

CONFIDENTIAL

INTERVIEW
of
Major Joseph Brennan
for the
SENATE JUDICIARY COMMITTEE

February 8, 2001
2:00 p.m.
Committee Room 14
State House Annex
Trenton, New Jersey

PRESENT AT INTERVIEW:

Scott Louis Weber, Esq. (Special Counsel to the Committee)
Albert Porroni, Esq. (Legislative Counsel, Office of Legislative Services)
James R. Adolph, Esq. (Deputy Counsel to the Committee, Office of Legislative Services)
Robert Pitkofsky (Rutgers Legislative Fellow, Office of Legislative Services)
Jo Astrid Glading, Esq. (Democratic Counsel to the Committee)
Douglas Wheeler, Esq. (Democratic Counsel to the Committee)

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New Jersey State Police

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Allison Accurso, Esq.
Assistant Attorney General

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MR. SCOTT LOUIS WEBER, Esq.: Good afternoon, everyone.

Major, let me first introduce myself. My name is Scott Lewis Weber. I'm an attorney at Latham and Watkins in Newark, New Jersey. And Latham and Watkins, as well as Michael Chertoff, has been selected as special counsel to the Senate Judiciary Committee in its investigation into allegations into racial profiling in the New Jersey State Police.

Before we swear you in, I just want to advise you of my authority to conduct the interview today.

And you are represented by counsel Allison Accurso from the Attorney General's Office.

By motion dated January 29, 2001, the Senate Judiciary Committee authorized, among other things, Michael Chertoff and such of his aides and associates to take testimony, interview such persons, and gather such documents in furtherance of this Committee's investigation and inquiry into the issue of racial profiling and the circumstances pertaining thereto.

It was also further resolved that we have the "authority" to administer oaths on behalf of the Committee to obtain sworn testimony as we deem advisable.

Before I swear you under oath, I would just ask that everyone in the room identify themselves. And we can start with Ms. Accurso.

ASSISTANT ATTORNEY GENERAL ALLISON ACCURSO:
Allison Accurso, Assistant Attorney General from the Division of Law.

MAJOR JOSEPH BRENNAN: Joseph Brennan.

ALBERT PORRONI: Albert Porroni, Executive Director of the Office of Legislative Services.

D A. WHEELER: Douglas Wheeler. I'm Assistant Counsel with the Senate Democratic Office.

JO ASTRID GLADING: [unclear] Counsel with the Senate Democratic Office.

AMES R. ADOLF: [unclear] e Office of Legislative Services.

TKOFSKY: Robert Pitkofsky. I'm with the Office of [unclear]

MR. WEBER: And Scott Weber from Latham and Watkins.

Do you prefer that I call you Major or Joseph?

MAJOR BRENNAN: Doesn't matter.

MR. WEBER: Okay.

(Oath administered)

Thank you, Major.

First off, thank you for voluntarily appearing today. On behalf of the Senate Judiciary Committee, we do appreciate you making yourself available for us to talk to you about, among other things, the issue of racial profiling.

And just to give you a sense as to what is going to occur today, we are going to take this time to review the documents that were submitted to us, based on documents that were submitted to us, because here are several copies of each document. And as you can see, at the bottom, there's multiple copies of the interim report that was submitted to us as a bulk

of the pile.

Ms. Glading and Mr. Wheeler may also have questions for you during the course of today's interview.

And the interview is being tape recorded. A transcript could be made from the tape recording.

Major Brennan, if we could just start with an education history and then your history of employment, please.

MAJOR BRENNAN: I have a bachelor's degree and master's degree in criminal justice, master's degree in public administration.

MR. WEBER: Where did you get the master's degrees from?

MAJOR BRENNAN: City University in New York. John Jay College of Criminal Justice.

MR. WEBER: Okay. So you have a master's in criminal justice and a master's in public policy?

MAJOR BRENNAN: Public administration.

MR. WEBER: When did you receive those master's degrees?

MAJOR BRENNAN: I believe the criminal justice was 1979, and I believe the public administration was 1983, in and around those years.

MR. WEBER: And you received both masters's from John Jay?

MAJOR BRENNAN: Yes.

MR. WEBER: Did you go to the master's program for your master's in criminal justice straight from college?

MAJOR BRENNAN: There was about a year delay.

MR. WEBER: And where did you graduate from college?

MAJOR BRENNAN: Dickinson College in Carlisle, Pennsylvania.

MR. WEBER: What did you do the year in between your graduation from Dickinson College and your enrollment in John Jay?

MAJOR BRENNAN: I worked, if I recall-- I worked as a lifeguard in Coney Island, New York and then worked for security for Macy's.

MR. WEBER: What did you do after you received your master's in criminal justice in 1979?

MAJOR BRENNAN: Well, let me go back. I started in the State Police in January of 1977.

MR. WEBER: Oh, okay.

MAJOR BRENNAN: So I went-- It was only a period of time, and I began my graduate work shortly after becoming a trooper.

MR. WEBER: How did that work? Did you have to take a sabbatical from being a trooper, or did you take your master's at night?

MAJOR BRENNAN: No, they had dual track. It was a -- the law enforcement-focused institution. So you could go during the day or in the evening. So depending on the shifts you were working, you could catch the classes.

MR. WEBER: Okay. So you were simultaneously a trooper with the New Jersey State Police, as well as a graduate student at John Jay.

MAJOR BRENNAN: Yes.

MR. WEBER: When you started with the State Police in January of 1977, is that when you started with the academy, or is that when you graduated from the academy?

MAJOR BRENNAN: That is when I started the academy.

MR. WEBER: And when did you graduate from the academy?

MAJOR BRENNAN: May of 1977.

MR. WEBER: You became a road trooper thereafter?

MAJOR BRENNAN: Yes.

MR. WEBER: How long were you a road trooper?

MAJOR BRENNAN: Until October of 1980, I believe. I also didn't complete the education. I have a law degree from Seton Hall.

MR. WEBER: Oh, okay.

When did you receive your J.D.?

MAJOR BRENNAN: Nineteen hundred, eighty-seven.

MR. WEBER: Were you a night law student?

MAJOR BRENNAN: Yes.

MR. WEBER: Does that complete your education, the B.A. from Dickinson, the two masters's from John Jay, and the J.D. from Seton Hall?

MAJOR BRENNAN: Yes.

MR. WEBER: Then let's go back to your career at the New Jersey State Police. You graduate from the academy in May of 1977, you're a road trooper from 1977 to October of 1980. What was your next position then with the State Police?

MAJOR BRENNAN: I was assigned to the academy at Sea Girt.

MR. WEBER: In what capacity?

MAJOR BRENNAN: As an instructor.

MR. WEBER: Was there any given discipline that you were responsible for -- instruction or--

MAJOR BRENNAN: Management courses, social science, basic recruit training, a variety of programs.

MR. WEBER: How long did you remain in that position as an instructor in the academy at Sea Girt?

MAJOR BRENNAN: From 1980 until 1986.

MR. WEBER: Did the courses that you were involved in change at all, or were you primarily responsible for the same grouping of courses?

MAJOR BRENNAN: Well, I was primarily assigned to the same area -- social science. There were a multitude of different courses with progressive developments in law enforcement that I would be assigned to work during the course of that time.

MR. WEBER: The courses that you were involved in-- Well, let me step back for a second. The course work that you were involved in-- Did you develop courses? Did you teach courses? Did you do both?

MAJOR BRENNAN: Yes, they were courses that were developed. They were courses that had lesson plans that you would be required to teach, but I also developed courses.

MR. WEBER: And were these courses for cadettes in the academy, for individuals who were already troopers?

MAJOR BRENNAN: The courses I developed were for advanced training.

MR. WEBER: The courses you developed were for advanced training.

MAJOR BRENNAN: Yes.

MR. WEBER: How about the courses that were already developed that you taught?

MAJOR BRENNAN: Basic supervision, police supervision, officer survival.

MR. WEBER: Were those for advanced training also, or were those for cadettes?

MAJOR BRENNAN: Both.

MR. WEBER: For both.

MAJOR BRENNAN: Yes.

MR. WEBER: So the courses you developed were only for advanced training, and that would be for individuals who were already troopers, correct?

MAJOR BRENNAN: Yes.

MR. WEBER: The courses that were already developed that you taught could have been for either cadettes or for individuals who were already troopers and were seeking advanced training.

MAJOR BRENNAN: Yes.

MR. WEBER: Did any of the courses that you either developed or taught or in any way were involved with address the issue of racial profiling?

MAJOR BRENNAN: No.

MR. WEBER: Did they address the issue of race, as it pertained to either stops or searches and seizures?

MAJOR BRENNAN: Not during the time that I was there from 1980 to 1986, no.

MR. WEBER: Did they, at some later time?

MAJOR BRENNAN: I was the-- Jumping ahead, I was the commandant at the academy from 1997 to, I guess, January -- the end of January of last year -- 2000.

MR. WEBER: And during that period of time, you had courses that addressed the issue of racial profiling, as well as the issue of race as it pertained

to stops and--

MAJOR BRENNAN: Yes.

MR. WEBER: --searches and seizures. Okay. We'll get to that in a little bit, but I want to continue through--

MAJOR BRENNAN: I'd like to point out--

MR. WEBER: Sure.

MAJOR BRENNAN: --specifically the prohibitions against that.

MR. WEBER: Specifically the prohibitions against what?

MAJOR BRENNAN: Racial profiling and--

MR. WEBER: And?

MAJOR BRENNAN: Racial profiling.

MR. WEBER: Okay. Let's go back, because I want to continue to track your career at the State Police.

From-- We're now talking about from 1980 to 1986, as a period of time in which you taught courses at the State Police, both courses that you developed, as well as preexisting courses. What then occurred in 1986 that changed your responsibilities at the State Police?

MAJOR BRENNAN: I was transferred to Division headquarters to the Labor Relations Unit in West Trenton.

MR. WEBER: And when in 1986 did that occur?

MAJOR BRENNAN: I can't recall the month.

MR. WEBER: Early '96, mid-'96 -- even a season?

MAJOR BRENNAN: I honestly can't--

MR. WEBER: Fall or summer?

MAJOR BRENNAN: If I looked at my personnel record -- I guess mid-

'96 -- '86.

(someone sneezes)

MR. WEBER: Bless you.

Had you put in a request for a transfer? How did this result?

MAJOR BRENNAN: Yes, I requested a transfer.

(someone sneezes)

MR. WEBER: Bless you.

MAJOR BRENNAN: It was a specialist job posting. I was nearing the completion of my law degree, and I was interested in employment law. And I sought out this assignment.

MR. WEBER: When you say there was a specialist job posted, what do you mean by that?

MAJOR BRENNAN: According to contract requirements, when the Division fills a position defined as a specialist job, that is a job for a trooper other than a general road duty trooper. There is a contractual requirement to post the opening notifying the members that there is a potential vacancy and to solicit resumés. It applies criteria and parameters for who would be eligible to take the job.

MR. WEBER: What was your rank in 1986, just before you -- your transfer request was honored?

MAJOR BRENNAN: I believe, at the time, I was a Trooper II.

MR. WEBER: And then when you received the transfer to then go to West Trenton to the Division headquarters -- the Labor Relations Unit, what was your rank?

MAJOR BRENNAN: Trooper II.

MR. WEBER: It stayed as Trooper II?

MAJOR BRENNAN: Yes.

MR. WEBER: Did you interview-- Did you have to interview for that job?

MAJOR BRENNAN: I don't believe there was an interview. I had to submit a resumé and a statement of interest in the position, but I don't recall being interviewed.

MR. WEBER: And then how long did you remain in that position, from mid-1986 until when?

MAJOR BRENNAN: Well, shortly thereafter, just for a continuum, I-- When I finished law school, I left the State Police for approximately six weeks, and then I returned. I went to work for a law firm in Newark and returned. But I didn't return to that position in the State Police. I went back into the Labor Relations Unit.

MR. WEBER: You enjoyed the practice of law that much, huh?

MAJOR BRENNAN: Yes.

MR. WEBER: Okay. So let me just-- Let me step back for a second.

You received your law degree from Seton Hall in 1987. Was it in May -- around that time?

MAJOR BRENNAN: I believe the degree was conferred in May. I graduated early and took the Bar early, so I was-- It was sometime around January or February that I left to take -- to go to the law firm.

MR. WEBER: Of '87?

MAJOR BRENNAN: Yes.

MR. WEBER: Okay. Well, my law firm is in Newark, but they were not

in Newark back then, so I know you didn't have a bad experience with my law firm.

So you were six weeks in private practice, and then you went back to the State Police.

MAJOR BRENNAN: Yes.

MR. WEBER: Let's go back for a moment. I'd like you to describe for me, please, what your responsibilities were during the period of time you were at the Labor Relations Unit from mid-1986 until the time that you quit to go into private practice.

MAJOR BRENNAN: Depending on the civilian and sworn employees in the Division, there could be as many as -- depending on the time frame we're discussing, 11 different collective bargaining agreements covering employees within the Division of State Police. So you had a variety of different grievance systems. And we processed the grievances from all, whether they be civilian employees represented by CWA or Local 195. We processed grievances that were filed by troopers, sergeants. We dealt with the confidential employee issues. We would be asked for guidance on certain contract-related employment matters. We dealt with the Governor's Office of Employee Relations on contract negotiations. Basically, the public sector labor law was a lot of what we touched upon.

MR. WEBER: At that point in time, were you aware of there being any, for lack of a better phrase, labor or employment related issues in regards to minorities, either recruiting efforts, the number of minorities within the New Jersey State Police ranks, anything to that effect?

MAJOR BRENNAN: Well, in 1986, I-- If I had the opportunity to go

back and look at our records and files, my instinct is to say there had to be one or two, but I can't directly recall it being the bulk of the issues we were dealing with or there being significant cases dealing with differential treatment of employees within the Division. That was our scope. I don't recall, at that time, in 1986, there, as far as minorities go--

MR. WEBER: Let's step back from the period of time that you become a road trooper until the period of time that you leave the New Jersey State Police to go into private practice. Do you remember there being any issues concerning racial profiling or any sort of, you know, despairing treatment of minorities by the State Police?

MAJOR BRENNAN: Not during that period.

MR. WEBER: Okay. Were you aware of SOP F-3 -- the existence of SOP F-3 at any time from when you became a road trooper until you left for private practice?

MAJOR BRENNAN: I am aware of it now, but I can tell you honestly I don't have a specific recollection of operating under SOP F-3 at that time. If-- I have to go back and look at it. I operated under the procedures as I knew them and was supervised to operate under.

MR. WEBER: When you taught courses, or when you developed courses at the academy, did any of those courses concern instruction on standard operating procedures?

MAJOR BRENNAN: In the ones that specifically addressed the areas that I dealt with, yes.

MR. WEBER: Was SOP F-3 one of the standard operating procedures that would have been addressed by the areas that you were responsible for?

MAJOR BRENNAN: No, sir.

MR. WEBER: Do you know when SOP F-3 was put into place?

MAJOR BRENNAN: No, I don't.

MR. WEBER: But you do, as you sit here today, have an understanding of the requirements of SOP F-3?

MAJOR BRENNAN: The stopping procedures. Yes.

MR. WEBER: And what are the requirements, as they pertain to the race of a motorist?

MAJOR BRENNAN: The-- I--

MR. WEBER: This isn't a quiz. Just as far as you can remember it.

MAJOR BRENNAN: Well, as far as I can remember, what SOP F-3 says today-- F-3 is the stopping procedures, and it echos the prohibitions in SOP F-55, that race will not be used as a factor -- cannot be used as a factor, not only to select a vehicle to stop, but in performing any of the designated police procedures set forth in SOP F-55. F-3-- Wherever those police procedures cross into F-3, it's again reiterated in that SOP, that race shall not be a factor.

MR. WEBER: Okay. What is-- You mentioned SOP F-55. What does SOP F-55 provide?

MAJOR BRENNAN: F-55 is the SOP that covers searches and seizures.

MR. WEBER: Do you have any relationship to an R.J. Brennan, who was a--

MAJOR BRENNAN: No, sir.

MR. WEBER: --major and acting deputy superintendent in the late 1970s?

MAJOR BRENNAN: No.

MR. WEBER: Well, we've already gotten rid of two documents.

MS. GLADING: He's another Irish cop.

MAJOR BRENNAN: I was from Brooklyn, he was from Manasquan or Hoboken. (laughter)

MR. WEBER: All right. Let's go back. I want to continue to go through your employment history here. Before we get back to State Police, you don't mind me asking why did you leave private practice after six weeks, aside from the obvious reasons.

MAJOR BRENNAN: I would just-- I'd be glad to discuss that with you outside in the hallway, but I think for the purposes of a public record that we're establishing under oath--

MR. WEBER: Okay.

MAJOR BRENNAN: I basically have an objection to putting that on in this very serious proceeding. But I would be happy -- more than happy to go out to lunch and explain that to you or tell you out in the hall.

MR. WEBER: We can do that off the record.

And I appreciate your candor on that.

You come back then into the State Police in 1987 around March or April, I guess.

MAJOR BRENNAN: Yes, sir.

MR. WEBER: To what unit did you come back to?

MAJOR BRENNAN: I returned to the Labor Relations Unit.

MR. WEBER: Same position?

MAJOR BRENNAN: Yes.

MR. WEBER: Was it difficult for you to get back into State Police after

you had resigned?

MAJOR BRENNAN: No.

MR. WEBER: Are there any procedures that were in place back at that time on standard way of dealing with individuals who left the State Police on their own accord and then decided that they wanted to come back?

MAJOR BRENNAN: I don't-- I don't know.

MR. WEBER: So you come back to the Labor Relations Unit in April of 1987. The same responsibilities that you had before?

MAJOR BRENNAN: Yes.

MR. WEBER: How long did you then remain as a Trooper II in that position?

MAJOR BRENNAN: As far as the promotion goes, I'm not sure when I got promoted to Trooper I. It would have been nine and a half years after May of 1977. So it was sometime possibly right around there that I got promoted to the next rank, which is Trooper I. It's a fairly standard promotion.

Now, this-- My experience from the Labor Relation Unit, without having the paperwork in front of me, gets somewhat confusing, but if I may, I'll explain.

MR. WEBER: Please.

MAJOR BRENNAN: That was a unit within a very small bureau called the Division Services Bureau. It was the only unit, at the time, in that bureau, which, on paper, sat in the Division staff section, which was supervised by a major. So we were directly supervised by a major.

There came a time, as-- In 1986 and 1987, the State Police was involved

in litigation over the mandatory retirement age. Fifty-five was our age that had been struck down by a Supreme Court decision -- *Crump v. Wyoming*. And then the Attorney General issued an initial opinion that the statute required troopers to retire at 55 -- was invalid. So it created a very-- It created a lot of problems for the State Police. And I was assigned to a newly created unit called Physical Standards Coordination Unit. That was still within the Division Services Bureau and pretty much worked hand in hand with Labor Relations.

MR. WEBER: And when were you assigned to that?

MAJOR BRENNAN: This would have all transpired probably in 19 -- the late 1987 to late 1988.

MS. GLADING: To clarify, did that deal with physical standards for troopers--

MAJOR BRENNAN: Yes.

MS. GLADING: --as a bonafide occupational--

MAJOR BRENNAN: Exactly.

MS. GLADING: --qualification? Okay.

MR. WEBER: And what were your responsibilities in connection with that assignment?

MAJOR BRENNAN: Work with the Attorney General's Office, who had been involved in litigation that -- in the district in New Jersey and then went up to the third circuit, brought by the EEOC, to-- The Division was attempting to establish a BFOQ based on expert opinion. So I basically worked within that area to facilitate the policy requirements, the policy changes, to assist the litigation that was ongoing during that time.

MR. WEBER: And how long were you assigned to the Physical Standards Coordination Unit?

MAJOR BRENNAN: Probably-- I don't know that that assignment is that important, because at the next point, I ended up taking over the bureau that was there, so they were still under the Physical Standards Coordination Unit once the litigation was successful and we established the BFOQ -- transformed into a unit that ensured that the fitness standards were applied fairly across the board, and still do to this day. And I ended up stepping into a supervisor role over the labor relations unit and the, at that time -- the Physical Standards Coordination Unit sometime late 1990 or 1991.

MR. WEBER: And that was as the head of the Division Services Bureau?

MAJOR BRENNAN: Yes. At one point, I was the assistant bureau chief and then the bureau chief.

MR. WEBER: And how long did you remain in the bureau chief position?

MAJOR BRENNAN: Until-- I'm going to estimate either mid to late '93 or early 1994.

MR. WEBER: Okay. When you were-- Well, what was your next position?

MAJOR BRENNAN: I went to the Deputy Superintendent's Office as an administrative assistant to Lieutenant Colonel Roy Bloom.

MR. WEBER: Roy?

MAJOR BRENNAN: Bloom, B-L-O-O-M.

MR. WEBER: Okay. And that was sometime in late 1993?

MAJOR BRENNAN: Or early 1994, I believe.

MR. WEBER: During your tenure at the Division Services Bureau, either when you were in the Labor Relations Unit, in the Standards Coordination Unit, or when you were the assistant bureau chief for the bureau chief, did you have any involvement with the issue of racial profiling?

MAJOR BRENNAN: Yes.

MR. WEBER: Okay. When was that?

MAJOR BRENNAN: It was-- I can't recall the years, but it was basically in response to the Channel 9, Joe Collins series that appeared on the New Jersey State Police.

MR. WEBER: Okay. As best as you can recall, when did that occur?

MAJOR BRENNAN: I believe it was in 1989.

MR. WEBER: September of '89. Does that sound about right?

MAJOR BRENNAN: That could be.

MR. WEBER: How did that WOR series -- Channel 9 series-- How did you then become involved in racial profiling as a result of that?

MAJOR BRENNAN: I was directed by Colonel Pagano to represent the Division's position at an ICLE seminar on the fourth amendment.

MR. WEBER: Now, when you say at an ICLE seminar, is this an ICLE seminar for the New Jersey State Police, or an ICLE for lawyers.

MAJOR BRENNAN: ICLE for lawyers.

MR. WEBER: For lawyers. Okay. And what was the State Police's position that Colonel Pagano asked you explain or present at this ICLE seminar?

MAJOR BRENNAN: To the best of my recollection, it was that we do

not profile, we do not target people based on race, that we were very concerned about the perception that the State Police were stopping people based on race, and sought assistance in educating the public and educating the troopers, as to both sides, as to eradicating or working against what appeared to be a negative perception of what had been happening. I also was instructed to and presented and worked off of the Comprehensive Drug Reform Act and explained the mission of the State Police as best I could right out of the legislative history and the preamble to the Comprehensive Drug Reform Act.

MR. WEBER: Did you have any involvement in either the drafting or the policies behind the Comprehensive Drug Reform Act of 1987?

MAJOR BRENNAN: No, sir.

MR. WEBER: Okay.

A couple of questions about this ICLE presentation. First off, and no disrespect, but why did Colonel Pagano ask you to make this presentation at the ICLE seminar?

MAJOR BRENNAN: I don't know. I would assume because I am an attorney, because I had been an instructor, and because he wanted someone to represent the Division of State Police at the seminar.

MR. WEBER: My next question is, why was there a need to present the State Police's position on racial profiling at an ICLE seminar? I mean, that seems to be an odd venue to sort of get the message out.

MAJOR BRENNAN: You would have to ask Colonel Pagano that question.

MR. WEBER: Had you received any assignments from Colonel Pagano prior to this assignment?

MAJOR BRENNAN: I don't know that they were direct assignments. Working where I was in the Division Services Bureau, I was in close contact with the Superintendent and Deputy Superintendent on a variety of issues. The Physical Standards and the creation of the fitness program and the 55 retirement age that we have now -- Colonel Pagano was significantly involved with. So I met with him quite a bit on those things, along with the chain of command, to work on those issues. But my best recollection, with regard to profiling issues, which the State Police, at the time, were very sensitive to-- This was something that he had asked that we respond to.

MR. WEBER: Okay. The State Police was sensitive to it as a result of the Channel 9 presentation, correct?

MAJOR BRENNAN: I believe so, yes.

MR. WEBER: Okay. There wasn't a sensitivity to the issue of racial profiling before it came to light in the Channel 9 report, correct?

MAJOR BRENNAN: Not that I can testify to.

MR. WEBER: Okay. Did you have any discussions with Colonel Pagano about racial profiling in connection with either this Channel 9 presentation or his request that you present at the ICLE seminar?

MAJOR BRENNAN: I don't believe it was anything at length. He basically told me he wanted me to represent the position he was representing to the Division and that-- I believe I submitted an outline to him. I don't recall. I probably would have of what I intended to cover.

MR. WEBER: You submitted a written outline to him.

MAJOR BRENNAN: Possibly.

MR. WEBER: Did he provide you with any written materials on the

subject?

MAJOR BRENNAN: Well, there had been ongoing -- or editorials where, I believe, the State Police responded in the law journal in a variety of publications that his position had been made clear several times. And I believe I used that to work off of.

MR. WEBER: Ms. Accurso, I will follow-up with a letter request, but-- And maybe Ms. Glading knows-- I don't remember seeing any materials in the Attorney General's Office production that related to either the ICLE presentation that Major Brennan gave, or any internal correspondence or New Jersey State Police written responses to the information that was presented in the Channel 9 report. So I'll follow-up. I know I've got a couple of outstanding requests. I'll put them all in a letter to you.

ASSISTANT ATTORNEY GENERAL ACCURSO: If you would, put them in a letter. I am aware of some documents in the repository.

MR. WEBER: Okay. If they're there, and you can identify them by Bates number-- As I've said before, I went through a lot of the documents, but didn't go through all 95,000 pages.

MS. GLADING: I recall some ICLE documents -- ICLE related correspondence about not conducting a seminar in-- That was in -- during the Florio administration, because it involved Slocum.

ASSISTANT ATTORNEY GENERAL ACCURSO: The documents I'm thinking of are -- related to the WOR series.

MR. WEBER: Okay.

So the first time that you dealt with the issue, or were confronted with the issue, of racial profiling during the time period we've been discussing,

which is, you know, from road trooper up until and including the time that you were deputy super -- I'm sorry bureau chief for the Division of Services Bureau-- This is the first time you dealt with the issue of racial profiling or were confronted with it, correct?

MAJOR BRENNAN: I don't think that's a fair way to categorize it. It was the first time I was directly involved in my State Police duties with dealing with it.

MR. WEBER: Okay. In what other ways were you confronted with the issue of racial profiling?

MAJOR BRENNAN: As I mentioned, there was general awareness of this issue as a result of the Channel 9 articles in the paper, responses to the Channel 9 -- etc. So as someone who would read the newspapers and watch T.V., I watched these with interest and stay involved in my organization.

MR. WEBER: Well, is it fair to say then that the first time you were confronted with the issue of racial profiling, not even necessarily in an official capacity -- but was when the WOR television program was aired?

MAJOR BRENNAN: Yes.

MR. WEBER: Okay. No other experiences with, or concerns about, racial profiling, either in your capacity as a member of the New Jersey State Police or even as a private citizen prior to that? Is that correct?

MAJOR BRENNAN: Not that I can recall at this time.

MR. WEBER: Okay. You went to the ICLE seminar and did your presentation. How was it perceived?

MAJOR BRENNAN: I-- You'd have to ask the audience.

MR. WEBER: Well, was, you know-- Did you get any questions? Was

there any hostility?

MAJOR BRENNAN: I think the group was extremely polite.

MR. WEBER: What happened then after you gave this presentation at the ICLE seminar? Did you have to give it again for any other groups or organizations?

MAJOR BRENNAN: No. No.

MR. WEBER: When was your next involvement then with the issue of racial profiling.

MAJOR BRENNAN: Once being assigned as the administrative assistant to Lieutenant Colonel Bloom, I basically was a conduit for correspondence and going through the various parts of the superintendent's office. It was an issue with Colonel Dintino when he first came in, so there had been--

Let me go back. When I was the Division Staff -- Division Services Bureau bureau chief, there may have been times when issues that had arisen with Colonel Dintino's response-- Colonel Dintino revised SOP F-55 for the first time to prohibit or require some cause on consent searches. He took steps to respond to the Channel 9 inquiry. So I want to clear up. There were probably times where correspondence passed my desk, or I may have been asked questions or about or shown pieces -- which I can't recall anything of that. But it was an ongoing issue in the Division, which, when Colonel Dintino came in-- And again, I was working in the Division Services Bureau at that time for Major Trocchia, (phonetic spelling) who would become deputy superintendent at one point. And there were issues that took place, such as cultural diversity training -- all intended as an outgrowth, in my view, from the

Division's experience, as a result of the Channel 9 survey -- series and then Colonel Dintino's approach to the issue in the Division.

MR. WEBER: Let's step back for a moment. When did Colonel Pagano leave, and when did Colonel Dintino take over?

MAJOR BRENNAN: It would have been around when Governor Florio came in. Colonel Pagano was probably on board for another month or two before he was replaced. So I can't recall the months.

MR. WEBER: That was 19--

MS. GLADING: Ninety.

MR. WEBER: --90. Other than asking you to address the ICLE participants, are you aware of anything else that -- and other than the editorial responses and the letter responses that you discussed-- Is there anything else that Colonel Pagano did, or that the State Police did, to respond to the information presented in the WOR television program?

MAJOR BRENNAN: I have no distinct recollection, but I believe that there was an in-service -- some sort of response and inservice by Colonel Pagano -- that there was either a video tape that he did, and I cannot recall, that addressed the Channel 9 series.

MR. WEBER: When you say in-service, what do you mean?

MAJOR BRENNAN: The required one-year -- one-day training. Every trooper goes for a one-day in-service each year to be brought up to date on topics, and a variety of topics are presented. And I believe there was a training module on the issue of the Channel 9 series.

MR. WEBER: Is the in-service conducted each calendar year, or as long as you go at any time during the year and get the in-service training you're

okay?

MAJOR BRENNAN: Usually, it's a period of 30 to 40 days sequentially. And it depends on office space -- classroom space and availability of personnel and things like that. It's scheduled six or seven months in advance.

MR. WEBER: And does it generally occur during a particular month or two months in the year? Do they try and target it, -- for instance, you know, every November and December is when in-service training--

MAJOR BRENNAN: I believe it had been in the-- I feel safe in saying the late spring, early summer. A lot of it had to do with -- classrooms weren't air conditioned. And they would attempt to accommodate those issues. But generally late spring, early summer.

MR. WEBER: Okay. If the WOR T.V. series took place in September of '89, and Pagano left in early, I guess, 1990, because Dintino took over--

MAJOR BRENNAN: I don't know if Dintino took over in '90 or '91. It would have been when Governor Florio was elected. I can't recall the year.

MR. WEBER: Well, it was in 1990, because in February of 1990, Dintino testified before the Senate Judiciary Committee about the use -- and forbidding the use of racial profiles. So we know that Dintino came aboard in the beginning of 1990.

This in-service-- As best as you can recall, this in-service video that Pagano did-- Was that for use then during the next year's in-service training?

MAJOR BRENNAN: No, it was during Colonel Pagano's tenure, if I recall. And I'm not sure of my facts on this. Collin's series was a follow-up to earlier presentations that he had done. It wasn't just all in September. I think he had done several series or pieces on racial profiling prior to that.

MR. WEBER: Okay. Prior to the WOR T.V. special?

MAJOR BRENNAN: Right. Prior to it coming on. And I'm--

MR. WEBER: I know. This is a while ago.

MAJOR BRENNAN: I'm attempting to go back. If he did deliver it in September, it's likely that he was preparing this for some time. And I know that he had attempted to interview Pagano at probably much earlier in the summer that time. This series was in production for some time, so it is likely that this response was either during the production or after they had submitted written questions or interviewed Colonel Pagano. I really don't have the facts, but I know that while the Colonel was the superintendent, there was a -- some sort of attempt at in-service for him to tell the State Police that he supports them and don't let the series, basically, get them down.

MR. WEBER: Okay. Did he deliver any other message like, you know, don't racially profile individuals, in addition to the "I'm supporting you, and don't let the series get you down?"

MAJOR BRENNAN: To my recollection, he said you don't stop people because of race. That's how I recall it, but that's my perception after 11 or 12 years, not having seen it.

MR. WEBER: Did he deal with, in addition to the issue of the initial -- the issue of consent to searches?

MAJOR BRENNAN: Not that I recall?

MR. WEBER: Do you have a recollection of seeing whatever that video was back when it was presented in in-service?

MAJOR BRENNAN: I only have recollections of having seen it on T.V. recently.

MR. WEBER: Of seeing the Pagano in-service training piece on television you said.

MAJOR BRENNAN: Yes.

MR. WEBER: Where did you see it on television?

MAJOR BRENNAN: In any one of the news stories. If I see something involving profiling in the New Jersey State Police, I will try to make a point to watch it. So on one of those or another.

MR. WEBER: You saw an excerpt from the video.

MAJOR BRENNAN: Yes.

MR. WEBER: All right. So let's go back to your job history here. Late '93, early '94, you become the deputy superintendent.

MAJOR BRENNAN: Administrative assistant to the--

MR. WEBER: I'm sorry. Administrative assistant--

MAJOR BRENNAN: --to the deputy superintendent.

MR. WEBER: --to the deputy superintendent, Lieutenant Colonel Roy Bloom. What were your responsibilities in-- First of all, how long did you remain in the position?

MAJOR BRENNAN: Again, I don't have my work history in front of me. I moved from that position into the administrative assistant for Colonel Williams approximately within a year of that time. So probably sometime in mid-'94.

MR. WEBER: All right. Let's go back then to your administrative assistant position to Lieutenant Colonel Roy Bloom. What were your responsibilities when you were in that position?

MAJOR BRENNAN: Mostly to respond to correspondence and select

out correspondence that he -- that I could answer in his stead -- hundreds of pieces of mail up there. It was to attempt to modernize the correspondence system, make sure that documents got to the right places, that records were kept, etc., that type of thing.

MR. WEBER: Were any of the correspondence that you had to address correspondence that dealt with the issue of racial profiling?

MAJOR BRENNAN: I can't recall any specifically.

MR. WEBER: Do you recall any complaint letters about motorists being treated in a less than professional manner by State Police?

MAJOR BRENNAN: I can't recall any. I'm not saying they weren't there, I just-- I don't recall those.

MR. WEBER: Was Lieutenant Colonel Roy Bloom responsible for a certain type of correspondence that needed to be responded to and that another individual would be responsible for another type of correspondence? How is it determined what correspondence would go to Roy Bloom?

MAJOR BRENNAN: Colonel Bloom's side of the operation was pretty much the administrative side; budgeting, fiscal logistics, personnel matters. It did change at one point where -- and again, without having it plotted out in front of me-- There was a reorganization at one point where, I believe, field operations did come under Colonel Bloom, but that may have been at a point where I had already moved over to be the assistant to Colonel Williams.

MR. WEBER: Okay. When you were the administrative assistant to Lieutenant Colonel Roy Bloom, that was when Dintino was still the superintendent?

MAJOR BRENNAN: No.

MR. WEBER: No. That was under Williams.

MAJOR BRENNAN: Yes.

MR. WEBER: Okay. When did Dintino leave?

MAJOR BRENNAN: I would think Governor Whitman -- within weeks of Governor Whitman coming on.

MR. WEBER: Okay. You became the administrative assistant to Lieutenant Colonel Roy Bloom -- you said late '93, early '94.

MAJOR BRENNAN: That's my guess.

MR. WEBER: Okay.

MAJOR BRENNAN: Again, I have-- I don't have a--

MR. WEBER: Well, if it was late '93, it still would have been Pagano, correct?

MAJOR BRENNAN: No. Governor Florio, I think you established, came in sometime -- started in January of '90.

MR. WEBER: Ninety. Right.

MAJOR BRENNAN: February, Colonel Dintino testified. I'm refreshing my recollection--

MR. WEBER: Right.

MAJOR BRENNAN: --from you. The term would have been four years, so I was mistaken. Instead of '93, it must have been in early '94 that I got assigned to Colonel Bloom at that point and then moved over about a year later to Colonel Williams.

MR. WEBER: Okay.

MS. GLADING: Can I-- The dates I have is that-- Colonel Dintino took office on February 20th, 1990, and Carl Williams took office as

superintendent on June 9th, 1994. So it wasn't as quick in that adminis-- He didn't assume office as quickly as Dintino did in the Florio administration, apparently.

MAJOR BRENNAN: That sounds accurate.

MR. WEBER: Okay. So -- and again, because I just want to try and understand the chronology here. And let's put the dates aside. Let's just think about who was the superintendent or the colonel at the time. When you became the administrative assistant to Lieutenant Colonel Roy Bloom, was Williams already the superintendent?

MAJOR BRENNAN: Either he was acting, or he had selected Colonel Bloom to be the deputy superintendent.

MR. WEBER: Okay. All right. So then it's more likely that you would have become the administrative assistant to Lieutenant Colonel Bloom sometime in or later than June 1994.

MAJOR BRENNAN: I think early '94, because-- Well, no. I can't recall, because there was-- Colonel Williams came in, and he wasn't confirmed. He was acting for a while. I don't know how long that took. There was a period of time where Dominick Trocchia was the acting superintendent, who, again, I worked very closely with in the Division Services Bureau. So to me, I was in the same place. And people were coming and going -- basically is the way I saw it. And I don't have a roster in front of me with all the moves, and I apologize for the dates.

MR. WEBER: No, no. That's fine.

Let's go back to the transition between Pagano and Dintino. Was it viewed as being a smooth transition?

MAJOR BRENNAN: I couldn't answer it. From my perspective it was smooth. I don't know from the other 2700 people's perspective. But I didn't see-- There were-- I guess there were people who were partial to either side, one side or the other, and there was a certain amount of-- Colonel Dintino came in and basically said he's going to respond to the allegations of profiling.

MR. WEBER: Whereas, was there a perception that Pagano had not really responded enough to the issues of racial profiling?

MAJOR BRENNAN: I don't know that. That may have been Governor Florio. I don't know what their perceptions were, but certainly they changed the direction in which the road troopers were conducting business.

MR. WEBER: Well, from your perspective, because you were involved, at least in a certain respect, in the State Police's response to the racial profiling allegations brought up in the Channel 9 report, in that Colonel Pagano asked you to do this address at this ICLE-- And that would have been sometime in September, October, November, the latter part of 1989.

You then have Dintino come in. And shortly after coming in in February of 1990, he's testifying before the Senate Judiciary Committee about the issue of racial profiling. And then there's SOP F-3 that comes up.

From your perspective, as someone who had been involved in the troop's response to the allegations under Pagano, and someone who remained within the troop under Dintino, did you perceive there to be a different way that the -- each individual had addressed the issue?

MAJOR BRENNAN: Yes.

MR. WEBER: What were the differences?

MAJOR BRENNAN: I think you just outlined them clearly. Colonel

Pagano was supported in an aggressive approach to drug interdiction in the State Police's role under the Comprehensive Drug Reform Act in drug interdiction. Colonel Dintino's-- In my opinion, Colonel Dintino, in the approach that he took, was that it was not going to be-- His position was he wasn't as interested in aggressively seeking out and interdicting drugs. But in emphasizing the civil rights issues, the search and seizure issues, and responding to the perceptions and the complaints of the minority community--

MR. WEBER: Did you get a sense then under Colonel Pagano -- he was more reactive to the issue of racial profiling, whereas Colonel Dintino was more proactive in addressing it?

MAJOR BRENNAN: No.

MR. WEBER: Did you get a sense that the civil liberties issues that you just discussed took a back seat to the drug interdiction efforts under Colonel Pagano, whereas they were brought more to the forefront under Colonel Dintino?

MAJOR BRENNAN: I don't think that's a fair question to ask me. That would only be my opinion. And I'm here as a guest, and that's a bad position to put me in to ask me that question.

MR. WEBER: Well, then let me rephrase it. Was there a shift in focus in--

MAJOR BRENNAN: I've already said there was a shift in focus. Yes, there was absolutely a shift in focus.

MS. GLADING: Can I-- On this topic, I want to ask a quick question.

Did you sense that there was shift in focus by the respective attorneys generals that those colonels served under, Cary Edwards versus Robert

DelTuffo? (phonetic spelling)

MAJOR BRENNAN: Oh, well there's no question about that.

MR. WEBER: And what was the shift in focus through the respective attorneys general?

MAJOR BRENNAN: The shift in focus appeared to be, to me, personally -- was that the focus -- Colonel Pagano supported the State Police's role in interdicting drugs, and Colonel Dintino, while asserting that he supported the State Police's role in interdicting drugs, he also wanted to be sensitive to the community concerns and sit back and look at the issue carefully, which resulted in revision of SOP F-55.

MR. WEBER: Did that shift in focus from Pagano to Dintino affect trooper morale at all?

MAJOR BRENNAN: I was not in touch where I-- Trooper morale is something that -- is whatever you think it is or want it to be. It's undefinable. It depends on who you talk to.

MR. WEBER: Well, at the time, you were in a -- at a pretty high supervisory level within the State Police at the time of the shift between Pagano to Dintino, correct?

MAJOR BRENNAN: I wouldn't call it a high supervisor.

MR. WEBER: You were at least middle--

MAJOR BRENNAN: I was, at the time, either a sergeant first class or a lieutenant. I was a sergeant first class under Colonel Pagano. I was promoted to Lieutenant under Colonel Dintino.

And the morale issue is an issue that leaders are concerned about, but I don't know that I could give a fair opinion or representation as to the impact

of morale.

MR. WEBER: Well, did you have, for, you know -- for lack of a better phrase, people who were sort of on the ground to report back to let you know how things were going at the road troop level? Is that something you would have been interested in in your position?

MAJOR BRENNAN: It did not-- The things that I was responsible for-- It didn't impact on what I had to do. I'm sure the superintendents, Pagano, Williams, and Dintino were very concerned about that. But I have never been in the direct chain of command with the field operations. I know that they've been concerned about morale. Each superintendent I've worked for has been concerned about morale and who they're listening to about it. But as far as giving you a real -- if I feel I could give you a real good assessment of moral, I can't.

MR. WEBER: We know from your testimony that Colonel Pagano involved you in the issue of racial profiling, at least to the extent that he asked you to give this presentation at ICLE. Did-- Under Colonel Dintino's administration, did you get any specific assignments, or were you involved, in any way, in the issue of racial profiling?

MAJOR BRENNAN: Not that I recall.

MR. WEBER: How about under Colonel Williams?

MAJOR BRENNAN: At the time the Gloucester case came up--

MR. WEBER: *Soto*.

MAJOR BRENNAN: --*Soto*, I was detailed or assigned to assist DAG Jack Fahy with any requests for production that he needed as a result of discovery demands propounded by the public defenders office, or any of the

counsel in that case, and to act as a liaison to some degree with the superintendent's office. If the normal process of obtaining documents and things like that didn't work, then DAG Fahy was given my number to make sure that he got the things that he needed.

MR. WEBER: Okay. I just want to make sure the record's clear. When we're talking about the *Soto* case, we're not talking about the decision in March of 1996, in which Judge Francis decided that there was a racial profiling problem.

MAJOR BRENNAN: I am talking--

MR. WEBER: We're talking about-- We're predating that, correct?

MAJOR BRENNAN: I am pre-- Well, this -- that case went on for some period of time. I think that's the next time I was specifically involved with anything related to racial profiling, to the best of my recollection -- was when I was asked to assist DAG Fahy in his preparation of that case and his taking the Division's position in that case.

MR. WEBER: Okay. But I just want to make-- I just want to understand, timing wise. Judge Francis issues his decision on March 4, 1996, and he holds that the New Jersey State Police engaged in defacto racial profiling.

You were involved in assisting DAG Fahy prior to that decision, correct? You were involved in responses to discover requests by the public defender.

MAJOR BRENNAN: In that matter--

MR. WEBER: Okay.

MAJOR BRENNAN: --yes -- in Judge Francis's case -- in that matter. And I don't recall when that actually got started.

MR. WEBER: Okay.

All right. Let me-- I hate to keep going back to the career here, but I vow we will get through it.

You were assigned to be the administrative assistant to Colonel Williams, you said, in mid-1994.

MAJOR BRENNAN: Well, that's-- If Colonel Williams wasn't put in place until mid-'94, it probably would have been perhaps mid-'95 at that point.

MR. WEBER: Had you worked with Colonel Williams before he became the Colonel?

MAJOR BRENNAN: Yes.

MR. WEBER: Okay. In what capacity?

MAJOR BRENNAN: Now I recall why I put in for the Labor Relations job. He was at the-- He was at the academy as the director -- the captain at the academy when I was an instructor there. And I didn't get along too well with him at that time.

My last-- When I grieved his failure to recommend me for promotion, which he didn't recommend anybody for promotion, he told me I might win the battle, but lose the war. So I moved on.

MR. WEBER: All right. He was--

MAJOR BRENNAN: It was done in a-- He-- It was just also, really, I needed to use the law degree. But that was the circumstance that I worked under Colonel Williams. We worked together, but we were not, by any means, friends.

MR. WEBER: Okay. He was the head of the academy--

MAJOR BRENNAN: Yes.

MR. WEBER: --for the entire time you were assigned to the academy?

MAJOR BRENNAN: No, approximately one year.

MR. WEBER: For your last year at the academy.

MAJOR BRENNAN: Yes.

MR. WEBER: Okay. So, to use your words, you weren't the best of friends when you left the academy.

MAJOR BRENNAN: I respected him.

MR. WEBER: Right.

MAJOR BRENNAN: And I think he respected me. But as far as any social gathering, or even anything more than polite conversation, we would have never engaged in. And to further answer your question, at one point when, I believe, Colonel Dintino came in, Colonel Williams was transferred to be-- He was a major at the time, and he was transferred to the Division staff section, which is where I was the bureau chief for the Division Services Bureau. So I worked under him for a very brief period of time. And then he moved to another section. I'm not sure whether it was emergency management or where he went from there.

MR. WEBER: Did Colonel Williams get to pick who his administrative assistant would be?

MAJOR BRENNAN: Yes.

MR. WEBER: Okay. How is it, and again I mean no disrespect by the question-- How is it that you were chosen to be the administrative assistant? And I know-- I'm sure he respected your work when you worked with him at the academy. But if you hadn't really developed more than your usual coworker rapport, how is it that he chose you to have what would probably be

a, you know -- a right-hand person position?

MAJOR BRENNAN: Well, to qualify that, Colonel Williams did not use that position, at least when I was there, as a right-hand position. I mean, he wanted someone who could, in my case, support the Division's goals and support him, but again, it was not a counsel and advise-type situation. His deputy superintendent was Roy Bloom. I believe Roy Bloom recommended me, and Colonel Williams wanted someone who, basically, I believe, would get the job done with the best interest of the Division-- And I'm hoping that that was my reputation, and still is, at the time -- that I'd be looking out and doing the job in the best interest of the Division. So I have to believe, maybe wrongly, that that's why I ended up there.

MR. WEBER: How many administrative assistants did Colonel Williams have? And I don't mean during his tenure. But did he have more than-- Was there more than one of those positions at any given time?

MAJOR BRENNAN: No, the technical-- The way it was set up, and it changed constantly, not-- Perhaps every year there was another table of organization. But at the time I moved into Colonel Bloom's office, Colonel Dintino's former administrative assistant, Bud Gallagher (phonetic spelling) -- Captain Gallagher was still Colonel Williams administrative assistant. And he stayed there until he reached 55 and retired. So essentially, for paperwork and attendance purposes, I worked for Captain Gallagher while I was Colonel Bloom's assistant.

MR. WEBER: Okay.

MAJOR BRENNAN: But essentially, at the time Captain Gallagher vacated that office and retired, I knew the system up there. I had developed

a new method of handling the correspondence at that time. And I believe Colonel Bloom recommend to Colonel Williams that I moved over. Now, I think on the table of organization, you would see that I was still assigned to the deputy superintendent's office--

MR. WEBER: Okay.

MAJOR BRENNAN: --although, that would traditionally be the superintendent's aid. But as far as any other aides, he didn't have any aides.

MR. WEBER: Colonel Williams didn't.

MAJOR BRENNAN: No.

It was-- And then I was-- Captain Blaker -- Dave Blaker followed me into that position after I left there. And what their relationship was -- I can't compare to what it was with mine, but at the time, Captain Blaker would have been his administrative assistant in the same fashion that I was.

MR. WEBER: What was your rank when you were the administrative assistant to Colonel Williams?

MAJOR BRENNAN: I was a lieutenant.

MR. WEBER: Okay. You become the administrative assistant to Colonel Williams in mid-1995. How long did you remain in that position?

MAJOR BRENNAN: Around-- See, the time frames don't seem right to me, because I felt like I was there a lot longer than five or six months because from that point, I know it was-- December of '95 I was transferred to the EEOAA Bureau as the bureau chief.

MR. WEBER: Bureau chief of the EEO--

MAJOR BRENNAN: AA Bureau, Equal Employment Opportunity Affirmative Action Bureau.

MS. GLADING: When did you say that was?

MAJOR BRENNAN: It was in December of 1995.

MR. WEBER: Did you request that transfer?

MAJOR BRENNAN: No.

MR. WEBER: Do you know why you were transferred over to be bureau chief?

MAJOR BRENNAN: There was a vacancy there. The captain that had proceeded me in that Bureau was Juan Mattos, who was going to be-- I'm wrong. He was transferred to the academy as the bureau chief, and there was an opening there. And I believe-- I don't know. Colonel Williams's only instructions were to me, "Go down there. Do a good job. Do what's right for the Division. And do your job." I don't know why he selected me to go down there.

MR. WEBER: Do you know why Mattos left that position?

MAJOR BRENNAN: The academy is considered a -- I would think -- a prime captain's position to have. And I-- Major Mattos was held in high esteem -- the person who would have been commandant. It was a change or a shuffling of ranking officers as a result of some promotions or retirements.

MR. WEBER: Okay. Was it viewed as a promotion for you to go from the administrative assistant position to bureau chief for the EEOAA Bureau?

MAJOR BRENNAN: Yes. I was promoted shortly there after to Captain.

MR. WEBER: Okay, to Captain.

Did--

MS. GLADING: Can we-- I just-- Can we clarify? I'm not clear when

you became functionally the administrative assistant to Colonel Williams.

MAJOR BRENNAN: Ma'am, I would have to go back and check the exact records. I would have to go back and evaluate that. I feel it was more than five or six months that I was there, but I'm not sure. Again, I was in the superintendent's complex. I worked in Colonel Bloom's office. Frankly, Captain Gallagher was getting ready to retire. He's since deceased. I, basically, was doing quite a bit of both functions at the same time, so I was-- If anything, there's nothing Captain Gallagher would have seen that I didn't see or handle. So the time frame from when I got up to Colonel Bloom's office, which would have been in early '94 to the time Colonel Williams sent me down to EEO in '95-- So I have approximately-- I think of it as about almost two years up in that capacity.

MR. WEBER: Incidentally, this isn't a marathon today. So if you need a break -- bathroom break, coffee break at any time, just let me know. And that's not saying that I need one now, either, but I just figured I'd let you know.

And that goes, obviously, for anyone in the room.

MS. GLADING: Just to clarify, that was December of '95, right?

MAJOR BRENNAN: Yes.

MR. WEBER: You told us a little bit about your relationship with Colonel Williams when he was the head of the academy. Did you have a similar relationship with Colonel Williams while you were his administrative assistant?

MAJOR BRENNAN: Strictly professional.

MR. WEBER: Didn't take on an additional dimension from that of the

relationship you had when you were in the academy -- didn't become more friendly or do things outside of the office?

MAJOR BRENNAN: No.

MR. WEBER: So, back to the career history here. December of '95, you're transferred to be the bureau chief of the EEOAA Bureau. What were your general responsibilities in that position?

MAJOR BRENNAN: Boy. There were two extremely significant responsibilities of three, as I viewed it. One was the investigation and remediation, if possible, of internal hostile work environment discrimination complaints and enforcing the Department of Law and Public Safety's policy against hostile work environments and discrimination in the workplace. The complaints would be made to our office. We were, generally, the forum in which these things were either investigated or mediated. That was one part of the operation. I had a staff of investigators that did that.

The other side was the recruiting and hiring process for State Police recruits -- the selection process.

The third was, we had a museum and learning center that was just, basically, a -- making sure that that was kept clean and signed out properly for groups that needed to use it.

MR. WEBER: Okay. I take it that that was the-- The museum did not fit into the category of the two extremely significant responsibilities. (laughter)

MAJOR BRENNAN: Right. The other two were an extremely sensitive position.

MR. WEBER: Okay. How long were you in that position -- bureau chief position?

MAJOR BRENNAN: From December of '95 until, I believe, October of '97.

MR. WEBER: What position did you have after October of '97?

MAJOR BRENNAN: I was transferred to the Training Bureau as the captain there.

MR. WEBER: So you were back-- Were you back where you were when you worked with Colonel Williams?

MAJOR BRENNAN: So to speak, yes.

MR. WEBER: Okay. But you were a captain then.

MAJOR BRENNAN: I was the boss.

MR. WEBER: Okay. Is that the same as the commandant of--

MAJOR BRENNAN: Yes.

MR. WEBER: Okay. And that was in or around October 1997.

MAJOR BRENNAN: Yes.

MR. WEBER: How long did you remain in that position?

MAJOR BRENNAN: Until January of 2000.

MR. WEBER: And what happened in January 2000?

MAJOR BRENNAN: I was selected by Colonel Dunbar to organize the newly created Office of Professional Standards and supervised that, as well as initially deal with the final negotiation of the consent decree, at least assist in support from a Division perspective, the efforts of the Attorney General's Office and Mr. Cronin (phonetic spelling) in getting that done.

MR. WEBER: And that-- You began the position in January of 2000.

MAJOR BRENNAN: Yes.

MR. WEBER: And how long did you-- What was your official title?

MAJOR BRENNAN: At the time, I was promoted to Major in April, but that was-- All the promotions in April were retroactive, so it was Captain or Major, depending on-- On paper, it will say I was promoted on January 29th.

MR. WEBER: Okay.

MAJOR BRENNAN: I sat there as a Captain until April.

MR. WEBER: Okay. You're rank-- So your rank was Major, but--

MAJOR BRENNAN: My rank was Captain, but in April I got promoted to Major retroactive to January.

MR. WEBER: Okay. You were Major. So that was your rank, but what was your title? Were you bureau chief of the Professional Standard--

MAJOR BRENNAN: No. At the time, the Professional Standards Bureau didn't get formally created until, I believe, an SOP change in May.

MR. WEBER: May of 2000.

MAJOR BRENNAN: Yes. So I was just-- If you see my name on anything, it would be Captain, Superintendent's Office.

MR. WEBER: Okay. Then when the Professional Standards Bureau is created in May of 2000, did you then have another title?

MAJOR BRENNAN: Yes. Supervisor, Office of Professional Standards.

MR. WEBER: And how long did you remain in that position?

MAJOR BRENNAN: I'm still there.

MR. WEBER: Still there. Okay.

MS. GLADING: Do you know why you were selected for that position by Colonel Dunbar?

MAJOR BRENNAN: I have to believe it's because Colonel Dunbar researched and knew of the efforts that I had done while I was in EEO and the

academy to bring certain, more modern and enlightened policies to the Division of State Police. I would hope that was one of the reasons.

MR. WEBER: Just to recap for a moment. We talked about your involvement with the racial profiling issue under Colonel Pagano, and then we touched upon your involvement with the racial profiling issue under Colonel Williams. And you testified that you became involved with racial profiling again in connection with the *Soto* case and through assisting DAG Fahy, correct?

MAJOR BRENNAN: Yes.

MR. WEBER: Okay. Do you remember approximately when you were told that you would be assisting DAG Fahy in connection with the *Soto* case?

MAJOR BRENNAN: I don't recall that.

MR. WEBER: A year?

MAJOR BRENNAN: It would be unfair. It was-- You can see a tracking there. I'm sure there's documents that show a correspondence of me sending Division records that they had requested for discovery. It was just another task among many tasks. And without looking at documents, I can't recall.

MR. WEBER: We'll get to that. And again, my intent here is not to try and trick you or anything. But the documents, I hope, will help put it into perspective for you. But there isn't a single document that says as of this point in time, you're now involved in assisting DAG Fahy. So we'll get to the documents in a moment.

You--

MS. GLADING: Do you recall if it was before the hearings began on

November 28, 1994?

MAJOR BRENNAN: Before the case actually began?

MS. GLADING: Before the actual hearings on the case began and after the motion was filed, or if it was in the course of the hearings.

MAJOR BRENNAN: I believe it was in the course of the hearings, which went on-- If my recollection serves me right, they went on for some time.

MS. GLADING: Until May 25th, '95.

MAJOR BRENNAN: *Soto*.

MS. GLADING: Six months.

MR. WEBER: Who told you that you had become involved in assisting DAG Fahy in the *Soto* case?

MAJOR BRENNAN: I don't recall.

MR. WEBER: Do you recall whether an explanation was provided to you as to why you were the one who was going to assist?

MAJOR BRENNAN: Well, no. Thinking if-- I believe the Office of the Attorney General had an entity called legal affairs, at that time. And one of my roles was to be the Division liaison with the State -- Office of the Attorney General's legal affairs, which-- Throughout this time frame, I worked on a variety of issues with-- Kate Brown had been the director at one point. I worked at length with Alex Waugh and with Fred Devesa earlier in my career, and also with, in and around this time, Jack Fahy on a variety of cases.

MR. WEBER: Did you work with either Kate Brown or AG Devesa or Alex Waugh on the issue of racial profiling?

MAJOR BRENNAN: I don't recall who specifically I dealt with in those

cases on that. But I would have-- You asked why I was the person helping Jack Fahy.

MR. WEBER: Right.

MAJOR BRENNAN: It could very well have been just because I was the person they could call if they needed something in State Police.

MR. WEBER: Okay. But now that you think back, and now that you remember that you had this liaison role, do you recollect having any involvement in the issue of racial profiling in between the time of the ICLE presentation under Pagano to the time that you were told you'd be assisting Mr. Fahy sometime in 1994 in connection with *Soto*?

MAJOR BRENNAN: I have no distinct recollection, not to say that I could not have been sent a document that would have involved it or touched upon it or addressed SOP F-55 or any of the initiatives Colonel Dintino, relating to cultural diversity, had brought. I'm sure I had some sort of involvement in those matters.

MR. WEBER: Incidentally, you had touched a little bit upon Colonel Dintino's actions in connection with addressing racial profiling. We talked a little bit about shifting focus. We also talked a little bit about changes to SOP F-55. The changes to SOP F-55, I take, were under Colonel Dintino.

MAJOR BRENNAN: Yes.

MR. WEBER: Okay. How did he change SOP F-55?

MAJOR BRENNAN: To the best of my recollection, he required, I believe, and I'm operating off of a recollection-- I do not use F-55 in my daily work, but I believe it was the first time there was a requirement for articulable basis for a consent to search rather than just following the Federal law where

you could ask anybody for a consent to search. He narrowed it down that you had to justify it and do a report that explained the circumstances as to why, although I do believe that the SOP also outlined search procedures of the State Police, as well, which had not been-- I'm not sure, but I don't think they were spelled out as clearly in any previous SOPs.

MR. WEBER: What sort of reaction was there within the State Police, to the extent that you know, as a result of Colonel Dintino making those changes?

MAJOR BRENNAN: I really-- I can't qualify or quantify whether-- I don't recall, because Colonel Dintino came in and-- I think he was on fairly good grounds with the unions at the time. I was in a situation that dealt with the unions. The unions had supported Governor Florio. He began a process to handle disciplines the way the unions wanted disciplines handled. So I-- That was the area I was working in, and that was the morale issue that I saw. I was not focused on, nor working in, that area of what was happening in field operations. So it would be unfair, you know, to me. I'm sure a simple-- If I-- You could go let me read some newspapers. I can find out very quickly what the reporters were saying the morale was. But--

MR. WEBER: Well--

MAJOR BRENNAN: I don't recall.

MR. WEBER: Let's go beyond the morale issue. As a lawyer and a trooper and someone who was involved in employment issues throughout, by that point in time, a good part of your tenure at the New Jersey State Police-- How did you view Justin -- Colonel Dintino's actions? Did you view it as a good thing?

MAJOR BRENNAN: I-- Again, I don't think it's fair to ask me whether I viewed it as a good thing or not. There were certain things that Colonel Pagano did that I viewed as very good. There were certain things that Colonel Dintino did that struck me as very good. And there were things Colonel Williams and Colonel Dunbar have all done that are very good. I think it's not fair to me to ask me if, in my opinion -- and then what do I base that opinion on. They did good or bad things.

MR. WEBER: Well, I'm just asking purely from the standpoint-- You've got a legal degree. You're an attorney. You've been concerned with issues of discrimination, workplace harassment. These are-- Many of these things touch upon the issue of race and what is permissible and what isn't permissible. Did you feel that Colonel Dintino's changes to SOP F-55 -- and maybe even if you need to just put your lawyer's hat on for this -- was something that was advisable to do from a legal standpoint, as far as maybe limiting the exposure that the New Jersey State Police had to potential liability?

MAJOR BRENNAN: Again, I think you're putting me in a difficult situation.

MR. WEBER: I don't want to you put you--

MAJOR BRENNAN: I mean, you're asking me to go back and determine what my opinion was at that time, which is not-- I'm having trouble telling you where I worked at what months, much less how I felt about that. I know now, having worked on the consent decree, that I look back and see-- Although Colonel Dintino was a reformer, the SOP, at the time, still contained a provision that said race could be considered under certain circumstances.

So there's all kinds of different spins. And I don't know where I picked up impressions or why during the way. So I don't think it's a fair question. And I respectfully request not to be--

MR. WEBER: Yeah. I don't mean to be unfair to you with my questions. I'm just trying to get-- You present us with the unique situation of having someone who is in the State Police, who has two masters's, has a J.D., and I commend you on your academic achievements, and is someone who, frankly, has had some major responsibility at the State Police, and probably, partly, because you have this legal background. I mean, you were the liaison, and you dealt with individuals at the AG's Office.

Again, my point is not to put you in a difficult situation. My point is to try and get from you what your view was as these policies were changed, realizing that you weren't the one who-- You weren't responsible for changing the policies. And, you know, I don't want to put you in an uncomfortable situation.

MAJOR BRENNAN: I understand that. And I also want my-- Over the years, my views have changed with time and experience, and I'm not really good at going back and determining what I felt or why at any of those specific times.

MR. WEBER: Okay. Let's go to the documents. And what I'll do is-- I have multiple copies of the documents here. The first document-- There's no magic here. I put them in chronological order.

The first document is OAG-000292 through 000307. It is a memorandum to Captain Mattos from Alex Waugh, again dated November 22nd, 1994. And if you look at the second page, Major, it appears that you

are cc'd. You were then a lieutenant, as well as SDAG Fahy.

This is dated November 22, 1994. And again, we don't have any documents to indicate when you were given this new responsibility of assisting SDAG Jack Fahy. But does this document refresh your recollection or enable you to better recollect as to when you may have began that assignment?

MAJOR BRENNAN: This document certainly falls within the period of time I was assisting DAG Fahy. That's my familiarity with it.

MR. WEBER: Well, this document talks about-- Just look at the first sentence here. "The purpose of this memorandum is to alert you to the release of some discovery in a case involving State Police, which I believe has the potential for generating some adverse publicity." If you then go on through the memo, the memo highlights certain information within the training materials in which there appears to be, according to the memo, stereotyping. And it goes on to talk about homosexuals, blacks, so on and so forth. And then attached to the memo is training material, which contains derogatory statements about various minorities, religions.

Do you remember receiving this memo--

MAJOR BRENNAN: Yes.

MR. WEBER: --back in November, 1994?

MAJOR BRENNAN: Yes.

MR. WEBER: Okay. What was your reaction at the time, when you received this memo?

MAJOR BRENNAN: I was aware that DAG Fahy had called me. Apparently, this discovery had gotten to DAG Fahy through the normal discovery purposes. Whoever went to the academy and picked up the training

materials that were requested had gotten them -- duplicated them and gotten them out to the defense teams, and in DAG Fahy's reviewing of the discovery, apparently they pointed this out to him. And that's the first time I was aware of it. He called me and said, "What's going on? Are you aware there's some potentially inflammatory material--" something along those lines. I can't recall the exact conversation.

MR. WEBER: So the material's collected from the academy--

MAJOR BRENNAN: Yes.

MR. WEBER: --and is produced to the public defender before SDAG Fahy even realizes that it's been produced.

MAJOR BRENNAN: I don't think that was the case. I think it just was such volume of discovery that they asked for the lesson plans and they got them.

MR. WEBER: Okay.

MAJOR BRENNAN: I don't know that there was a realization. My best recollection, and it may not even be accurate, is this was pointed out to him, or he came across it in the course of the proceeding.

MR. WEBER: Okay.

MAJOR BRENNAN: And he called saying, "What is this? Can you explain this in any way and find out if it's still going on?" I'm not sure when that happened or when that occurred prior to Alex Waugh's memo.

MR. WEBER: The last paragraph talks about SDAG Fahy will be raising with Lieutenant Brennan -- whether these materials are still in use. Did he, in fact, raise issue with you?

MAJOR BRENNAN: Yes.

MR. WEBER: And what was your response?

MAJOR BRENNAN: I had determined that these documents had not been used. And if I recall, they had not been used since 1992 -- was, I believe-- And that's the best of my recollection -- that when the State Police put the college requirement in, that these courses -- the college-level courses were dropped from the training curriculum, because it was reasoned that since they already had the college degree, this material was not necessary.

MR. WEBER: All right. So this was part of training that was provided to cadettes prior to there being the college graduate requirement.

MAJOR BRENNAN: Yes.

MR. WEBER: And the material was dropped as part of a wholesale change in the training, because now that there is a requirement that you had to have a college degree, there is a determination made that a certain group of courses were no longer necessary.

MAJOR BRENNAN: That's what was explained to me, in which I, in turn, explained to DAG Fahy.

MR. WEBER: Okay. So these course materials were not dropped as a result of anyone taking issue with the sum and substance of the materials.

MAJOR BRENNAN: No. They had already been discontinued at that time.

MR. WEBER: Okay. But-- I'm going back now to 1992. As far as you know, someone in 1992 didn't look through these materials and say, "Wow, this is stuff we shouldn't be teaching. Let's get rid of it." It was gotten rid of during the course of a revamping of the entire curriculum for the cadettes--

MAJOR BRENNAN: Yes.

MR. WEBER: --because there's now this new requirement of a college degree.

MAJOR BRENNAN: Yes.

MR. WEBER: Okay. Do you remember any of these materials being used in connection with your stint at the academy in Sea Girt?

MAJOR BRENNAN: Yes, I do.

MR. WEBER: Did you teach any of these materials?

MAJOR BRENNAN: Yes.

MR. WEBER: What course were these materials a part of?

MAJOR BRENNAN: These were part of the Seton Hall University introduction to sociology.

MR. WEBER: What do you mean?

MAJOR BRENNAN: It was a three-credit college course monitored by professors from Seton Hall that approved the lesson plans, utilized the source material. We also looked back at this when DAG Fahy was upset. And other than one of these documents, which developed after my time down there, this material is, basically, straight out of 1980s to late 1980s sociology books. These are, basically, the explanation that was given. I believe Mr. Waugh may even elude to it -- that the materials in here come from sociology text.

And the Seton Hall contract, or agreement, with the State Police was that there would be a sociology course that was introduction to sociology approved by them. In fact, there were Seton Hall professors that monitored this training that were in their sociology department.

MR. WEBER: So this was the State Police's equivalent to intro to sociology.

MAJOR BRENNAN: Yes.

MR. WEBER: And when you say that Seton Hall professors monitored the course, did you have a Seton Hall professor that would monitor the course each year that it was taught? Would they attend every single class? How would that work?

MAJOR BRENNAN: You would have to submit the lesson plans and the text for their approval. They would appear, probably twice during the course, unannounced. You would have to submit a course outline to them. They would appear without notice and monitor and write a report on how the course went, how the class was taught, because this was-- I'm going back 21 years now. This was a novel concept that you could receive college credits in a police academy at the time. So they were very careful at how they, since their university was attached to it -- how they accorded these things.

MR. WEBER: Just so I understand it then, a professor at Seton Hall would have received a copy of these materials--

MAJOR BRENNAN: Yes.

MR. WEBER: --in connection with the agreement that you had with Seton Hall.

MAJOR BRENNAN: Yes.

MR. WEBER: They would review these actual written materials and either approve or disapprove and let you know of their decision.

MAJOR BRENNAN: The course credits, yes. And they would also have to approve the instructor that would provide the college-level courses. There was psychology, sociology, and language and communication -- were the three college-level courses that had these professor requirements.

I want to go back. The material here is revised in many cases, and I was involved with the sociology program in 1980, and then I moved into psychology, which was my bachelor's degree. This was one time I went through it. But again, some of this material, in researching it, had been added since that time. I hadn't seen it before. And I was unsure, when we looked at it, where some of the material was obtained from.

MR. WEBER: Okay. If you take a look at OAG-000299, under III and IV. III is entitled Racial Groups. IV is entitled Police Stereotypical View of Minorities. There is also, if you take a look back a few pages at OAG-000295, III: Alcohol and the Police Officer.

Is it your testimony that the sociology course given at Seton Hall would have included information about alcohol and the police officer and police stereotypical views of minorities?

MAJOR BRENNAN: I'm not sure. I'm talking 21 years ago -- what materials may have been added since the time I was familiar with this course and also had this approved by Seton Hall. I am, to some degree, familiar though, and I know that the people who looked into this afterwards -- after this issue came up, that it is not unusual for sociology courses -- or social psychology courses to depict drinking by occupation. And that, I think-- We probably could find any base entry level sociology text today that would address -- is there a sociological phenomena -- alcoholism based on social status, career occupation, etc. So I would have to think that there was going to be -- you would be able to find source material for that. I don't recall those specific issues from 21 years ago.

MR. WEBER: Let's take a look at OAG-000300 to 301 -- 302, 303.

Each of those pages-- It appears that there is text that has been added in smaller font. For instance, on Page 300, off to the right, about a third down on the page, in smaller typeface, it says, "difficult to work closely or cooperatively with someone who is pushing you." And then right below that it says, "Stereotypes are easiest to form against groups that are readily identifiable by their uniform," and it appears to say, "duty." And in similar typeface and font, over the next three pages there are -- there's additional information added in, sort of on the margins.

Do you know who would have added that information in?

MAJOR BRENNAN: I want to clarify that much of this is material that I am not familiar with. Some of it is-- These lesson plans seemed to have changed over the years since I was involved in the program. I would-- I'm only assuming that these are instructors's notes from someone that taught in this class after my familiarity with it.

MS. GLADING: Can you identify what in these lesson plans you did teach?

MAJOR BRENNAN: I can-- The general categories-- If you want to go through-- On OAG-294-- I'm going to have to read every line of this material.

MR. WEBER: Well, these are broken down by categories. So if you could just, maybe, identify for us, if it's okay with Ms. Glading, the categories that you would have taught, realizing that line by line, the information may have changed somewhat.

MAJOR BRENNAN: The material on 094-- While some of the material looks familiar, this does not look like the format. Plus, it looks like there's additional information to what I recall from 21 years ago.

MR. WEBER: This is on OAG-000294.

MAJOR BRENNAN: Right.

MR. WEBER: How about 295?

MAJOR BRENNAN: I do recall that ethnicity and drinking was a sociological phenomena that was talked about.

MR. WEBER: So sub-h ethnicity and III -- alcohol and the police officer.

MAJOR BRENNAN: Well, G -- religion.

MR. WEBER: Religion also.

MAJOR BRENNAN: This material looks familiar.

MR. WEBER: How about on 296?

MAJOR BRENNAN: The material here I am not -- it's not striking me as overly familiar.

MR. WEBER: 297?

MAJOR BRENNAN: Again, this is not as -- material on the Hispanic culture-- I cannot, having been in -- this in depth, but again, I'm not -- 21 years ago-- I'm not--

MR. WEBER: I understand. 298?

MAJOR BRENNAN: Again, I--

MR. WEBER: It appears to be part of the same excerpt, which is excerpt two.

MAJOR BRENNAN: I do not-- I have never heard that it's -- what it says in 9-A. I've never heard that. I can't imagine that I have-- I'm not aware of any--

MR. WEBER: 299 begins -- was identified in the handwriting on the

top of the pages -- excerpt three.

Does any of that look familiar to you -- 299?

MAJOR BRENNAN: Not above racial groups. I assume that they're trying to write Jamaicans there. I'm not familiar with that having been part of any lesson plan I was involved with.

MR. WEBER: How about III, racial groups?

MAJOR BRENNAN: That looks -- again, basic sociology 101. That would have been included, I believe, in that. This material looks familiar.

MR. WEBER: How about IV, police stereotypical view of minorities?

MAJOR BRENNAN: That-- I know that we covered police stereotypical views, but I don't know that this material here is material that was-- I'm aware of each of these concepts, but I don't know specifically if this is the same format that I had in 1980.

MR. WEBER: How about on 300 -- V, minority stereotypical views of police?

MAJOR BRENNAN: Again, this-- I don't know that what I taught went into this depth. I don't recall any Philadelphia study. I don't recall some of the materials that are in that.

MR. WEBER: How about VI, ethnic and racial cultures?

MAJOR BRENNAN: Again, this material looks updated and different than what I'm familiar with.

MR. WEBER: Well, putting aside the notations that I pointed out to you before -- the smaller print--

MAJOR BRENNAN: Yes. Even the category 5 and 6-- I know we touched on minorities's stereotypical views of police and vice versa. And I

know we addressed ethnic and racial cultures. But these concepts do not ring to me. And I don't recall.

MR. WEBER: How about on 301?

MAJOR BRENNAN: The Spanish and Latin cultures I am not aware of at all. The black culture lacks general eye contact custom -- I am not familiar with. I believe the -- part of this material -- where blacks value material goods as well-- That may have been a sociological source that was in the lesson plan at the time when I taught it. That does ring familiar. I am not familiar with the issue of the religion. It may have been there, again, it may not. But that one doesn't strike me as having been there in 1980.

MR. WEBER: How about OAG-000302?

MAJOR BRENNAN: Again, this does not-- None of this strikes me, and I can see in there it says-- It's referring to 1990 to 2000. This aspect of it does not ring with me.

MR. WEBER: 303, which is--

MAJOR BRENNAN: Yes.

MR. WEBER: --handwriting excerpt four. Does this look familiar?

MAJOR BRENNAN: The categories under deviance-- Those-- I don't know that-- Those appear to be deviant subcultures that, at the time -- the sociological text, I recall, as from my materials that I was provided--

MR. WEBER: How about II, evolution of societal views on the causes of deviants?

MAJOR BRENNAN: Yes, these are all--

MR. WEBER: 304, I, sociology?

MAJOR BRENNAN: That-- I don't-- Again, this does not-- It's so

general, it doesn't strike me as -- but I wouldn't be surprised if that was the same material.

MR. WEBER: II?

MAJOR BRENNAN: Again, it looks like we would have addressed why are we bothering with teaching sociology. I-- Again, my same answer to number one. It's so general that I don't have a specific recollection of talking about any of this material.

MR. WEBER: And 305, 306, and 307 is, again, just more general information about the study of sociology and doesn't contain any of the inflammatory information that was presented in the prior pages.

MAJOR BRENNAN: Well, I specifically recall 5 and 6 above, and I recall some of the issues in Paragraph B as being there.

MR. WEBER: And that's on 305?

MAJOR BRENNAN: Yeah. As late as 19 -- early as 1980.

The material on 306, while it does not look like the form I'm familiar with it in, I'm certain that we covered definitions of culture, institutions, society, socialization stratification, etc.

MR. WEBER: When-- And thank you for taking us through this.

When you were an instructor at the academy teaching the information that we've gone through now, and again to whatever extent it existed and in whatever form it existed, do you remember any of the cadettes or anyone else at the State Police taking issue with the substance of some of the information; in more particular, the information that we now sort of view as being inflammatory?

MAJOR BRENNAN: Not at the time. Not in 1980. Again, the training

was not the training that someone would jump up and object to or go out. I mean, at the time, it was paramilitary stress training, although it was a college-level course. So I don't-- I have no recollection, or no -- from the -- 1980 was when I had taught the sociology program. And as I said, I moved over to the psychology end of things. I have no recollection of anybody complaining about this other than it was boring.

MR. WEBER: What was the-- What did you understand the purpose to be of teaching the sociology information to the cadettes.

MAJOR BRENNAN: There-- Somebody else had made the determination, and it, I believe, the results of a lot of study -- Federal government studies about college-educated police officers -- are going to be more democratic, to use a social science term, less fascist, which is a scale that they use to determine what type of police officer do you want, democratic or on a social psychology scale -- fascist -- college-educated police officers will perform better, they'll be more sensitive to the minority community, they'll be more sensitive to people. And there was-- The State Police were on the cutting edge of trying to get college, which followed right up to the college degree requirement, recognized. At one point, I believe a recruit could get as many as 31 college credits for basically four and a half months of training, which is a lot. It's more than a year of college at Seton Hall. So the effort was to get them moved into college and bring that aspect down.

The other side of it was, the instructor, such as myself-- When I approached it, within the bounds of the Seton Hall professor, you attempted to make it relevant to the students that you were talking to.

MR. WEBER: You anti--

MAJOR BRENNAN: And as police officers, you tried to take sociology, whereas soci101 would focus on the islands -- the Galapagos Islands and how the people developed there-- It was not really relevant to people in New Jersey.

MR. WEBER: You actually anticipated my next question, which is, what effort was there made, by the State Police academy, to link the information that was presented in the sociology course to the everyday, real life application as a police officer?

MAJOR BRENNAN: That effort was strictly up to the instructor, because the college courses were, essentially-- You have the college curriculum, and then -- which was, approximately, 20 to 40 class hours during a training cycle, and then you had the basic police practices curriculum, which was the other 16 and a half to 20 and a half weeks, depending on what class you were talking about. I'd say there were instructors-- The social science instructors attempted to make it relevant where they could, but the rest of the academy time was probably not spent a lot thinking about these things. It was more, how do you fill out an investigation report, how do you operate a weapon, you know, the basic police practices.

MR. WEBER: As a social science instructor, what, if anything, did you do to develop a nexus between the sociology materials that you were teaching and how that information would translate to help these cadettes out in their everyday functions as police officers?

MAJOR BRENNAN: Well, there would be a multitude of examples that you could use. And it's hard to describe, because you're working in the confines of a basic psych course that, again -- or soci course that would, let's say, entail much information that would not, in any way, be made relevant to

a recruit. But there are certain-- There are groups of people, by way of example, that, when their child is sick, there are certain -- I don't want to improperly define them due to the sensitive nature of these proceedings-- But there are cultures that now have moved to the United States and exist in New Jersey that when a child is sick, rather than take the child to the hospital, they'll heat coins, and they'll put heated coins on the child's -- the back to help them breath -- a child that has croup. Some people would perceive this to be child abuse. If a police officer isn't sensitive to, and aware of, the cultural difference that this mother was doing something that she learned for 20 years in her home-- This is not the same as a father taking a burned rope or a cigarette and an electric cord and punishing a child. That gets your emotions in check -- know the people that you deal with. We were very-- At least, I approached it that -- 1980 -- I was a new instructor-- I approached it -- to try to take the sociological concepts and apply it as best we could to make it a realistic course for the troopers.

MR. WEBER: And these-- I take it, this course was not one of the courses that you developed. This was a preexisting course that you taught.

MAJOR BRENNAN: Yes.

MR. WEBER: What practical application could a cadette have for information about religion and an alleged connection between certain religious groups and a high proportion of alcoholism?

MAJOR BRENNAN: I don't think we could bend that any way to become a police -- practical police issue. That material was the type of material that we had to cover -- social structure, social strata, drinking rates, mortality rates, things based on -- that you find in a basic sociology class.

MR. WEBER: Isn't there an implicit message when you teach that message to cadettes -- you're implicitly saying to them, "Keep your eyes open for individuals that fall into these categories, because it's more likely that they'll be driving under the influence?"

MAJOR BRENNAN: I would reject that.

MR. WEBER: Why?

MAJOR BRENNAN: This is a basic sociology course where concepts where they could be turned into--

I mean, if you're suggesting, Counsel, that because someone fits in one of the religions that a recruit got with a high drinking rate -- that when they detect the religion, they're going to bring them in for a breath test-- I mean, that's not at all what the interest was. Using examples that people with high school degrees -- a lot of them at 1980 didn't have any college -- could understand-- They wanted to be cops. They didn't want to go to college. These were simple things that, perhaps, they could relate to in their society, as opposed to social structure of some group of people living in a subcontinent, which would normally be a sociology topic.

MR. WEBER: Okay. But I guess what I'm trying to understand here is, if certain of this information is not relevant to a police officer's daily functions-- I understand, and I will agree with you, that there is certain information from a sociology perspective that -- to obtain the goal of moving police officers from perceived fascist to more democratic individuals, they need to be educated about the individuals that we're dealing with, especially because we're in a diverse society.

But what I'm trying to determine here is, why is it necessary for certain

of this information to have been taught to police officers or to cadettes if it would have no way of impacting their daily lives as police officers?

MAJOR BRENNAN: The concept, as I understand it, and I was a trooper at the time, was that there were college courses that were provided -- sociology, psychology, language and communication. I mean, I'd much prefer you to ask me why we taught them about Skinner boxes and--

MR. WEBER: I don't even know what a Skinner box is.

MAJOR BRENNAN: Well, operant conditioning and behavior. You feed a rat or you punish a rat, and it does certain things and presses certain buttons. You had to, because it was part of the basic curriculum that Seton Hall required to provide three credits for an introductory psychology or sociology course that they could put their stamp on and allow you to transfer those credits to another institution.

MR. WEBER: Okay.

MAJOR BRENNAN: There was material in there. You would have to talk to the people who ended up doing all those reports and providing all the Federal money -- the leap grant people about why college education or college-educated police officers, in any background, are desirable.

I was given a group of lesson plans to teach. I don't adopt your view at all -- and I've been in law enforcement for 21 years -- that going through an exercise of the mind, where the young police recruit whose day is spent thinking about his physical fitness -- where his day is being -- thinking about his weapons retention and whether he's going to be able to do the things he learned the night before in physical fitness and in self-defense class -- that little time out thinking about concepts beyond road material issues is important.

I could make that argument. Of course, I'm doing it off the cuff now, because I had no idea we were going back to 1980 and contesting something that I'd like you to talk to the Seton Hall University professors in the sociology department about.

MR. WEBER: Well, that actually was-- You're anticipating my questions here, and I applaud you on that.

How did this material develop? Was it a case of the State Police took material, they proposed it to Seton Hall, and Seton Hall gave it the stamp of approval, or did Seton Hall provide all the material to the State Police and say, "If you use this, we'll approve it for credit?"

MAJOR BRENNAN: I wasn't there when they developed the course. I do know they approved our textbooks. We issued college basic sociology textbooks to the recruits. The recruits had to do a 25-page type written term paper. They had to take two examinations on sociology, as well as psychology at the time. So Seton Hall-- There were already existing lesson plans, there were existing text. And the lesson plans, to some degree, mirrored what was in the text, to a very close degree, especially when it got into the sociological considerations.

MR. WEBER: Did the courses that you developed for advanced training-- Did those approve for college credit?

MAJOR BRENNAN: I think subsequent-- There was never-- It was never designed that way, but I think with the change-- Again, over the years -- 21 years-- College and policing-- The ability to get college credits, I think, we're all generally aware, has changed. I don't think that Thomas Edison would have existed -- State University -- 21 or 22 years ago at the level it does

today. You can apply for life experience credits. At the time, there was no intent-- The courses I developed-- I was involved with managing the problem employee for police executives and child abuse and the -- for a joint social worker concept -- bringing social workers and law enforcement officers together to get at the root cause of child abuse.

I would believe that either of those courses are eligible for college credit, but in no way did any university play any role in the development of the materials for that.

MR. WEBER: All right. So you didn't coordinate with Seton Hall then when you were developing these courses.

MAJOR BRENNAN: No.

MR. WEBER: When you began teaching the sociology course, it had some of this information in it. Did anyone explain to you where the information came from? I mean, did they tell you, "We got this from Seton Hall," or was it just your understanding that this was a collaborative effort between the State Police and Seton Hall.

MAJOR BRENNAN: The information, as I reviewed it and reviewed the text, was contained in the basic sociology textbook -- much of it.

MR. WEBER: Including the information about religions and alcohol use and deviant subcultures.

MAJOR BRENNAN: Either-- In addition to the text, there were handout articles -- scholarly articles that were taken out of sociology journals and etc. that were part of the course curriculum.

MR. WEBER: Okay. And we'll move on.

But just a couple more questions on this.

Who's responsibility would it have been to decide, from the sociology textbook, which, I assume, you know, was several hundred pages, what material, out of the sociology textbook to use in the lessons for the State Police cadettes?

MAJOR BRENNAN: It would be the instructor, in conjunction with the Seton Hall liaison professor.

MR. WEBER: Because clearly, in the amount of time we're talking about here -- I guess you said it was about four months -- they were eligible to get over 30 some odd credits-- Clearly, the sociology course, that would have been taught at the State Police, would not have covered as much material as a sociology course you would take for one full semester at Seton Hall.

MAJOR BRENNAN: Unfortunately, they forced the hours upon us that it was based on the same hours. They could not maintain their certifications and accreditations, at the time, without having their-- I guess-- I'm not familiar with the college certification requirement, but in order to maintain Seton Hall's accreditation, they could not award these credits without ensuring certain minimal criteria were met in these courses. And they were very rigorous on meeting those criteria with us at the time, since it was a relatively new affiliation.

MR. WEBER: All right. So academy instructor determines what materials they take from the sociology course book, put it into a lesson plan, send it to Seton Hall, the instructor at Seton Hall then gives his or her reaction. Let's say they approve it. That is then the lesson plan for that particular academy for that course.

MAJOR BRENNAN: That's how I understood it to operate.

MR. WEBER: At the time, and again realizing -- you know, this is November 22, 1994, some 14 years after you were an instructor -- or 13 years after you were an instructor--

When you received this memo from Alexander Waugh, did you have any concern, or did you share the same concerns that Alexander Waugh expressed in the memo about this material being produced as discovery in connection with the *Soto* case?

MAJOR BRENNAN: The concerns that I had at the time were that I believed it was taken out of context, just as I appear -- I seem -- the same belief I am forming now -- that this was used for a specific purpose -- to focus in. We've spent more time on this than any State Police class or two right now in talking about it. I believed it was taken out of context, that it was more than 14 years old, hadn't been taught in that period of time. And we provided them with the basic information that they wanted.

MS. GLADING: I'm sorry. Can we clarify? When did-- How did-- Do you know when this material was last taught?

MR. WEBER: I thought you had said 1992.

MAJOR BRENNAN: Yes, I had determined 1992.

MS. GLADING: Nineteen hundred ninety-two?

MAJOR BRENNAN: Yes.

MR. WEBER: So it was actually--

MS. GLADING: And it was requested in 1994.

MAJOR BRENNAN: Right.

MS. GLADING: So it hadn't been taught for two years.

MAJOR BRENNAN: Right. My familiarity with with--

MR. WEBER: Was 14 years.

MAJOR BRENNAN: --the materials-- Yes.

MR. WEBER: So your reaction was that it was taken out of context.

MAJOR BRENNAN: My personal reaction. Yes.

MR. WEBER: Did you discuss--

MAJOR BRENNAN: Also, I understood the damage that it could do in the light that it was portrayed in.

MR. WEBER: And what was the damage you thought it could do?

MAJOR BRENNAN: Well, it certainly wouldn't take an overly skillful advocate or counselor to approach this the way you similarly have right now -- saying, "Well, aren't you teaching that the police should be looking for Episcopalians?" I mean, that-- Again, it's easy to do. It's easy to go back and say that. Just ask the question. You don't even have to listen to the answer. So, you know, basically, I knew they had something that was going to injure the Division of State Police, and it was, I can tell you, having been personally involved, it was done with the best intentions to assist law enforcement.

Now, I will also follow up that when I went back to the academy, there was a great deal of theory out there in law enforcement over do you teach cultural differences or do you not teach cultural differences in cultural diversity, because anything we do today in cultural diversity classes, which are mandated-- My question is, 10 years from now, is somebody going to have to sit and answer to the efforts of good-intentioned people in trying to make an impact on what people perceive to be racial profiling? Is that going to be turned around, rolled up in a nice little gob, and shoved down somebody's throat. So there's the other side of this issue out there -- a debate in the law

enforcement community that you can't even touch this issue. You can't touch cultural differences. You can't touch cultural sensitivity. The best way to go is, which is the way I'm falling, you treat everybody with the same dignity and respect, and you will avoid these types of problems in the future.

Nonetheless, there's still a significant police theory out there that -- especially -- I'll tell you -- out west, after Rodney King, they spent millions and millions of dollars to develop cultural diversity materials for the Los Angeles Police Department and area police departments that, in my view, are far more inflammatory than the materials that are in this. They took the approach to train their officers to treat people differently based on these cultural differences and be aware of them. And they're heading down the same path.

I'm a little passionate about this issue, because--

MS. GLADING: Major Brennan--

MAJOR BRENNAN: --I see the way it's going.

MS. GLADING: --is it your understanding that these training materials came to light in the *Soto* case because minority troopers complained that they had been taught derogatory things at the academy?

MAJOR BRENNAN: I don't think that's-- I don't know how they came-- That wasn't my impression. It wasn't my impression that this was put forward by any of the minority troopers. It may have.

MS. GLADING: No, no, no -- excuse me -- that they came to light.

MR. WEBER: Jo, let's let the witness answer the question.

MAJOR BRENNAN: Well, my recollection was that someone pointed it out to DAG Fahy. I had no recollection of it saying-- And you may be suggesting what the actual fact is. It only came to my attention that Jack Fahy

was very upset over it, and that it had been pointed out to him. And I may have filled in the blank thinking it was an adversary. It is possible.

MS. GLADING: Why was Mr. Fahy very upset?

MAJOR BRENNAN: Well, he was working very hard on a case. In representing the position, I believe, he was detailed to support and that this material superfluous in a way to the issue at hand, certainly, could be viewed in the way that it's being discussed here today as inflammatory.

I'm not rejecting those views or that characterization of this material at all. But for anyone willing to-- And you've obviously given me the time to go well beyond explaining it. I think there are some explanations, although in 1992 and 1994, perhaps this material should have been caught sooner and addressed with changing times and changing laws, etc.

MR. WEBER: Was there any effort at the academy given to trying to coordinate substantive college-type information like sociology, the psychology, to the instruction given on or given about State Police substantive procedures and practices like the standard operating procedures? Was there any coordination between those two areas of information to try and link them up?

MAJOR BRENNAN: Wherever there could be, it would be added in. If there was an issue that related to one of the college-level topics, it would be up to the instructor. For instance, language and communication, which was a basic English course at Seton Hall was the State Police report-writing system at the time. In the psychology program that I was involved with, police come involved-- It was a basic psychology program. Police will, in their careers -- will investigate a suicide. And it's very critical, you know, to know -- well take a block -- see if Seton Hall will approve that you take the dynamics of suicide,

either from the aspect of preventing it if you have to talk to somebody that's threatening suicide, investigate it -- many suicides may have been suicides, homicides may have been suicides. It's very important that the police, at least, get exposed, if you're going to teach it, to some of the psychological concepts around suicides.

So emotional disturbed people-- We have an SOP on handling emotionally disturbed people. And that SOP would be built into the lesson plan on handling emotionally disturbed people.

MR. WEBER: Can we just go off the record for one minute please?

(Off the record)

I have a few more questions on this. And then why don't I suggest we take a break? We've been going-- You've been very good. We've been going about two hours or so.

Just going back to the issue of trying to connect sort of the college-type information along with the State Police procedural information. And you actually used a very helpful example of an SOP to deal with mentally disturbed individuals. Was there any connection or attempt to connect up, as far as you can recall, something like SOP 55 or SOP 3 with this sociology information that clearly addressed or presented information pretty head on about, you know, racial or cultural apparent norms according to this material?

MAJOR BRENNAN: Not when I was involved. And I've basically given you the entire course. That never crossed-- This was understanding the people in the community -- the people that you work with. It was never-- F-55 issues were never connected or F-3 or any stopping procedures or anything like that.

MR. WEBER: Do you know if, at any--

MAJOR BRENNAN: During my -- within my scope of knowledge--

MR. WEBER: Sure.

MAJOR BRENNAN: I don't know what other instructors may have done.

MR. WEBER: Do you know if, at any later point in time after you left the academy, that effort was undertaken again to connect up some of the sociological information with SOP 55 or SOP 3?

MAJOR BRENNAN: I'm not aware of any.

Just so that my answer is complete. As the relationship with Seton Hall developed -- and when I went back there as the Captain -- the commandant, the constitutional issues course, which is basically our search and seizure worked off of the -- in addition of search and seizure concepts -- worked off of the SOPs. So at that time, which was-- I went there in late '97, the absolute emphasis was on citizens' rights, you know, search and seizure, properly -- compassion -- treating people with dignity and respect. So the SOP would have been referred to in some of the more basic courses that they still-- What I'm trying to say is they still got college credit for it.

MR. WEBER: Okay. When this course material was no longer being used after 1992, was there any course material that you're aware of that replaced this sociology course material?

MAJOR BRENNAN: There was a course developed that I'm aware of -- I don't know when -- but when I was down there, the course was changed to-- In order for Seton Hall to grant credits, they renamed the course social problems for police officers. And the subject matter lectures that were included in that for credit purposes were a whole variety of issues -- police discretion,

police ethics, police in the community -- talked about cultural diversity. We had blocks on that -- were included within it. And it was developing heavily at the time I was there because the State Police was embroiled in this controversy.

MR. WEBER: Was there still an effort to present information that dealt with either cultural -- perceived cultural norms or cultural characteristics or racial norms or racial characteristics, post 1992?

MAJOR BRENNAN: I can't speak for '92 until I got there in late '97. In '97, when I got there, I didn't have to undo anything that was being done, so I feel pretty confident in saying I think clearly after this issue came up in '94, the lesson plans had been reviewed. I'm not certain. I wasn't there, and that material was pretty much out of what they were doing at the academy.

MR. WEBER: Okay. And there wasn't, I take it, a movement away from the desire to move police from the fascist role to the democratic community policing role, correct?

MAJOR BRENNAN: Again, if you recall what I-- The thought process, as I understood it, was they didn't need these courses, because the college degree requirement was implemented in 1993. So the police officers coming had already satisfied the college degree courses. They already had their degree, so that issue -- the democratic, the better trained, the better educated police officer, was already in place, because they had their college degree at that point.

In fact, while I was at Sea Girt, we were attempting to move forward to according masters' level credits in developing courses specifically on civil rights and issues like that that graduate credits would have been available for.

MR. WEBER: Why don't we, if it's okay with--

MS. GLADING: I have a couple of questions--

MR. WEBER: You have a couple.

MS. GLADING: --on this topic, if you could just address them.

The college requirement-- What is your view on that?

MAJOR BRENNAN: My own view?

MS. GLADING: Uh huh.

MAJOR BRENNAN: I, just for the sake of length, I'm rather long-winded-- My view is it's great if they have it, but I think the two years is a good requirement, and I think that it would give the opportunity for someone like me-- I was fortunate enough to finish my degree -- or any citizen in the state to get on the job and then continue their college -- continue their education. I have a very plain view of the two-year requirement. And I'll tell you--

I don't know if you're aware that you can be a police officer in New Jersey at 18. And I've trained 18-year old police officers from municipal departments. The two-year college makes a difference in the maturation process. And ordinarily they're at least 19 or 20 by the time they get there.

MS. GLADING: What is the current requirement?

MAJOR BRENNAN: The current requirement is-- I don't know that-- I know what it was when I was in EEO, which-- They say it's not changed, but the way I understand it is, it's two years-- It's a college degree, but you can substitute two years of life experience or work experience for two years of college. I think it has somewhat changed since 1997 when I was in charge.

MS. GLADING: And do you think that-- Is it your view, from your

experience as a State Police commandant of the academy, a teacher, an EEO officer-- Is it your view that college-educated -- a college education produces a more democratic, small d, police officer?

MAJOR BRENNAN: I think you wouldn't be able to conclusively prove that, but I would go in that direction. I think that the officer who wants to get involved in college, whether it's before or after-- I believe it helps with their credibility, exposes them to different concepts. And I do think it creates the type of police officer that I think the citizens would prefer to deal with. That's not 100 percent true. There are people who went to college that are police officers or that aren't that shouldn't be police officers. And that doesn't-- Just that fact alone doesn't qualify them.

MS. GLADING: Okay.

Are you familiar with the NAACP settlement?

MAJOR BRENNAN: I am not familiar with -- generally unfamiliar with the settlement.

MS. GLADING: Do you think it was a good settlement? What are your views on it?

MAJOR BRENNAN: My views on it-- I don't know if that's fair, again, to ask me that. I would have liked to have seen it concluded much earlier than it was.

MS. GLADING: As an expert in police training, what are your views on it?

MAJOR BRENNAN: I don't know that I could qualify-- I don't know that I'd put that on-- There's different views as a police officer, as a person who feels like a part of what has to go on in the state-- These are historic

times. I think it's something that I rely on the people who handled it as something that needed to be done to move ahead. And whatever the issues were, we have to go forward. We can't destroy ourselves fighting these things out on issues that we're never, ever going to prove. And we're never, ever going to conclusively prove what was in that trooper's mind or in that person's mind when these things were alleged to have happened. So we have to move forward and get our people to think in a different way or a better way than apparently the way we've been doing business.

MS. GLADING: Okay. Thanks.

MR. WEBER: I'm going to break my promise.

MAJOR BRENNAN: That's a personal opinion. I'm sorry.

MR. WEBER: I'm going to break my promise before we take the break. I did have one more question to ask you about the document that we've had in front of you.

The memo dated November 22, 1994 is to Captain Juan Mattos. He was the commandant at that time of the training academy?

MAJOR BRENNAN: I'm not-- I don't think so. I think he was in the EEO office at the time.

MR. WEBER: Okay.

In the last paragraph on the second page, it says, "I think it is important that you take a look at them and then corrective action be taken as soon as possible." Do you know what, if any, action Captain Mattos took as a result of receiving this memo and the request from Alexander Waugh that action be taken?

MAJOR BRENNAN: I don't specifically know, but I do know it

certainly caused an effect. I don't know what Captain Mattos did.

MR. WEBER: Why don't we take a five minute break.

(Off the record)

HEARING REPORTER: On the record.

MR. WEBER: Okay, Major, we're back on the record.

You know, a thought occurred to me during the break. When the State Police enacted its requirement for the four-year college degree, was there any effort undertaken when a candidate would apply to the State Police to review their transcripts to determine whether or not they had taken the courses that they would have been taught or similar courses to the ones they would have been taught had they just gone to the State Police right out of high school?

MAJOR BRENNAN: No.

MR. WEBER: Why is that?

MAJOR BRENNAN: The degree itself was deemed to satisfy the requirement.

MR. WEBER: So if someone was concentrated in engineering, it wouldn't make a difference versus someone who had concentrated in sociology.

MAJOR BRENNAN: Correct.

MR. WEBER: Let's--

And you'll excuse me. I'm sucking on a cough drop here. I've been fighting off a cold.

Let me show you a document that was produced to us by the AG's office dated April 12, 1995, Bates stamped GC-000970 to 971. It is an April 12 letter from you to Professor Lawrence Sherman. (phonetic spelling) And the letter informs Professor Sherman that the State Police would like to retain his

services in connection with the Pedro Soto matter. It encloses some materials produced by James Fyfe, who was the expert for the public defender. Is that correct?

MAJOR BRENNAN: As I recall, yes.

MR. WEBER: And on the second page, first paragraph, you state, "We are requesting your assessment as to whether an individual in Mr. Fyfe's field of expertise could render the opinions set forth in the report based upon the items the expert claims to have reviewed."

Why is it that you were the individual who reached out to Professor Sherman as opposed to Deputy Attorney General Jack Fahy?

MAJOR BRENNAN: I think you can see in the last paragraph it says kindly contact either myself or Fahy. Fahy was on trial at the time. Fahy contacted me as his liaison person and said-- I don't recall exactly the circumstances around this letter. There were several times I dealt or corresponded with Professor Sherman. And basically, I did the work for, I guess as a paralegal or as an assistant that he would have a trial to get this done, because he was down in Gloucester County.

MR. WEBER: On the *Soto* trial.

MAJOR BRENNAN: Yes.

MR. WEBER: Had the State, up to this point, not retained the services of an expert in connection with the *Soto* matter?

MAJOR BRENNAN: I don't know.

MR. WEBER: How did you find Professor Sherman?

MAJOR BRENNAN: I don't recall. I generally-- I know that he's a noted expert in the field of criminal justice, and I was-- He was a good expert

to have if you have to have an expert.

MR. WEBER: When you reached out to Professor Sherman, was this before or after Mr. Fyfe had already rendered an expert opinion in connection with the *Soto* matter?

MAJOR BRENNAN: I'm only going after what I wrote-- I am going off of what's written in this letter. I have to assume -- this is an independent recollection -- that they had submitted Fyfe's opinion to someone, either to Fahy as in discovery, or had submitted it to the court. And now, from reading the letter, Fahy, as the attorney, said, "We have to get an opinion to see if his opinion is valid."

MR. WEBER: So is it then your recollection that you were initially reaching out to Professor Sherman in an effort to assist the State in connection with whether or not Mr. Fyfe would even be qualified as a expert.

MAJOR BRENNAN: It was strictly litigation. It was do we -- can we -- should we get an expert as I recall. Do we have one that is as good as Fyfe, and do we have an expert that can say things about what Fyfe said. That was-- It was a strictly -- as if you would give an assignment to an associate.

MR. WEBER: I'll show you another document -- G--

MS. GLADING: Just on that document before we leave it-- Was there anyone else in the DAG's -- in DAG Fahy's office who was assisting him in this litigation?

MAJOR BRENNAN: As far as I know, he was it. And in fact, that's it. He was the only DAG, and I will offer-- A detective by the name of Pat Reilly was asked, as much as he could, to sit in down at the trial to assist him.

MAJOR BRENNAN: Letter-- I just--

MS. GLADING: I'm sorry, Scott, I'm not done.

The-- Was it typical for DAG Fahy to contact you for assistance in the *Soto* matter like this?

MAJOR BRENNAN: In-- As I said earlier on in my testimony, when something needed to be done that he couldn't get done through a secretary or someone that would help him back at the office-- If he needed something fast or needed to go to the superintendent's office to have something done, that's when he would call me.

MS. GLADING: All right.

MR. WEBER: Next document -- GC-000972 through 973 -- an April 13th letter that you sent again to Professor Sherman inclosing additional materials including monthly patrol activity logs -- SOP F-4; Drug Interdiction Training Unit -- that's the DITU, Drug Interdiction Training Unit--

MAJOR BRENNAN: Yes.

MR. WEBER: Jamaican posse materials assembled by Detective Carl Douglas (phonetic spelling) for Organized Crime School -- video tape on Operation Pipeline -- some additional materials. And you state, "DAG should be contacting you in the near future." As far as you can recall, had DAG Fahy and Professor Lawrence Sherman -- had they not spoken yet as of this point?

MAJOR BRENNAN: I don't know.

MR. WEBER: Do you remember having a conversation with Professor Sherman in response to your initial letter to him dated April 12th?

MAJOR BRENNAN: I recall one conversation with Professor Sherman.

MR. WEBER: One conversation in total.

MAJOR BRENNAN: Just basically, would he be available and what his

schedule was like and could we send him some materials and send us what his charges are.

MR. WEBER: Did you explain to him in what context you would need his services?

MAJOR BRENNAN: I'm sure that was part of the conversation, although I don't specifically recall that.

MR. WEBER: Do you recall, in any way, any of the details of the conversation about why the State sought to hire him?

MAJOR BRENNAN: The only detail that I recall is him telling me about a project he had worked on for the Washington, D.C. police about eradicating guns. It's just the only thing that -- some sort of issue with guns and car stops. And that was basically the extent. He was going to Switzerland, and that may interfere with his ability to appear at the trial if we ended up retaining him.

MR. WEBER: And again, you don't remember how Professor Sherman was chosen as the person to contact?

MAJOR BRENNAN: He's considered-- As far as I recall, he's considered one of the top criminologists in the United States, so it was either-- If-- You see contact Ann Morraco. (phonetic spelling) I had a unit in my -- that worked -- people that worked with me. The possibility that they did some research and came up with some names-- I don't recall.

MR. WEBER: Did you determine what materials you sent to Professor Sherman, or did someone else determine what materials would be sent to Professor Sherman?

MAJOR BRENNAN: I don't recall. It appears that these were things

that were in Fyfe's -- what was submitted by Fyfe in the public defender's office. So I-- The following eight items is numbered in Fyfe's letter. So this was stuff that was already either in the record down at the court, or was provided to the public defender's office that Fahy, in turn, provided me.

MR. WEBER: The Jamaican posse material assembled by Detective Carl Douglas-- Do you know who Detective Carl Douglas is?

MAJOR BRENNAN: I know who he is.

MR. WEBER: Who is he?

MAJOR BRENNAN: He is a detective in the State Police that I am familiar with.

MR. WEBER: What is the Jamaican posse materials that are referred to?

MAJOR BRENNAN: Material that I know, from the litigation, became an issue. But video tape on Jamaican posse-- There's, allegedly, a Jamaican posse video tape-- If you're referring to No. 7, that's whatever Mr. Fyfe had. I don't know what the material was. I don't recall what those things were. It's in the record in *Soto* -- in the Gloucester case.

MS. GLADING: On this topic-- Can you-- Do you recall when the Drug Interdiction Training Unit was shut down?

MAJOR BRENNAN: No, ma'am, I don't.

MS. GLADING: Do you recall if it was before or after this letter was written?

MAJOR BRENNAN: I don't know. I was again-- I did get involved in a lot of the legal -- the paper issues as an assistant, but as far as the operation -- the field operations and the day-to-day -- who's working and who's not, I was not-- That wasn't something that would have been in my purview.

MS. GLADING: Did you assist Mr. Fahy in strategy during the *Soto* trial?

MAJOR BRENNAN: No.

MR. WEBER: Next document is GC-001074 to 1075. It is a May 7, 1995 letter from Professor Sherman to you, then Lieutenant. In the letter, Professor Sherman states, among other things in the first paragraph, that he is unable -- he's able to report to you at this time -- my answer to your question about "whether an individual in Mr. Fyfe's field of expertise to render the opinion set forth in the report based upon the items the expert claims to have received." And then Professor Sherman then goes to detail eight different points, each of which takes issue with Professor Fyfe's ability to be qualified as an expert.

When you received this letter, did you share this information with anyone?

MAJOR BRENNAN: Well, the purpose of me receiving the letter was to give it to DAG Fahy.

MR. WEBER: When you gave this information to DAG Fahy, what was his reaction to Professor Sherman's opinion that he would be able to basically render an opinion that Dr. Fyfe was unqualified to be an expert in the case?

MAJOR BRENNAN: I know-- All I can tell you is I know that he did-- I think Sherman came and testified in the hearing. I'm not sure. We didn't discuss the quality of his opinion. We were looking to get a witness to counter-- I believe that was the role. I was to supply the witness and the material. I assume-- I believe-- I think the Doctor was retained and testified.

MR. WEBER: Okay. Well, when you received this letter from Professor

Sherman, which would indicate that you, for lack of a better phrase, hit pay dirt-- I mean, you found what DAG Fahy was looking for -- an expert to counter Dr. Fyfe-- I would assume that you were happy with that, and you reported it to DAG Fahy.

MAJOR BRENNAN: Well, I didn't have any opinion of whether I was happy. Frankly, I'm under the impression that you can hire an expert to say anything you want. I knew that we obtained an expert that stated he would be willing to testify to these issues. This was litigation going in a court room in Gloucester County at a time when the rest of the Division of State Police was operating day to day. It wasn't-- We were not managing the Division through litigation. This report went directly to Fahy, and he did what he had to do with it in the case. It moved on, and we went to the next issue.

MR. WEBER: All right. So you received the letter and just merely forwarded it on to Fahy.

MAJOR BRENNAN: Yes.

MR. WEBER: Okay. You didn't reach out to him and talk to him and say, "We've got an expert?"

MAJOR BRENNAN: I may have. I can't say that I didn't tell him he's willing or it appears that he can do it or he's got an opinion. That would be reasonable to do that, but I have no recollection of doing that.

MR. WEBER: Next document, GC-000974 -- one page letter from you to Professor Sherman, dated May 9, 1995 -- two days after the last letter. You enclosed some additional items; one being the video cassette tape without just cause. And in the third paragraph, you state, "While reviewing without just cause, I ask you to pay specific attention to the comments of Colonel Clinton

Pagano, for it is these comments that Professor Fyfe was most critical.” What were the comments without just cause that Professor Fyfe was most critical of?

MAJOR BRENNAN: If I can qualify this document-- The first time I had seen this document was when it hit the document drop. That's not my signature. That is Lieutenant Dan Morraco's signature. You can see DEM. I must have been out of the office or otherwise involved with something else. I don't recall this time. And my assumption is he was either tasked to follow up with whatever happened. The material in this is not something that I am familiar with -- the specific issues.

MR. WEBER: Okay. Do you remember the video cassette tape without just cause?

MAJOR BRENNAN: I remember pieces of the Channel 9 series, which is what that is referring to -- the Joe Collin's series.

MR. WEBER: Do you remember the comments that Colonel Pagano made in that series that became an issue in the *Soto* case?

MAJOR BRENNAN: I do not recall.

MR. WEBER: Okay. How did-- I'm sorry. Who was the individual you said -- who wrote this name?

MAJOR BRENNAN: Sergeant Dan Morraco.

MR. WEBER: How is it that Sergeant Dan Morraco knew what to write to Professor Sherman?

MAJOR BRENNAN: In the daily activity, I may have briefed him on this. I may-- He may have worked with DAG Fahy. I do not recall. This is just a-- It seems to me to be a natural extension of whatever we were involved with with Detective -- or with Dr. Sherman. I don't have the other letter in

front of me, but it's probably a follow up of the documents we promised to send him. And I would assume that if there is a report by Fyfe, he is very critical from -- about what Pagano-- I'm only assuming what it says in the letter. And if he chooses to comment on it, please comment on it. Tell us it's good. Tell us it's bad. Just comment.

MR. WEBER: Last paragraph -- "As you might expect, DAG Fahy will be contacting you in the near future." As far as you know, at this point, had DAG Fahy not yet contacted Professor Sherman?

MAJOR BRENNAN: I don't know.

MR. WEBER: Next document -- May 10, 1995 -- letter to you from Professor Sherman -- GC-001084 through 1085 acknowledging receipt of the May 9th letter and shipment of without just cause video tape.

Dr. Sherman states in the third paragraph, "I'm also prepared to testify that I disagree with Dr. Fyfe's conclusion about the operation pipeline in Jamaican posse videos, even though I have not seen the latter."

Did you have any concern that Professor Sherman was prepared to disagree with Dr. Fyfe's conclusions, even though he had not yet received and reviewed all the evidence?

MAJOR BRENNAN: I did not read this. To my recollection, this letter, in that depth-- This letter was passed on to our attorney, and--

MR. WEBER: To Fahy.

MAJOR BRENNAN: To Fahy. We're talking in 1995 about something that happened six years earlier -- again, experts -- and a T.V. show. This went, for the purposes of the litigation, for DAG Fahy to do with what he felt necessary. It was not my place to jump in and change litigation strategy or

point out problems with the experts.

MR. WEBER: In light of the fact that you are an attorney, did DAG Fahy involve you at all in any strategy decisions in the *Soto* litigation?

MAJOR BRENNAN: No.

MR. WEBER: Didn't ask you for your opinion on anything -- the *Soto* litigation?

MAJOR BRENNAN: There was no time in the conversations that we had -- were either from a courtroom -- a hall in the court way -- telephone -- phone booth in a hallway or something like that. We didn't meet. We didn't talk. We didn't discuss strategy.

MR. WEBER: So I gather then, from the series of letters and your testimony, that basically you were, sort of, a conduit of information between Fahy and Sherman, and Sherman back to Fahy.

MAJOR BRENNAN: Yes.

MR. WEBER: Sherman was retained and involved in the *Soto* trial, correct?

MAJOR BRENNAN: I believe he was. Yes.

MR. WEBER: And testified in the *Soto* trial--

MAJOR BRENNAN: I don't have-- I wasn't there. I don't have a recollection. I think he did.

MR. WEBER: Were you involved at all in any of the -- Professor Sherman's expert preparation?

MAJOR BRENNAN: No, other than the letters that you see providing the materials that he received.

MR. WEBER: Okay. New document. GC-001086 -- May 10, 1995,

memorandum to DAG Fahy in OAG legal affairs -- subject Gloucester County case -- memo from you stating, "Enclosed, please find a copy of a report I located, which was prepared by the State Police Analytical Unit, September 1989, probably in response to a request by Colonel Pagano, prompted by the Channel 9 television reports. This date, I confirmed with Colonel Pagano, is the one he referred to during the Channel 9 interview. I hope it is of some use to you."

Do you remember what that report was?

MAJOR BRENNAN: I'm not-- I remember looking for it. I remember Fahy asking -- DAG Fahy asking, very often -- "We have to find this document and this report. Try to find where it could possibly be." And I looked all over the place. Once I located a report that appeared to fit the bill-- Again, it was critical. My understanding was it was critical in the litigation and that I had to-- He had asked me to take it directly to Pagano so he could represent that, yes, this is the report Pagano is referring to. And I forwarded it on to him. And I did, in fact, travel to meet with Colonel Pagano, who was retired at the time, and showed him the document. He said, "That's the report I'm familiar with."

MR. WEBER: You don't recall the subject matter of that report?

MAJOR BRENNAN: No.

MR. WEBER: What is the State Police Analytical Unit?

MAJOR BRENNAN: It was a unit--

MR. WEBER: Well, what was it in September of '89?

MAJOR BRENNAN: It was a unit, as I understand, in the intelligence section that had -- was staffed by -- supervised by State Police personnel but

staffed by analysts that would compare data trends, reports, statistics, things like that.

MR. WEBER: See if maybe this refreshes your recollection a little bit on the substance of the report. Three page document, OAG-006647, 6646, and 6645. They were stapled incorrectly. But if you just take a look at the third page, 6645. It is a letter from John M. Fahy to P. Jeffrey Winner (phonetic spelling) dated May 11, 1995. It makes reference to the report that we have been discussing -- indicates that you located the report and confirmed that it was the one referred to by Colonel Pagano. And in the second paragraph -- states, "The report is available for your use in questioning Colonel Pagano. The report was prepared solely for the use of Colonel Pagano, was not distributed generally to members of the State Police. The report also was not a training aid."

Does the description of the report at all jog your memory as to what the report was about?

MAJOR BRENNAN: The caption-- I can only assume. I don't have a direct recollection of the report.

MR. WEBER: Another document -- GC-003065. Up at the top it says Lt. J.B. Is that you?

MAJOR BRENNAN: I don't know. There was-- I'm thinking. I'd have to check the badge number to see who that is. I think I know who it is, but--

MR. WEBER: TG-3635. Who do you think that refers to?

MAJOR BRENNAN: I'm assuming it's Tom Gilbert. I'm-- There was also another lieutenant, Jim Bruncati, J.B., who worked in the superintendent's office.

MR. WEBER: Why don't you take a moment to read the document, and see if it looks familiar to you?

MAJOR BRENNAN: This is-- I can already tell you this is not something that was ever in my purview. I can tell by the dates.

MR. WEBER: By the--

MAJOR BRENNAN: Focus on-- Particularly if we focus on the 1/10/96 follow-up special report. I was in EEO in December of '95, and Gilbert was not anywhere in my chain of command.

MR. WEBER: Well, could this have been in connection with the *Soto* case?

MAJOR BRENNAN: I'd only be assuming. I have never seen it before. I don't--

MR. WEBER: Realizing that you've never seen it before, what is -- and I'm assuming that this is a term of art to the State Police-- In the fourth line, it says "Subsequent to the special submitted by Jimmy Smith." What is the special?

MAJOR BRENNAN: There's a document that's called a special report that's a block-- It's a square with a heading on it that's called State Police Special Report. It's used for a miscellaneous or anything that's not otherwise identified.

MR. WEBER: Okay. You've never seen this document before?

MAJOR BRENNAN: No, I haven't. I mean, you know, some of the things in here, certainly-- I understand some of the issues that-- But it-- I'd-- It would be a disservice to you and me to try to fill in blanks where I'm only guessing.

MR. WEBER: Okay. What-- And I don't want you to fill in blanks. I don't want you to guess. But you said that there are some issues in here that you did understand. What issues?

MAJOR BRENNAN: That I'm aware-- The day-- Davis et al was a litigation that-- There was a mediation team developed that-- I was part of the mediation team at one point, subsequent to this, when we were trying to settle a law suit. And I believe it's still pending -- that's going on. And there were arbitrators. Sally-- I assume, Ms. Sally Fields was talking about the mediator of their existence. Now, there was mediator Allan Light. (phonetic spelling) I'm assuming that this was related to those -- that group of people, but I'm telling you this is not--

MR. WEBER: What did that lawsuit-- What were the allegations, just generally, in that lawsuit?

MAJOR BRENNAN: Davis et al is generally an employment discrimination case.

MR. WEBER: Brought by?

MAJOR BRENNAN: A group of minority troopers.

MR. WEBER: First sentence in the second paragraph -- "We can take an approach to reinterviewing them, but it could be characterized as retaliatory."

MAJOR BRENNAN: I do not know what this is in reference to, sir.

MR. WEBER: Okay. What is Article 5, Section 8 of the rules and regs? If you look down towards the bottom-- "If they provide information other than that Smith special, this would be the time we could get them a hard -- we could give them a hard time for not having complied with Article 5, Section 8

of the rules and regs.”

MAJOR BRENNAN: Not having Article 5, Section 8 in front of me-- I mean, I'm familiar with the rules and regs. I don't know the context within which he's saying that.

MR. WEBER: And do you know who Jimmy Smith is?

MAJOR BRENNAN: There are several Jimmy Smith's in the State Police, but there is a James Smith that's in-- I believe is a defendant -- a plaintiff in the Davis et al.

MR. WEBER: And there's also a mention here of a report by Lieutenant Gilbert. Do you know what report that refers to?

MAJOR BRENNAN: There's a report that I'm familiar with -- a report -- it may not be the one he's referring to -- by Lieutenant Gilbert. That also involved Sergeant First Class Smith involving profiling -- allegations of profiling -- Moorestown Station.

MS. GLADING: Do you know who the major referred to in the first line might be?

MAJOR BRENNAN: No, ma'am, I don't. I don't know the time frame of this document. Some of these issues are still open issues. I don't know when this was created or what the date is on it. It could have been a variety of people.

MS. GLADING: As an EEO and Affirmative Action officer, are you directly involved in these types of matters?

MAJOR BRENNAN: I don't know what this -- what he's referring to here. I mean, matters that are touched on in here, yes. The Davis et al case I was involved with. The racial profiling at Moorestown Station -- the Jimmy

Smith special was forwarded to me. So I am aware of these things, but I don't know the context within which this report was prepared or why.

MS. GLADING: Do you know of any connection between the IAB and the Davis et al case?

MAJOR BRENNAN: Does it-- I'm trying to find IAB in here.

MS. GLADING: Well, the second sentence-- "These issues are already part of what IAB is looking at."

MAJOR BRENNAN: I would-- I do not know what he's referring to there. I don't know.

MS. GLADING: And this is presumably Lieutenant Gilbert who's--

MAJOR BRENNAN: Well, again--

MS. GLADING: Lieutenant B. Gilbert.

MAJOR BRENNAN: --this will confuse the issue. There's a Sergeant Gilbert who's Tom Gilbert, and then there's a Lieutenant Gilbert. That's the Gilbert involved in the memo from Moorestown Station.

MS. GLADING: Lieutenant B. M. Gilbert?

MAJOR BRENNAN: Yes. And then there's Sergeant Jimmy Smith from that same memo and the litigation, as well.

MS. GLADING: Is this what an e-mail looks like -- an internal e-mail?

MAJOR BRENNAN: No.

MS. GLADING: Okay.

MR. WEBER: Is it customary for a document to be prepared like this not on an interoffice communication, in all caps, with just rank and first initials?

MAJOR BRENNAN: I think it's customary in any office to leave notes

for associates that you work with on issues that you may not be there to brief them on. There's no required system that you can't communicate in handwriting or leave a written note on a piece of looseleaf paper. So I look at this as somebody trying to convey some information to someone.

MR. WEBER: The next document is GC-001559, dated February 28, '96 from Captain Touw to you. This is when you're the bureau chief of EEOCAA Bureau. Subject -- racial tension, Moorestown Station -- attached interoffice communication from Detective Sergeant M. Welsh. Investigation unit is self explanatory for your information.

What was the racial tension issue at the Moorestown Station (indiscernible) (someone coughing) -- February 1996?

MAJOR BRENNAN: I would have to see DSG Welsh's memo just for -- to be able to, you know, give that a fair answer.

MR. WEBER: I don't-- Well, it was not attached to this document that was produced to us, so--

Do you have a general recollection as to there being racial tensions as the Moorestown Station?

MAJOR BRENNAN: I have a general recollection that DSG Welsh -- the way the report went -- was a sergeant in the Internal Affairs Bureau who had stopped at Moorestown, for one reason or another, and engaged in conversation with both minority and majority troopers that there was some tension at the station along racial lines. I'm not sure whether he mentioned there were thoughts or concepts of profiling being pushed back and forth. I honestly don't recall that. I can go back and look to see that memo and respond to you -- see if I can find that memo.

As far as it goes, I recall what my response was. I assigned Sergeant First Class Walter Anderson, one of my investigators, to go down and speak to some of the minority troopers that he knew, to follow up on this informally, do some inspections at the station, and monitor the situation down there -- "Get back to me if you see there are problems that need to be addressed."

MR. WEBER: Did, ultimately, Anderson get back to you?

MAJOR BRENNAN: It was an ongoing-- It was ongoing. He-- We had some investigations that were coming out of that station anyway that he had investigated, so there was a constant dialogue. It wasn't to the point that there was anything that we -- that would have mandated a response that was going on. There were certainly people who were not getting along as well as they could have gotten along. But frankly, to have a clear way to solve that issue, we stayed on top of it as best we could. And although this is dated the end of February, you know, it wasn't followed up too long later, in my view, by the Moorestown memo that made it up -- the Jimmy Smith memo, which was all part of this issue, we believe. We knew that Field Operations was looking at this problem, as well, and we were just monitoring it.

MR. WEBER: Well, you said that there were other investigations going on into the Moorestown Station. Did they pertain to race at all?

MAJOR BRENNAN: Not-- At the station, we had-- The specific complaint was-- Mark Steffans (phonetic spelling) had made a complaint prior to me being the captain -- he was an African-American trooper -- about despairing treatment. And Walter Anderson had conducted the investigation -- had interviewed every black trooper at the station. And we were reviewing those statements during this period of time.

MR. WEBER: Was there an ultimate finding made about Steffans's complaint?

MAJOR BRENNAN: Yes.

MR. WEBER: What was that finding?

MAJOR BRENNAN: The ultimate finding was that there was -- nobody had treated him differently based on race, but that there certainly were procedural deficiencies that occurred in some of the personnel evaluation policies that took place down there -- not serious, but that counseling of the supervisors, because that could have developed a reasonable perception that he was being treated differently by his supervisor-- So that was the conclusion of the investigation.

MR. WEBER: I'll show you another memo to you from Captain Touw dated March 4, 1996 -- subject, racially motivated stop.

These two interoffice communications are within days of each other. They both concern race; one concerning racial tension amongst the troopers, another concerning complaints of racially motivated stops.

In light of your involvement in the *Soto* case, did you have a heightened concern about these allegations?

MAJOR BRENNAN: I certainly had a heightened concern. I don't know if I recall when the decision in *Soto* was issued.

MR. WEBER: March 6th.

MAJOR BRENNAN: I think it was March of '96.

MR. WEBER: March 6th, '96. So these -- you know, this is a week, and then two later before the issuance of the decision.

MAJOR BRENNAN: Understanding that the Division's position and

the Attorney General's Office and DAG Fahy's position -- that I respected his opinion -- was that a case was going on, and he was surprised by Judge -- I believe surprised by Judge Francis's determination. We knew these were issues that were there, but we did not have the *Soto* decision. Notwithstanding that these were very serious, and I responded to this by recommending that an internal investigation be conducted.

MR. WEBER: Why was Captain Touw forwarding this information to you? Was it because you were the bureau chief of EEOC?

MAJOR BRENNAN: Captain Touw, in my view, is one of the more enlightened members of the Division of State Police. And he took this upon himself -- was concerned about these issues. He had received this complaint. He was -- wanted to make sure I got a look at it, I believe, for some input from me on where to go with this. It didn't fit-- It did not fit the traditional box that Internal Affairs was built in. For instance, I don't believe-- I don't know if he was looking for guidance, but he certainly wanted to make me aware of it. And as you can see, for your information, generally, is State Police language that, you know -- we're just giving this to you, and we're going to handle it. So I received the information, and I responded that it was my recommendation that we investigate this matter.

MS. GLADING: Did you and Captain Touw have that kind of relationship where he would consult with you on these kinds of matters?

MAJOR BRENNAN: When time allowed. I don't know that he consulted with me on every matter. We were at different ends of the complex, but we did consult on quite a few matters.

MS. GLADING: Would you do it in person or on the phone?

MAJOR BRENNAN: Mostly in person, or-- There were, no doubt, phone calls.

MR. WEBER: You had mentioned a little bit before some information about a case going to Judge Francis and DAG Fahy being surprised by the decision. Did you have any discussions with DAG Fahy during the trial as to how he thought the trial was progressing?

MAJOR BRENNAN: Very brief. It was good day, bad day. I'm sure you've had those same conversations where you don't go into it. But that was, essentially, the extent of it.

MR. WEBER: Unfortunately, a lot of bad days.

The case goes-- The case is completed. The trial is completed. Did you then have a more substantive conversation -- more than just, you know, good case, bad case, as to where Fahy thought things were going to go?

MAJOR BRENNAN: I don't think he had the luxury to sit around and discuss it. As I recall, there were other cases that he was heavily involved with that took a tremendous amount of time from his-- We just didn't have that luxury. And I know at the time there was a common compliant. They didn't have the support. I don't know the timing on the Ken Rough (phonetic spelling) trial. DAG Fahy was the lead counsel on that. That went for months in Mercer County. There was, I believe, around the same time-- Public defenders were beginning to follow this pattern and use the forms and cut and paste the motions in different counties. And he was the expert. He was catching them. So this was an operation that was defending the State. I don't think that anyone was making substantive management decisions based on the way the litigation was playing out.

MR. WEBER: Not even a conversation when the trial was concluded -- to even pick up the phone and call you and thank you for all your help and say, "Hey, you know, I think we did good. I think we have a 75 shot of winning this -- a 50 percent shot of winning this." No conversation like that?

MAJOR BRENNAN: General conversations like that, but nothing in great detail.

MR. WEBER: And what was Fahy's overall perception as to how the trial went?

MAJOR BRENNAN: The overall perception was-- In my recollection-- And I don't want to put words in his mouth. This is what I heard.

MR. WEBER: All this is your recollection. I understand that.

MAJOR BRENNAN: He could-- It was difficult to believe that any court would accept the violator's survey that was provided and admitted into evidence in that case and that that was just incredible that that had happened. It was-- He was a lawyer being a lawyer. He was not a State Police manager being a manager of what the Division was doing.

MR. WEBER: Did you have any conversations with DAG Fahy after the *Soto* decision was released on March 6th, 1996?

MAJOR BRENNAN: I know that I participated in a committee to look at the results and the impact and, basically, what does the Division do now that the decision was rendered and that we attended some meetings together. But I don't recall any extensive conversation with him about these issues.

MS. GLADING: Did you continue to remain the contact person for the State Police -- for Jack Fahy?

MAJOR BRENNAN: This was pretty much the last case I dealt with

him on.

MS. GLADING: Who followed in your shoes then? Who then did he deal with after you?

MAJOR BRENNAN: I don't-- I know that he worked on a case. I don't know whether it was before this or after this, but it was an employment discrimination case -- Ken Rough. That was an extensive case. But they did give him another DAG to help him. And I'm not sure who assisted him with those documents. It would have probably been Division Services in that area. And Internal Affairs has a unit called Internal Administrative Proceedings Unit, as well.

MS. GLADING: Do you know who would have assisted him on discovery issues involving State Police documents?

MAJOR BRENNAN: It would have been-- If he could get it from the Internal Affairs Bureau -- what they call the AIPU, Administrative Internal Proceedings Unit, then he would make the call to the superintendent's office, which would have been me. Now, Captain Blaker replaced him, but I think -- replaced me -- DAG Fahy, I believe, moved into State grand jury or something -- changed assignments shortly after this.

MS. GLADING: So up until what time did you continue to assist Mr. Fahy with State Police matters?

MAJOR BRENNAN: I pretty much recall it was only with *Soto* at that point. And depending on when the Ken Rough trial was, whether that was before or after, I may have had some minor role -- very small role in that case in assisting him with that. But it was basically-- The bulk of it was with this case.

MS. GLADING: You mentioned familiarity with other public defenders cutting and pasting the *Soto* motion and filing them in other counties. Who would have assisted Mr. Fahy in handling those matters for the State Police?

MAJOR BRENNAN: I don't know where that was going or developing. And it could have been Tom Gilbert. It could have been somebody in that office. I don't know. I'm speculating at this point. I don't know how much he got involved in that.

MR. WEBER: Before we started today's proceedings, your counsel provided us with two documents, which was represented to us had not been part of the Attorney General's Office's document production. The first one is a document dated -- and please confirm it for me because the month has been removed, I guess, by the three-hole punch. It appears to be March 12th, 1996.

MAJOR BRENNAN: I believe that's accurate.

MR. WEBER: Okay. And it is my understanding, from my discussions with Ms. Accurso, that these two documents will be Bates stamped and will be made part of the Attorney General's Office's production.

My first question to you, in regards of this document is, how is it that you found this document and gave it to Ms. Accurso and you realized it was not part of the original document production?

MAJOR BRENNAN: I don't know how far that goes. I was-- I looked at the documents that my name was associated with in the public dump--

MR. WEBER: Repository.

MAJOR BRENNAN: --so to speak. Repository. And I don't mean dump -- a place you put bad things. I mean the fact that we unloaded these documents. And I noticed that there was no response from me to both of these

-- these two issues. And that concerned me because I know I had responded to them. And I felt that it was important to locate them due to the fact that these were open issues that someone's going to look to see what the Division did. So I went to locate my responses.

MR. WEBER: Where did you find your responses?

MAJOR BRENNAN: In stored binders in the EEOAA Bureau that were-- The actual binders had been stripped, and these documents were rubber banded, and they found them in storage.

MR. WEBER: Okay. Did you-- Was it your own personal practice to keep a copy of all the documents that you author?

MAJOR BRENNAN: No.

MR. WEBER: Okay. How is it then that these documents found their way into a binder and into storage?

MAJOR BRENNAN: It was the office's practice to keep whatever documents were generated. And you'll see numbers up on the top. In the course of the office, they kept a chronological order of documents in and out.

MR. WEBER: Did anyone from the AG's office, at any time, contact you to inquire about whether you had documents in your possession that concerned the issue of racial profiling?

MAJOR BRENNAN: Absolutely.

MR. WEBER: When were you contacted?

MAJOR BRENNAN: All throughout the summertime. I'm -- at dates -- I believe that's when this-- It was repetitive. In fact, my office was involved in-- The Office of Professional Standards was involved in the collection process.

MR. WEBER: How was your office involved in the collection process?

MAJOR BRENNAN: It was needed immediately. And people from -- that I supervise were the persons who worked with the DAGs who work to collect these documents.

MR. WEBER: And was there a particular part of the State Police that the people in your office were responsible for reaching out to in collecting their documents, or were they responsible for the entire organization?

MAJOR BRENNAN: Essentially, the entire Division.

MR. WEBER: Do you keep any personal files, either at your home or within your office, that would have information about racial profiling that was not provided to the AG's office?

MAJOR BRENNAN: No.

ASSISTANT ATTORNEY GENERAL ACCURSO: I assume that you are meaning relevant documents that weren't provided to the AG's office.

MR. WEBER: Documents that concern racial profiling.

ASSISTANT ATTORNEY GENERAL ACCURSO: Right.

MAJOR BRENNAN: No.

MR. WEBER: The March 12, 1996 IOC that you authored to Captain Touw as a response to the earlier memo that we discussed -- GC-001198, which concerns a complaint by Veronica, and I'll leave her last name out, about racial profiling-- Your second paragraph here makes reference to Judge Francis's decision in the *Soto* case. The date of this memo was six days after the Francis decision.

Did the Frances decision affect the way that you responded to allegations of either racial profiling or racial tensions within the barracks? Did you feel

that you had an increased responsibility?

MAJOR BRENNAN: That's a difficult question to answer. The Francis decision-- I attached a copy of it and sent it back to Captain Touw because I believed, and it was fairly new at this point-- It was critical that other members of the Division understand what people would be looking at. It was -- understanding that the profiling issue was not an EEO issue at that time, unless other troopers claim that that created a hostile work environment. Then it would fall under my jurisdiction, so to speak. For whatever reason, Captain Touw copied me on this. And I believe I wanted to alert him, along with my chain of command, that, you know, we can't not look at this. We have to investigate it, and we need to look at the things that were focused on in the Gloucester case and investigate those issues. And that was-- This is very new. I think it's my-- It's probably six or seven days after the case came out.

MR. WEBER: Your third paragraph-- You state, "At this time, this Bureau is preparing a response to the Attorney General regarding Division mechanisms to address this type of minority concern. We have responded with the IAB process as our method of handling complaints in that the minority community -- should have confidence in the process."

Am I to take it that there was not a mechanism in place prior to the Francis decision to deal with, to use your phrase, this type of minority concern?

MAJOR BRENNAN: I don't think that's fair to characterize that. What I was relaying to Captain Touw was the fact that we had just been in the process of responding to a request. I don't know whether it was from the Attorney General's Office responding to a request from Washington about

what is the State Police doing about minority concerns -- initiatives, things that they do, how do they handle complaints. And I had, if I recall, just finished drafting that when you have excessive force or unfair treatment or despaired treatment, how would you, as a police department handle that. And we stated that it would be the Internal Affairs process.

Now, what I'm doubly entertaining is the fact that this has to go back and be considered -- that we're going to do a full and fair investigation in this matter. You can't assign it to some other type of disposition or resolution.

MS. GLADING: Did you read the Francis decision when it was issued?

MAJOR BRENNAN: Yes.

MS. GLADING: Did you speak with Trooper Reilly on a regular basis about what was going on down at the Francis case?

MAJOR BRENNAN: Not really. It was-- Again, it was very hectic, as any type of litigation is. And he was not-- He was detached from another section to work for me. And it was strictly, "So and so didn't show up today," or, "You're going to have to--" "I can't get a hold of this trooper that the defense wants tomorrow. Can you have someone get him at home and not--" It was all logistics. It was, pretty much, Pat Reilly assisting not only Fahy, but the court in us being able to provide the volumes of discovery, getting witnesses to places, and things like that.

MS. GLADING: Did he provide any written notes to you about what was needed?

MAJOR BRENNAN: I don't recall. He may have, but it's not something that was significant or that I can recall.

MS. GLADING: Did he provide any written record of how the trail was

going -- any notes about the conduct of the trial?

MAJOR BRENNAN: Not that I recall.

MS. GLADING: So all the briefing of you is by telephone?

MAJOR BRENNAN: Mostly, yes. I mean, there were times he -- they'd have a day down, or he couldn't go, and we wouldn't have anybody there. And he would be at Division headquarters. He might stop by to pick something up or drop something off.

MS. GLADING: The-- This new document, and the one with it-- Can you explain why they weren't part of the original production?

MAJOR BRENNAN: Having been involved in the original production, collecting 70-something-thousand documents in a short period of time was an extremely difficult task. I will say they used the computer system that I developed while I was up in -- that I basically theorized -- the computer people developed for me -- and for the superintendent's office. And we were there night and day and weekends going through these -- whatever computer and hand retrieval of documents we could on any key topic or work. Now, my-- I'm speculating-- There is no number-- There's no superintendent's doc-track number on the bottom of this document. You see, the one you just passed around has a number on it. That was the way we were able to identify a lot of -- most of the documents that we turned over. If you look at the document that I don't have, it didn't go through the superintendent's office. It went through one major, and as a result, it was not logged into this tracking system where a copy would have been covered.

Now, we're talking about 4000 employees and document requests back to 1985. Those documents, because they related to me -- and I was attempting

to anticipate some of the questions today-- I knew they existed, and I went to the corner to find where they were.

MS. GLADING: Physically, you mean.

MAJOR BRENNAN: Physically I went and dug them out. I-- You also-- I would ask you to understand that many of the people that were in place at the time that these documents were created, generated, and stored, are no longer even with the Division. I'm, I would say, fortunate or unfortunate enough to have been at that level in '96 and still here today, where I actually was able to go find these things, and I knew of their existence. But I will tell you that we also were all queried as to whether or not we knew of any documents that existed that we didn't include. And I said, "I don't know of any." I was not sitting back thinking of the, probably, thousands of documents that I have been involved with in my career and thinking of everyone that might comply with this request.

MS. GLADING: Do you-- As the Office of Professional Standards-- You indicated before you were coordinating the document collection process at the State Police.

MAJOR BRENNAN: Yes.

MS. GLADING: Were you involved in the collection of the 5000 pages of documents we received last week?

MAJOR BRENNAN: I don't know what those documents are. Some of-- They may-- Some of them may have come from my office, but I'm not certain what is in those documents.

MS. GLADING: Do you know-- Do you know-- Did you speak with anyone in your office, or do you have any information about why those

documents weren't part of the original production?

MAJOR BRENNAN: No.

MS. GLADING: Are you aware that 5000 more pages of documents were provided to us?

MAJOR BRENNAN: I heard. I haven't seen them. I haven't had my chance to go over-- I'd love to get a CD so I could look at the documents.

MS. GLADING: But it was--

MR. WEBER: There's no CD yet.

MAJOR BRENNAN: Well, whatever they have. I haven't gone over it, nor had I had the time to collect those or pick those up. I don't know, or don't believe, that they were documents that we individually went around and attempted to cull out of miles and miles of paper. I don't know where those came from.

MS. GLADING: They're on the Internet if you want to look at them.

MR. WEBER: They are?

MS. GLADING: Yeah, they are. The newly released documents are.

ASSISTANT ATTORNEY GENERAL ACCURSO: We put all the documents--

MR. WEBER: Oh, you put them on the Internet?

ASSISTANT ATTORNEY GENERAL ACCURSO: Yeah.

MR. WEBER: Oh.

ASSISTANT ATTORNEY GENERAL ACCURSO: They're on our website.

MR. WEBER: Oh, I didn't know that.

MAJOR BRENNAN: I didn't know it either.

MR. WEBER: Learn something new every day.

MS. GLADING: Is it possible that there are other documents that have not been recovered at this point, or not been provided to us?

MAJOR BRENNAN: Absolutely. Absolutely. That possibility absolutely exists. In fact, you're talking about 2700 people and 1000 civilian employees and duplicates of these things being made between all kinds of offices, the possibility and the likelihood that things exist are out there.

MS. GLADING: I want to clarify something you said earlier. You said that Captain Touw copied you on this issue. But he actually wrote to you directly, right? He didn't copy you--

MAJOR BRENNAN: Yes.

MS. GLADING: --in the original memo, right?

MAJOR BRENNAN: And I misspoke. Yes.

MS. GLADING: Okay. So this is something where is sought direct advice from you.

MAJOR BRENNAN: Well, no. He would have written on the bottom, "For your review and comment," or he would have written on the bottom, "I will await your response." This is State Police customary practice to say this is for you to do with what you choose. I'm going to do what I'm going to do unless you get back to me. So I felt compelled to respond.

MS. GLADING: Would he engage your counsel on other similar matters?

MAJOR BRENNAN: Yes.

MS. GLADING: Was that a pretty routine practice of his?

MAJOR BRENNAN: I don't know that I would call it routine, but on

some significant issues, we had extensive discussions.

MS. GLADING: And is it safe to say that on a *Soto*-related issue, you were the in-house expert?

MAJOR BRENNAN: No.

MS. GLADING: No. Who would have been the in-house expert on that?

MAJOR BRENNAN: I don't know that we had an in-house expert on *Soto* to that degree. Again, you have to realize that we were-- The Attorney General's Office was appealing it, and--

MS. GLADING: Is there-- Let me clarify my question. Is there anyone in the State Police who had more hands-on knowledge about *Soto* than you at this point in time?

MAJOR BRENNAN: Possibly someone in administrative internal proceedings and internal affairs. But that would have nearly been providing documents and things like that. But it may be. I may have learned-- Maybe I had the most information on *Soto*.

MR. WEBER: Would it be incorrect to say that you were the liaison between the DAG's -- between the AG's office and the State Police in connection with the *Soto* decision -- the *Soto* trial leading up to the decision?

MAJOR BRENNAN: I would say only in a logistical basis. I have to believe that decisions to continue, to proceed, to push to forward were being made at a level, and I was never involved in any conversations about should we -- how do we -- with any of my superiors or with anybody from the Attorney General's Office. Fahy got assigned to go as an attorney, and I got assigned to -- when he needed something that he couldn't get through the normal

procedure, he would contact me, and I would make it happen.

MS. GLADING: Can I-- The March 12, '96 memo -- the second paragraph-- That's not a logistical matter. That's substantive interpretation of *Soto*.

MAJOR BRENNAN: Which-- Oh, well, now the case was out. The decision was rendered at this point. And I read the decision carefully, and now I'm saying, "Look. Whatever the thoughts were on this case and the merits thereof, we have a case. And that's the law of the land. Read it, and please, lets--"

MR. WEBER: I want to move on to a new document. I think it's been put in front of you. OAG-004192 through 4196 -- March 28, 1996 -- IOC from Detective Gilbert up through the chain of command to Colonel Williams. It discusses the *Soto* decision. And on the second page, the first full paragraph, it identifies that, "On Monday, March 25th, Lieutenant Colonel Littles chaired a meeting attended by the following: Captain Brennan, Captain Touw, Sergeant First Class Blaker, Detectives Reilly and Gilbert, Trooper Kay, (phonetic spelling) DiPatri, as well as John Fahy and Ronald Susswein of DCJ. The purpose of the meeting was to address the issues raised by Judge Frances. Set forth below are those concerns and the responses, which have been initiated." Who assigned you to participate in this meeting? And, as the documents reflect, there were subsequent meetings of this group of people to address the *Soto* decision.

MAJOR BRENNAN: I don't know whether it was Colonel Williams or Colonel Littles, but I was assigned.

MR. WEBER: Did either explain to you why you were assigned to this

team?

MAJOR BRENNAN: For the reasons stated herein is the best-- Again, this is a document that I am not familiar with. But I know that there was a committee formed to address the -- to address the issues that came up in the case.

MR. WEBER: All right, but my question is, did it -- was it explained to you why you specifically were chosen to be part of this team to deal with the *Soto* decision?

MAJOR BRENNAN: I can only assume-- I was an EEO Captain. I think-- I had-- Other people probably felt I had an understanding of some of the issues and a different view than some other -- than other people.

MR. WEBER: The next page talks about compliance with SOP F-3 and expresses some suggestions on how changes are needed in order to ensure compliance with SOP F-3. Prior to becoming involved in this meeting, did you have any understanding about the level of compliance with SOP F-3?

MAJOR BRENNAN: I can't recall the time frames.

MR. WEBER: Okay. Did you, at any point in time, come to learn that there was a problem in the compliance with SOP F-3?

MAJOR BRENNAN: SOP F-3-- You're going to have to tell me what aspects of F-3.

MR. WEBER: Well, identifying the race of individuals when calling in stops.

MAJOR BRENNAN: That's not the only thing in F-3. I don't know specifically what you're referring to. Outside of the time frame, this-- I'm hazy on time frames. I am aware, and I knew that there was at time when we

checked on the compliance. I believe Captain Touw was behind that, and the compliance was not good.

MR. WEBER: And I take it that that was discussed at one of these meetings or several of these meetings.

MAJOR BRENNAN: I frankly have very little recollection of where certain things were discussed. I know we had these meetings. I don't know where those issues were discussed.

MR. WEBER: There's also mention in here of changing document retention policies. Do you remember discussion about that?

MAJOR BRENNAN: Very limited. It was-- The retention policy-- I understood the need for it. It was out of my area. I support the fact that we needed to hold on to these things.

MR. WEBER: Bottom of Page 4195 -- there's a discussion about the potential -- the decision of the potential significant impact on morale and productivity. Do you remember those discussions amongst the group?

MAJOR BRENNAN: I-- Within the group, I believe there were-- You know, that was a concern.

MR. WEBER: What was discussed?

MAJOR BRENNAN: Just the fact that-- I really can't recall specifics, other than people were going to view this as painting the Division of State Police, all 2700 people, with a broad brush. People don't feel like their supported. Are our troopers going to stop working? There were those issues that came up.

MR. WEBER: It says in the last paragraph on that page, "It was a consensus of the meeting that timely training regarding the Gloucester County

is needing. This training should be exclusive of the annual in-service.” Was additional training developed to deal with the Gloucester County decision?

MAJOR BRENNAN: I don’t recall. I strongly supported it and recommended it, but again, that was not the area I was working in, as far as delivering that training.

MR. WEBER: What area were you working?

MAJOR BRENNAN: I was in EEO at the time.

MR. WEBER: Did you have any--

Well, let’s go back to the team concept of the people that were there at the meeting. Were members of the team given individual responsibilities?

MAJOR BRENNAN: The only individual responsibility that I -- that was probably there was-- Tom Gilbert was, pretty much, I guess, from the looks of this, the secretary or record keeper of the -- of the group. And the responsibilities-- Kevin DiPatri from Field Operations was the provider -- a road perspective to this. Captain Touw was to provide an Internal Affairs perspective. I would provide a perspective from what -- however EEOAA issues would-- Again, our office was focused on internal discrimination complaints and hostile work environment -- how, if anything, could assist in addressing these issues.

MS. GLADING: Did you, in this period of time-- Did you have regular discussions with Colonel Williams or with Lieutenant Blaker about this issue?

MAJOR BRENNAN: More so with Lieutenant Blaker. And I don’t know that I ever discussed this issue with Colonel Williams.

MR. WEBER: Did Detective-- Well, the memo reflects-- I guess Detective I T. Gilbert?

MAJOR BRENNAN: Right.

MR. WEBER: What is the next rank that one would be promoted to from Detective I? Is it sergeant?

MAJOR BRENNAN: Sergeant or detective sergeant.

MR. WEBER: Okay. Do you know when Detective Gilbert was promoted to Sergeant Gilbert?

MAJOR BRENNAN: No.

MS. GLADING: At this point in time, you were one of the more knowledgeable people in the Division of State Police on the *Soto* matter. Is that correct?

MAJOR BRENNAN: Ma'am, I can't -- I can't adopt or accept that position. I had worked with it. I had other issues going on at levels above me. There were, no doubt, people dealing with the Attorney General's Office on it.

MS. GLADING: Who would that be?

MAJOR BRENNAN: The superintendent -- deputy superintendents at the time. There were things happening in the case. I was aware of that. I mean, I can't recall any critical decision making discussions I ever had with Colonel Williams on this issue. Did it ever come up in conversation? It was dominating what was going on in the State Police, so no doubt, some words may have been exchanged. But, you know, I was extremely adamant that we needed to take heed to the message in that case and move forward in the Division.

MR. WEBER: Is there anyone who disagreed with that?

MAJOR BRENNAN: I don't know whether they disagreed or not. But I think they-- I can't really count for them, but I don't know. There were--

There certainly were individuals who wanted to appeal the case and go forward.

MR. WEBER: But within your group of people, and we've already identified them in the other memo, did everyone agree with your adamant feeling that you had to take heed of the decision and move forward?

MAJOR BRENNAN: In different degrees. They were-- It was an issue of you can't turn an ocean liner around on a dime. And you can't approach a workforce like a bull in a china shop. And there were ways that, I believe, the consensus of the committee was that change had to be made within the Division. It was the system and the method by which the change would take place.

MR. WEBER: Who voiced the idea that you can't turn an ocean liner around on a dime?

MAJOR BRENNAN: I'm using a--

MR. WEBER: No, a metaphor.

MAJOR BRENNAN: --a concept today that wasn't there then. That's why this whole thing is somewhat unfair going back. That's my impression today. I don't know if you had me on March -- April 17th, 1996 -- I would be saying the same thing. I know I've learned a lot since then. I have more experiences. I-- My memories are filtered by my experiences, so I don't know that's what I would have said in 1996.

MR. WEBER: I know, but your testimony is that in April of '96, when this group of people were getting together, your position was one of adamantly heeding to the courts decision and to move forward and make the changes that were necessary. So that certainly hasn't changed along with time. I mean, that

was your position back in April of '96. So my question to you is-- I would assume that this wasn't a total love fest where everybody absolutely agreed, otherwise we would have the series of memos that discuss all these different possibilities. Who in the group-- If you were at this end of the spectrum by saying we've got to comply, we've got to heed-- Who was at the other end of the spectrum to the extent the spectrum went the other way?

MAJOR BRENNAN: So far as the group is concerned-- I can't speak for the DAGs, Fahy or Susswein. The people that were important to me, which were Captain Touw, Captain Blaker -- Lieutenant Blaker, and Lieutenant Gilbert, along with Lieutenant Colonel Littles -- that this composition would change for some time -- all were of the position that we had to respond to this and move the Division forward in a positive way. Captain Touw fully believed that Internal Affairs should be doing audits -- number-based audits on minority composition stops and arrests.

MR. WEBER: Did he express that belief in the meeting?

MAJOR BRENNAN: Yes. Captain Gilbert-- Tom Gilbert is the junior member along with other-- We all agreed that these troopers had to be trained in the decision -- enlightened as to the decision, move forward.

MR. WEBER: Did anyone disagree with Captain Touw's suggestion that audits should be conducted?

MAJOR BRENNAN: Not in these meetings.

MR. WEBER: Okay. You said that you won't speak for DAGs Fahy and Susswein, and I'm not asking you to get into their mind or tell us what you think they thought, but to the extent that they expressed their views at these meetings, did DAG -- either DAG Fahy or DAG Susswein disagree with your

position that you need to adamantly heed the decision of the judge and move forward?

MAJOR BRENNAN: I don't know what their-- I don't have any recollection with them agreeing or disagreeing.

MR. WEBER: Were they silent participants at these meetings?

MAJOR BRENNAN: I honestly don't recall. I mean, you can see just from the minutes of this that there were wide-ranging issues and topics discussed. And I do not recall what their positions were.

MS. GLADING: Can you describe who took a leadership role in this committee, not on paper, but in practice?

MAJOR BRENNAN: I really-- I would have to say that Tom Gilbert had -- while, he didn't have the formal authority to do it, was the person who pressed forward to convene the committee to provide the committee with information that it needed.

MR. WEBER: Did Tom Gilbert impress you? He really wanted to try and shepherd through a change--

MAJOR BRENNAN: Absolutely.

MR. WEBER: --and is someone who really wanted to dig down deep and get the information that was needed to make an educated assessment as to whether or not there were merits to appealing the *Soto* decision?

MAJOR BRENNAN: I don't even think he focused on the merits to appealing the *Soto* decision. I think as the lights started to come on, Tom Gilbert wanted to do everything that you just described in that way. And you know, there are ways to accomplish things. You can go try the hard way, or you can try to go work within the system and persuasion. And I think Tom

Gilbert did as good a job as anyone to attempt to make efforts within a system that is difficult to change on a dime to provide logic, reasoning, examples to people to wake up. We may have to conduct business. Whatever happened -- in the future, we have to conduct business so we cannot be accused of, or suspect of, doing what people allege we did in the past.

MR. WEBER: Did Tom Gilbert ever express to you at any time that he had encountered any resistance in relationship to his efforts to deal with the issue of racial profiling, to collect the information, and to work with the team?

MAJOR BRENNAN: Not at all from the team group, and I--

MR. WEBER: Outside.

MAJOR BRENNAN: --don't believe at all from-- We discussed it, but we didn't discuss it at length.

MR. WEBER: Discuss the issue of resistance?

MAJOR BRENNAN: The issue of change and how it could work and how it was working. And I became aware that -- I believe through his efforts and Captain Blaker's efforts, they had opened the dialog with the superintendent about rethinking the status quo.

MR. WEBER: If I could direct your attention to Page OAG-004198, under the entry, meeting of April 12, 1996. It indicates that you attended that meeting along with Captains Brennan and Touw, Detectives Riely and Gilbert, Trooper DiPatri, and Jack Fahy and Ron Sussewein. If you go down a few sentences, there's the discussion of the appeal. And then the memo states, "If the appeal is successful, the next phase will most likely involve a remand, where each individual case is heard. Fahy noted that should this happen, the individual troopers may be subjected to intense scrutiny in respect to training

discipline and a statistical review of their enforcement patterns, including race. Should such a public review prove unfavorable, the Division could be further damaged and the individual trooper suffer significant harm to their credibility and standing before the court. As a result, it was agreed that a review would be initiated on the 19 Moorestown NJSP cases to ascertain which troopers were involved. Once identified, an analysis of their activity would be conducted to identify any potential negative issues, should they be called upon to testify. If this review uncovers substantial problems, it would be recommended that additional thought be given to proceeding with the appeal.”

Do you know if that analysis of those 19 Moorestown cases did, in fact, occur?

MAJOR BRENNAN: I honestly don't know.

MR. WEBER: Okay. Was this sort of a strategy call on the part of the team that, “Maybe we should conduct our own analysis; determine what our exposure is; and if our exposure reaches a certain level or goes beyond a certain level, we may want to revisit the issue of whether we want to press the appeal or just take our lumps and move on?”

MAJOR BRENNAN: I think that describes it to some degree, favorably. It was also, you know, our attorney telling us what lies ahead in the event the appeal's successful.

MR. WEBER: Was there any discussion as to how quickly that analysis should be conducted?

MAJOR BRENNAN: I-- Frankly, I have no independent recollection of this discussion, and I don't know-- Honestly, I couldn't give you whether it was to be timely or not.

MR. WEBER: The memo on the last page, 4201 -- OAG-004201 -- last full paragraph discusses the Division Awards Program and a concern that it may cause members to sacrifice quality for quantity. Do you remember discussions about the Division Awards Program and things like Trooper of the Year?

MAJOR BRENNAN: For years.

MR. WEBER: And was there consideration--

Well, let's step back. Prior to the *Soto* decision, do you remember there being any discussions about the Trooper of the Year award or the Division Awards Program in general, fostering an environment in which quantity prevailed over quality?

MAJOR BRENNAN: There-- I recall general discussions among many individuals who had that comment.

MR. WEBER: Was there any connection made between the Division Awards Program and racial profiling prior to the *Soto* decision in any of these discussions?

MAJOR BRENNAN: Not that I recall.

MR. WEBER: What prompted the team that we've been discussing to look towards the Division Awards Program as possibly being a facilitator of racial profiling?

MAJOR BRENNAN: I don't want to adopt your question that I'm saying it was a facilitator of racial profiling. And I also-- This is the first time I'm reading these minutes or this report, and frankly, I don't necessarily agree with the way it's stated by Tom Gilbert, so I want to let that be mentioned. I think that the concept was that to provide awards and recognize people

strictly on numbers, on bodies and ounces and pounds and dollars of recovered property would create an environment where it is possible or likely that troopers would cut corners or sacrifice quality for quantity. That was an ongoing concern.

MR. WEBER: Let me give you a copy of the second document that was provided to us prior to today's hearing.

MS. GLADING: On this document, first, before we leave this one. The memo, the 17th, do you recall discussions-- I'm looking at the third page of the that document -- about ongoing suppression motions in other counties.

MAJOR BRENNAN: Yes.

MS. GLADING: What do you recall about those discussions?

MAJOR BRENNAN: From my previous testimony, this is where I was aware DAG Fahy was already receiving, I believe. There were-- There may have been a motion in Warren and somebody in Hunterdon County. I'm not sure whether it was the-- I think it was the public defender, and Hunterdon was also making a motion at that time.

MS. GLADING: Were you concerned or did you anticipate or did anyone discuss with you the possibility that EEO and Affirmative Action documents might be part of those discovery motions, and that might actually involve your Bureau?

MAJOR BRENNAN: No. Because, again, just so we understand. The EEO Bureau was strictly to investigate internal allegations of hostile work environment by one employee against another. The EEO Bureau was not constituted or authorized to look at race issues and the State Police. It was originally as a recruiting function they added once the Attorney General put

a policy out on hostile work environment and that -- rather than have Internal Affairs investigate those internal complaints -- gender discrimination, gender bias, in-house and promotion and selection to jobs, that type of thing -- that it would be in the EE -- in this recruiting bureau, and they changed their name to EEOAA. So, as far as responding to allegations of profiling and things like that, they were only kicked to me on the two occasions.

One, someone like Captain Touw would ask for my opinion. I don't think-- I think if I was somewhere else, he would have sent it to me anyway. But if it was a minority trooper that raised the concern -- that in that concern of his employment situation, say a type of complaint, then it -- we would become involved.

MS. GLADING: Let me clarify my question. I don't think -- you might have misunderstood it. In the course of racial profiling litigation, the internal workings of the State Police have been, such as training documents, have been found to be relevant and have been introduced in that litigation. As part of the document release last summer, Internal Affairs issues were included in that release, because they were found to be responsive to discovery in claims of profiling and suppression claims. Was there any concern, on your part, that the work that you did might be relevant in other suppression motions or did you discuss that with anyone?

MAJOR BRENNAN: Which work?

MS. GLADING: As the EEO and Affirmative Action officer, if you're responding to internal complaints of discrimination or bigotry or racism and resolving them.

MAJOR BRENNAN: Between employees?

MS. GLADING: Correct. Right. Let me ask it this way. Has information from your Bureau been a part of suppression motion litigation in racial profiling cases?

MAJOR BRENNAN: I honestly don't know. I've been out of there since 1997. I don't know if any of that material may have been used for purposes during the testimony, when troopers testified. I don't know.

MS. GLADING: Were there any attempts while you were there, through discovery by criminal defendants, to discover information that was contained in your Bureau?

MAJOR BRENNAN: There have discovery efforts. I don't know if it was from the *Soto* defendants or any other criminal defendants to ask for any-- It's usually a blanket discovery request -- any and all internal discrimination complaints filed by any employee of the Division of State Police. I believe those are general interrogatory questions.

MS. GLADING: Okay. So, back at this time when these other suppression motions were being heard around the state, was there any concern on your part of getting -- or did you have any discussions with the AGs Office about potential discovery of discrimination matters that your office was handling?

MAJOR BRENNAN: No, because what would have triggered it was a discovery request. They would have come to us and said-- Because we don't see the discovery. Their discovery request goes to an attorney who then, if they're going to fight it, we may never see it. If they're going to comply and review the materials, they'll come down to us, ask us to go through our documents with us. And I can't recall any of those motions resulting in that

type of contact from the Attorney General's Office.

MS. GLADING: Okay. Until the time you left the EEOAA Bureau in -- when was that?

MAJOR BRENNAN: Nineteen -- fall of '97.

MS. GLADING: Fall of '97. You don't recall any contact from the Attorney General's Office about discovery of potentially relevant documents or attempts of discovery in other litigation involving suppression motions?

MAJOR BRENNAN: In criminal suppression motions, yes.

MS. GLADING: Okay. How about in civil discrimination claims?

MAJOR BRENNAN: I think it's probably a routine interrogatory request.

MS. GLADING: Thanks.

MR. WEBER: Major, the second document that was provided to us before the hearing today is another IOC. You are the author. You sent it to Major Fedorko. I am assuming, and if you can confirm for me, that the date of the document because the month, again, is cut off -- is April 27, 1996?

MAJOR BRENNAN: No, the date of my document would have been-- I am deducing that because, if you see in the subject, it's EEO Bureau of Patrol issues--

MR. WEBER: Oh. Okay.

MAJOR BRENNAN: --concerns at Moorestown Station IOC dated 6/13/96.

MR. WEBER: It's probably June.

MAJOR BRENNAN: So I took 14 days -- or from that date. So I believe this is June.

MR. WEBER: Okay. I was looking at Paragraph No. 2 which references a memo or a special report from Lieutenant Gilbert April 24, 1996. Then actually, let's put this aside for the moment. We'll get back to it.

ASSISTANT ATTORNEY GENERAL ACCURSO: I just wanted-- If I may-- Scott, do you know how long you're going to be?

MR. WEBER: I would think probably one more hour. Do you think more?

MS. GLADING: No.

ASSISTANT ATTORNEY GENERAL ACCURSO: I'm thinking we, perhaps, should be starting these earlier in the day.

MS. GLADING: Yeah.

MR. WEBER: Well, yeah. There was discussion about starting this a little earlier, but there was some scheduling conflicts. So, my apologies. Are you--

Off the record.

(Off the record)

HEARING REPORTER: We're on the record.

MR. WEBER: Thank you, sir.

Major, let me show you another document. GC-002853 through 2855. It is a May 21, 1996 IOC from Detective Gilbert to Colonel Williams. And I want to direct your attention-- Well, the first paragraph talks about a May 16, 1996 third Committee meeting, which was attended by the individuals we've been discussing at the last probably half hour or so. The second paragraph sets forth the following sentence: "Although there have been a number of documents and directives distributed concerning the Gloucester County

decision and its implications, there remains a perception among certain personnel that the Division has overreacted and is allowing ‘the tail to wag the dog.’” What certain personnel were you aware of that had that perception of the tail wagging the dog?

MAJOR BRENNAN: I’ve not seen this report before, these minutes, and that concept to me is not one that I can identify with. I don’t-- I don’t understand what is being said here. And I don’t--

You know, the next line “Many members have concluded this was an isolated wrong decision by a Superior Court judge.” I mean, that I can identify with, but I don’t know what the intent of that statement is.

MR. WEBER: Well, you were-- You attended this meeting, according to this memo, the May 16th meeting. Do you remember there being a discussion about certain personnel in the Division believing that the tail was wagging the dog?

MAJOR BRENNAN: I don’t remember that. I remember-- I don’t remember this meeting. I remember discussions among possibly the people on the Committee at different times who -- this Committee was not a formal legislative enacted body. It was a group attempting to provide some basis to respond and give guidance to the superintendent. But basically, I understand what he’s saying in the rest of the paragraph, but I don’t really understand that. I don’t know what-- Do you understand it?

MR. WEBER: I’m not testifying today.

MAJOR BRENNAN: I didn’t mean to ask you a question, but I just don’t follow his language there, but I do agree that it was understood. Many members believed this was wrong, and they announced that they were

appealing it and, you know, that for people who were interested of change moving forward that possibly created an impediment. Okay.

MR. WEBER: The last several--

MS. GLADING: On that sentence, is that the views of-- Was that many members have concluded. Was that members of the Committee or was that members of the State Police Division in general?

MAJOR BRENNAN: Again, I don't know what he's referring to. I take it as it was the Division.

MS. GLADING: Were there members within the Committee who took that view?

MAJOR BRENNAN: That the decision was--

MS. GLADING: An isolated wrong decision by a Superior Court judge?

MAJOR BRENNAN: I think on -- from the perspective that it wasn't legally sound, but as far as social legislation, so to speak, I don't know that people were saying that, you know, this shouldn't be what sparks moving forward and making changes in the State Police. So that, you could say, legally it was possibly a flawed decision, but the consensus of the Committee was, I think, we had to move forward.

MS. GLADING: Were Captains Touw and Lieutenant Littles -- were they assisted by the Attorneys General in understanding the legal aspects of the opinion, or did you help them with that?

MAJOR BRENNAN: I had no legal responsibility or formal authorization to act as an attorney in any State Police issue. It wasn't any advice that I gave them. It was basically-- Again, as I mentioned earlier on, it was DAG Fahy's belief that the basic reports that were relied on by the judge

from the experts that the public defenders brought in were flawed.

MS. GLADING: So DAG Fahy advise the members of the Committee of that?

MAJOR BRENNAN: That they were flawed, but he also discussed the problems that you saw outlined in the previous memo -- those I recall -- and whether or not we need to consider doing business in a different way in the future.

MS. GLADING: DAG Fahy discussed that?

MAJOR BRENNAN: And all of us were there, yes. I mean, I know of discussions I have had in the past with DAG Fahy. It may or may not have been in the confines of this conference room where we had these meetings.

MS. GLADING: I might of misunderstood your earlier testimony. I thought you indicated you didn't recall what the Deputy's Attorney General said at these meetings.

MAJOR BRENNAN: Not at that specific meeting. That's what I'm saying now. I've had multiple conversations with whether it's going forward or not with DAG Fahy.

MS. GLADING: Thank you.

MR. WEBER: Major, if you would please just put in front of you the three documents that we have just been talking about, OAG-4192, which is the March 28, 1996 memo, the April 17, '96 memo, which starts at OAG-004197, and the memo we were just discussing, May 21, '96, which starts at GC-002853. You would agree with me, would you not, that the *Soto* decision had a major impact on the New Jersey State Police?

MAJOR BRENNAN: I can't agree to the level of question that you're

asking. Did this-- Looking back--

MR. WEBER: Let me rephrase the question. It is not every day that a judge in New Jersey finds that the New Jersey State Police are committing de facto racial profiling. This was an unusual habit.

MAJOR BRENNAN: But you have to understand-- The way you're asking me the question is to say that at that point there was a major impact on the State Police. Does the decision in *Soto* have, in and of itself, does it have a critical impact? Yes, I agree it has a critical impact on how the State Police is perceived, how the State Police should reevaluate how they were doing their business. But that was one court decision out of a string of decisions that the State had won in similar cases that was the perception of the organization at the time. So I just didn't want to get into that this thing happened and the entire world of the State Police stopped and began looking and concluding conclusively that people were doing illegal things or racially profiling.

MR. WEBER: Let me rephrase the question, because I did not mean to imply that I wanted you to, at all, opine about, ultimately, the effect that the *Soto* had on the State Police.

MAJOR BRENNAN: Oh, I understand.

MR. WEBER: So let me rephrase the question, and I apologize if I didn't state it clearly. My question is, when the decision was issued, it was, at the very least, a topic of conversation at the State Police, clearly.

MAJOR BRENNAN: Clearly.

MR. WEBER: And a big topic of conversation.

MAJOR BRENNAN: Again, you're asking for characterizations. I was not out in the field. I wasn't out in the road.

MR. WEBER: I'm not-- Major, I'm not asking out in the field, out in the road. My simple point is, is that the decision comes out, and it was an important enough decision to, at the very least, prompt higher level individuals at the New Jersey State Police to form a committee to address it. Correct?

MAJOR BRENNAN: Absolutely. But I want to qualify my answers that I was-- Of the people that I was dealing with, it was very important, too. But as you've seen from my testimony, the documents today, I dealt with a somewhat limited scope of people, and clearly it was important and had an impact on them. I can't speak for what happened with the other 2600 people.

MR. WEBER: No. I'm not asking for the 2600 people. I am asking just in a -- as far as a general-- In a general sense, when a judge decides that a -- rightly or wrongly -- but decides that an organization has been committing de facto racial profiling and it hits the press and it's the news of the day in New Jersey, that it is certainly a story that commanded -- or a decision that commanded some attention by the State Police.

MAJOR BRENNAN: Am I'm not trying to say that it didn't--

MR. WEBER: Okay.

MAJOR BRENNAN: --but--

MR. WEBER: So we agree--

MAJOR BRENNAN: --I'm trying to qualify what you first question--

MR. WEBER: Okay.

MAJOR BRENNAN: --was by impact on the State Police.

MR. WEBER: Okay. It was an important enough decision for a committee to be formed and for memos to be drafted and sent all the way up to Colonel Williams, the superintendent, correct? I mean, just look at the

memos. Who were they directed to?

MAJOR BRENNAN: These memos-- I don't want to minimize *Soto*. We formed committees like this to determine whether you should have long-sleeve shirts or short-sleeve shirts. I--

MR. WEBER: Well, did Colonel Williams get memos about long-sleeve or short-sleeve shirts?

MAJOR BRENNAN: Yes. Yes.

MR. WEBER: He did?

MAJOR BRENNAN: Yes. Uniform committee memos, adjustments, alterations to uniforms. We had multiple committees. What I am telling you is these were very critical decision makers. I agree with you, people that, hopefully, the other leaders in the Division would listen to the results and the issues that were coming out from this. This was not the State Police waiting for the results of this Committee to come in on how we should move forward. This was happening at the same time. Accidents were happening. People were speeding. Crimes were being committed, and that work was conducting and being conducted. So I just -- I have to distinguish what you call as major impact. Yes, it certainly--

MR. WEBER: Major, with all due respect, my last five questions didn't use the phrase major impact. I took that out of the question, okay. All I am trying to establish with you is that -- and I'm not making a judgment as to the level of import -- but this was important enough to form a committee of high-level individuals at the New Jersey State Police to analyze and address the decisions in the *Soto* case, and it was important enough to advise Colonel Williams of the deliberations of the Committee, correct?

MAJOR BRENNAN: Absolutely.

MR. WEBER: Okay. Now, the memos begin in the end of March, because we know that the decision occurred, I guess, it was March 6th, 1996. So shortly thereafter the Committee meets. There's a memo from March 28th, '96 that goes up to Colonel Williams, a memo from April 17, '96 that goes up to Colonel Williams, a memo dated May 21st, '96 that goes up to Colonel Williams. My question to you is, did Colonel Williams ever reach out to you and talk to you about what the Committee was discussing in regards to the *Soto* decision?

MAJOR BRENNAN: No.

MR. WEBER: And this-- Your-- Your being put on this Committee, or your being a member on this Committee occurs approximately three or four months after you leave your position as his administrative assistant and become the bureau chief of EEOAA, correct?

MAJOR BRENNAN: Yes.

MR. WEBER: And your testimony is that at no time did Colonel Williams talk to you about the Committee's dealings with the *Soto* decision?

MAJOR BRENNAN: Not to my recollection.

MS. GLADING: Didn't it--

MR. WEBER: Did he-- Did Colonel Williams at any time talk to you, not about the Committee's deliberations, but just about the *Soto* decision?

MAJOR BRENNAN: Perhaps he addressed it in staff meeting, but on a one-on-one basis, no.

MR. WEBER: What did he say in the staff meeting?

MAJOR BRENNAN: There-- At the staff meetings that ranking officers

would attend, the *Soto* case would be addressed. It was addressed as a topic during the course of the litigation and then after the litigation to either announce that it was going to be appealed -- that type. It was more or less keeping people up to date on the *Soto* decision. Also, I guess, information about ensuring spotlighting doesn't occur, which was an issue that arose during it, and also, that the race was called inappropriately on the-- I don't recall the times and the days, but those were the issues that would be reiterated at staff meetings.

MR. WEBER: Did Colonel Williams have anyone on his behalf reach out to you to exchange information about the *Soto* decision?

MAJOR BRENNAN: I wouldn't-- Unless any of these individuals did it at Colonel Williams' behest. If whoever asked me to be on this -- with this group-- I never even got a copy of one of these to be able to concur with, look at, or review. This is the first time I've seen them. No. I mean, I don't know if he asks someone to get me involved or not.

MR. WEBER: How about just generally the issue of racial profiling. Did Colonel Williams have any discussions with you, oral or written communications with you, about the issue of racial profiling?

MAJOR BRENNAN: There were at least one or two discussions, informal discussions, that we had.

MR. WEBER: When did they occur?

MAJOR BRENNAN: I don't recall.

MS. GLADING: Were those--

MAJOR BRENNAN: It would have been in and around this time frame. I'm not saying, or recall in 21 years, it would have been sometime--

MR. WEBER: Sometime after the *Soto* decision?

MAJOR BRENNAN: --while he was superintendent is the best--

MR. WEBER: Did he approach you or did you approach him?

MAJOR BRENNAN: I don't know how it came up.

MR. WEBER: And what was said during the first informal conversation?

MAJOR BRENNAN: The most that I can recall is just the discussion that I thought we should really consider, perhaps, doing things or thinking about doing things differently. The emphasis on interdiction may, in my view, may not be the ideal role, or a primary role, for a road trooper. And a very general discussion. Then he said, basically, well, you have your opinions. And that was the extent of the discussions.

MR. WEBER: Did he agree--

MS. GLADING: Can I just clarify your answer. When you use the pronoun I in that sentence, were you reflecting your views or what Colonel Williams said to you?

MAJOR BRENNAN: I'd have to hear it read back to me. I can't--

MR. WEBER: No. You had--

MS. GLADING: Just the discussion that I thought we should really consider thinking about doing things different, rather than interdictions.

MAJOR BRENNAN: I'm referring to myself saying to Colonel Williams.

MS. GLADING: And his response was?

MAJOR BRENNAN: Doing things different with relation to interdiction being a primary duty for the goal of a trooper. And his was, "That's your opinion."

MR. WEBER: Did he say that he agreed with it, or he disagreed with it or it's just that's your opinion?

MAJOR BRENNAN: I think it was just basically that's your opinion.

MR. WEBER: By the way he said it, his mannerisms, the intonation in his voice, did you take it as, well, that's what you think, I don't agree with it, or just that's what you think?

MAJOR BRENNAN: He told me that was my opinion, and my understanding was he was -- he was an advocate of drug interdiction and the State Police role, which is, you know, interpreted to be spelled out in the Drug Comprehensive Drug Reform Act and various things like that. I took it in that way. But that was about the only conversation I could independently recall that I ever had with him on the issue.

MS. GLADING: You said there were two. What was the second one?

MR. WEBER: You said-- Jo let--

MS. GLADING: Sorry, Scott.

MR. WEBER: You said that you thought you had one or two conversations, informal conversations. What was the second conversation?

MAJOR BRENNAN: That this is the best I can remember--

MR. WEBER: Okay.

MAJOR BRENNAN: --is that.

MR. WEBER: Would you agree with me then that you agreed more so with Colonel Dintino's view of drug interdiction and civil liberties concerns, and Colonel Williams maybe fell in line more with Colonel Pagano views of drug interdictions?

MAJOR BRENNAN: No, that wouldn't be fair. I was developing my

own beliefs and thoughts in the role of the New Jersey State Police in the year 1996. And I wouldn't characterize either comparison.

MR. WEBER: So you only remember that one conversation that you had with Colonel Williams about racial profiling?

MAJOR BRENNAN: That's the only one I have an independent recollection of.

MR. WEBER: And why did you characterize it as an informal conversation?

MAJOR BRENNAN: Because I never had formal, an actual obligation, requirement, a detail to address with him racial profiling or any incidence that related to racial profiling where I would report directly to him on. And he was extremely chain-of-command oriented.

MR. WEBER: Were--

MS. GLADING: Did you -- on that same line of questioning -- did you have any conversations like that with Sergeant Blaker?

MAJOR BRENNAN: I know-- And again, going back four or five years that Sergeant Blaker and I personally had multiple conversations that could be, over the years, probably up to recently, that could be related to-- I guess you could argue that they were related to this whole issue of State Police role and profiling.

MS. GLADING: What was the nature of those conversations?

MAJOR BRENNAN: They're literally-- I worked very closely with Dave, and I would do it a disservice if I attempted to describe each and every possible thought and conjecture that we had. I will say that I believe Dave Blaker felt or was looking to attempt to move the Division in an enlightened

way, and thought to some degree, I think, along the way that I think.

MS. GLADING: In working very closely with David Blaker, did you take on specific tasks to help him out on this issue?

MAJOR BRENNAN: Didn't work -- knew him closely. He was in a different chain of command than I was. He was in a different position than I was. Issues crossed each other on occasion, but we were in different departments, if you will, or different areas. But he followed me into the EEOAA Bureau, so there were some questions that had to be answered as a result of ongoing matters. He followed me into Colonel Williams office. I knew, to some degree, he was involved, but he was working at a, I believe, on a higher level than I was in this area. He was actually involved with the Committee and Tom Gilbert, I believe, and I was, at the time, elsewhere with different responsibilities.

MS. GLADING: He was involved with the Committee at a time when you were not, you mean?

MAJOR BRENNAN: When I was not in his chain of command or assigned to the superintendent's office. At this time, Lieutenant Blaker, Captain Blaker, Sergeant Blaker, was assigned to Colonel Williams and was working with and supervised Tom Gilbert. I was under either Lieutenant Colonel Lanny Roberson in the Division Staff Section, under Colonel Littles. They were under Colonel Major Mike Fedorko out and apart from this organizational entity at that time.

MS. GLADING: And this issue didn't touch the end of the organizational entity that you were part of?

MAJOR BRENNAN: When it crossed, we had discussions, but I didn't

have-- Other than the documents that I gave you in response to where profiling issues were put into my domain, I did not have a formal responsibility or a mandated responsibility to respond to any of these things. Did we talk when we saw each other or have a question? Absolutely.

MS. GLADING: Did Mr. Blaker seek your counsel out on these issues informally?

MAJOR BRENNAN: On, you know, not repeatedly, but we spoke about them.

MS. GLADING: Did he ever represent to you the views of the Colonel on this issue?

MAJOR BRENNAN: Not that I recall.

MS. GLADING: Was he working closely on this issue for the Colonel?

MAJOR BRENNAN: I was not-- Until I've gotten some of these documents and read the papers and things like that, I was not sure, and I still am not sure how close it was. I believe there was probably some connection with Tom Gilbert's work and the Colonel's work.

MS. GLADING: Can you clarify what you mean? I'm sorry.

MAJOR BRENNAN: I know that Tom Gilbert was attempting to work with Colonel Williams and bring issues to Colonel Williams' attention in way that would provide Colonel Williams with the knowledge and ability to respond in ways that I probably would have supported to these issues that we're dealing with -- the profiling, the race relations, and the Gloucester case.

MS. GLADING: And in the time that you were EEO and AA officer, bureau chief, were you-- Did you ever have conversations with people in the Attorney General's Office about the issue of racial profiling?

MAJOR BRENNAN: Not that I recall.

MS. GLADING: Thank you.

MR. WEBER: I put in front of you a new document, DOJ 00691 through 6919. It is an IOC from Major Fedorko through you up to Captain Touw. Well, actually, I guess both to you and Captain Touw. And the subject is patrol issues concerns at Moorestown Station, again, dated June 13, 1996. Attached to it is an IOC from Major Sparano to Major Fedorko, and then attached to that is some more information that concerns the results of some audits that were conducted. I direct your attention to DOJ 006918, which is part of a special report that was prepared by Lieutenant Gilbert.

If you take a look, there are some statistics set forth on this page, DOJ 006918 -- indicates that 62 percent in 1995 -- 62 percent of minority drivers consented to searches, whereas nonminority driver, the consent searches were 38 percent. The consent searches conducted by nonminority troopers were 87 percent, whereas the consent searches conducted by minority troopers at 13 percent. The statistics go on and indicate a disparate treatment of minority drivers. Would you agree with that statement?

MAJOR BRENNAN: What? I don't know, and I'm not going to give you an answer to that question. This is the statistical survey by a State Police Station commander of who I will show-- I will tell you that these figures give me cause for alarm. I'm not going to say--

MR. WEBER: Okay.

MAJOR BRENNAN: --that it equates, you know, to a disparate impact or whatever on minority drivers. They absolutely are statistics that the Division needed to respond to probably to collect data properly and get a --

someone who could do a proper audit and look at these things and also respond immediately to this station to see what was going on down there, if anything.

MR. WEBER: Did-- Was this information supplied to the team that was put together to deal with the *Soto* decision? Do you remember this being discussed?

MAJOR BRENNAN: I don't know if by team you're referring to the group that we had--

MR. WEBER: Yeah, that were--

MAJOR BRENNAN: --that it memorialized.

MR. WEBER: Yeah.

MAJOR BRENNAN: Yeah. I don't know that the group saw these documents. I-- They may have. I don't know.

MR. WEBER: The second document that you provided to us today for your testimony is a document that you've already established you believe is dated June 27, 1996, and it's a document from you to Major Fedorko. Does this appear to be a response to the document that we just discussed, which is DOJ 006910 through 6919?

MAJOR BRENNAN: Yes, sir.

MR. WEBER: Okay. You state, "in response to the concerns set forth by Lieutenant Gilbert, the following steps are recommended." Your first recommended step is "that IAB conduct an inspection audit to determine which, if any, members are stopping disproportionate numbers of minorities and follow up with whatever action may be required by the findings." You've got a second recommendation here, and then your third recommendation

suggests to “adopt Lieutenant Gilbert’s recommendation Nos. 1, 2, and 3.”

If you take a look at the last page of the June 13th memo, DOG (*sic*) 006919. Which one of the recommendations -- 1 through 3 -- are you suggesting be adopted? Because there’s actually two sets of remedial actions that are recommended in this.

MAJOR BRENNAN: It’s the first set, mediation involvement, additional training, and intensive search and seizures and service.

MR. WEBER: Why did not recommend that the 4th and 5th remedial actions be adopted? The 4th one being the formation of a committee to conduct open discussions at troop levels, and the 5th being formation of a law enforcement committee to conduct conferences with judicial members to discuss problems confronted by police officers?

MAJOR BRENNAN: You may have gotten the flavor of my opinion of committees from our extensive discussion of what you see as this steering group. Committees, in my experience, don’t get much done. They tend to be a diversion away from getting business-- I wanted to take action steps that would make a difference instead of let’s decide for two years who’s going to be on this committee, create minutes, and have no action. I didn’t think it was, at this time, in these -- this environment we need more sitting down and talking. We need to do something.

MR. WEBER: Okay. Why did you not offer an opinion as to the remedial actions suggested to be taken at the station level?

MAJOR BRENNAN: Those things are outside of my purview, and I had no problems. I didn’t say don’t-- The last thing you want to do is these things. They can do those things. And I imagine that somewhere in here there’s a

document that says they're doing that already. Either Captain Silvert had said that -- the remedial action listed at station levels encouraging -- currently in place. So it was already in place.

MS. GLADING: Do you recall when this document was written?

MAJOR BRENNAN: Which is that?

MS. GLADING: The one we were just looking at?

MAJOR BRENNAN: The one that I--

MS. GLADING: Making your recommendations.

MAJOR BRENNAN: Yes. The date that's 6/27.

MS. GLADING: Nineteen ninety-six.

MAJOR BRENNAN: Yes.

MR. WEBER: New document dated August 8, 1996. A memo to you from Sergeant First Class Walter Anderson, GC-001564 through GC-001566. You had previously testified that you had assigned, I think it was something to Walter Anderson, What was that again, if you can refresh my recollection, please?

MAJOR BRENNAN: When you showed me a document that had -- was an IOC from Captain Touw about -- in February of 1996 involving racial tensions in Moorestown Station. Upon my receipt of that document, I discussed it with Walter Anderson who was the unit supervisor of the Investigations Unit, at the time, and asked him that he, with his connections down there, that the fact that he was doing an investigation, that he try to get an understanding of what these tensions involve.

MR. WEBER: Is Walter Anderson African-American?

MAJOR BRENNAN: Yes, he is.

MR. WEBER: The August 8th, 1996 memo that we have in front of us, is this sort of a follow up on that assignment memorializing some of the results of his investigation?

MAJOR BRENNAN: No.

MR. WEBER: Then could you explain for me what the purpose was of Walter Anderson providing this information to you?

MAJOR BRENNAN: Well, could you explain to me why you're showing it to me? It's-- I understand. It's-- Walter Anderson had an incident, if you, I think--

MR. WEBER: Well, I'm showing it to you, because if you look at the last page, he states, "I've been aware of the special reports submitted by Lieutenant Gilbert and DSG Welsh (phonetic spelling) of the Internal Affairs Bureau about profiling and racial tension at the Moorestown Stations. Also, I'm aware of the concern of the minority troopers assigned to the Moorestown Station that they're being waved off in backup situations. I have been detailed by Captain Brennan to monitor the allegations and concerns that white troopers are stopping black motorists and black troopers and stopping white motorists. Because of these factors, I question the troopers doing this motor vehicle stop. I am also familiar with the liability a supervisor has for not taking action as a result of something improperly done." So my question to you is, why did Walter Anderson provide a report to you about a road trooper who apparently refused to talk to him?

MAJOR BRENNAN: Because this is a significant incident in the State Police, that he came to me for my assistance that in performing the job -- his job -- at 2:05 a.m. he encountered what he determined to be a certain

inappropriate conduct by the troopers at that scene, which included at least one white trooper and one African-American trooper, who he had considered his friend. And he-- When he attempted to call the trooper to find out what the problem was, the trooper refused to speak to him.

MR. WEBER: Is Trooper Blousser (phonetic spelling) white?

MAJOR BRENNAN: Yes, I believe so.

MR. WEBER: So Trooper Blousser refused to return Walter Anderson's phone call, and Walter Anderson was a superior of Trooper Blousser?

MAJOR BRENNAN: That-- Well, not in the formal chain of command, but a higher ranking, yes.

MR. WEBER: A higher rank. What did you do when you received this information, if anything?

MAJOR BRENNAN: This information was collected and the report done, because before I had a chance to do anything, I was made aware that the Field Operations Section was forwarding an internal complaint against Sergeant Anderson for interfering with these troopers and putting them at risk during the course of the stop.

MR. WEBER: And who initiated that complaint?

MAJOR BRENNAN: I don't, specifically, recall who signed it, but it emanated out of the troopers who were involved in that stop, but was carried through the chain of command.

MR. WEBER: So the troopers who were involved in that spot-- Was it one, or all, or some of them? How many filed this complaint?

MAJOR BRENNAN: It's-- It-- To my recollection, the actual complaint was signed either by the troop commander or the assistant section supervisor,

which might-- I believe it was Captain Silvert at the time. I'm not-- But I could be wrong on that.

MR. WEBER: So the troopers -- one, some, or all of the troopers involved in this stop on July 29 -- I'm sorry, July 26, 1996 -- lodged a complaint against Sergeant First Class Anderson alleging that he improperly interfered with their activities on the Turnpike?

MAJOR BRENNAN: That's correct.

MR. WEBER: Okay. Did Sergeant First Class Anderson provide this memo to you before he found out about the complaint or after he found out about the complaint?

MAJOR BRENNAN: It was all coming together at one time. He basically explained the complaint to me, or explained the incident to me, but I believe that was after he was going to attempt to handle it himself and speak to the one trooper. And when the trooper didn't call him back, which this is a couple of days creeping by now and-- At that -- right and around that same time, I understood or heard that this complaint was being filed and brought forward.

MR. WEBER: How was the whole situation resolved?

MAJOR BRENNAN: There was an internal investigation conducted. I went to the Captain, or I went to Captain Silvert, whether he was a Captain or a Major at the time, and I said I believe you should not be forwarding this complaint. Anderson was there. He was doing what I had directed him to do. Whatever happened, even if he possibly did distract the troopers, can be handled on a performance discussion. You talk to your people, let them know we're watching. They should know. Let-- Our people-- Let me talk to my

person, because I understand-- They, now, wondering who this fellow is walking up on them. He wasn't in uniform at the time, but they recognized him. They knew the car and him.

And he was adamant. "He put my people at risk." It's going to be an internal investigation. I was subsequently full of--

An investigation was conducted by the Internal Affairs Bureau. I was interviewed. I told them that Anderson was in the performance of his duties at the time. That he was there at my direction and doing everything, I believe, he should have been doing in that circumstance. And it still resulted in discipline against Sergeant Anderson for failing to adhere to a protocol when you back somebody up in an unmarked car without a uniform on. And I went to Colonel Williams and had that rescinded.

MR. WEBER: Was there any discipline that was lodged against any of the troopers who had conducted that stop, and more specifically Trooper Blousser.

MAJOR BRENNAN: No. No.

MR. WEBER: But Colonel Williams rescinded the discipline?

MAJOR BRENNAN: Yes.

MR. WEBER: When was the discipline -- I don't know the exact term -- the order of discipline instituted?

MAJOR BRENNAN: I don't-- The time frame again. I'm not sure. I believe it would have been prior to me going to the Academy, which was in the late, early fall of '97. So it would have been sometime between August 8th of 1996 and the completion of the investigation around August of '97 or so.

MR. WEBER: Is Captain Silvert white or African-American?

MAJOR BRENNAN: He's white.

MS. GLADING: Did Sergeant Anderson continue to work on that detail?

MAJOR BRENNAN: I'm not sure of the time frame, but at one point he was moved in charge from the investigative unit into the recruiting unit to work. Still under my control, but in the recruiting area, but he was still involved in reviewing investigations and helping me with them.

MR. WEBER: Is he still with the State Police?

MAJOR BRENNAN: Yes.

MR. WEBER: What position?

MAJOR BRENNAN: I think he's a Lieutenant in the EEOAA Bureau.

MS. GLADING: And he was a Sergeant in the EEOAA unit at that point?

MAJOR BRENNAN: He was a Sergeant First Class.

MS. GLADING: Did this incident generate concerns in your mind about the validity of other complaints that had come out of the Moorestown Barracks?

MAJOR BRENNAN: I-- I-- I don't-- I don't know how to answer that, because if you read Sergeant Anderson's detail on the stop, he indicates that Trooper Huggins, Paul Huggins, who was a friend of his, who is an African-American, on the stop, who prior to the incident was inviting him to his house for a party, if you read the report, apparently, supported the complaint against Sergeant Anderson. So this isn't-- There's no manual how to do this. If a trooper who-- I respect Trooper Huggins. I know who he is.

There's always two sides to every story. It concerned me, though--

What concerned me more was the way management responded to this in that chain of command. I don't know that this was indicia to me that something was severely wrong down there. From the description of the stop by Sergeant Anderson, I don't know that that appeared in my mind. I was more concerned about the management and the situation by their supervisors.

MS. GLADING: Were you concerned about the management of Captain Silvert?

MAJOR BRENNAN: In this instance, yes.

MS. GLADING: What about in general in the context of other complaints that had been-- Well, the audits that were going on of Moorestown Barracks in terms of consent to search and stop rates, the complaints by minority troopers. Did this add another piece of credence in your mind to those issues?

MAJOR BRENNAN: It was-- It certainly was in my mind that his response in the -- to the memo of Lieutenant Gilbert and the fact that they could handle it at their level and then this response. That-- That created an impression and opinion in my mind, but certainly not something that I felt I had anything that I could do to accuse him with. It's just in dealing with him, I knew-- I had an impression of him.

MR. WEBER: What was the impression?

MS. GLADING: Did you--

MAJOR BRENNAN: Well, I think he's a hard-working, talented trooper, worked his way up through the ranks. But on this issue, he and I did not-- These issues, he and I did not think the same.

MR. WEBER: Is he still at the Moorestown Station?

MAJOR BRENNAN: No. He's been retired for some time.

MS. GLADING: Did you express your concerns to anyone else within the State Police?

MAJOR BRENNAN: On this issue-- I did not--

MS. GLADING: On the issue of-- Let me clarify. On the issue of Captain or Major Silvert?

MAJOR BRENNAN: No.

MS. GLADING: What about on this issue generally?

MAJOR BRENNAN: I have expressed this in a variety of ways and at times, as an example of something that needed to be fixed in the disciplinary system.

MS. GLADING: Specifically, you're referring to--

MAJOR BRENNAN: The way this investigation transpired.

MS. GLADING: Has it been fixed in response to the concerns you've raised?

MAJOR BRENNAN: I hope so. I'm responsible for the disciplinary system now, so I'm hoping it's fixed.

MS. GLADING: Thanks.

MR. WEBER: Let me show you an undated memo. It is not Bates stamped. It was produced to us in connection, though, with the AG's office's production. This particular copy, though, has a deposition Exhibit P-5 on it, because it was an exhibit in connection with one of the civil lawsuits against the State that concerned racial profiling. The memo is to Colonel Williams from Sergeant Gilbert, re. Justice Department inquiry. Were you aware that in December of 1996 the United States Department of Justice reached out to

the Attorney General's Office to inquire about the issue of racial profiling?

MAJOR BRENNAN: I had a-- At that time, I don't think so. I-- I-- I would come to have a general awareness that I really didn't seek out answers to. It wasn't in my purview, but I had heard that there was some sort of dealing with Justice. And I didn't know-- There were so many issues going on at that point with Justice, I didn't know if I was hearing it wrong. And it really wasn't in my realm to go find out and get answers to. So I have to say I was generally aware-- There were times where-- I should say, of course, Gilbert must have been associated with it, but frankly, I did not know concretely that it was going on.

MR. WEBER: The group of individuals that we've been talking about for the hour or two that were -- and I'll just use the word committee -- were a part of the committee. And I'm not using that in an official capacity -- were a part of the committee that reviewed and made recommendations about how to deal with the *Soto* decisions. Was there ever a discussion during any of those committee meetings about the Department of Justice inquiry?

MAJOR BRENNAN: I don't recall that.

MR. WEBER: Have you ever seen this document before?

MAJOR BRENNAN: Other than in a pile or assisting in the document production or it-- From a distance it looks familiar, but I've never read it. I'm not familiar with the contents.

MR. WEBER: Okay. If you take a look on the first page, Sergeant Gilbert presents consent to search data. That was a result of a sample that he conducted. And it shows that there is -- out of a total cases of 160, 89 percent of the consent to searches were minority, 67 percent were black. And they--

That's for Moorestown. They detail information for Cranbury, but the statistics are not good, to say the least. And I'm not asking you to comment on the statistics. My question to you is, did you become aware of the existence of these statistics?

MAJOR BRENNAN: I knew that there were -- depending on whose point of view, of pretty much these statistics would be everybody's -- that there were bad statistics out there. That it didn't look good.

MR. WEBER: Were you aware that the statistics were the result of Sergeant Gilbert's efforts?

MAJOR BRENNAN: I knew he had some involvement with this, but I-- Again, I don't know the extent of it.

MR. WEBER: If you look at the third page, Sergeant Gilbert sets forth that, "at this point, we are in a very bad spot." And he goes on to talk about, "how if we conduct a traffic study and find a higher percentage of black violators, how are we going to square those results with our prior sworn testimony." He talks about, "although the thought of any type of agreement with Justice may have a bad taste to it, please consider the following." And then makes some recommendations of how to deal with the situation. Do you remember in or around the end of 1996, beginning of 1997, there being any discussions about a possible agreement with the Department of Justice?

MAJOR BRENNAN: No.

MR. WEBER: Did you have any discussions with Sergeant Gilbert about-- Well, let me step back. When did you-- When were the meetings of the Committee -- again, just my word -- when were they discontinued?

MAJOR BRENNAN: I honest-- I don't really know. I mean, I would

assume looking at the documents that in and around there. I don't remember being at more than three or four of them. It looks like they captured them.

MR. WEBER: Was there-- Was there ever a final result from this group of people? A report issued? Final recommendations?

MAJOR BRENNAN: I have the feeling that my-- The way I closed that out in my mind was Gilbert was working on this issue and that I didn't know the extent of it. And that's basically my recollection of it.

MR. WEBER: Do you know where Sergeant Gilbert was assigned at the end of 1996 to the beginning of 1997?

MAJOR BRENNAN: I believe he was in the Division Services Unit, which, or Bureau, whatever the designation was at that time, which would have been supervised by the person who was the administrative aide to the superintendent, which if it was Blaker at the time, it may have been Blaker. He was the supervisor then.

MR. WEBER: He didn't fall within your chain of command at that point in time?

MAJOR BRENNAN: No.

MR. WEBER: Did you have any conversations with Sergeant Gilbert. I mean, even just out of curiosity, you know, to find out what the results were of all of your efforts?

MAJOR BRENNAN: I-- Not-- I didn't know he was doing these studies. And if that's, in fact, what this reflects, but it was an issue. And I believe I actually gave him the -- the report off the Internet that I found on the Maryland State Police. I think that's how he got introduced to that -- was I had found it and said you may want to look at this.

MR. WEBER: When did you give it to him?

MAJOR BRENNAN: I don't recall. I don't have this--

MR. WEBER: During the period of time when the group of people were meeting?

MAJOR BRENNAN: It was, I believe, while I was still in EEO, so it would have been before September of 1997.

MS. GLADING: How did you happen to go looking for that report?

MAJOR BRENNAN: I was trying to get as educated as possible on State Police and race issues and law enforcement. So, in the course of some sort of query on the Internet, I think it may have kicked out the -- an article by the attorney who had precipitated that whole incident down there and then was picked up by the ACLU. And when I looked at some of the issues there, I thought it might be relevant to what Gilbert was doing.

MS. GLADING: Did you ever have any conversations with Captain Blaker -- with David Blaker about the numbers that Gilbert was finding?

MAJOR BRENNAN: No. I don't recall that.

MS. GLADING: With anyone else, aside from Tom Gilbert?

MAJOR BRENNAN: I don't know that Gilbert even told me about the numbers.

MS. GLADING: No. I'm just saying, did you ever have any conversations with anyone other than Tom Gilbert about the numbers that his audits were coming up with?

MAJOR BRENNAN: Really, no, because I-- Again, the numbers -- the numbers create a cause for alarm. I'm not interested in the actual facts.

MS. GLADING: Beg your pardon? I didn't understand you.

MAJOR BRENNAN: I'm not-- What someone tries to depict by numbers, and I've been following this for some time, there are entirely different schools of thought on who's now-- How you prove racial -- or what are the indicia of racial profiling. The experts actually contradict each other. So I-- The numbers themselves can be pressed into any-- There was significant numbers to alarm me no matter how they were presented. So I didn't spend a lot of time pouring over it.

MS. GLADING: Can I ask you to look at the bottom of the second page of this memo? In the middle of the that last paragraph--

ASSISTANT ATTORNEY GENERAL ACCURSO: Which memo are we talking about?

MS. GLADING: I'm sorry. The undated memo.

MR. WEBER: P-5.

Sorry Jo, where are we?

MS. GLADING: Second page, the bottom paragraph.

MR. WEBER: Okay.

MS. GLADING: In the middle of that paragraph, there's a sentence, "total minority arrests percentages for those troopers," and this would be the troopers whose cases were involved in *Soto*, "were as follows: 63 percent, 80 percent, 79, 84, 100." If I could ask you to look back at the May 21st memo memorializing the Committee meeting that you attended on May 16th. If you could look at the last paragraph of that memo, the sentence beginning, "the records and identification section has prepared an analysis of the arrest statistics for those troopers whose cases are subject of the appeal."

MAJOR BRENNAN: Okay.

MS. GLADING: Okay. If you could just take a look at that, or maybe you're familiar with it already.

MAJOR BRENNAN: Only from having seen it when you provided it to me. What would be--

MS. GLADING: Okay. Tom Gilbert, in his deposition, dated this memo in early February, the undated memo.

MR. WEBER: P-5.

MAJOR BRENNAN: P-5 of what year?

MS. GLADING: Of '97.

MR. WEBER: Ninety-seven.

MS. GLADING: This-- The dated memo here is May 21st, '96, and it indicates that an analysis of those troopers arrests records was done. The undated memo appears to give the actual numbers that were found. Do those numbers strike you as pretty high?

MAJOR BRENNAN: Yes.

MS. GLADING: Okay. Was there any discussion at all in the meeting on May 16th about what the results of that analysis were that R&I had done?

MAJOR BRENNAN: I don't have any independent recollection of that.

MS. GLADING: Well, do you think you'd remember if the numbers discussed were that high -- 63, 80, 79, 100, 90 percent?

MAJOR BRENNAN: I-- Again, I accepted and knew there was a problem. I wasn't looking for another brick and another brick and another brick. I was not focused on-- These weren't revelations to me in that way. I also was very aware of cases where troopers who had 100 percent minority arrests have made one arrest. So I-- The numbers again were confusing. Was

there a problem? I've already said yes. I wanted the Division to move forward, but I can't connect these two documents to each other.

MS. GLADING: I understand that. There's reference in another document to the -- in the previous meeting mentioning that the appeal was dependent upon a review of the arrest records of the troopers involved in the case, in case of remand. I think Scott pointed that out. So this was-- I'm trying to get a sense of whether this was discussed at the meetings that these minutes memorialize?

MAJOR BRENNAN: I don't recall in the detail that's in this report, and the specific troopers that were involved. I don't recall that.

MS. GLADING: Okay. I think it indicated Records and Identification was doing this analysis. Who would that have been?

MAJOR BRENNAN: That's the-- There's a separate section in the Division of State Police under what a major -- called Records and Identification.

MS. GLADING: Which section is that under?

MAJOR BRENNAN: That would be under-- It changed so many times. At that time, I'm not sure which deputy superintendent it would have been under. It was likely to have been under Lieutenant Colonel Littles, but I'm not positive of that. But again, that's way up the chain of command. He wouldn't be involved in the subject matter.

MS. GLADING: Not-- That's not an IAB function?

MAJOR BRENNAN: No.

MS. GLADING: Okay. Thank you.

MR. WEBER: The next document that we've put in front of you is GC-

002375, GC-002376. We are now-- We've now jumped ahead pretty significantly from 1996 with your involvement in -- and again, my word -- the committee that was addressing the *Soto* decision to May of 1998. I will represent to you that with the exception of a few documents, none of the documents that have been produced seem to indicate that you had involvement in the issue of racial profiling during 1997 and even into 1998. Were you, at any time, involved in the Attorney General's Office dealings with the Department of Justice and the Department of Justice's inquiry into the issue of racial profiling?

MAJOR BRENNAN: No.

MR. WEBER: Did you assist the Attorney General's Office in any manner in collecting documents that were produced to the Department of Justice?

MAJOR BRENNAN: I don't know. I don't know what documents were produced to the Department of Justice post -- during 1998 and '99, of course, with the interim report and all the work that was done on that. I was at the Academy, and I understand we produced volumes of documents. I'm not quite sure-- We got the word, and we produced documents.

MR. WEBER: Weren't quite sure for what purpose they were produced?

MAJOR BRENNAN: Right.

MR. WEBER: The document I put in front of you is a memo to Colonel Williams from Sergeant First Class Gilbert, re. training, re. racial profile issues and formation of standing committee. And you are mentioned on the second page, referenced standing committee, and you make suggestions. You being one of them. Was there some referenced standing committee created or were

you part of some committee?

MAJOR BRENNAN: I have never seen this, and I don't recall ever having participated in anything like that. I could find a memo that makes a liar out of me, but I don't recall, especially with the names set forth here.

MR. WEBER: By this point in time, you were the commandant of the training academy, correct?

MAJOR BRENNAN: Yes.

MR. WEBER: Did anyone contact you in your capacity as the commandant of the training center to discuss the issue of racial profiling and how it should be addressed in connection with training?

MAJOR BRENNAN: I-- I don't have any specific recollections of people saying you have to address racial profiling. Over the course of my tenure there, from '97 to 2000, as the interim report came out as the -- with the-- Even with my just going down there with my experiences at Division Headquarters and being an EEO, I was thinking we were going in a different direction. And there-- There was really so much going on that nobody was reaching down and telling us what to do in relation to that. It was pretty much in my domain to address it as I thought fit.

MR. WEBER: When you became commandant of the Academy, did you do anything to try to ascertain whether the training materials that you inherited were at all inappropriate in light of the *Soto* decision and the concerns in the State about racial profiling?

MAJOR BRENNAN: As best we could. I, you know, undertook a review of everything that we were doing. Just like the document production, that's a massive operation. It's a residential academy. We train up to 10,000

training days a year in that location. There are hundreds of courses. I don't know that we got to everyone. But the critical ones that I attempted to address first were the social sciences blocks, the community relations, the cultural diversity issues. I identified a core group of instructors down there to immediately start researching the best materials available. That's how we got the Los Angeles materials that were developed there after the Rodney King incident. Our people traveled around looking for these issues. As the training was ongoing, we attempted to develop a curriculum that would address some of the concerns that were raised about the State Police and our practices, at least in those areas.

MR. WEBER: Did you do that at anyone's direction or did you take that upon yourself?

MAJOR BRENNAN: That was essentially my direction, but with the support of-- I was in touch, on a regular basis, with the Major, Juan Mattos, who had also been an EEO Bureau Chief and supported my efforts in this area.

MR. WEBER: You've mentioned the interim report several times. Did you have any involvement in the compilation and production and release of the interim report?

MAJOR BRENNAN: No.

MR. WEBER: Anyone ask you for any information in connection with the State Police review team?

MAJOR BRENNAN: Not on the interim report.

MR. WEBER: On anything else?

MAJOR BRENNAN: The review team from the interim report?

MR. WEBER: Yes.

MAJOR BRENNAN: Not that I recall. I-- Just again, I -- multiple involvement with these issues. I don't know-- I don't think as I'm perceiving the report that I had any dealings with Ron Susswein or any of the folks on those issues.

MR. WEBER: The document that we've put in front of you, GC-002546, concerns Captain's comments profiling human dignity and respect. And it talks about, on the evening of August 20, 1998, the 118th class sat in on a lecture by Dr. Michael Moncour (phonetic spelling), M.D., on teen violence. And then after Dr. Moncour's staff departed, the memo indicates that you addressed the class for approximately one-half hour regarding police conduct in traffic stops, specifically, the issue of racial profiling. Now, you-- I'm sorry to ask you this again, but you became a commandant when?

MAJOR BRENNAN: In the fall of '97.

MR. WEBER: The fall of '97. Did you have-- Did you perform the same address to -- would that have been the 117th class?

MAJOR BRENNAN: I-- They were already graduated at the time.

MR. WEBER: Okay. So this is then the first class that came in while you were the commandant of the Academy?

MAJOR BRENNAN: Yes.

MR. WEBER: Did anyone direct you to make these comments, or did you take it upon yourself to do this?

MAJOR BRENNAN: I took it upon myself.

MR. WEBER: And why was that?

MAJOR BRENNAN: Because I thought that based on the

circumstances, based on how impressed the class was with Dr. Moncour and his staff, and that they even noted in their presentation that they see troopers on the Turnpike all the time traveling between Cooper and UMDNJ. That the fact they had mentioned they had worked on critically injured police officers and troopers, I thought it was an extremely right moment to bring them together and ask them if they felt that these folks that they saw dressed casually should be -- ever be subjected by a police officer to being suspect of doing wrongdoing because of the color of their skin. And we discussed that in a military-- I lectured basically, brought that up to them, and I hope and think it was received in a positive fashion.

MR. WEBER: Have you continued to use opportunities like that to present the same information of subsequent classes?

MAJOR BRENNAN: After I left, I only had the 118th class and then moved up to Headquarters. But the-- Wherever those opportunities presented themselves, we took those opportunities.

MR. WEBER: Whose idea was it to have Dr. Moncour's staff come and lecture the 118th class?

MAJOR BRENNAN: That was actually as a result of our trooper youth program. We had expanded it from minority youth that year and to really focus on those issues, and it came out of people who had heard Dr. Moncour and his message that he has for teens about it's not worth getting shot over.

MR. WEBER: I'm hoping that we're coming to a conclusion, and I do appreciate your patience. I really do.

We've talked about the interim report, which was-- Well, let's step back. February 10th, then Attorney General Peter Verniero announced that he was

launching an investigation and forming a review team to examine the State Police and the State Police practices. Colonel Williams was still the Colonel at that time. Did you have any discussions with Colonel Williams about the launching of this review team?

MAJOR BRENNAN: No.

MR. WEBER: Did you have any discussions with Colonel Williams about the review team at all?

MAJOR BRENNAN: Not that I recall.

MR. WEBER: On February 28th, Governor Whitman fired Colonel Williams after published remarks in which he had linked drug trafficking to minorities and there was a story in the *Star-Ledger*. Did you have any communications with Colonel Williams in connection with his firing?

ASSISTANT ATTORNEY GENERAL ACCURSO: Objection for the record. There's been a judicial finding that Colonel Williams resigned.

MR. WEBER: Okay. In connection with his resignation. Why don't we put it at in connection with him leaving the State Police?

ASSISTANT ATTORNEY GENERAL ACCURSO: Perfectly fine with me.

MAJOR BRENNAN: Brief conversation after the decision had come down and he had been told. I saw him at Headquarters. We had all been called into Headquarters. I went in and I told him that I felt for him, and he really made no statements other than thanks for coming up to see him. That was pretty much the extent of my discussion with him.

MR. WEBER: Have you had any discussion with Colonel Williams since then?

MAJOR BRENNAN: I went to his retirement dinner. I don't think the issue came up at all. I have conveyed to him-- I'm not sure at what point-- I've had at least one other conversation with him where, you know, I think if it was going to be done at all, it could have been done differently, attempting to make him feel better about himself but -- and as a person who respects, knows -- knows the man and knows that he's a good person that was doing his job the way he saw he was supposed -- that the way he felt he was supposed to do it. That was the extent of it.

MS. GLADING: Is that respect mutual between you and Colonel Williams?

MAJOR BRENNAN: I hope so.

MS. GLADING: Did he trust you when you worked as his administrative assistant? Did he place a great deal of trust in you?

MAJOR BRENNAN: It's-- I don't know. I-- He-- When-- If you get to speak to Colonel Williams, you'll find he's the opposite of me. He's not talkative. He just gives you one-word -- one-word answers.

MS. GLADING: It should be a shorter interview. (laughter)

MAJOR BRENNAN: Yes. Well, I don't know, but-- I don't know.

MS. GLADING: By the work that he entrusted you with, can you conclude that he trusted you and that you would keep his confidences?

MAJOR BRENNAN: It's an interesting question, because as I describe the work that he entrusted me with -- was really the every day work flow and looking out for the interest of the Division. He never came to me and said, "Here is a critical project that I want you, Joe Brennan, to work on." He was adherent to the chain of command, to structure in the organization, and I'm

sure he trusted me to some degree to put me in where I was.

MS. GLADING: Who would he have had that kind of confidential relationship with, if not you?

MAJOR BRENNAN: I don't know.

MS. GLADING: Well, you all worked on the same floor and suite of offices, right? So you would come and go out of each other's offices?

MAJOR BRENNAN: Rarely was I in with Colonel Williams in his office.

MS. GLADING: Who was frequently in with Colonel Williams in his office?

MAJOR BRENNAN: Not many people. It was very-- My-- He struck me as an extremely private person. I know he enjoyed a higher degree of hallway banter, I would say. It was Lieutenant, now Captain or Lieutenant Randy Richardson would strictly banter about hockey, and that was essentially the extent of these things.

MS. GLADING: All right. And you say not many people, who were they?

MAJOR BRENNAN: I can't think of people that he-- At one point, I knew he was friends with Barry Roberson, who is a Lieutenant Colonel now, but that was not at all, I don't think, related to this.

MS. GLADING: Well, what about Lanny Roberson?

MAJOR BRENNAN: I believe they were -- they had a relationship to some degree, professional, but was more involved than mine.

MR. WEBER: Are Barry and Lanny related?

MAJOR BRENNAN: They're brothers.

MR. WEBER: They're brothers.

MS. GLADING: What about Dunlop?

MAJOR BRENNAN: I believe I was out of Division Headquarters when Dunlop went up there, but I believe the Colonel respected Colonel Dunlop's performance. I don't know how much they discussed.

MS. GLADING: What about Mr. Blaker?

MAJOR BRENNAN: I think the Colonel had a good relationship with Captain Blaker.

MS. GLADING: Who did he entrust much decision-making authority and if he had to delegate decisions -- who did he allow to make those decisions for him?

MAJOR BRENNAN: I-- From my view was, he let the system and the chain of command operate and that if his deputy superintendent came to him with a recommendation, my guess or bet would be that he would, unless he had real reason not to go with that recommendation, he would support the work that he commissioned by his organization to do.

MS. GLADING: Thanks.

MR. WEBER: Have you-- Aside from-- Well, let me strike that. How many times have you met with and/or discussed your testimony today with either Ms. Accurso or anyone else from the AG's Office, not getting into the substance of the communications?

ASSISTANT ATTORNEY GENERAL ACCURSO: Then we're going to object to attorney/client privilege. Why would you--

MR. WEBER: Well, the fact -- the fact that you met is not privileged. The number of times you met is not privileged.

ASSISTANT ATTORNEY GENERAL ACCURSO: Why? Why wouldn't that be privileged?

MR. WEBER: It's not a communication. A communication is what he said to you and what you said to him. The fact that you met is absolutely not privileged.

ASSISTANT ATTORNEY GENERAL ACCURSO: Are you planning on asking any questions beyond that meeting?

MR. WEBER: No. No.

ASSISTANT ATTORNEY GENERAL ACCURSO: You can answer.

MAJOR BRENNAN: At 2:00 in the hallway.

MR. WEBER: Okay. Did you meet with or talk with any other members of the Attorney General's Office about your testimony today?

MAJOR BRENNAN: By phone, yesterday.

MR. WEBER: With who? Mr. Miller?

MAJOR BRENNAN: DAG Flanagan.

MR. WEBER: Flanagan. Have you discussed the fact that you were asked to testify for this committee with anyone other than Ms. Accurso and DAG Flanagan?

MAJOR BRENNAN: Yes.

MR. WEBER: Who?

MAJOR BRENNAN: You know, at this point, I'm invited here. And this is an issue that entails my entire career that's being made into a political football, and I don't know why you want information. Do you want to know what I talked to my daughter about it, that I couldn't go to her basketball game today because of it?

MR. WEBER: No. I'd like to know if you talked anyone else at the Attorney General's Office or anyone at the New Jersey State Police about this investigation?

MAJOR BRENNAN: About the investigation?

MR. WEBER: About your testimony.

MAJOR BRENNAN: I know nothing about the investigation.

MR. WEBER: About your-- About the Judiciary Committee's request that you come and testify.

MAJOR BRENNAN: To many people, I've said I've been asked to testify. I don't envy going to testify, and I have no idea what the scope is. I have no idea what my rights are. I question why it's under oath, if this is truly an inquiry to talk and find out what people think they know and can help. I'm offended by that, but I came to cooperate anyway, because of the fact-- I've told many of my friends, as a result of this, that nothing good can come out of this. There's no good intent in this. It's only going to harm the efforts of people that are trying to move forward. So I have probably said that to 20 or 30 people. I couldn't remember who they were, but within the last week. This has been an extremely bothersome episode, and I know it's your business, but that's-- You asked the question and that's the answer.

MR. WEBER: Have you talked to anybody else who has either testified or is due to testify?

MAJOR BRENNAN: I don't know. I've had people call me as the Office of Professional Standards who is responsible about litigation to determine whether or not they're required to go, whether the Colonel is ordering them to attend, whether an attorney will be provided to them, and

because my office maintains the liaison of legal representation. So I have had people that have either seen their name in the paper, because some of us-- I had never gotten a letter. I don't know. I just came here today. We have people whose lives are-- They don't know how far -- what you're going to ask.

MR. WEBER: For the record, letters were sent to every witness who was going to testify, to the Attorney General's Office at the Attorney General's Office request, and they notified us that they would forward the information to the appropriate individuals.

One last question on this. Aside from people calling up your office to determine what their rights were, did you have any conversations with anyone who has testified before this Committee about the substance of their testimony or the questions that were asked?

MAJOR BRENNAN: No.

MR. WEBER: Okay.

Is there anything else?

MS. GLADING: There's one document I wanted to ask you about. I'm sorry to backtrack like this, but in the context of the information that was forwarded to you about the Moorestown incident, complaints. You indicated earlier that Captain Touw at times sought your counsel about incidents like this. You were both copied on that memo. Are you putting this in place of where the other documents were?

MAJOR BRENNAN: I have never seen this before, ma'am.

MS. GLADING: Okay. I'd ask you to look at the second page, Item No. 1, under additional facts. Did Captain Touw ever discuss that issue with you in the context of--

MAJOR BRENNAN: I don't-- I don't--

MS. GLADING: --this Moorestown investigation?

MAJOR BRENNAN: I don't recall that specific issue. He may have. It just was not something that I registered.

MS. GLADING: Okay.

MAJOR BRENNAN: Again, I want to reiterate. I was concerned about the entire issue. I didn't, in my view, need these facts to cement my thoughts and opinions.

MS. GLADING: Do you have anything else, Scott?

MR. WEBER: No. I am finished.

MS. GLADING: I just want to get-- Do you have any sense in your conversations with people at Division Headquarters, even after you left there, of what the cooperation -- what the level of cooperation was with the Office of the Attorney General, in the context of the *Soto* appeal, Department of Justice investigation? Any other -- the Turnpike shooting? Any other racial profiling related issues that were going on at the State Police, since you knew many people in both places?

MAJOR BRENNAN: The work that was done for the-- After the interim report came out, the Division basically turned itself inside out attempting to, as quickly as possible, turn that ocean liner on a dime and begin to comply as best or look into how to comply with the recommendations by number. And there were joint committees established, first time in my recollection, with Department personnel to assist the State Police to do those things.

MS. GLADING: The joint committees with OAG personnel you mean?

MAJOR BRENNAN: Yes.

MS. GLADING: Well, you were part of a committee, a joint committee, with OAG after the *Soto* ruling, right?

MAJOR BRENNAN: Well, no, that's Division of Justice's attorneys that were representing us. This is OAG, fiscal people, OAG personnel experts, OAG labor relations people that could provide -- fiscal people to provide equipment and moneys that we needed for initiatives, that type of thing.

MS. GLADING: What's your understanding of what the level of cooperation was prior to the interim report in the year and two -- the two or three years before the interim report and after *Soto*?

MAJOR BRENNAN: It was nowhere near what it is now.

MS. GLADING: Okay. Was there any-- What do you base that on?

MAJOR BRENNAN: Just my personal experience having been at that level. There was-- The Department was the Department and the Division was the Division and often I basically competed-- I wouldn't say competed. The Department was superior to the Division and table of organization, but they-- There was not the spirit of cooperation that exists today.

MS. GLADING: Was it your understanding during the work of that Committee following *Soto* that that was a cooperative effort? That the Division was sharing its information with Mr. Susswein and Mr. Fahy?

MAJOR BRENNAN: I-- Not in the way it is now. That was-- I think they were there-- I don't know why they were there-- They needed to give us guidance. But we always had CJ attorneys available for specific criminal issues and search and seizure issues, and we had worked with them in the past. But this is -- this is a global issue that is being addressed globally, which required

the resources of the Department to step in and do the things they're doing today to get this thing modernized and brought up to date.

MS. GLADING: Thanks.

MR. WEBER: Anything more?

MS. GLADING: No.

MR. WEBER: Major, on behalf of the Committee, though I know you were somewhat perplexed as to why we are doing what we are doing, I do appreciate your time. I appreciate your patience. I appreciate your candor, and I just want to thank you on behalf of the Committee for coming down and speaking with us today.

MAJOR BRENNAN: Thank you.

MR. WEBER: Thank you.

(INTERVIEW CONCLUDED)