of ten to twenty years, a fine up to \$200,000, or both.

8. The Legislature shall establish a new cause of action for any state trooper who tampers with any monitoring device.

Any state trooper who intentionally tampers with and/or disables any camera or other monitoring devices mounted in a patrol vehicle shall be guilty of a crime of the fourth degree, punishable by a term of imprisonment up to eighteen months, a fine up to \$10,000, or both.

9. The State Police shall engage an independent entity to conduct a comprehensive review of the drug interdiction training programs.

Court evidence and testimony at the Caucus' public hearings revealed that State Police training programs such as the Drug Interdiction Training Unit and the federal Drug Enforcement Agency training film "*Operation Pipeline*," foster and promote racial profiling. These law enforcement training programs often utilize materials containing offensive, inflammatory and degrading depictions of minorities. Such materials foster intolerance and insensitivity within the rank and file and negatively influence the manner in which troopers interface with minority citizens.

The Attorney General and the Superintendent of the Division of State Police shall utilize the law enforcement expertise of nationally recognized law enforcement organizations such as the Police Foundation, the National Organization of Black Law Enforcement Executives (NOBLE) and the International Association of Chiefs of Police, to assess the following as it relates to the New Jersey State Police training programs:

- a) cultural sensitivity;
- b) law enforcement standards used to interdict drugs;
- c) skill and diversity of training staff;
- d) constitutionality of the methods taught to troopers;
- e) application and appropriateness of the training to community policing versus road duty;
- f) universality of the training program and its materials;
- g) continuing education and enhancement of the training

program; and

- h) permanent measurement, assessment and effectiveness of the training program.

The findings which result from the assessment and review of the State Police training program shall be forwarded to the standing Joint Oversight Committee, United States Department of Justice and the Drug Enforcement Agency.

10. The State Police shall require troopers to submit a written report each time a trooper conducts a motor vehicle stop, search, and/or arrest.

The written report must include, but not be limited to, the following information:

- a) race, sex, ethnicity and age of the individual(s) involved in the stop, search and/or arrest;
- b) time and location of the stop, search and/or arrest;
- c) reason for the stop, search and/or arrest;
- d) statutory violation(s);
- e) judicial outcome of any violation(s);
- f) any disciplinary charges and/or action(s) taken against the trooper as a result of the stop, search and/or arrest;
- g) specify with particularity the type of arrest made in order to determine if the troopers are making discretionary charges of resisting arrest and obstruction of justice;
- h) names, badge numbers, identification of any and all troopers involved in the incident, including supervisors; and
- i) names of all witnesses to the incident.

11. The State Police shall require troopers to detail information in a stop report whenever the trooper utilizes force while conducting a motor vehicle stop, search and/or arrest.

The report shall include, but not be limited to, the following information:

- a) race, sex, ethnicity and age of the individual(s) involved in the use of force;
- b) time and location of the use of force;

- c) reason for use of force;
- d) detailed description of the force utilized;
- e) names, badge numbers, identification of any and all troopers involved in the incident, including supervisors;
- f) description of any injuries and/or medical treatment received by the individual;
- g) names of all witnesses to the incident;
- h) statutory violation(s);
- i) disposition of complaint of any violation(s); and
- j) any disciplinary charges and/or action(s) taken against the trooper as a result of the use of force.

12. The State Police shall establish a computer database for each trooper and for every motor vehicle stop, search, and/or arrest made by the trooper.

Each trooper's database must include, but not be limited to, the following information:

- a) race, sex, ethnicity and age of the individual(s) stopped, searched, arrested and/or subject to utilization of force by the trooper;
- b) time and location of the incident;
- c) citizen complaints;
- d) disciplinary actions;
- e) all training, re-assignments, transfers, and mandatory counseling;
- f) detailed description of any civil administrative charges filed against the State, arising from the conduct of the trooper; and
- g) detailed description of all criminal and/or civil actions filed against the trooper involving criminal acts, domestic violence and/or civil rights violations.

13. The State Police shall institute an Early Warning System

The system shall identify and correct the actions and attitudes of troopers who exhibit a propensity to engage in traffic stops, searches, arrests and/or utilization of force based upon a motorist's racial or ethnic background. The early warning system shall be developed by

utilizing the information contained in the computer database, as well as the development of a statistical model to identify the behavior problems of a trooper. The State Police must expedite the means by which it acknowledges, examines and redresses the complaints leveled against its personnel. The establishment of an early warning system can assist the State Police in identifying and correcting negative trends in behavior and conduct. Employing an early warning system does not replace disciplinary action.

14. The State Police shall train all State Police executive management, troop commanders, bureau chiefs, and section supervisors in the use of the Early Warning System in the areas of:

- a) personnel management;
- b) standard operating procedures;
- c) command accountability;
- d) performance assessment;
- e) performance counseling;
- f) disciplinary procedures, and;
- g) employee assistance programs.

15. The information contained in the State Police database for any trooper shall be made available to any person who challenges a motor vehicle stop based upon racial profiling.

The information sought may only be obtained by court order.

16. The State Police shall maintain and on a quarterly basis shall publish, a record of motor vehicle stops, searches and arrests made by state troopers.

The report shall include, but not be limited to, the following information:

- a) race, sex, ethnicity and age of the individual(s) stopped, searched and/or arrested;
- b) reasons for the stop and/or arrest, including the alleged traffic violation;
- c) if a search was conducted, the legal basis for the search

including whether consent was obtained and whether there was probable cause for the search;

- d) if a search was conducted, the nature of the search (i.e. pat down, frisk) and any seizure resulting from the search;
- e) whether any oral warning or written citation was issued or a person was taken into custody or arrested;
- f) judicial outcome of any violation(s);
- g) names, badge numbers, identification of any and all troopers involved in stop, search or arrest incident, including supervisors;
- h) names of all witnesses to the stop, search or arrest; and
- i) whether any disciplinary charges and/or action(s) was taken against any trooper as a result of the stop, search or arrest.

17. The State Police shall maintain for a period of not less than 10 years all audio and video recordings of traffic stops.

18. Legislative Oversight

- a) There shall be established in the Legislature, a standing Joint Senate and Assembly Oversight Committee. The committee shall consist of eight members: three members of the Senate to be appointed by the President of the Senate and three members of the General Assembly to be appointed by the Speaker of the General Assembly; and two members of the Legislative Black and Latino Caucus. Of the members appointed by the Senate President and the Assembly Speaker, no more than two members from each house shall represent the same political party.
- b) The committee shall be responsible for:
 - (i) investigating whether the use of racial profiling continues as a basis for stopping, detaining and/or searching motorists;
 - (ii) determining the level of minority appointments within the State Police ranks;
 - (iii) reviewing and recommending legislative remedies to the findings received from the Attorney General on the number of civilian complaints and charges alleged against any trooper;

- (iv) reviewing and recommending legislative remedies to the findings of any comprehensive review of the drug interdiction training programs used by the State Police; and
- (v) reviewing and recommending legislative remedies to the annual reports of the Affirmative Action Unit of the State Police.

19. The State Police shall require troopers to properly identify themselves during traffic stops.

During the hearings, motorists testified that they were unable to ascertain the name of the trooper involved in the traffic stops. In addition, the motorist stated that on some occasions the trooper would not release their name to the motorist. The Superintendent of the State Police shall require all troopers to:

- a) wear legible name tags including the first initial and the last name on their uniform;
- b) wear his or her assigned State Police identification number in a conspicuous location on their hat, and the hat shall be worn at all times, except when in their vehicles;
- c) verbally identify themselves with their name and rank. An exception would apply for members of the State Police working undercover or in a situation where it would be inappropriate to reveal their name and rank;
- d) inform the motorist as to the reason for the stop; and
- e) provide motorists who want to protest any treatment received from a trooper with complete information as to how to lodge a formal complaint.

20. The State Police shall implement an upgraded psychological screening system for new hires. The psychological screening shall be conducted by one psychologist selected on a rotating basis from a pool of four such psychologists which includes at least one male psychologist, one female psychologist, and one black or Hispanic psychologist. The psychological screening system shall be used as a criterion for promotion.

21. The State Police shall require sensitivity/diversity training for all employees.

An independent, external diversity management program shall develop and monitor the administration of a sensitivity/diversity training program. Successful completion of the program shall serve as a part of a trooper's second year and fourth year re-enlistment requirements. Participation in any continuing sensitivity and diversity programs offered by the State Police shall be mandated for all employees of the State Police.

22. The State Police shall immediately enroll in a national accreditation program.

The State Police shall enroll in the national accreditation program conducted by the Commission on Accreditation for Law Enforcement Agencies, Inc. (CALEA). This organization shall require that the State Police participate in an extensive assessment of their current policies to ensure that those policies comply with nationally recognized standards for recruitment, promotion, personnel and disciplinary practices.

The CALEA accredits state police agencies in the states of Illinois, Connecticut, Rhode Island, Missouri, North Dakota, Washington, Florida, Georgia, North Carolina, South Carolina, Virginia, Delaware, Pennsylvania, Massachusetts, and Ohio.

Other organizations available to assist the State Police are the National Organization of Black Law Enforcement Executives (NOBLE), the Police Foundation and the International Association of Chiefs of Police.

23. The Attorney General shall, in conjunction with a national accreditation program, develop a system for evaluating the performance of the New Jersey State Police.

24. The State Police shall conduct annual performance evaluations of troopers, supervisors and executive management.

- a) all performance evaluations shall be in writing, and clearly reflect the factors used in the evaluation process;
- b) all employees of the State Police shall have annual performance evaluations. Any deficiencies must be noted in writing with a corrective plan delineated. No employee may

be dismissed or terminated at his/her two-year review unless a corrective plan has been issued and not satisfied. At an employee's four-year review, he/she may not be dismissed or terminated until the deficiency is specified in writing and a hearing has been conducted.

- c) all management personnel shall be evaluated annually on their ability to supervise, monitor, deter and administer sanctions against the troopers they supervise;
- d) all troopers shall be evaluated on their ability to perform their duties in accordance with State Police Standard Operating Procedures (SOP), state and federal law and constitutional protections;
- e) performance evaluations shall be considered as one factor in awarding promotions;
- f) all candidates shall be evaluated on the basis of his or her service record and complaint history;
- g) the evaluation process shall permit a grievance procedure for troopers to contest their performance evaluations;
- h) objective criteria shall be established for evaluations and promotions; and
- i) a trooper shall be entitled to a written and specific description of the basis for a denial of re-enlistment.

25. The State Police shall establish a written disciplinary code which includes, but is not limited to, the following guidelines:

- a) defined violations with appropriate sanctions for each violation;
- b) disciplinary sanctions shall be fairly and impartially administered;
- c) disciplinary code must be distributed to each employee;
- d) assignment or transfer of troopers shall not be used as an administrative sanction;
- e) performance evaluations which recommend additional training in law enforcement shall not be used as an administrative sanction;
- f) any employee requiring remedial counseling shall be subject to further disciplinary action if he/she fails to fully participate in that counseling; and

- g) any employee requiring remedial counseling or subject to disciplinary action shall have such information entered into his/her personnel file.

26. A conviction, adjudication or finding of a violation of a person's civil rights by a State Police employee, whether criminal, civil or departmental, shall result in automatic termination of the employee.

27. The State Police shall identify in a published and distributed manual, every employment position in the agency along with a job description and specific qualifications, including any special skills necessary for the job. The State Police shall post all positions that require special skills along with the job description and qualifications. No specialist positions may be created without first identifying the position in writing and posting the position along with its job description and qualifications.

28. Every trooper shall be guaranteed the constitutional right to disclose information and disseminate documents regarding civil rights violations including, but not limited to, sexual harassment, employment discrimination and profiling, without prior notice, review or approval by the State Police. State Police Regulation number 19, which prohibits employees from disclosing information about State Police operations shall be abolished.

29. The State Police shall eliminate the four-year college degree as a criterion for hiring; higher education requirements shall be limited to serving as factor for promotion only.

The United States Justice Department found that the four-year college degree requirement was not job related with respect to road troopers. Therefore, the degree requirement should not be used as a qualification for hiring. The 1975 consent decree specifically prohibited the four-year college requirement. Soon after the consent decree was dissolved, the State Police re-instituted the four-year college requirement.

A four-year college degree shall be utilized as a criteria for promotion because it is job related. However, the four-year college

requirement shall not be utilized as a requirement for hiring.

30. The State Police shall develop promotional examinations with objective criteria.

- a) the State Police shall require all troopers to submit a formal application in order to take promotional examinations;
- b) the promotional examinations shall consists of written and oral parts;
- c) all promotions must come from a promotion list. If an employee is in a provisional or temporary position for more than six months, a promotional exam must be offered for the position; and
- d) promotional lists should expire within a time frame of two years;

31. The State Police shall post all available in-service training programs.

- a) Each trooper shall be required to submit a written application to participate in any inservice program. If the application is rejected, the reason for the rejection shall be made in writing and placed in the trooper's personnel file. The trooper shall have the right to grieve the rejection. The application shall be received at a central location and shall be stamped as to the date and time of receipt. The application shall be placed in the trooper's personnel file. A copy of the receipted application shall be provided to the trooper, upon request.
- b) The State Police shall provide all troopers the opportunity to participate in in-service training and/or other programs on a first-come, first-served basis.

32. The State Police shall establish and implement an Affirmative Action Plan.

In order to assure that the State Police reflects the diversity of the state, the Division must establish and implement a comprehensive affirmative action plan. The Attorney General should create a special Affirmative Action Unit within the Equal Employment

Opportunity/Affirmative Action Bureau in the Division of the State Police and this new unit shall report directly to the Attorney General. This unit shall strive to achieve the affirmative action goals for the State Police.

- a) the Superintendent, in consultation with the Attorney General, shall be required to develop, adopt and periodically revise an affirmative action plan for the Division;
- b) the plan shall be required to achieve a minimum goal of 25 percent minority and 10 percent non-minority female of the State Police training academy classes;
- c) the plan shall include the goals, timetables and supporting documentation to measure and evaluate the goals and timetables;
- d) failure to achieve said goals and timetables shall require the Affirmative Action Unit to assess the reasons for not achieving said goals and to report the appropriate corrective actions to the standing joint Senate and Assembly Oversight Committee;
- e) and a report of the Affirmative Action Unit shall be presented annually to the Governor and the Legislature.