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**INTERVIEW**  
of  
**Captain Ernest Volkman**  
for the  
**SENATE JUDICIARY COMMITTEE**

February 7, 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)  
Jo Astrid Glading, Esq. (Democratic Counsel to the Committee)

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**MR. SCOTT LOUIS WEBER, ESQ.:** Good morning, Captain Volkman.

My name is Scott Louis Weber. I'm an attorney at Latham and Watkins. And I'm assisting Mike Chertoff as special counsel to the Senate Judiciary Committee in its investigation into allegations of racial profiling by the New Jersey State Police.

On behalf of the Committee, I want to first off thank you for agreeing to appear voluntarily today for this interview. You'll notice that the interview is being recorded. And as part of my charge, I have been given the authority by the Senate Judiciary Committee to, and I will read you from a motion that was passed on January 29, 2001, "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."

I am also further authorized to "administer oaths on behalf of the Committee to obtain sworn testimony."

With that being said, I'd like to, before I swear you in, ask that everyone present in the room identify themselves for the record. And I'll ask Jo Glading to start first, please.

**MS. GLADING:** Jo Astrid Glading, Staff Counsel for the Senate Democratic office.

**MR. WEBER:** And Scott Louis Weber, Special Counsel to the Senate Judiciary Committee, from Latham and Watkins.

**DEPUTY ATTORNEY GENERAL BRIAN G. FLANAGAN:** Deputy Attorney General Brian Flanagan, Division of Law.

**MR. WEBER:** Captain Volkman, if you could identify yourself, please.

**CAPTAIN ERNEST VOLKMAN:** Ernest Volkman, Retired Captain, State Police.

MR. WEBER: Captain Volkman, if you could please repeat after me, I'd like to swear you in now.

(Oath administered)

Thank you very much.

Captain, again, on behalf of the Committee, I want to thank you for appearing today. I am hopeful that we will not take up too much of your time today. But let me just give you a tiny bit of background to put this into context.

I think, as you know, the Attorney General's Office produced, to the Senate Judiciary Committee, and made available to the public, approximately 95,000 pages of documentation that is related to the issue of racial profiling by the New Jersey State Police. I am going to show you a series of documents today and ask you to review those documents. Then I have questions about those documents for you.

If you could, though, first, just please detail for me your background, starting with your education background and then your history in law enforcement.

CAPTAIN VOLKMAN: I'm a high school graduate. I attended Louisiana State University for a short time. I also attended Trenton State College. I do not have a degree. I've been a member of the State Police for 30 years. I retired January 1st, 2000. I had a 30-year career involving approximately eight years as a uniformed trooper, including five on the Turnpike.

MR. WEBER: Five of those eight years?

CAPTAIN VOLKMAN: Yes, sir.

I had then transferred into the Special Investigations and Services Bureau. I did background investigations for a couple of years. I then transferred to the major crime unit. I spent seven years investigating homicides. I then went to Internal Affairs as an investigator for approximately two years. I then went back to the troop -- Troop C as a detective sergeant for a short period of time.

MR. WEBER: Less than a year?

CAPTAIN VOLKMAN: No, about a year and a half, but I had some other assignments in between. I was detached to the Lamonaco murder trials during that time, too.

From there, I went to Troop B as the investigations officer for a couple of months. From there, I went to two units in the Criminal Enterprise and Racketeering Bureau as a lieutenant in charge of the north unit and the central unit -- back to Internal Affairs.

MR. WEBER: How long were you with -- at those two units?

CAPTAIN VOLKMAN: Approximately two years.

Back to Internal Affairs as the bureau chief--

MS. GLADING: What year was that?

CAPTAIN VOLKMAN: Internal Affairs? I went back to Internal Affairs in October of 1996.

MR. WEBER: And how long were you the bureau chief of Internal Affairs?

CAPTAIN VOLKMAN: I went back to the investigation section of

February of 1998, which was approximately 16 months.

MR. WEBER: Did you remain there until your retirement?

CAPTAIN VOLKMAN: No, I was the assistant section supervisor to the investigation section for about seven months, and then I was sent back to the Division staff section as the assistant section supervisor, from which, I retired.

MR. WEBER: Okay. Just back up for a second. The last position was where?

CAPTAIN VOLKMAN: Assistant section supervisor, Division staff section -- approximately a year -- about 14 -- 15 months.

MS. GLADING: And that was what period?

CAPTAIN VOLKMAN: That would be from around October of '98 to January 1 of 2000.

MR. WEBER: The assistant section supervisor of the Division of staff?

CAPTAIN VOLKMAN: Division staff section.

MR. WEBER: Division staff section.

CAPTAIN VOLKMAN: Yes, sir.

MR. WEBER: What is the Division staff section?

CAPTAIN VOLKMAN: The Division staff section, at that time, was the supervising authority of the training bureau -- State Police Academy -- the EEOC unit, Internal Affairs Bureau, and the State House Security Bureau.

MR. WEBER: And as the Assistant Section Supervisor, was there a particular section that you were in charge of out of Training, EEOC, IA, and State House Security?

CAPTAIN VOLKMAN: No, we reviewed all of the reports from all of the four bureaus. And of course, it went up to the major. Major Mattos was

in charge. He was the section supervisor.

MR. WEBER: What were your general responsibilities as assistant section supervisor from October of '98 to January 1, 2000?

CAPTAIN VOLKMAN: Basically, administrative-type work to keep the section moving to make sure that the sections did all the things that they were required to do and report through the chain of command.

MR. WEBER: Okay. Let me just go back for a moment. You said that you had two -- you were the lieutenant of two units -- north and central units for approximately two years.

CAPTAIN VOLKMAN: Right. Approximately a year each -- north unit of Criminal Enterprise and Racketeering Bureau and the central unit of the Criminal Enterprise and Racketeering Bureau. And from there, I became the bureau chief of the Criminal Enterprise and Racketeering Bureau.

MS. GLADING: And then you went to become bureau chief of IAB?

CAPTAIN VOLKMAN: From there, yes.

MS. GLADING: From there.

CAPTAIN VOLKMAN: Yes.

MS. GLADING: Okay. And you were bureau chief of IAB until about when?

CAPTAIN VOLKMAN: Approximately February of '98.

MR. WEBER: So from October of '96 to February of '98, approximately you were the Internal Affairs Bureau chief.

CAPTAIN VOLKMAN: Yes, sir.

MR. WEBER: Okay. And for approximately the two years prior to that, 1994 -- sometime in 1994 to October '96 -- that's when you were the

lieutenant of the two different units in the Criminal Enterprise and Racketeering Bureau.

CAPTAIN VOLKMAN: Yes, sir.

MR. WEBER: Okay.

Captain Volkman, I'd like to start off with some general questions, and then we'll get to the documents.

There are some documents that we will show you that concern training courses that were offered by the State Police. Did you have any involvement in reviewing substantively any training that was offered by the State Police at any time during your tenure at the State Police?

CAPTAIN VOLKMAN: During the time I was the Criminal Enterprise and Racketeering Bureau chief, I reviewed the training that we would be providing to uniformed troopers, detectives, and local police, county police, and so forth, just as a review process.

MR. WEBER: Were you in charge of the review process, or were there other people that were involved in it?

CAPTAIN VOLKMAN: No, I was not in charge of it, but I would review it and then submit it through channels to the superintendent and on to the training bureau so that everybody would be advised of what training we were proposing and what had been approved.

MR. WEBER: So that was-- That period of time, then, was sometime in 1994 up until, approximately, October 1996.

CAPTAIN VOLKMAN: Uh, '95 -- '96. Right.

MR. WEBER: Did you-- During your course of reviewing the materials, were these just written materials that you had to review?

CAPTAIN VOLKMAN: Yes.

MR. WEBER: Did you attend any actual training sessions to conduct a review of what actually occurred during the training sessions?

CAPTAIN VOLKMAN: Some I attended, some I did not, depending on my schedule.

MR. WEBER: Do you remember if there were any training sessions that addressed the issue of racial profiling?

CAPTAIN VOLKMAN: No, I don't recall any.

MR. WEBER: You were aware of standard operating procedure -- I believe it's SOP-3, which required troopers to call in the race of individuals that they have stopped for motor vehicle violations?

CAPTAIN VOLKMAN: Yes.

MR. WEBER: Was the requirements of SOP-3 addressed in any of the training materials that you reviewed?

CAPTAIN VOLKMAN: During the time that I was in a supervisory position, there were -- that was addressed various times throughout by the superintendent. There would be -- at in-service trainings and so forth throughout that time.

MR. WEBER: Okay. My question is, though, did you specifically see training materials that referenced SOP-3 and the requirements of SOP-3?

CAPTAIN VOLKMAN: No.

MR. WEBER: Did you attend any training courses and observe, during your attendance at those training courses, that there was ever any mention of SOP-3 and the requirements of SOP-3?

CAPTAIN VOLKMAN: Yes. During in-service trainings, it was

mentioned several times.

MR. WEBER: What is in-service training?

CAPTAIN VOLKMAN: These are yearly training that every member of the State Police would attend, either for one or two days, in which current search and seizure and things like that would be gone over and brought up, and people would be brought up to speed, as far as case law and so forth. These are yearly things. They happen at various times.

MR. WEBER: And how many in-service training sessions did you attend during which SOP-3 and the requirements of SOP-3 were mentioned?

CAPTAIN VOLKMAN: I couldn't tell you.

MR. WEBER: More than once?

CAPTAIN VOLKMAN: Absolutely.

MR. WEBER: More than five times?

CAPTAIN VOLKMAN: I don't know.

MR. WEBER: When you say that you attended training sessions -- the in-service training, at which SOP-3 was mentioned, was that -- this time period you're referring to -- that two-year period from '94 to '96?

CAPTAIN VOLKMAN: I'm not sure, as far as the time period. That's been throughout my career.

MR. WEBER: SOP-3 has been throughout your career?

CAPTAIN VOLKMAN: Well, the revisions, as it's revised and so forth. The requirements changed from 1970 through the time of my retirement. The requirements changed. I'm sure it's been adjusted several times through that time period.

MR. WEBER: What's your understanding of the purpose of SOP-3?

CAPTAIN VOLKMAN: I would have to look at the SOP. I don't recall all the specifics at all. But it has to do with motor vehicle stops, as I recall.

MR. WEBER: Do you have a recollection or an understanding of why there was a requirement for troopers to call in the race of the driver and the occupants of a car pursuant to SOP-3?

CAPTAIN VOLKMAN: Could you repeat that?

MR. WEBER: Sure.

Did you have an understanding as to why it was necessary for troopers to call in the race of the driver and the occupants of a car pursuant to the provisions of SOP-3?

CAPTAIN VOLKMAN: Not really. No. You know, I was aware of court cases and so forth, but the explanation-- No, I don't.

MR. WEBER: Let me show you-- And these are all documents that were produced to us by the AG's Office.

This is a packet that I stapled together. So let me just read out the Bates Numbers of the documents. OAG-005868, GC-001688, GC-001689, GC-001690, and GC-001696.

I will represent to you that this is a series of interoffice communications that concern a narcotics trafficking trend seminar in 1996.

And, Captain, I'd ask that you just review these documents, and let me know if you've had a chance to read them.

CAPTAIN VOLKMAN: Yes, sir. I've reviewed them.

MR. WEBER: Okay. Thank you, Captain.

The first page -- the interoffice communication dated August 1, 1996-- There is an indication down towards the bottom of the memo, "Captain E.

Volkman. Commanding CERB.” What does CERB stand for?

CAPTAIN VOLKMAN: That was the Criminal Enterprise and Racketeering Bureau, of which I was in charge of at that time.

MR. WEBER: And this, I take it, was towards the end of your stint at CERB, because it was in August of 1996.

CAPTAIN VOLKMAN: Yes, just prior to my transfer. I think I was transferred around October 1st, as I recall.

MR. WEBER: It makes reference to an attachment. It says, “Attached for your review is a course schedule over viewing lesson plans for the proposed Narcotics and Trafficking Trends, 1996 seminar, to be held at the New Jersey State Police Training Academy in Sea Girt.” Do you remember reviewing the lesson plans and the overview?

CAPTAIN VOLKMAN: I don’t specifically remember the lesson plans themselves, but I probably did review them.

MR. WEBER: Do you know why you were copied on this interoffice communication?

CAPTAIN VOLKMAN: Because I was in charge of the Criminal Enterprise and Racketeering Bureau, which included the narcotics operation. And we would be the ones who oversaw this seminar, and we were the ones that provided a lot of the instructors for this seminar, along with people from the Division of Criminal Justice -- their narcotics people. And we would be the coordinator for it. We would have been a coordinator.

MR. WEBER: There is a notation towards the bottom of the document that says, “First endorsement. The above and attached information has been reviewed by Colonel C. Williams and Lieutenant Colonel L. R. Roberson. It

has been approved -- forwarded for your information and further action.” Was it customary for the Colonel to review overviews, course schedules, and lesson plans for a seminar such as this?

CAPTAIN VOLKMAN: As part of our chain of command, we would let the superintendent know, through the chain of command, through the investigation section, up to the superintendent’s office, that we were proposing to do a seminar like this. And, you know, then it would go down -- back on the other side -- down to the training bureau, and they would have to provide the necessary space and instruction -- if they needed instructors, and so forth. So it would go up the investigation side to the superintendent and then down through the Division staff section to the training bureau. So, yes, it would be a chain of command type issue.

MR. WEBER: Do you know why it is that then Major Dunlop had authored this communication and coordinated distribution of the seminar materials to the individuals listed on the memo?

CAPTAIN VOLKMAN: Yes, because I, or a member of my staff in the Criminal Enterprise and Racketeering Bureau, would have prepared a course plan and lesson plans and so forth for Major Dunlop, who was my direct supervisor. And then he, of course-- He would have then put a cover letter on it, sent it up to the superintendent, and then the endorsement is the return of that cover letter approving that information, which is handwritten here.

MR. WEBER: So you were then involved in preparation of the materials referenced in this interoffice communication.

CAPTAIN VOLKMAN: In this particular one?

MR. WEBER: Yes.

CAPTAIN VOLKMAN: On the cover? No, I was not, other than the fact that I put together a package to send to Major Dunlop. That would be my involvement. I didn't prepare this cover letter.

MR. WEBER: No, no. Not the cover letter. You had previously-- You had just testified that you and, I guess, the people who you supervised would have, in response to Major Dunlop's request, prepared the seminar material--

CAPTAIN VOLKMAN: Yes.

MR. WEBER: --forwarded them to Major Dunlop, he then prepared the cover memo distributing the training materials to all the individuals listed here.

CAPTAIN VOLKMAN: Yes.

MR. WEBER: So my question is, you were involved in the preparation of the actual seminar materials.

CAPTAIN VOLKMAN: Yes.

MR. WEBER: Correct?

CAPTAIN VOLKMAN: Correct.

MR. WEBER: Did the seminar materials address drug courier profiles?

CAPTAIN VOLKMAN: Without having the overview and the lesson plans in front of me, I don't know what-- At this point, I don't know exactly what, other than the few things that my people were involved in. Here's a intelligence-- Detective Sergeant Fuentes trends in-- The topic was narcotics intelligence networks. So I assume that there was a block of instruction on that. Trooper Rosell (phonetic spelling) -- highway trafficking operations. There was a block of instruction on that. And then, of course, Tim Grant -- he's a detective on the block of nonverbal communication. So I would assume that those three -- at least those three were presented. But I don't have the

course schedule in front of me. And there's two other people from our canine unit that presented some instruction, I believe. And also, Detective Price from the Hotel/Motel squad.

MR. WEBER: Captain Volkman, you had earlier made a reference to court cases, without specifically mentioning any court cases by name. Were you aware of the *State v. Soto* decision that was issued in March of 1996 by Superior Court Judge Robert Francis? That was the decision concerning de facto racial profiling by African-American or -- racial profiling of African-American and Hispanic drivers down in Gloucester County and southern New Jersey?

CAPTAIN VOLKMAN: From the newspaper and from rumors and so forth, yes.

MR. WEBER: That decision, I will represent to you, was issued on March 4th, 1996, which is -- which predates this series of interoffice communications. You made reference to their being press reports and rumors, things to that effect, about the *Soto* decision.

Was there any discussion that you had that you were aware of amongst people at the State Police concerning maybe adjusting training materials in light of this decision or reviewing training materials in light of the *Soto* decision to make sure that the training materials did not promote racial profiling?

CAPTAIN VOLKMAN: Specifically, no. I don't recall anything specific. I'm sure it was spoken about, but I don't recall any specifics at all.

MR. WEBER: Do you recall there being any conversations at the State Police after the *Soto* decision in which individuals discussed a need for an overall review of training materials to make sure that the State Police was

properly instructing both cadets, as well as members of the State Police, on things like SOP-3, things like racial profiling, drug courier profiling?

CAPTAIN VOLKMAN: At that time, that would have been done by the training bureau in their discussions. No, we did not.

MR. WEBER: When you then became the assistant section supervisor, Division staff section, in October of 1998-- And in that role -- training-- You had supervisory authority over, among other things, training. Do you remember there being any discussions about reviewing training materials to make sure that they were current with the state of the law, they didn't promote racial profiling, there was a command that SOP-3 be filed -- followed, things to that effect?

CAPTAIN VOLKMAN: That was a constant review by the training bureau. They continually kept on top of the emerging court cases and so forth. That was their responsibility to bring that and make sure that the proper things were being taught to both recruits and in-service trainings.

MR. WEBER: Okay. My question is, were you involved in any conversations, any meetings, any discussions about training materials and a review of training materials to make sure that they comply with recent court decisions, edicts or procedures issued by the Attorney General's Office or by the colonel or the superintendent to ensure that the training materials did not promote racial profiling?

CAPTAIN VOLKMAN: Personally, no, I don't recall any meetings at all.

MR. WEBER: Any conversations?

CAPTAIN VOLKMAN: A lot of conversations. A lot of conversations

on--

MR. WEBER: On that issue.

CAPTAIN VOLKMAN: --all kinds of issues.

MR. WEBER: Okay. But I'd like you to focus just specifically on racial profiling.

CAPTAIN VOLKMAN: Specifically, I can't recall any specifics at all. No. But those things did come up at times based on the climate -- the way things were happening, the things that were going on. Of course those topics did arise. But actual meetings and things, no. I don't recall any.

MR. WEBER: You had previously testified that there were rumors going around after the *State v. Soto* decision was issued in March of 1996. What sort of rumors?

CAPTAIN VOLKMAN: There were all kinds of rumors regarding the statistics that were used, how they were arrived at, and so forth throughout that time.

MR. WEBER: What were the rumors?

CAPTAIN VOLKMAN: That the statistics were flawed.

MR. WEBER: What was the basis for the rumor that the statistics were flawed?

CAPTAIN VOLKMAN: I have no idea.

MR. WEBER: What other rumors were going on after the *State v. Soto* decision?

CAPTAIN VOLKMAN: That was the big one that I recall -- about the statistics used, but I don't recall anything else specific. I know there was a supposed to be an appeal and so forth, but that's, again, all rumor and

conjecture.

MR. WEBER: Were you aware that, in fact, the State did file a notice of appeal and--

CAPTAIN VOLKMAN: From the newspaper. Yes, sir.

MR. WEBER: Were there any rumors or discussions that you participated in at the State Police after the State filed its notice of appeal, as far as how that would affect the State Police?

CAPTAIN VOLKMAN: No, I don't recall any specific thing about affecting the State Police.

MR. WEBER: Do you remember there being morale issues as a result of the *Soto* decision?

CAPTAIN VOLKMAN: There were always morale issues in the State Police whenever anything happened like that. That's just one of many.

MR. WEBER: Well, specifically regarding the *State v. Soto* decision, did you observe any affect on the morale of the State Police as a result of the *State v. Soto* decision?

CAPTAIN VOLKMAN: No. I was not in a position to know what was going on on the Turnpike out there, on the road. I was in a supervisory position in Division headquarters. I don't have any specific information on that.

MR. WEBER: Well, in a supervisory position, I would assume one of the things that you'd be interested in is knowing, you know, what was going on amongst the road troopers, correct?

CAPTAIN VOLKMAN: Yes. Everybody has that interest, so to speak.

MR. WEBER: Did you make any inquiries, or did anyone report to you

whether morale was affected by the *State v. Soto* decision?

CAPTAIN VOLKMAN: I made no inquiries, no. But I heard the same rumors that everybody else heard.

MR. WEBER: Which were?

CAPTAIN VOLKMAN: That morale was down, arrests were down, things like that.

MR. WEBER: Did you participate in any discussion in which -- at the time of the *Soto* decision, or shortly thereafter, in which generally the issue of racial profiling was discussed and whether or not racial profiling was a perceived problem within the State Police?

CAPTAIN VOLKMAN: No. When I took over Internal Affairs, though, I recall having a conversation with then Captain Touw, as to some of the audits and things that had been done previous to my taking over Internal Affairs. But that was basically it.

MR. WEBER: What were those discussions with Captain Touw?

CAPTAIN VOLKMAN: Well, since I was taking over Internal Affairs from him, he brought me up to date. He showed me some of the audit reports and things that had been done prior to my arrival there. And he also gave me his thoughts as to whether there was a problem or not.

MR. WEBER: When you were a road-- What years were you a road trooper?

CAPTAIN VOLKMAN: Nineteen hundred seventy to nineteen hundred seventy-eight.

MR. WEBER: And where were you stationed?

CAPTAIN VOLKMAN: I was stationed in Troop C at three or four

stations, and then the Turnpike for about four and a half years.

MR. WEBER: As a road trooper in the 70s, did you have any observations that certain troopers may be conducting -- or may have been conducting, at that time, racial profiling?

CAPTAIN VOLKMAN: Racial profiling? No. There was active troopers who made a lot of arrests during that time. And that was it. I don't specifically recall racial profiling. No.

MR. WEBER: As I'm sure you know from the press reports after the 90,000 -- initial release of the 90,000 pages by the AG's Office, there were press reports about there being some systemic cultural problems at the State Police in regards to perceptions of minorities, references to Johnnies in a good car, references to ethnic and racial stereotypes in training materials, certain groups of individuals have a propensity to drink, things to that effect.

That was all released in the press back in November of last year. Were you aware, prior to that being released in the press, of those sort of cultural biases that may have been held by some troopers at the State Police?

CAPTAIN VOLKMAN: I don't think so. I think the people that I worked with and the troopers in general would do their job. And I think that they did a good job. I don't recall anybody specifically mentioning things about specific individuals, races, or or the name that you said. I've never heard that in my career, until I read it in the paper. I believe you referred to it as Johnnies. I've never heard that word at all.

MR. WEBER: In September of 1989, WOR did a report about the New Jersey State Police on television entitled Without Just Cause. And that report expressed a concern about minorities being targeted on the New Jersey

Turnpike in 1988. And in response to that, the State Police released a document denying the existence of racial profiling and some additional information.

Do you remember when that report was run on television in September 1989?

CAPTAIN VOLKMAN: Vaguely.

MR. WEBER: Do you remember there being any discussion of that report amongst the ranks at the State Police?

CAPTAIN VOLKMAN: Discussion, yes. Details, absolutely -- I don't have any idea.

MR. WEBER: Well, did you have any concern when -- as a State Trooper, when that report came out in September of 1989 about the accuracy of the report?

CAPTAIN VOLKMAN: Again, you know, I'd have to go back to the fact that anytime any negative publicity or anything would generate a conversation, rumors, talk, I would have to assume that that would be the same situation, but specifics, I don't recall.

MS. GLADING: In 1996, when you went to IAB and Captain Touw briefed you on the audits that had already been done, what did he tell you had been done up to that point?

CAPTAIN VOLKMAN: He told me, basically, about the *Soto* decision -- a little bit about it -- what he knew about it, and also the fact that some audits had been conducted at Moorestown Station. It reflected that there was some problems with stops.

MS. GLADING: And what were those problems?

CAPTAIN VOLKMAN: Again, I don't recall the specific figures or anything like that, but -- just problems. I don't recall the numbers and so forth that he quoted.

MS. GLADING: What do you recall the problem being?

CAPTAIN VOLKMAN: That there was some problems with minority stops. Again, without having documents in front of me, I don't recall the numbers or anything. I don't recall whether they were very high, very low. I would have to assume, now, that they were higher than the should be, but I don't have the specifics.

MS. GLADING: And did those audits continue while you were there?

CAPTAIN VOLKMAN: We did some audits. The Staff Inspection Unit did some audits during the time I was there. Yes.

MS. GLADING: Who did them within the Staff Inspection Unit?

CAPTAIN VOLKMAN: Lieutenant Hinkle (phonetic spelling) and Lieutenant Sachetti.

MS. GLADING: And what did you know about those audits? What did you learn about those audits as they were conducted? What did they indicate?

CAPTAIN VOLKMAN: They-- It depended on the station. It depended on what we were looking for. It depended on what was going on, what prompted those audits. And again, without having documents I can't really say.

MR. WEBER: Do you have a general recollection as to why audits were even being conducted?

CAPTAIN VOLKMAN: Well, there were audits conducted on many things. I can go back to my time in Internal Affairs. We had a trooper who

was destroying his hard copies of summonses. We did an audit on him. We did audits for various, various things.

MR. WEBER: Okay. But you would agree, would you not, that this was not your typical audit of an individual trooper. I mean, this was an audit of barracks to determine what the percentages were of minority motorists who were being stopped on the Turnpike, correct?

CAPTAIN VOLKMAN: I believe, at that time, I could be mistaken, there was an audit done of Moorestown. I don't recall any other ones. I could be mistaken, but I recall Moorestown station, specifically.

MS. GLADING: I'd like to show you this. I only have one copy of it with me, unfortunately, but it's GC-1434 through 1441. And it's a June 4th, 1996 memo from Captain Touw to Major Sparano. I wonder if you could just take a look at that and see if that reminds you of what Captain Touw briefed you on when you got to IAB.

CAPTAIN VOLKMAN: I don't recall this specific document, but yes, this is an audit that was conducted prior to my arrival in IAB.

MS. GLADING: Is this something Captain Touw would have told you about when you arrived? You said he told you -- brought you up to speed on audits that had been conducted.

CAPTAIN VOLKMAN: He briefed me. Yes. And I would assume back-  
- Again, I don't recall this specific document, but I would assume that that was part of it.

MS. GLADING: Uh-huh. What was the purpose of collecting this information? What was done with it while you were at IAB, presuming this was an ongoing process, as you just said?

CAPTAIN VOLKMAN: Well, there was a couple of audits conducted that I recall. For what reason, I don't recall. But among the documents that were provided to me, there was a couple of audits done while I was in charge of IAB. And it had to do with minority stops, the amount of call-ins, and also reflected, as I recall, the number of unknown persons who were either unidentified or unknown from the radio logs.

MS. GLADING: You mean noncompliance with SOP F-3?

CAPTAIN VOLKMAN: Right. For whatever reason. I mean, there could be a myriad of reasons. Again, you know, I'm not saying that they're all noncompliance.

MR. WEBER: When Captain Touw sort of -- there was a changing of guard between you and Captain Touw at IAB. Did you have a sit-down with him, or more than one sit-down with him, at which he briefed you on the status of what was going on at IAB?

CAPTAIN VOLKMAN: Yes.

MR. WEBER: Did he brief you on the fact that there were audits being conducted, and those audits were trying to determine the race of individuals who were pulled over on the Turnpike, as well as compliance with SOP F-3?

CAPTAIN VOLKMAN: Yes.

MR. WEBER: What did he say in regards to those audits?

CAPTAIN VOLKMAN: He said there were audits being conducted. And as I said before, I -- again, you know, my memory -- but I thought it was just at Moorestown Station. I know that was the crux of the problem, if you want to say that, because of the *Soto* decision. And I specifically recall Moorestown Station, but I don't recall the other stations.

MR. WEBER: Did Captain Touw express to you that the reason why the audits were being conducted was as a result of the *Soto* decision?

CAPTAIN VOLKMAN: I believe so.

MR. WEBER: Did he tell you what would be done with the audit information once it was collected?

CAPTAIN VOLKMAN: No. I don't recall that at all.

MR. WEBER: Did he--

CAPTAIN VOLKMAN: That had already been sent up to the superintendent's office, I suppose, based on the time frame. And I don't recall--

MR. WEBER: Was there any discussion as to what, if any, involvement the Attorney General's Office had with the audits that were being conducted?

CAPTAIN VOLKMAN: No.

MR. WEBER: Did he express to you that there was a contact or contacts at the Attorney General's Office that you would need to -- or have someone on your behalf communicate with in connection with the audits?

CAPTAIN VOLKMAN: I don't recall that. No.

MR. WEBER: Did you have any dealings with anyone over at the Attorney General's Office in connection with the results of the audits that were being conducted by the Internal Affairs Bureau?

CAPTAIN VOLKMAN: No.

MS. GLADING: What would you do with these audits when -- the ongoing audits that were conducted under your supervision of IAB? What would you do with them when it was done?

CAPTAIN VOLKMAN: Well, more than likely, you know -- and again,

without having documents in front of me, I have to rely on my memory -- I would say that they were probably conducted for -- because of a complaint or some kind of aberration that came out. But we would collect the data. It would either be sent up in an IOC to the superintendent's office, and that would be it. They would make decisions and so forth up there, of which I was not a party to.

MR. WEBER: Were you aware that in December of 1996, the Department of Justice reached out to the Attorney General's Office to inquire about the issue of racial profiling in the New Jersey State Police?

CAPTAIN VOLKMAN: I heard about it. I was not privy to any of the meetings or anything.

MR. WEBER: When did you first hear about it?

CAPTAIN VOLKMAN: I don't recall.

MR. WEBER: Shortly after the DOJ reached out to the AG's Office?

CAPTAIN VOLKMAN: I have no idea.

MR. WEBER: Let me show you two documents. The first is a one-page document, OAG-001309. The second is a rather lengthy memorandum, DOJ-006841 through DOJ-006855. The first document is the first page of the second document. I'll ask that you review that and let me know when you're done, please.

CAPTAIN VOLKMAN: This would be a breakdown of the Internal Affairs Bureau's complaints on what we listed as profile stops, civil rights violations, and racial harassment types of violations -- allegations.

MR. WEBER: Let me first direct your attention to the one-page document, OAG-001309, which again is, for the record, the first page of the

second document, which is the full memorandum.

There is a number 11 handwritten and circled in the upper right-hand corner. Do you know what the significance of that is?

CAPTAIN VOLKMAN: No, I don't.

MR. WEBER: Okay. In the upper left-hand corner, there is handwritten notation, "Return to Wayne Fisher." Do you know who Wayne Fisher is?

CAPTAIN VOLKMAN: I do know who Wayne Fisher is.

MR. WEBER: Who is Wayne Fisher?

CAPTAIN VOLKMAN: He was a deputy attorney general. I don't know exactly where he was assigned, but he was a deputy attorney general.

MR. WEBER: Do you recognize the handwriting?

CAPTAIN VOLKMAN: No. It's not mine.

MR. WEBER: Was Deputy Attorney General Wayne Fisher involved, at all, in the issue of racial profiling, as far as you know?

CAPTAIN VOLKMAN: He was an investigator. I'm sorry. I don't think he was a deputy attorney general.

MR. WEBER: He was an investigator at the AG's Office.

CAPTAIN VOLKMAN: I believe so. I don't know. I have no idea.

MR. WEBER: There is also a received stamp, April 15th, 1999, Deputy Director -- it looks like Division of Criminal -- and it's cut off.

The date of this memo was February 18, 1997. Do you know why it would have taken two years for this memo to make its way up to deputy director of the Division of Criminal Justice?

CAPTAIN VOLKMAN: I would have to assume that this received stamp

would be after the State Police review started -- took place. And this was stamped in during part of that. I would have to believe that.

MR. WEBER: Do you know who the author of this memorandum is? It's directed to you, but there's no author identified.

CAPTAIN VOLKMAN: Probably a member of the Internal Affairs staff, one of the staff -- one of our people that deals with record keeping and so forth. I couldn't tell you exactly who right now, but--

MR. WEBER: Well, it is not the case-- Strike that. You would have requested someone to do this.

CAPTAIN VOLKMAN: Yes. And apparently, in -- again, if my memory serves me right -- we had gotten a call from DAG Fahy, in which we required -- he asked for a certain information. And one of the members of Internal Affairs would have prepared this and given it to me. That's why it's on a memo to me.

MR. WEBER: Was this the first time that you had had contact from DAG Fahy?

CAPTAIN VOLKMAN: I don't recall.

MR. WEBER: Do you have an understanding as to why DAG Fahy was contacting you to request this information?

CAPTAIN VOLKMAN: I believe, and again, if memory serves me right -- I believe this was part of the appeal process that he was going through -- if memory serves me right. But I could be wrong on that.

MR. WEBER: The appeal process in the *Soto* case?

CAPTAIN VOLKMAN: Yes, sir. I believe so.

MR. WEBER: When you took Captain Touw's place as the head of IAB, did he mention to you that DAG Fahy -- at all?

CAPTAIN VOLKMAN: I don't recall.

MR. WEBER: Let's take a look at the actual memo itself, please. Do you remember, from the time that you requested that this information be compiled to the time it was produced to you in the form of this memo how long a period of time that was?

CAPTAIN VOLKMAN: No.

MR. WEBER: And again, do you remember who you asked to compile all this data for you?

CAPTAIN VOLKMAN: No, I don't. It would have to be a member of the Internal Affairs Bureau. I'm not sure who.

MR. WEBER: Are there a couple of likely candidates that you could think of?

CAPTAIN VOLKMAN: More than likely, yes.

MR. WEBER: Who?

CAPTAIN VOLKMAN: Lieutenant Brodowski, Detective Sergeant Gallant. Probably one of those two or maybe Sergeant Vuono. Again, it could be any one of them.

MR. WEBER: There is an explanation of codes on the second page and 400-E is the code for profile stops, 260-C is the code for civil rights violations, and 260-F is the code for racial harrasment. If you could please turn page to -- turn the document to the third page entitled Internal Affairs Bureau listing by offense code -- and it's DOJ-006843, for the record.

Can you explain to me what the different categories are here. Some of them are self-explanatory, but case number, for instance-- What does that correspond to?

CAPTAIN VOLKMAN: This would be the case -- the Internal Affairs case number. This would be a-- At that time, it was a handwritten book maintained by, I believe, Sergeant Gallant, in which he recorded, numerically, cases as they came in. And we started an internal investigation on one.

MR. WEBER: So hypothetically, if I wanted to make a complaint about a State trooper, and I called Internal Affairs, I would be assigned -- my complaint would be assigned a case number, correct?

CAPTAIN VOLKMAN: Yes, if there was an internal investigation done. This was only internal investigations.

MR. WEBER: What would prompt there to be an internal investigation to be conducted?

CAPTAIN VOLKMAN: Well, in a case-- Like you said, there was an allegation of misconduct or an allegation of some kind made against a uniformed trooper or detective.

MR. WEBER: If a complaint was called in by a citizen, would there always be an Internal Affairs investigation of that complaint?

CAPTAIN VOLKMAN: There would be an Internal Affairs investigation, there may or may not have been an internal investigation.

MR. WEBER: What's the difference?

CAPTAIN VOLKMAN: Well, there were some complaints that were resolved. I mean, they were so minor and so frivolous that, you know, they were resolved with phone calls and so forth. Those would be put in a miscellaneous file. And not the mere fact that there was a complaint made -- somebody in the Internal Affairs Bureau or somebody in the troop would actually do an investigation, if you want to call it that. But it wouldn't require

a full internal investigation because it was either unfounded or not a type complaint. But we did record it, and we did maintain a file of those complaints or allegations, if you want to call them that.

MR. WEBER: All right. So we have a case number. Is there any significance to the letter that follows the number. There's-- Some have D, some have B, some have E.

CAPTAIN VOLKMAN: Yes. The first two numbers, of course, are the year.

MR. WEBER: Okay.

CAPTAIN VOLKMAN: Okay? The next is the numerical designation from Internal Affairs -- 128 in the first case. And D would be a D troop Turnpike investigation or complaint.

MR. WEBER: Report date is what?

CAPTAIN VOLKMAN: I believe that would be the date the report was completed. I believe it's completed report.

MR. WEBER: After Internal Affairs conducted its full investigation.

CAPTAIN VOLKMAN: Either Internal Affairs and/or the troop.

MR. WEBER: Okay. Principal badge number has been redacted.

CAPTAIN VOLKMAN: That's the individual trooper's badge number.

MR. WEBER: Then there is, under offense codes, first, second, third, and fourth. What is meant by first, second, third, and fourth?

CAPTAIN VOLKMAN: If there were multiple allegations, you know, we could record up to four allegations from a specific complaint. So it indicates in the first one, obviously, there were two allegations made against the principal -- the trooper that was involved.

MR. WEBER: What does the code 080-A U.S. stand for?

CAPTAIN VOLKMAN: The code itself I'm not sure. I don't have the list in front of me. The U.S. is unsubstantiated.

MR. WEBER: Okay.

CAPTAIN VOLKMAN: There was an investigation conducted, and the complaint was deemed to be unsubstantiated.

MR. WEBER: Okay. Let's go down to case 94101C with the report date of May 13, 1994.

CAPTAIN VOLKMAN: May 31st.

MR. WEBER: I'm sorry, May 31st, 1994. The first code is 410G, and then there is a U.F. What does the U.F. stand for?

CAPTAIN VOLKMAN: U.F. would be unfounded.

MR. WEBER: What's the difference between unsubstantiated and unfounded?

CAPTAIN VOLKMAN: Well, a unsubstantiated complaint would be a complaint where there was an allegation made. And either we could not prove or disprove that actually happened. An unfounded complaint would be something that actually did not happen. It was either-- It just didn't happen, for whatever reason. And again, without having the report in front of me, I can't-- I don't know why it would be unfounded.

MR. WEBER: And what does S. stand for?

CAPTAIN VOLKMAN: S would be substantiated.

MR. WEBER: So are there three, then, possible codes, unsubstantiated, unfounded, and substantiated?

CAPTAIN VOLKMAN: Yes.

MR. WEBER: Are there any additional codes?

CAPTAIN VOLKMAN: I believe that's the three that we used. I believe--

MR. WEBER: Just so we're clear here, the case number that I directed your attention to for the report date of May 31st, 1994 -- the 410 -- that is a code different than the 400, which is for profile stops, correct?

CAPTAIN VOLKMAN: Yes. And again, I don't know exactly what that code means at this point.

MR. WEBER: How was this data collected? Was this done manually, or was there already some sort of database in place through a computer that could have been searched to then obtain all this information?

CAPTAIN VOLKMAN: There was a rudimentary computer system at that time. It was not really sophisticated. It was very limited in use. And we could call up this data, but we couldn't utilize it and collate it really, really well for anything. This was about the maximum we could get out of it -- out of the system that we had at that time?

MR. WEBER: When was that rudimentary computer system activated?

CAPTAIN VOLKMAN: Well, it was activated sometime between, I guess-- I don't recall specifically when I was an investigator in Internal Affairs. I don't recall having a sophisticated computer system at all. We had a lot of stuff on cards at that time. That was from 1986 to 1988. And sometime in between, I would assume, they upgraded to this system. And that's been upgraded, of course, now more.

MR. WEBER: There are entries in the memo for report dates taking place in as early as 1990. You would agree, would you not, that at least as of

1990, this rudimentary computer system was in place and was being used.

CAPTAIN VOLKMAN: Yes. And again, like I said, I don't recall specifically when it came into place. I don't recall, when I was an investigator -- being there. That was prior to 1990. As you can see, some of those ones that go back to 1990 and 1991, there's only one-- It's just a list of one offense. So, you know, I think the system improved to show multiple offenses as time went on.

MR. WEBER: Do you know when the profile stop code was introduced into the system?

CAPTAIN VOLKMAN: No, I don't.

MR. WEBER: When the computer system was put in place -- the rudimentary computer system that we've been discussing, was there anything-- Did anyone take the data from the -- I guess it was the punch card system, you said, and take that data and enter it into the computer system, or did the data collection begin from the point in time that the computer system was put in place and then into the future?

CAPTAIN VOLKMAN: I believe we had information going back several years -- many years.

MR. WEBER: Many years prior to the institution of this computer system in '89 or '90?

CAPTAIN VOLKMAN: I believe so.

MR. WEBER: And that information was put into the computer database?

CAPTAIN VOLKMAN: Yes. I believe so.

MR. WEBER: Now, was that computer system a system just specifically

for the Internal Affairs Bureau, or is this a system that was put in place for the entire State Police?

CAPTAIN VOLKMAN: Strictly for Internal Affairs. Nobody else had access to that information.

MR. WEBER: Do you know whose decision it was to put the computer system in place?

CAPTAIN VOLKMAN: No, sir.

MR. WEBER: Let me show you a multiple-page document, Bates stamped GC-002174 through GC-002176. It is an interoffice communication dated September 24th, 1997, with an attachment of a pie chart concerning Netcong Station -- three-month totals for 2185 motor vehicle stops.

I'll ask you to take a look at that memo, please.

CAPTAIN VOLKMAN: Yes, sir.

MR. WEBER: It is from Lieutenant Hinkle to you, and this is at the point in time when you were still the IA Bureau chief, correct?

CAPTAIN VOLKMAN: Yes, sir.

MR. WEBER: Why was Lieutenant Hinkle providing this audit information concerning the Netcong Station to you?

CAPTAIN VOLKMAN: As I stated before, I know these were done. I don't recall specifically why the interoffice communication does not reflect that. I don't know whether it was because of an allegation or anything else. I don't recall exactly why these were done.

MR. WEBER: Was this information requested by DAG Fahy?

CAPTAIN VOLKMAN: I don't know.

MR. WEBER: Do you know why the Netcong Station was specifically

picked for this review?

CAPTAIN VOLKMAN: No, sir. I don't.

MR. WEBER: What, if anything, did you do with this memo upon its receipt?

CAPTAIN VOLKMAN: Again, you know, I don't have the cover letters or anything, but assuming that it went through the normal course of paperwork, it would have went up to the superintendent's office, at some point -- either the deputy superintendent or the superintendent.

MR. WEBER: Do you know why Lieutenant Hinkle was the individual who was collecting this data?

CAPTAIN VOLKMAN: Yes, Lieutenant Hinkle was in charge of the Staff Inspection Unit. It was his responsibility to go out and conduct these audits. That had been given to him by Captain Touw, and it continued when I was there, whenever we had one of these.

MS. GLADING: Who was the deputy superintendent in charge of IAB and this unit at this time?

CAPTAIN VOLKMAN: Well, at one point it was Lieutenant Colonel Littles. At another point, it was Colonel Roberson -- Lieutenant Colonel Roberson.

MR. WEBER: When did Lieutenant Colonel Roberson hold that position?

CAPTAIN VOLKMAN: Datewise, I don't know. I'm not sure.

MR. WEBER: And what was his position again? I'm sorry.

CAPTAIN VOLKMAN: Deputy superintendent.

MS. GLADING: And I take it, from what you said earlier, that after

Lieutenant Hinkle left, Lieutenant Sachetti took up this task.

CAPTAIN VOLKMAN: Yes. Lieutenant Hinkle was transferred, and Lieutenant Sachetti was selected to take his place.

MS. GLADING: And--

MR. WEBER: When did that happen.

I'm sorry.

CAPTAIN VOLKMAN: I don't know. It was during my tenure.

MR. WEBER: At IAB.

CAPTAIN VOLKMAN: Yes, sir. The exact date, I couldn't tell you.

MS. GLADING: The second page of this memo raises a concern about the 20 percent rate of which occupants were not identified. Does that refresh your recollection as to what might have happened as a result of this audit?

CAPTAIN VOLKMAN: Assuming that it went through the normal chain of command, it would have been brought to the attention of the superintendent. And I would think that this SOP F-3 was, again, brought to the attention of the road troopers.

MR. WEBER: Did you have any discussion with Lieutenant Hinkle about why 22 -- in June, 22 percent; in July, 20 percent; in August, 19 percent; and an overall, three-month total, of 20 percent of the stops did not report the race of the occupant?

CAPTAIN VOLKMAN: I don't recall specifically, but, you know, as I said before, there was a myriad of reasons for this. We found out some of the stops were made at night. You couldn't see the occupants when the radio call was made in. But there's other reasons. I have no idea why, at this point.

MR. WEBER: And this was purely from a review of the radio logs.

CAPTAIN VOLKMAN: Correct.

MR. WEBER: Do you know if there was any requirement, either in SOP F-3 or some other standard operating procedure that would require a trooper, when they called in a stop, if they were unable to identify the race of the occupants, to subsequently call back in again, after they were able to identify the race of the occupants and say, "Okay, here's the information?"

CAPTAIN VOLKMAN: At that time, I don't think that was a requirement.

MR. WEBER: Was there any discussion about a possible reason for such a high percentage of unknowns. Was it that certain troopers wanted to cover up the fact that they were pulling over a disproportionate number of minority drivers?

CAPTAIN VOLKMAN: This was done at a station, although, it didn't go into the individual troopers.

MR. WEBER: The question is, though, when you discussed this with Lieutenant Hinkle, or anyone else for that matter, was there a consideration given to the possibility that the reason for such a high percentage of unknowns was that certain State troopers were specifically not following SOP F-3, because they were pulling over a disproportionate number of minority motorists? And if they put them down as unknowns, that would sort of hide the fact that they were pulling a disproportionate number of minority drivers.

CAPTAIN VOLKMAN: I don't recall that.

MR. WEBER: Let me show you another IOC. It is ST-002048 through ST-002050. There is the same pie chart attached for the Netcong Station, but this October 8, 1997 memo concerns the Bellmawr Station. I ask you to

review that, please.

CAPTAIN VOLKMAN: Yes, sir.

MR. WEBER: Again, you know, we're now talking approximately a month later. No, a few weeks later, excuse me. Does this refresh your recollection as to why these audits were being conducted and what was going to be done with this information?

CAPTAIN VOLKMAN: No, it doesn't. I have no idea. At this point, I don't know why it was done.

MR. WEBER: Did you have any sense that as a result of the *State v. Soto* decision in March of 1996, that there is now a heightened concern within the Attorney General's Office and the New Jersey State Police, as to whether or not troopers are engaging in racial profiling?

CAPTAIN VOLKMAN: I don't recall anything specific. I know during that time, this information could have been prepared for the *Soto* appeal or whatever. I don't know. I have no idea why without having supporting documents or anything. Obviously, I directed Hinkle to do this, but I have no idea why.

MR. WEBER: Captain Volkman, as the head of the Internal Affairs Bureau, wouldn't you want to know whether or not there was a systemic problem within the New Jersey State Police or parts of the New Jersey State Police as it related to the race of motorists on the New Jersey Turnpike?

CAPTAIN VOLKMAN: Obviously, there was something that developed that caused us to do this. Yes, it did raise eyebrows and so forth, but to sit here and say exactly why, I have no idea. I don't recall.

MR. WEBER: Well, when you saw-- And I'm referring now to the prior

memo I showed you -- the September 24th memo. When you saw that there was a high percentage of unknowns and Lieutenant Hinkle, on the second page, with two asterisks, states, "One concern raised as a result of this audit is that 20 percent of the motor vehicle stops -- the occupants are not identified, which is contrary of the provisions of SOP F-3. This deficiency has been noted before. And while improvement has been made, the importance of complying with SOP F-3 should continue to be reinforced to all members." did you do anything with that concern?

CAPTAIN VOLKMAN: I'm sure this information was brought up to the superintendent's office. And I'm sure, as the superintendent did throughout the years he was there, reinforced the F-3 provisions -- the fact that it had to be called in.

It wasn't my responsibility to get that information out, although, we probably did on our Internal Affairs quarterly reports that we issued. We would use that to get this information out. I'm sure that if you check back into that, it would be reflected in there -- that there was problems with F-3 and in all stops and races and so forth should be called in.

MR. WEBER: This is an Internal Affairs quarterly report?

CAPTAIN VOLKMAN: Right.

MR. WEBER: What was the purpose of the quarterly report?

CAPTAIN VOLKMAN: The quarterly report was a report of the activities of the Internal Affairs Bureau. It was given to all the uniformed troopers and all the troopers in the Division. And it gave a -- just a listing of the types of allegations that Internal Affairs was investigating and the results of discipline without naming individuals or case numbers or anything.

MR. WEBER: And for how long has it been a practice of Internal Affairs to issue a quarterly report?

CAPTAIN VOLKMAN: That was the entire time I was there.

MR. WEBER: Did that-- Were the quarterly reports released before you went into Internal Affairs?

CAPTAIN VOLKMAN: I believe Captain Touw started those.

MR. WEBER: And do you know when Captain Touw started those in Internal Affairs?

CAPTAIN VOLKMAN: No.

MR. WEBER: What would you-- Explain for me, if you would, please, the purpose or the mission of the Internal Affairs Bureau.

CAPTAIN VOLKMAN: The Internal Affairs Bureau was put in place to investigate allegations of misconduct by uniformed, sworn State troopers or detectives or any member of the State Police.

MR. WEBER: And do what with those investigations?

CAPTAIN VOLKMAN: They would conduct-- We would conduct an investigation. The result would be put together. Recommendations would be made, either by the troop commander, if the investigation was conducted at the troop level or by the Internal Affairs Bureau chief, if the investigation was conducted by Internal Affairs. And recommendations would be made to the superintendent, as to whether discipline should be applied to that individual if the allegation was substantiated.

MR. WEBER: Okay. So in addition to having an investigative function, you also had a function of making recommendations for how to address whatever problems you discovered, correct?

CAPTAIN VOLKMAN: Yes, sir.

MR. WEBER: So when you discovered that there was a lack of compliance with SOP F-3 at the Netcong Station, did you make any recommendations as to how to address that?

CAPTAIN VOLKMAN: I'm sure we notified the superintendent, and I'm sure it would-- I would think that it would have been reflected in one of the quarterly reports that we prepared -- compliance with SOP F-3 was required.

MR. WEBER: As the bureau chief of Internal Affairs, I take it you would be concerned if you discovered that a uniformed trooper had done something that was contrary to State Police procedures, correct?

CAPTAIN VOLKMAN: Correct.

MR. WEBER: And if you, indeed, discovered that, you would make a recommendation as to the appropriate level of punishment, correct?

CAPTAIN VOLKMAN: We'd make a recommendation. It would, in turn, go to the advisory board -- a group of captains who would then, in turn, also make a recommendation to the superintendent, and he, in turn, would make the final decision as to whether discipline and what type of discipline would be imposed.

MR. WEBER: But you would be concerned if you discovered that an individual trooper was violating State Police procedures, as the head of IAB, correct?

CAPTAIN VOLKMAN: Absolutely.

MR. WEBER: Okay. Would you not also be concerned if you discovered that a larger group of troopers -- not a single trooper, but a larger

group of troopers were failing to comply with State Police procedures?

CAPTAIN VOLKMAN: Yes, sir.

MR. WEBER: And routinely failing to comply with those procedures?

CAPTAIN VOLKMAN: Absolutely.

MR. WEBER: Okay. Isn't that something that would get your attention, probably a little more than just the one individual trooper who had a problem, if you realized that there was a group?

CAPTAIN VOLKMAN: Probably, yes.

MR. WEBER: When you received the information that was derived from these audits, did you not, as chief of the bureau, have a concern that there was a greater problem in connection with compliance with SOP F-3?

CAPTAIN VOLKMAN: Yes. In this particular case, the Netcong Station. Yes. Of course.

MR. WEBER: Do you remember making any written recommendations to any of your supervisors that there is a problem with compliance with SOP F-3, and something needs to be done about it?

CAPTAIN VOLKMAN: I don't recall. Like I said, I'm sure that this information was brought up to the superintendent. I don't know. I don't have a document in front of me saying that it was brought to his attention. But it was brought to his attention. And I would probably have directed that this be included in the quarterly report.

MR. WEBER: And what recommendation do you remember making in connection with the noncompliance with SOP F-3?

CAPTAIN VOLKMAN: That it be complied with.

MR. WEBER: And did you make any recommendations as how to

ensure that it was complied with?

CAPTAIN VOLKMAN: I don't recall.

MS. GLADING: Would it refresh your recollection if I told you that in October of 1997, there was an Internal Affairs Bureau update indicating that that audit revealed discrepancies between station record entries and patrol chart entries and it set forth a list of written reprimands? Does that refresh your recollection at all?

CAPTAIN VOLKMAN: I would have to look at the document. I don't recall, again, specifically.

MS. GLADING: I want to ask you about something that was written. It predates your arrival at IAB, but presumably it was-- I'm sorry it's not stapled. This is GC-1373 to 1377.

And Captain, I want to just direct your attention to the second page under the Gloucester County appeal.

CAPTAIN VOLKMAN: Yes, sir -- yes, ma'am. I'm sorry.

MS. GLADING: It indicates that at -- in the -- at the bottom of that paragraph, that there was a need to take a look at the records of the troopers who were involved in the *Soto* cases that were consolidated and are known as *Soto* and that those 19 cases -- the troopers involved in those 19 cases would be -- their records would be examined in order to identify any potential negative issues, should they be called upon to testify.

Now, this was in April of 1996. When you got to IAB in October of '96 and Captain Touw briefed you on the audits that had been done, did he brief you on the audit about these troopers?

CAPTAIN VOLKMAN: I don't recall.

MS. GLADING: Do you think you would recall if he had?

CAPTAIN VOLKMAN: Possibly. I don't recall specific individuals.  
No. I don't recall.

MS. GLADING: Okay. On the next page, under Hunterdon County -- the first full paragraph of the next page-- Do you see where I'm talking about?

CAPTAIN VOLKMAN: "On April 11th--"

MS. GLADING: No, it begins, "Hunterdon County."

CAPTAIN VOLKMAN: Oh, okay. I'm sorry. Yes.

MS. GLADING: That paragraph indicates that there was an evidence suppression motion brought in Hunterdon County, and that the arresting troopers in the two cases were Trooper Richard McDonnell and Trooper James Steiger. Apparently, an IAB investigation concluded that Trooper Steiger had a lengthy IAB file and a history as a defendant in civil proceedings, claiming civil rights violation. Do you recall that IAB file?

CAPTAIN VOLKMAN: No, not at all.

MS. GLADING: Do you recall any conversations with anyone around the Hunterdon County suppression motion, once you arrived in October of '96?

CAPTAIN VOLKMAN: No. I knew it was going on, but, no.

MS. GLADING: You knew it was going on.

CAPTAIN VOLKMAN: Yeah. Again, rumor and talk around-- Yes. But I don't recall anything specific.

MS. GLADING: Do you know who was handling it for State Police?

CAPTAIN VOLKMAN: I have no idea.

One thing I'd like to point out is the first paragraph. I just caught it

myself -- "reinforcement of standing policy. Colonel's message is distributed 3/22/96 -- requirements to properly call in and document motor vehicle stops. March 29th, interoffice communication was forwarded to field operation -- reinforced the requirements of SOP F-3." This was an ongoing thing. It was done throughout, not only as a result of the Netcong audits or anything else. This was ongoing by the superintendent trying to reenforce this policy, trying and making sure that the troopers would comply.

MS. GLADING: Well, was there concern that there was not compliance? And this is many months after those directives have gone out.

CAPTAIN VOLKMAN: I would think so. Yes. I would-- I'm sure that that would raise some eyebrows. Yes.

MR. WEBER: Was there any investigation into why troopers were still continuing to fail to comply with SOP F-3?

CAPTAIN VOLKMAN: I don't recall.

MR. WEBER: Let me show you a new document. Again, I stapled it together just for the convenience of everyone today, but I'll identify the documents for the record.

IA-000103, IA-000102, IA-000181, and IA-000095. These are, Captain Volkman, some sample complaint letters and sample response from you as bureau chief. Was it customary for you to sign all the written responses that went out to individuals who lodge complaints against troopers?

CAPTAIN VOLKMAN: No. I would only respond to complaints and allegations that were investigated by members of the Internal Affairs Bureau.

MR. WEBER: So any complaint or allegation investigated by the Internal Affairs Bureau, you would have signed the written response letter--

CAPTAIN VOLKMAN: Yes.

MR. WEBER: --regardless of what the complaint or allegation was, whether it was a complaint about racial profiling, a complaint about excessive force.

CAPTAIN VOLKMAN: I believe so. Yes.

MR. WEBER: If you take a look, please, at the third page IA-000181, about halfway down the letter, after the two bullet points there, there is a sentence that says, "After reviewing both summonses, I notice that in the section requesting my sex, this particular State trooper felt it necessary to indicate BM, black male." If you then look at the last page of this packet, IA-000095, the third paragraph, you wrote, "This review reveals that through June 1996 through 1997, Trooper Blank included race on his motor vehicle summonses. Trooper Blank did not choose this practice as a means of targeting any particular race. Trooper Blank actually attempted to maintain an accurate accounting of the enforcement action taken by him."

Now, it is unclear whether this -- whether your letter was a response to the June 10, 1997 letter. Your letter is dated June 23, 1997. And it's not relevant for my question.

My question is, was there any requirement that a trooper note on the back of a summons, the race of the individual who was receiving the summons?

CAPTAIN VOLKMAN: This-- In this particular case-- I recall this letter very specifically, because the trooper was actually writing on the face of the summons, not the back of the summons-- He was writing on the face of the summons the race of the individual, be it Caucasian, be it Black, be it Hispanic, be it Chinese, or anything else. And there is no requirement -- there

is no box for that. There is no requirement for that on the face of the summons. On the back of his copy of the summons, the trooper could put his comments and things, and he could record that information in there, if he pleased. There was no requirement to record that anywhere in--

MR. WEBER: Was there any prohibition against a trooper recording the race of an individual that was receiving a summons?

CAPTAIN VOLKMAN: There was no prohibition, but again, on the face of the summons, there is no block for that, and it's irrelevant to the information that's recorded on the face of the summons, which is what this trooper was doing.

MR. WEBER: Did you determine why this trooper was indicating the race of individuals?

CAPTAIN VOLKMAN: And again, I have to go back to the letter that was -- the June 23rd letter. Again, more than likely, Lieutenant Hinkle and the Staff Inspection Unit went out and actually checked summonses written by this trooper. And they found out that 1350 out of 1500 summonses had a notation as to the race of the individual on the front of the summons. The trooper was directed to cease and desist from that practice.

MR. WEBER: Why was he directed to cease and desist?

CAPTAIN VOLKMAN: Because there is no box for that on the face of the summons. It's irrelevant to the face part of the summons. This is the actual complaint of a violation.

MR. WEBER: So it's irrelevant and inappropriate to indicate the race of the individual on the face of the summons, but it is within the trooper's discretion to indicate the race of the individual on the back of the summons,

which is where their comments are.

CAPTAIN VOLKMAN: Right. There's a box with several lines on it on the back of the yellow copy. This would be what the trooper would testify from when he went to court if there was a contested summons in that he would put -- for instance, he paced the violator for a mile, he went in and out of traffic several times -- to refresh his memory for court testimony. And there is no requirement or anything that he would be able to put that on the back of the summons, again, to refresh his memory that it was a black male or a Caucasian female or whatever.

MR. WEBER: Was it common practice for troopers on the back of the summons in the comments section to indicate the race of the individual?

CAPTAIN VOLKMAN: Not really. No.

MR. WEBER: The next document I'd like to show you, Captain, is an interoffice communication dated February 23rd, 1998, from Captain Butt, B-U-T-T, through you to Captain Touw. And the subject is authorization to present a narcotics trafficking trends in highway interdiction training course.

You are now, in February of 1998, assistant investigations officer, so you have, I take it, left IAB, at this point.

CAPTAIN VOLKMAN: Yes. That was shortly after I was transferred to the investigations section. I worked for Captain Touw, who was the acting investigations officer.

MR. WEBER: What was the overall purpose of the investigations section?

CAPTAIN VOLKMAN: The investigations section is composed of four bureaus. It actually investigates criminal activity. At the time I was there, I

was in charge of the Criminal Enterprise and Racketeering Bureau, which evolved into the Narcotics and Organized Crime Bureau. Captain Butt took my place when I left to go to Internal Affairs. And they have the Criminal Investigation Bureau, the Special Investigations and Services Bureau, and that's it.

MR. WEBER: The move from chief of the Internal Affairs Bureau -- head of the Internal Affairs Bureau, to the investigations section-- Was that viewed as a promotion? Was it sort of a lateral move? What was that considered?

CAPTAIN VOLKMAN: Well, in the table of organization, the State Police, in the investigation section, has units, which are usually commanded by lieutenants. The units are subordinate to bureaus with a captain. The bureaus are subordinate to the section. I was the assistant section-- So I was the middleman.

MR. WEBER: So it was a promotion.

CAPTAIN VOLKMAN: Yes, in effect. Yes.

MR. WEBER: The second page of this document, GC-002334, under the title the training curriculum. Number 2 delineates drug trafficking trends and key characteristics or indicators that are shared by drug traffickers.

In light of what was going on-- We're now post-*Soto*. We're now several months, or even a year or more into these various audits that have been conducted. At this point in time, in February of 1998, would you say that there was a heightened sensitivity to training and the use of race in connection with training materials?

CAPTAIN VOLKMAN: Yes.

MR. WEBER: Did you review, or did you know of anyone else identified on this interoffice communication, the training materials to make sure that if there was a discussion of race, it was an appropriate discussion?

CAPTAIN VOLKMAN: I did not-- I don't recall reviewing anything, but I know those discussions were held. Yes.

MR. WEBER: Were held with who?

CAPTAIN VOLKMAN: With Captain Butt, and he was the coordinator of this particular seminar.

MR. WEBER: How do you know that those discussions were held?

CAPTAIN VOLKMAN: Because I held them with him.

MR. WEBER: What did you say to him.

CAPTAIN VOLKMAN: I informed him of, basically, the same things that you're saying -- that you have to be very concerned about the way this was presented and so forth. The presenters of this particular seminar were from out of state and Federal people. And a lot of them, including our own-- And we did not know who or how they would present their material. I did not know.

MR. WEBER: If you go to GC-002336, there is a list of the subject matter of each course, the time allotted, and the presenter. There is, under trafficking indicators, two and a half hours. The presenter is someone from the New Jersey State Police. Did anyone reach out to whoever that presenter was to review the materials and make sure that there was not an inappropriate use of race in connection with that training session?

CAPTAIN VOLKMAN: I did not.

MR. WEBER: How about the search and seizure laws update? That

would have been presented by a DAG.

CAPTAIN VOLKMAN: Right.

MR. WEBER: Do you know if there is any coordination with the Attorney General's Office concerning the training materials and the subject matter of the training materials?

CAPTAIN VOLKMAN: As far as the presentation by the deputy attorney general -- I believe that was Ron Susswein, and I believe that, yes, he had done a lot of search and seizure presentations for us. I could be wrong in this particular time, but I know he was the person that we dealt with a lot in search and seizure issues during the time that I was in the Criminal Enterprise and Racketeering Bureau.

MR. WEBER: The statistics subject-- Do you know what that refers to? What sort of statistics?

CAPTAIN VOLKMAN: I don't know.

MR. WEBER: Would it have been arrest statistics, stop statistics, conviction statistics?

CAPTAIN VOLKMAN: Without seeing the lesson plan, I don't know.

MR. WEBER: Was there any coordination with the Attorney General's Office. You mentioned Ron Susswein. But was there any coordination with Ron Susswein or others at the Attorney General's Office to make sure that they were comfortable with the materials that were being used in connection with this training program?

CAPTAIN VOLKMAN: I don't know.

MR. WEBER: You'd be happy to know this is the next to last document that I have. (laughter)

This is a one-page document, OAG-001378, dated March 4, 1999 from Lieutenant Colonel Fedorko to Paul H. Zoubek, Director, Division of Criminal Justice. "In response to your memorandum dated March 2, 1999, Captain Ernest Volkman, Assistant Section Supervisor, Division Staff Section, has been designated as the contact liaison for the State Police Review Team." And then there's your phone number.

How were you chosen to be the contact/liaison, I take it, for the entire New Jersey State Police?

CAPTAIN VOLKMAN: Well, at the time that this memo was written, yes, I was directed by Lieutenant Colonel Fedorko that I would assume that position. As this State Police review and the documents and so forth evolved over the following week or two, within, I would say, 10 days or so, it was determined that it would be a big, big task to put this together. And at that point, Colonel Fedorko and Colonel Dunlop decided that the Management Review Unit, under Lieutenant Guida, would assume the responsibility for this. They had more-- They had the ability to put this together, to put the -- catalog things, and so forth. We didn't have that ability at the section level that I was at.

MR. WEBER: So Lieutenant Guida, you said.

CAPTAIN VOLKMAN: Yes.

MR. WEBER: G-U-I-D-A?

CAPTAIN VOLKMAN: G-U-I-D-A.

MR. WEBER: First name?

CAPTAIN VOLKMAN: Joseph.

MR. WEBER: So Lieutenant Guida, probably happily for you,

substituted.

CAPTAIN VOLKMAN: Absolutely.

MR. WEBER: Okay. And you said it was approximately a week into--

CAPTAIN VOLKMAN: I would say so, if I had to guess, a week or two weeks in.

MS. GLADING: After this memo?

CAPTAIN VOLKMAN: Yeah. It kept evolving, and it evolved into a situation where it was just-- At the level that I was at, with the people that I had working directly for me, I couldn't do the task.

MR. WEBER: Did you attend any meetings of the State Police Review Team before Lieutenant Guida substituted in for you?

CAPTAIN VOLKMAN: Just basic meetings as to, you know, the things that they were looking for at the time. And, you know, we provided that. There was a handful of things that were provided to the Attorney General's Office prior to Guida actually taking over and cataloging the information.

MR. WEBER: How many meetings do you remember attending?

CAPTAIN VOLKMAN: A couple.

MR. WEBER: And who was present at those meetings?

CAPTAIN VOLKMAN: Colonel Dunlop, Colonel Fedorko-- I don't recall.

MR. WEBER: Well, let me step back for a second, because I want to make sure we're clear on this.

When I asked about meetings, I meant meetings of the State Police Review Team that was put together by the AG's Office. Did you have meetings with, for instance, Paul Zoubek, and anyone else at the AG's Office,

who were part of the Review Team, as a result of this assignment?

CAPTAIN VOLKMAN: No.

MR. WEBER: So then the meetings you had were internal meetings with other State Police officials.

CAPTAIN VOLKMAN: Yes.

MR. WEBER: And it was with Fedorko and Dunlop and who else?

MS. GLADING: Was Tom Gilbert in any of those meetings?

CAPTAIN VOLKMAN: Lieutenant Bruncati-- I remember him being around for some of them. I don't recall off the top of my head.

MR. WEBER: How about Colonel Williams?

CAPTAIN VOLKMAN: I don't think so.

MR. WEBER: Did anyone explain to you what the purpose of the State Police review was?

CAPTAIN VOLKMAN: Well, originally, the intent was to provide documents to the Attorney General's Office so that allegations made in the newspaper and so forth would be addressed and the proper documentation would be provided to the Attorney General's Office.

MR. WEBER: When the Attorney General's Office, specifically former Attorney General Verniero, announced on February 10th, 1999 that the AG's Office was initiating an investigation into the New Jersey State Police-- I take it that was a source of, at least, some discussion at the State Police.

CAPTAIN VOLKMAN: Certainly.

MR. WEBER: Did you have any discussions with anyone at the State Police, either the day of the announcement or after the announcement was made that this review would be conducted?

CAPTAIN VOLKMAN: There were a lot of meetings that I attended regarding Internal Affairs matters relating to this. There was a lot of meetings that took place throughout that time in between this.

MR. WEBER: I would hazard to guess that the State Police was not particularly thrilled with the notion of the Attorney General's Office conducting a statewide review of their policing practices. Is that correct?

CAPTAIN VOLKMAN: Probably.

MR. WEBER: Were there discussions to that effect?

CAPTAIN VOLKMAN: Specifics? No. I don't recall, specifically, anything. I know that, again, rumor and talk and things like that--

MR. WEBER: What was the general rumor and talk?

CAPTAIN VOLKMAN: The same things as other times. You know, that things were taking place. We had no control over a lot of things. There was going to be changes in training. There were going to be changes in SOPs, motor vehicle stops. There was going to be a lot of changes being mandated by the Attorney General's Office. It was our feelings -- my feeling at the time that a lot of these were being mandated and directed without even any input or anything from any of the people that were involved and had the experience to know what was going on.

MR. WEBER: And who--

CAPTAIN VOLKMAN: A lot of it was shooting from the hip.

MR. WEBER: Who would those people have been that you thought the AG's Office should have gotten input from?

CAPTAIN VOLKMAN: The hierarchy of the State Police. A lot of the people.

MR. WEBER: Colonel Williams.

CAPTAIN VOLKMAN: Colonel Williams.

MR. WEBER: Who else?

CAPTAIN VOLKMAN: Colonel Dunlop, Colonel Fedorko, Internal Affairs people, people from the road. This was-- It just seemed like it was being rammed down our throats.

MR. WEBER: What sort of feedback do you think the AG's Office should have sought?

CAPTAIN VOLKMAN: Well, again, a lot of the things that were mandated and changed could have been changed by the existing people that were there, be it the superintendent, Colonel Fedorko, or anybody else. And it was just a feeling like we were being pushed aside and directed to do things that could have been accomplished in other ways.

MR. WEBER: Well, let me ask you this. And I don't mean to be argumentative, and I mean no disrespect by the question, but a little while ago we talked about SOP F-3, and you pointed out to us, in one of the memos, that there were a couple of directives issued or internal communications issued saying comply with SOP F-3, comply with SOP F-3. And for some reason, there were still troopers that were not complying with SOP F-3.

In light of the attempts -- and we'll just use SOP F-3 as an example, to get the road troopers to comply with the policies and procedures that were in place at the State Police and the fact that several attempts did not result in higher compliance, did you not feel that maybe it was about time that a different strategy be tried, and that maybe the AG's Office could finally impress upon road troopers the absolute need to comply with procedures,

especially that impacted upon issues like race--

CAPTAIN VOLKMAN: I think that became quite apparent as things went on, and I think those figures improved. And I still have to go back to the old fact that in Internal Affairs, if we discovered that an individual did not call in a stop, or something like that, the appropriate discipline would be recommended by us.

MR. WEBER: What was the appropriate discipline that you would recommend in that case?

CAPTAIN VOLKMAN: It would depend. It would depend on the allegations. A lot of those call-in type things were like spin-offs of the original investigation. They were not the allegation that we were investigating to start with, but it would spin off into that. If we found that the patrol chart was inaccurate, if we found that the radio calls were not accurate, then we would make recommendations that that trooper be disciplined.

MR. WEBER: Well, let me ask you as a practical matter. If you had a trooper who you discovered was not calling in the race of the motorist and the occupants, and this was a problem that was documented repeatedly for this particular trooper -- Scott -- we'll use my name -- Trooper Scott. What were the different type of recommendations that Internal Affairs could have made to address Trooper Scott's failure to call in the race and comply with SOP 3?

CAPTAIN VOLKMAN: We would make a recommendation for discipline.

MR. WEBER: What sort of discipline?

CAPTAIN VOLKMAN: We did not make recommendations as to the type of discipline. That was entirely up to the advisory board and the

superintendent.

MR. WEBER: What was your understanding of the different levels of discipline that were available to the advisory board for a case such as our hypothetical Trooper Scott?

CAPTAIN VOLKMAN: The advisory board could make a recommendation of no further action, based on whatever circumstances they found. They could make a recommendation of a written reprimand, which would be an official reprimand issued by the superintendent, with up to five days loss of pay or a summary court-martial or a general court-martial. Summary court-martial would be up to 30 days loss of pay. A general court-martial -- up to and including termination.

MR. WEBER: Were you aware of-- Let me step back. When you were the head of Internal Affairs and you would make a recommendation for -- it would just be the recommendation, whether it be discipline or no discipline, correct?

CAPTAIN VOLKMAN: Correct.

MR. WEBER: Okay. So you'd make a recommendation of discipline. It goes up to the advisory board. Would you, ultimately, find out what the advisory board's decision was as a result of your recommendation?

CAPTAIN VOLKMAN: Yes.

MR. WEBER: Okay. Do you recollect what levels of discipline were applied to troopers who failed to comply with SOP F-3?

CAPTAIN VOLKMAN: Specifically, no, I don't.

MR. WEBER: In general, do you have any recollection, no discipline, five days suspension without pay?

CAPTAIN VOLKMAN: Probably a written reprimand.

MR. WEBER: Written reprimand.

CAPTAIN VOLKMAN: Probably.

And again, if I may go back to the advisory board, the Internal Affairs Bureau supervisor is actually the secretary of the advisory board. Naturally, I would not attend as the designee. He would be the one to prepare the reports reflecting the advisory board's recommendations to the superintendent. So I was aware of every discipline case.

MS. GLADING: Captain Volkman, I just want to clarify something. In October of '98, when you became assistant section supervisor up until your retirement--

CAPTAIN VOLKMAN: Yes.

MS. GLADING: --and within-- That was the Division Staff Section. Within that section, at that time, was IAB.

CAPTAIN VOLKMAN: Correct.

MS. GLADING: Okay. And who was the bureau chief of IAB at that point?

CAPTAIN VOLKMAN: Captain Van Tassell -- Roy Van Tassell.

MS. GLADING: Okay. And in your-- You indicated your responsibilities were administrative type work, when you were in that position.

CAPTAIN VOLKMAN: Correct.

MS. GLADING: What supervisory responsibilities did you have over IAB at that point?

CAPTAIN VOLKMAN: Well, I didn't get involved in the actual investigations of the complaints. Major Mattos would review the actual

investigations. Sometimes I got involved in the nuts and bolts of the operation, because I had been there before, and they would come to me for advice and so forth, and we'd talk over things.

MS. GLADING: Okay. Any ongoing audit activity being conducted by IAB at that point-- Would you have had any involvement in that?

CAPTAIN VOLKMAN: Just a review of the reports as they flowed between the sections and so forth.

MS. GLADING: So you would have reviewed anything that Lieutenant Sachetti prepared.

CAPTAIN VOLKMAN: For the most part, yes.

MS. GLADING: Do you recall anything about the audit activity conducted by IAB during that period from October '98 to--

CAPTAIN VOLKMAN: The extensive audits that were done?

MS. GLADING: Uh-huh.

CAPTAIN VOLKMAN: Yes. Absolutely.

MS. GLADING: What can you tell me about them.

CAPTAIN VOLKMAN: There was a lot of work done. There was a lot of people temporarily transferred into the Staff Inspection Unit. There was audits of the entire Turnpike done, individual troopers throughout that. And the results were reported to the superintendent.

MS. GLADING: And those audits were requested by whom?

CAPTAIN VOLKMAN: That started just before I -- I believe before I got there. I believe they were requested by the superintendent.

MS. GLADING: This is very narrow where I'm going with this -- flagging it for you. Do you recall audits that specifically flowed out of the 7A

shooting involving Troopers Hogan and Kenna?

DEPUTY ATTORNEY GENERAL FLANAGAN: I thought we were not going to ask any questions about the 7A issue.

MS. GLADING: I'm just asking-- No, I'm asking about whether he recalls any audits that resulted -- that flowed out of that incident, not about the shooting itself -- not about the investigation into the shooting.

CAPTAIN VOLKMAN: Yes.

MS. GLADING: Okay. And were those audits reported to you -- the results of those audits reported to you?

CAPTAIN VOLKMAN: Yes.

MS. GLADING: Okay. And then you would-- Who would you give them to?

CAPTAIN VOLKMAN: Major Mattos.

MS. GLADING: And Major Mattos would then give them to?

CAPTAIN VOLKMAN: The superintendent.

MS. GLADING: The superintendent.

And Major Mattos's position, at that point, was?

CAPTAIN VOLKMAN: Section supervisor.

MS. GLADING: So he reported to a deputy superintendent?

CAPTAIN VOLKMAN: Yes.

MS. GLADING: And who would that have been at that point?

CAPTAIN VOLKMAN: Well, it was Colonel Fedorko when Colonel Williams was there. And then, of course, Colonel Fedorko became the acting superintendent. And Dunlop -- Colonel Dunlop-- One of those two.

MS. GLADING: Okay. So first Fedorko and then Dunlop.

CAPTAIN VOLKMAN: Yes.

MS. GLADING: Were you, in your position, directing that any of those audits be conducted? Were you the originator of requesting audits, or were they coming from above you, also?

CAPTAIN VOLKMAN: They were coming from above.

MS. GLADING: Who was asking you?

CAPTAIN VOLKMAN: I don't know. I don't recall where they came from, specifically. I know, as those audits-- The scope of those audits increased and increased and increased, until they actually did an audit of the entire complement of the Turnpike. So how it came down to do that, I'm not sure.

MS. GLADING: Was there ever a written report produced out of that audit of the entire Turnpike while you were there?

CAPTAIN VOLKMAN: I don't recall a specific written report. There were individual reports on individual troopers, yes. But I don't recall an overall report. There could have been.

MS. GLADING: And was that audit designed to identify whether or not race was being accurately identified on patrol charts?

CAPTAIN VOLKMAN: Correct.

MS. GLADING: Okay. And that was Sergeant -- that was Lieutenant Sachetti's work?

CAPTAIN VOLKMAN: Yes.

MS. GLADING: Was there anyone he worked with on that?

CAPTAIN VOLKMAN: He had a whole bunch of people that were temporarily assigned to him.

MS. GLADING: Okay. Anyone in Division headquarters that was working on that with him?

CAPTAIN VOLKMAN: I don't recall specific names.

MS. GLADING: Was Sergeant Serrao involved in this audit activity at this time?

CAPTAIN VOLKMAN: No.

MS. GLADING: Had he been involved in prior audit activity?

CAPTAIN VOLKMAN: He was doing another project for Colonel Dunlop for the Intelligence Bureau.

MR. WEBER: What was that project?

CAPTAIN VOLKMAN: He was also reviewing some documents and auditing some stops, I believe.

MS. GLADING: And what period of time was that?

CAPTAIN VOLKMAN: I don't know.

MS. GLADING: Was he within your line of supervision?

CAPTAIN VOLKMAN: No.

MS. GLADING: Okay. Where was he at that time?

CAPTAIN VOLKMAN: Intelligence Bureau.

MS. GLADING: Okay. So he reported to--

CAPTAIN VOLKMAN: He reported to Major McPartland, and then, ultimately, to the deputy superintendent.

MS. GLADING: Okay. And Sergeant Gilbert's audit activity-- Were you familiar with what he was working on at that period of time?

CAPTAIN VOLKMAN: No.

MS. GLADING: You aren't. And he reported directly to the deputy

superintendent--

CAPTAIN VOLKMAN: Correct.

MS. GLADING: --and the superintendent--

CAPTAIN VOLKMAN: Correct.

MS. GLADING: --because it's that funny Division.

CAPTAIN VOLKMAN: Labor Relations.

MS. GLADING: I beg your pardon?

CAPTAIN VOLKMAN: He was in Labor Relations or Division Services Unit.

MS. GLADING: It's like the public information office.

CAPTAIN VOLKMAN: Yes.

MS. GLADING: It doesn't really fall directly under--

CAPTAIN VOLKMAN: Directly under the superintendent's.

MS. GLADING: Okay. Thank you.

MR. WEBER: Let me show you the last document here, OAG-02035 through 02036.

Have you ever seen this document before?

CAPTAIN VOLKMAN: No.

MR. WEBER: What is a buck slip?

CAPTAIN VOLKMAN: A buck slip would be the interoffice communication. It's just our own name for that.

MR. WEBER: Do you know why it's referred to as a buck slip?

CAPTAIN VOLKMAN: No.

MR. WEBER: There is a -- under the entry note date -- about two-thirds -- three-quarters of the way down on the paper -- the first page -- not on official

paper, but on a “hunk of bond.” Is hunk of bond another State Police phrase? You see, right after a the 1/10/97 entry -- right below it on the first page.

CAPTAIN VOLKMAN: Okay.

MR. WEBER: That says no date.

CAPTAIN VOLKMAN: Oh, okay.

MR. WEBER: Is hunk of bond -- and it's in quotes -- another State Police phrase commonly used?

CAPTAIN VOLKMAN: No, sir. Never heard it.

MR. WEBER: And there's also numbers to the right of each entry. For instance, the very first entry has in parentheses 71.3145-3153. Do you have any idea of the significance of that?

CAPTAIN VOLKMAN: No, sir.

MR. WEBER: On February 20th, 1999, as you know, Colonel Williams was fired for comments he made concerning drug trafficking and minorities. What was your reaction when you found that out?

CAPTAIN VOLKMAN: I had read the article that morning in the *Star-Ledger* at home. It was a Sunday. And I guess around sometime after noon, Major Mattos called me at home and told me that he had received a call from the superintendent. I was surprised. But based on the article, not super, super, surprised.

MR. WEBER: Do you think the firing was warranted?

CAPTAIN VOLKMAN: No.

DEPUTY ATTORNEY GENERAL FLANAGAN: Is that relevant to the inquiry?

MR. WEBER: Well, it's relevant to the issue of racial profiling in that

it's comments made by the former superintendent -- and minorities and drug trafficking.

I'm sorry. I didn't-- What was your answer?

CAPTAIN VOLKMAN: No, I don't think it was warranted.

MR. WEBER: Why not?

CAPTAIN VOLKMAN: Because I think the Colonel was trying to change things. I think he had all the intentions of doing the right thing. And he was repeating information that had been provided to him by who knows who. And I think in his heart he felt that the information was proper.

MR. WEBER: Do you think the information was proper?

CAPTAIN VOLKMAN: When I read the article, I was a little surprised that he said it.

MR. WEBER: You were surprised because you agreed -- you agreed with the statement or you disagreed with the statement.

CAPTAIN VOLKMAN: Disagreed with it.

MS. GLADING: Do you think he was set up?

CAPTAIN VOLKMAN: No comment.

MR. WEBER: Well, who do you think provided him with the information that he used as the basis for those comments?

CAPTAIN VOLKMAN: I'm sure it was provided by members of the State Police. I think, you know, there was Intelligence people that compiled that information and things like that. Also, that's compiled from DEA reports and Federal reports and so forth -- customs and all that.

MR. WEBER: The Intelligence people within the State Police who may have provided him with this information, do you think they provided him with

inaccurate information?

CAPTAIN VOLKMAN: No.

MR. WEBER: The interim report is then released on April 20th, 1999. And in the interim report, the Attorney General's Office states that racial profiling was "real, not imagined." And they present various statistics to show a disproportionate number of minorities not only being stopped, but also being requested to consent to searches of their vehicles. Was that information a surprise to you?

CAPTAIN VOLKMAN: Some of it.

MR. WEBER: What?

CAPTAIN VOLKMAN: I don't recall specifically.

MR. WEBER: Well, the conclusion that racial profiling is real and not imagined-- Was that a surprise to you?

CAPTAIN VOLKMAN: No, not really. I think that there were individuals out there who were doing it. I think it was-- In my opinion, it was not a systemic problem. I think it was individuals who picked it up from either other people -- and developed things. But I think it was, in my opinion, limited to specific individuals.

MR. WEBER: And do you think specific individuals had the ability to impact the overall percentages that much?

CAPTAIN VOLKMAN: Somewhat. Somewhat. Not overly, but somewhat. Yes.

MR. WEBER: When you say it was limited to specific individuals, do you have a sense as to how many? I mean, are we talking a handful of people, a dozen people, a few dozen, a certain percentage of the road troopers?

CAPTAIN VOLKMAN: Well, again, I have to go back to my review of the audits done by Lieutenant Sachetti and the fact that, I believe, there was 11 or 12 individuals who were caused to have internal investigations placed against them. Right around the time that the Attorney General was being approved or nominated for his Supreme Court seat, there was about 11 or -- I believe it was 11 or 12 individuals who Lieutenant Sachetti's audit -- revealed that they had a -- if we want to put the word -- abnormally high minority stops. And we were directed to initiate internal investigations against a group of people. These were the highest ones, and they, in turn, became investigated by Internal Affairs.

MS. GLADING: Directed by whom?

CAPTAIN VOLKMAN: Probably the Attorney General's Office.

MS. GLADING: Who within the AG's Office?

CAPTAIN VOLKMAN: I have no idea.

MS. GLADING: Who told you the direction came from the Attorney General's Office?

CAPTAIN VOLKMAN: I don't know. I don't recall.

MS. GLADING: I may be misinterpreting what you just said so let me just state what I heard you just say.

I understood you to say that Lieutenant Sachetti's audits revealed abnormally high minority stop rates for some troopers?

CAPTAIN VOLKMAN: Yes, there were-- I believe there was 11. It was either 11 or 12 -- somewhere between 10 and 12 troopers from the New Brunswick Station and Cranbury Station and the Moorestown Station that internal investigations were initiated against for either not calling in stops or

calling in the wrong race. And there was internal investigations conducted over a period of time. I believe there was even a criminal investigation initiated by the Division of Criminal Justice on that.

MS. GLADING: And I understood you to then say that we were directed to initiate these IAB investigations by the Attorney General's Office.

CAPTAIN VOLKMAN: Yes.

MS. GLADING: This occurred at the time that--

CAPTAIN VOLKMAN: Confirmation hearings.

MS. GLADING: --Mr. Verniero was being considered for the Supreme Court seat.

CAPTAIN VOLKMAN: At the time of the confirmation hearings -- around the time of the first indictment for Kenna and Hogan -- around that time.

MS. GLADING: Before that or after that?

CAPTAIN VOLKMAN: Right around that same time. I'm not sure.

MR. WEBER: You're talking April to May of 1999?

CAPTAIN VOLKMAN: I would assume, yes, it was in that close proximity.

MS. GLADING: I don't want to read into what you said, so-- I'm hearing you suggest that-- No. I'm hearing you say that there was a belief by State Police individuals that these investigations were politically motivated.

CAPTAIN VOLKMAN: I didn't say that.

DEPUTY ATTORNEY GENERAL FLANAGAN: No. I think he's saying that-- That's mischaracterizing his testimony.

CAPTAIN VOLKMAN: I said there was information developed during

the audits conducted by Lieutenant Sachetti, and there were internal investigations begun on 11 or thereabouts troopers from Moorestown and Cranbury Stations. And the information that I had gotten was that the Attorney General or somebody over there had wanted internal investigations and, I believe, even a criminal investigation conducted on these individuals.

MR. WEBER: Can we go back for a second? If you already provided us with this information, I apologize. But when did Sachetti issue his findings?

CAPTAIN VOLKMAN: I don't think Sachetti ever issued a complete report.

MR. WEBER: When did Sachetti advise individuals at the New Jersey State Police of his concern about these 11 or 12 troopers?

CAPTAIN VOLKMAN: He never did.

MR. WEBER: Then how did it come to pass that these 11 or 12 troopers were then the subject of a criminal investigation?

CAPTAIN VOLKMAN: Somebody said they wanted an internal investigation and possibly a criminal investigation done.

MR. WEBER: I'm just trying to figure out the timing here. You mentioned the first Hogan and Kenna indictment, which was April 19th, 1999.

CAPTAIN VOLKMAN: Okay.

MR. WEBER: Okay. Did this issue about the 11 or 12 troopers predate the first indictment or postdate the first indictment?

CAPTAIN VOLKMAN: I'm not sure.

MR. WEBER: And again, I apologize if you've already testified about this, but how were these 11 to 12 troopers identified?

CAPTAIN VOLKMAN: They were identified as having discrepancies

in the audits conducted by Lieutenant Sachetti. Either their patrol charts were screwed up, their radio logs were screwed up, and they didn't call in a stop. There was a whole bunch of allegations that these people had against them.

MR. WEBER: Were troopers Hogan or Kenna included in this list of 11 or 12?

CAPTAIN VOLKMAN: No.

MR. WEBER: And I take it that the problems with these troopers related to reporting problems, whether or not they were reporting the race correctly of motorists.

CAPTAIN VOLKMAN: Again, as I stated, it was patrol chart -- in the patrol chart -- was inaccurate, the call-ins were inaccurate, the race was inaccurate. There was a myriad of things. You couldn't just put your finger on one thing and say it was all not called in improperly or it was not recorded properly. There was a myriad of problems, and Sachetti characterized them as discrepancies in their audit.

MR. WEBER: Okay. And as best as you can recall, when did this come to light?

CAPTAIN VOLKMAN: When did it come to light?

MR. WEBER: Yeah.

CAPTAIN VOLKMAN: Well, as Sachetti was doing the audits, a lot of this information was available to him, but it was not publicized or anything until he was going to complete a final report, which, I don't know, whether he ever did or not.

MR. WEBER: Okay. So he was going to complete the final report. Did he advise someone over at the AG's Office about these 11 to 12 troopers?

CAPTAIN VOLKMAN: I don't know.

MR. WEBER: But somehow, the AG's Office found out about it.

CAPTAIN VOLKMAN: I don't know. I can't-- I have no idea how they--

MR. WEBER: Well, I thought that you had testified that the -- an order came out from the AG's Office to do a criminal investigation on these troopers.

CAPTAIN VOLKMAN: There was information that came to our attention that there was to be internal investigations done on troopers for these discrepancies and to select a number of troopers to do these investigations on.

MR. WEBER: Okay. And that information came up around the time you said that Peter Verniero had his confirmation hearings?

CAPTAIN VOLKMAN: I believe so. Yes, sir.

MR. WEBER: Do you know if Internal Affairs investigations were ultimately conducted of these 11 or 12 troopers?

CAPTAIN VOLKMAN: I have no idea. There were investigations done. I don't know the status of them. That all took place last year after I left the State Police.

MS. GLADING: On April 5th of 1999-- I don't have a copy of this document with me, but I can tell you that Lieutenant Sachetti wrote a memo via Captain Tassel to Major Mattos. And that was an update of the Troop D audit.

CAPTAIN VOLKMAN: Right.

MS. GLADING: And it's OAG-5974 to 5975. And he talks about the progress of that audit and the interviews -- thousands of interviews that have been conducted--

CAPTAIN VOLKMAN: Correct.

MS. GLADING: --hundreds still to be finished. What was your-- You were supervising. You were above IAB, and IAB was in your line of responsibility at this point. Right?

CAPTAIN VOLKMAN: Yes.

MS. GLADING: What was your understanding of what the purpose of Lieutenant Sachetti's audit was?

CAPTAIN VOLKMAN: The purpose of his audit was to identify these discrepancies, if you want to call it that, be it in the -- again, in the patrol chart, in the radio log, in the calling-in procedure, the identification, the -- anything that came up in that stop. He actually had a team of people that went out and contacted the violator and asked them specific questions -- him or her. From that, he gleaned information, and the results are that, I believe.

MS. GLADING: It's a partial result.

CAPTAIN VOLKMAN: Partial result.

MS. GLADING: Sounds, from this, like he's in a hurry to finish this up and that there's a great deal of time pressure on him to finish this audit up. Is that your impression also at this point in time--

CAPTAIN VOLKMAN: Yes.

MS. GLADING: --that it was-- How many troopers, do you know, were assigned to him to help him with this process?

CAPTAIN VOLKMAN: At one time, there was up to 15 or 16.

MS. GLADING: And this memo, as I said, is dated April 5th, 1999. And I'm sorry that I don't have a copy of it with me. But he indicates that Phase I and Phase II of Cranbury and Moorestown have been completed,

Phase III of Cranbury has been discontinued in order to expedite completion of Phase I and Phase II of Newark, and that Phase III of Cranbury will be done once the first two phases of Newark are completed. Does that make sense to you of what was happening at that point?

CAPTAIN VOLKMAN: What was happening, at that point, I believe, was the fact that they were looking for the complete data from the Turnpike in Phase I and Phase II, whatever that-- And I don't recall exactly which -- the parameters of each of those investigations and those audits.

MS. GLADING: Do you recall, based on where he was at this point-- Does that help you recall when he finished this process up?

CAPTAIN VOLKMAN: No, I'd have to look at the memo to see if I recall anything about it.

MS. GLADING: Okay. I don't think the memo went to you, so-- Your recollection, though, is that there was this -- there was a time pressure to complete this?

CAPTAIN VOLKMAN: There was time pressure to complete it. Yes.

MR. WEBER: Coming from where?

CAPTAIN VOLKMAN: I don't know.

MS. GLADING: Okay.

I don't have anything else.

MR. WEBER: Me neither.

Captain, thank you very much for your time -- greatly appreciate it. And the Committee thanks you for voluntarily coming here.

CAPTAIN VOLKMAN: Okay.

MS. GLADING: Yeah, thank you, Captain.

MR. WEBER: Take care.

HEARING REPORTER: Off the record?

MR. WEBER: Off the record.

**(INTERVIEW CONCLUDED)**

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