

Committee Meeting

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of

SENATE JUDICIARY COMMITTEE and SENATE LAW AND PUBLIC SAFETY COMMITTEE

"To discuss the recruiting, testing and screening
procedures by which the Division of State
Police hires State Troopers"

LOCATION: Room 319
The State House
Trenton, New Jersey

DATE: March 5, 1992
10:20 a.m.

MEMBERS OF COMMITTEE PRESENT:

Senator William L. Gormley, Co-Chairman
Senator Louis F. Kosco, Co-Chairman
Senator James S. Cafiero
Senator John O. Bennett
Senator John E. Dimon
Senator Bradford S. Smith
Senator John A. Girgenti
Senator Edward T. O'Connor
Senator John J. Matheussen



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ALSO PRESENT:

Aggie Szilagyi
Aide, Senate Law and Public Safety Committee
Office of Legislative Services

Hearing Recorded and Transcribed by
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William L. Gormley
Chairman

James S. Cafiero
Vice-Chairman



John O. Bennett
Leanna Brown
John E. Dimon
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Edward T. O'Connor
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New Jersey State Legislature
SENATE JUDICIARY COMMITTEE
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COMMITTEE NOTICE

**TO: MEMBERS OF THE SENATE JUDICIARY COMMITTEE AND
SENATE LAW AND PUBLIC SAFETY COMMITTEE**

**FROM: SENATOR WILLIAM L. GORMLEY, CHAIRMAN
SENATOR LOUIS F. KOSCO, CHAIRMAN**

SUBJECT: JOINT COMMITTEE MEETING - MARCH 5, 1992

The public may address comments and questions to John Tumulty, Senate Judiciary Committee Aide, or Karen Suta, secretary, at (609) 292-5526, or Aggie Szilagyi, Senate Law and Public Safety Committee Aide, or Cheryl Klemm, secretary, at (609) 984-0231.

The Senate Judiciary Committee and the Senate Law and Public Safety Committee will hold a joint committee meeting Thursday, March 5, 1992, at 10:00 a.m. in Room 319 on the third floor of the State House in Trenton.

The purpose of this joint committee meeting is to:

**Discuss the recruiting, testing and screening procedures
by which the Division of State Police hires State Troopers.**

In addition, the committees will discuss the current status of the 113th State Police recruit class whose members were tested and screened in 1989. The committees will receive testimony from representatives of the Division of State Police and from interested members of the public.

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SENATOR LOUIS F. KOSCO (Co-Chairman) We'd like to call this meeting to order -- this hearing. As you know, the purpose of this meeting is a joint meeting between the Judiciary, and the Law and Public Safety Committees. The purpose of this meeting is to discuss the recruiting, testing, and screening procedures by which the State of New Jersey hires State Troopers. More specifically we are going to be discussing what has become known as the "Fighting 113th," and the procedures that took place with this class. We put the two Committees together that have the jurisdiction or the oversight over this, and sort of put it together so we can accomplish the same thing without two meetings and two hearings.

That brings us to this point: The focus of the meeting is obviously going to change a little bit. Although I have not been officially notified by the Governor's Office, which seems very strange to me, I did read an article in a newspaper that told me that the Governor has changed his mind and has now decided to go for the hiring and go along in the process. I was concerned that I was not notified and that Senator Gormley was not notified. Our respective Committees were not told officially, but fortunately we do read the newspapers, so we found out about it.

Because of the concern that is still there, that the possibility may not-- It is still possible that it may not take place, we want to proceed with this hearing, except the focus will change from probably: Why you didn't do it, to how we are going to accomplish it now? So we can take it from here and go forward. With that, Senator Gormley?

SENATOR WILLIAM L. GORMLEY (Co-Chairman): Thank you, Mr. Chairman. I think this is a very viable use of the legislative process. Senator Kosco and myself and the members of the Committee -- Republican and Democrat -- expressed concern over what appeared to be a basic inequity, to have individuals having gone through a process or a procedure and

then to feel that the rules were changed is obviously something that is frustrating, especially in a day and age when we are talking about a fine group of individuals who wanted to become committed to law enforcement.

We did read the article in the paper. I do want to thank, however, the Attorney General's Office. Yesterday they were in contact and sent a draft of a letter to me dated March 4, in which they again outlined their position. What I'd like to do prior to the commencement of the statements that will be given by the Colonel and the Attorney General's Office, is I'd like to make sure that we have a certain amount of focus on this, because one thing about lawyers: Once they start going back and forth, we have a unique capacity to get things very confused. And I think the public wants -- you see I'm being balanced, not even attacking Mr. Hartman, so we're being balanced across-the-board.

But the bottom line is this: The question that is in my mind is, was this required by the Justice Department? Now as we hear, they believe that the Justice Department-- Not they, but we had to conform with the Justice Department's order. Obviously we had to. That dated back to 1975. But the question that comes to my mind and I think it is something that we have to address is, could this class have gone forward anyway? Did we have to change the rules for this class, or could we have changed the testing procedure for the next class? In other words, did we have to do it while we had an outstanding number of applicants who had already gone through the process? Could we have had a reform to this consent decree, or had that need for the consent decree abolished by simply saying that the next class would be under the new testing rules?

Because there is a level of fundamental fairness and equity-- Because in 1989, as I understand it, everything was done in accordance with the consent decree; that the class was selected under a process that at the time was felt to be

equitable, or would not have been done. I just think to retroactively have affected this class instead of saying prospectively, "Well, the next class will have the new test," that's where I read a problem into the process. So I just wanted you to know my thought process before it began.

If I could, with your permission, Mr. Chairman, maybe any members of the-- Run down the members of the Committee who would like to make any initial statements, and then we could commence with the testimony of the Colonel and the representative of the Attorney General's Office. Any members of the Committee desire to make any statements? (no response) Okay, Colonel?

COLONEL JUSTIN J. DINTINO: Do you want me to give an opening statement, Mr. Chairman?

SENATOR GORMLEY: Would you excuse me for one second? You have to excuse me. Senator La Rossa is here and would like to make a brief statement. I assume he has to go to some other committee meeting. He has that other committee meeting look on his face. Excuse me, Colonel.

Senator, would you step forward, and then we will commence your testimony. That's my error.

SENATOR DICK LAROSSA: Thank you very, very much, Chairman Gormley, Chairman Kosco, and members of the Joint Committee. I appreciate very much the opportunity to testify in front of you this morning.

I am here to testify before your Joint Committee regarding the 113th State Police recruit class. This matter initially caught my attention when an article appeared in a local newspaper on November 29, 1991 that was headlined, "Chief of State Police cops a costly attitude," with the caption, "Colonel Dintino may dump 200 qualified recruits whom he considers part of his predecessor's regime."

The article pointed out that although funds were now available for the State Trooper recruits who were tested and

screened and picked for the job in March of 1989, they may have to go through the process all over again. What was most disturbing were the reasons given for the decision to force these young men and women, who had gone through a rigorous selection process involving written and oral exams, and physical and psychological testing, to go through it all over again.

Several comments appeared in the press indicating an ongoing feud as a principal reason for the class being delayed and ultimately canceled. Were this an actual reason, the Attorney General should have investigated and acted? To expect people to keep their lives on hold for close to three years because of this type of pettiness is grossly unjust.

There is, of course, no way of knowing what the real reason was for not proceeding immediately with a class of previously selected State Police recruits once it was determined that funds were available. Other reasons have been subsequently advanced, such as compliance with the terms of a 1975 U.S. Justice Department consent decree. Whatever the reasons, clearly, the State Trooper recruits of the 113th class have not been treated fairly to date, or given the consideration to which they are entitled. Thus, members of the Fighting 113th, as they have come to be called, decided to seek the help of their State legislators.

I feel that the Assembly Judiciary Committee which met on February 27, and the Senate Judiciary, and Senate Law and Public Safety Committees which announced this joint meeting today, regarding the 113th recruit class are to be complimented.

Subsequent to these actions, on March 2, Governor Florio directed the State's Attorney General, Robert Del Tufo, to reinstate the 113th class and to determine how many were still interested in attending the academy.

I believe that without the intervention of your respective Committees, the persistence and perseverance of

these young men and women would have been wasted. I firmly believe that your cooperative actions persuaded the Governor to issue his statement in support of the initiation of the 113th recruit class.

However, until the class actually begins as scheduled on July 1, 1992, I will keep a cautious eye toward its inception. I urge the Committee to remain vigilant in this matter. I would also recommend that any current official in either the State Police or Attorney General's Office that is intent on obstructing this class's admission further, resign themselves from that decision making capacity.

As a State Senator and former member of the 90th recruit class in 1973 and 1974, I want to express my strongest support for the 113th class of the New Jersey State Police. I am confident that the members of this Joint Committee will take whatever action is necessary to ensure that the members of this recruit class are treated fairly and without prejudice both during and after training. Under no circumstances should they be thrown back into a pool of an expected 20,000 new applicants and be required to go through the entire selection process again. I know what it is; I've been there.

Persistence, perseverance, and dedication: These young men and women have demonstrated these qualities for close to three years, and these are the qualities I want in the men and women who are on the street protecting me and my family. In fact, these are the men and women I want on the street protecting me and my family.

I thank you again, very much, for the opportunity to address you this morning.

SENATOR GORMLEY: Thank you. Colonel?

COLONEL DINTINO: If I may, Mr. Chairman, I will just briefly give you a quick rundown of the 113th class. In July of 1988 the selection process for the 113th State Police class began with the administration of the walk-in written

examination. Approximately 3700 persons sat for the examination, and approximately 763 were invited to the next phase, the physical agility examination. Over 400 passed and continued on in the process which included a psychological examination, an oral interview, background investigation, and medical examinations. Ultimately there were 248 persons eligible for appointment to approximately 140 slots at the academy.

In February of 1989, just prior to the decision of which of the 248 candidates would be appointed, it was determined that the hiring freeze proposed for State government would require the deferral of the 113th class. The 248 candidates were notified by letter dated February 21, 1989 that because of the hiring freeze, the 113th recruit class had been postponed. They were again notified by letter dated August 25, 1989 that the 113th recruit class had been deferred indefinitely and informed that they would be notified of additional details as they became available. It has been three years since the 113th class was deferred.

In December 1991, the original recruits were notified that the process would be completely redone. The reason for that being, we were in negotiations with the Justice Department, Civil Rights Division, and during those negotiations they had strongly recommended -- they had been recommended since 1985, and they were starting to now put extreme pressure -- that they were unhappy with the test that we were giving the State Police applicants, and they wanted us to move to what they call an RBH test -- Richardson, Bellows, and Henry -- which they considered acceptable. Part of these negotiations were -- the quid pro quo -- was that they would remove the consent decree if we would agree to go to the RBH test. We have 21,000 applicants waiting to take the next test. At that point our thinking was that I, as

Superintendent, have an obligation that we see that we get the best possible candidates within the State. So the 21,000 plus the others would take this RBH test.

SENATOR GORMLEY: If I may, Colonel?

COLONEL DINTINO: Go ahead.

SENATOR GORMLEY: What year did they say-- What year did they recommend this new test?

COLONEL DINTINO: They started in 1985, and when the 112th class went through, there was a threat then that they wouldn't let us start the 112th class if we didn't go with the RBH test. This time their recommendations became stronger, so we felt that there was the potential that they may prevent us from starting the class, and we wanted to negotiate in good faith.

SENATOR GORMLEY: Did anyone ever bring up the option that the class in 1989, that apparently at the time of selection had an adequate mix of minorities under the consent order from 1975? As I understand it, in 1989 when it was chosen, it did have an adequate mix under the consent order. Is that correct?

F I R S T A S S T. A. G. F R E D E R I C K D e V E S A:
That's correct.

SENATOR GORMLEY: Okay. So it did have the adequate mix. Was it ever brought up that this class that had been under the consent order had an adequate mix, that an alternate to the Justice Department could have been, let this class go through prospectively, we will change the new testing now instead of changing in-- Was that brought up to the Justice Department?

MR. DeVESA: Yes, sir. By the way, I'm Fred DeVesa, First Assistant Attorney General. The possibility of using the original group of the 113th was, in fact, discussed with the Justice Department. The Justice Department has preliminarily, and had preliminarily taken the position with us, and I say "preliminarily" because we have no written communication.

SENATOR GORMLEY: You see-- You can understand that's why members of the Committee and members of the 113th-- When you don't see it in writing-- And you can understand this, and I think the Colonel can appreciate this situation?

MR. DeVESA: That's correct.

SENATOR GORMLEY: When you don't see it in writing from the Justice Department, you have cause to question.

MR. DeVESA: We will take some steps to correct that.

SENATOR GORMLEY: Yeah, because quite frankly, you're hanging out there saying the Justice Department inferred, or said, or gave the appearance of something, but I think it puts you in an unfair position, because you should have them in writing if they had directed you in this position.

MR. DeVESA: Again, not to-- Let me answer the question. The position of the Justice Department at this point in time is that they will allow us to rely on the previous written examinations if we adhere to the numerical goals contained in the consent decree.

SENATOR GORMLEY: Okay.

MR. DeVESA: The reason that becomes a problem -- and as you know now, we are going to take that risk, that we may not adhere to numerical goals -- is that the size of the class, or the eligible candidates that remained at the time these negotiations were ongoing, put us right about at the threshold of the consent decree. We need, under the terms of the consent decree, one-third minorities going into the class. If we do not have that, we run the risk that the Justice Department will simply say, after we have gone through the entire selection process again, "We are not satisfied with the composition of this class, and therefore you're not authorized to run it."

Now we hope to be able to overcome that through either negotiation, and if necessary, even some possible court action. But at the time that we were making these decisions and attempting to move forward, one of the considerations that

we were dealing with was that, short of dissolving the consent decree -- which was what we were trying to do at the very same time -- we could only move forward with the original 113th by agreeing to adhere to the numerical goals. And if you look at the numbers that we have submitted in our statement to the Committees, you will see that the number of minority candidates just roughly approximates at this point in time, what one-third would be going into the academy.

Now keep in mind that we also understood that it had been three-and-a-half years since these candidates were originally moved through part of the selection process. There was the potential that some individuals would no longer be interested.

SENATOR GORMLEY: Now, let me ask you a question? Let's get into good faith and bad faith. Obviously, the delay in the class was not designed in any way -- no one would ever represent that -- in order to change the balance in terms of the minority representation in that class. That was not the intent. The Justice Department, I think, would realize that the delay was budgetary. It had nothing to do with hoping that certain members would want to drop out of the class to drop the minority mix. Wouldn't they have-- Don't you believe they would have said, "Well, this was a good faith situation." No one could predict who would drop out over a three-year period. I mean, isn't that a tough criteria to hold anyone to?

MR. DeVESA: Well, it is difficult to predict what the Justice Department will do. I mean, we know what the consent decree says. We understand that there will be additional attrition in this class as we move forward, because what we knew we had to do -- and we still have to do -- is to update the background investigations, update the medical examinations, and redo a psychological examination. All of these things were done three-and-a-half years ago. The Justice Department would never, and I'm certain will not at this point in time, make any

final commitment about what they are going to do until they see the composition of the class more accurately as we complete the selection process, because we, frankly, can only project what the composition of that class will be. Three-and-a-half years is a long time since the original selection process began.

SENATOR GORMLEY: Has it been proposed to the Justice Department, that prospectively -- which I assume we all agree with?-- that the new test will be used prospectively for the 114th, the 115th, and here on out; that the procedure would change? I assume that's been agreed to?

MR. DeVESA: That has been proposed. As a result of the delays that were created by attempting to dissolve the consent decree and agree to new selection procedures, and then selecting this class, we have determined that in fairness to the original candidates, in order to expedite the movement toward a new recruit class that we were going to separate discussions regarding what is going to happen in the future from what is going to happen now.

So we, in effect, have notified the Justice Department that we will separately continue to pursue dissolution of the consent decree, but we don't want that to be in any way a complexity that will delay moving forward with the 113th class. So right now our focus is on moving forward with the 113th class and not attempting to complicate that process any further by talking about the 114th class and the 115th class.

SENATOR GORMLEY: What I'm curious about is: You have mentioned the lack of correspondence?

MR. DeVESA: Yes.

SENATOR GORMLEY: Is there any correspondence from the Justice Department, at all, related to the 113th?

MR. DeVESA: There is correspondence that relates to the selection process, not specifically to the 113th. The Justice Department doesn't think in terms of the 113th. They think in terms of a selection process that they would like to

see followed. We can't engage in correspondence with respect to a specific class until we have a class that's put together for their approval.

SENATOR GORMLEY: There hasn't been correspondence regarding the 113th, but there has been dialogue regarding the 113th?

MR. DeVESA: Yes. Again, I just need to emphasize that we're talking about, in effect, ongoing litigation between the Department of Law and Public Safety and the Justice Department which was settled by a consent decree. There have been numerous meetings and discussions all throughout, in the context of pending litigation and our attempts to resolve it once and for all. There have been discussions about how we would proceed with this next class, but not with respect to the 113th as a separate group of people. That has to await when we actually have a 113th of identifiable people who have passed through all the parts of the selection process.

Once we do that, we will be sending a final communication to the Justice Department making it clear to them that this is the group that we have chosen and we believe-- And we hope to be able to say that we are in substantial compliance with the terms of the consent decree, and we would hope that they would not, in any way, take any action that would delay the appointment process.

SENATOR KOSCO: Just to follow through on that, Mr. Chairman-- What I understand you are telling me is that the correspondence that you have had has nothing to do with the 113th, but would have something to do with the 114th forward.

MR. DeVESA: It would have had something to do with the 113th if, as part of the dissolution of the consent decree, we agreed on a selection process that we would begin now. At the time that we began talking to the Justice Department, we had two goals. One was to eliminate the consent decree entirely so we would be free then to select a class and move forward without Justice Department supervision. If that had happened,

obviously, that decision would have affected the selection process for the 113th. At this point because of the delays that that approach has created, we have determined that we are going to select the 113th in accordance with the existing consent decree, and any further discussions with the Justice Department about a new selection process will be postponed.

SENATOR KOSCO: Okay.

SENATOR GORMLEY: Senator Girgenti, and then Senator Cafiero.

SENATOR GIRGENTI: Just one question: What would have happened if there was no delay -- no freeze -- at the time in February '89? What would have happened with this class?

MR. DeVESA: We would have moved forward to select a class, and it obviously needs to be understood that of the 250 candidates that remained eligible, approximately 120 of them would have been selected to go into a class. Then, approximately, 80 of them would have graduated from that class, because that's what we had funding for. We would have completed the selection process, submitted the names and the racial makeup and the gender makeup of the class to the Justice Department, and if the Justice Department felt that we were in substantial compliance with the terms of the consent decree, they would have authorized the beginning of the class.

COLONEL DINTINO: To answer it simply, we would have went with the 113th class. We would have went with the 113th class last year.

SENATOR CAFIERO: Through you, Mr. Chairman. Mr. DeVesa, just in case this ship doesn't sail along the course that appears to be charted at the moment, what is the makeup of the 248 eligible members of that class? Does that meet the Federal requirements?

MR. DeVESA: Well, again, at this point we have numbers. There are 248. We started with an original group of 248. We have been polling them this week. What we are told is

that 191 of the group continue to be interested in the process, 39 are minorities, and 8 are women. So we are, at this point, roughly at the threshold of one-third of the recruit class, assuming that we start a recruit class of 120. Now, again, until we complete the background investigations, the updated physicals and medical examinations, and really go through the process, it's difficult to say what our composition will look like.

SENATOR CAFIERO: Second question through you, Mr. Chairman: Now at the time those 248 eligible candidates were selected from those who took the test, I understand there were 140 slots then available to be filled?

MR. DeVESA: Yes.

SENATOR CAFIERO: And nobody has been hired in the interim?

MR. DeVESA: Correct.

SENATOR CAFIERO: How many slots are there available at the moment? I assume in three-and-a-half years we have lost some troopers through retirement, attrition, and things of that nature?

MR. DeVESA: There are probably more than 200 vacancies in the State Police, but the Governor's budget proposal--

COLONEL DINTINO: Two-hundred-sixty-nine vacancies we have.

SENATOR CAFIERO: How many are proposed to be filled?

MR. DeVESA: Eighty in the budget.

SENATOR CAFIERO: Eighty of 140? Hold on now, 140 doesn't mean anything.

MR. DeVESA: One-hundred-forty is the number that goes into an academy, and then people either withdraw from the academy or fail. We always, even in 1989, were projecting to hire 80 State Troopers, and the Governor's new budget proposal pending before the Legislature now includes funds to hire 80 State Troopers.

SENATOR CAFIERO: So like the airlines, you overbooked?

MR. DeVESA: Yes. We're forced to because some people withdraw from the academy.

SENATOR CAFIERO: You hope those 60 passengers don't show up?

MR. DeVESA: Well, they show up. But some people withdraw from the academy or fail in the academy.

SENATOR CAFIERO: That's all my questions. Thank you.

SENATOR GORMLEY: Senator Bennett?

SENATOR BENNETT: On that line, the present budget that we're operating in right now, does that budget provide for any additional personnel or any additional slots to be filled?

MR. DeVESA: Fiscal Year '92?

SENATOR BENNETT: Yes.

MR. DeVESA: No.

SENATOR BENNETT: And that was true the year before, also?

MR. DeVESA: That's correct.

SENATOR BENNETT: So that freeze has been retained with respect to positions in the State Police then for the two-and-a-half years, at this point?

COLONEL DINTINO: That's three-and-a-half years.

SENATOR BENNETT: Okay. There are no additional slots that have been budgeted? And has there been no attrition during that period of time?

COLONEL DINTINO: Oh, lot's of attrition. We had an early retirement last year in which we lost 133 enlisted personnel.

SENATOR BENNETT: Last year you lost 133?

COLONEL DINTINO: Just through early retirement. We lost more than that.

SENATOR BENNETT: Okay. And your total overall vacancies at this point is 269?

COLONEL DINTINO: Yes.

SENATOR BENNETT: Plus the 80 new ones? If the budget as proposed is adopted, as of July 1, would it be 269, plus 80?

MR. DeVESA: No. You see, the 80 would be to fill the vacancies that exist within that 269. In other words--

SENATOR BENNETT: I misunderstood what was presented. My understanding was that the new budget projected an additional 80 spots.

MR. DeVESA: No, I'm sorry.

SENATOR BENNETT: I might have misunderstood.

MR. DeVESA: I did then confuse the issue. The budget includes salaries to fill 80 of the existing vacancies.

SENATOR GORMLEY: The money to pay these guys if they get through.

COLONEL DINTINO: Keep in mind it will take approximately a year to graduate that class if we get the okay today. And during that time we will probably have another 60 or 70 vacancies in the State Police through attrition.

SENATOR BENNETT: Okay. Then last year's budget for the State Police was decreased, obviously? You had a reduction in the amount of money.

COLONEL DINTINO: Yes. We had an 8 percent decrease in the State Police budget.

SENATOR BENNETT: Pardon me?

COLONEL DINTINO: An 8 percent decrease.

SENATOR BENNETT: Which translated into how many positions? Do you know?

COLONEL DINTINO: Well, I don't know exactly how many positions, but I think it translated into approximately \$15 million.

SENATOR BENNETT: It just appears to me from what we're saying is that, I know there hasn't been any additional spaces budgeted, and including from now I understand in the new budget there are no additional spaces. But the 269 vacancies are from attrition, and yet I don't understand why there is

only the money for 80 spaces. Maybe that's really what-- I don't understand that. Because it would appear that unless your budget is coming down like--

COLONEL DINTINO: Well, if you want to appropriate for 269, I'd be ecstatic.

SENATOR BENNETT: Pardon me?

COLONEL DINTINO: If you want to appropriate money for 269, I'd be ecstatic.

SENATOR BENNETT: But I don't understand why it's not in there?

MR. DeVESA: Because we are making attempts to downsize the budget in the Department of Law and Public Safety, and there has been, over the last year-and-a-half, approximately a 21 percent decrease in our budget, and we are attempting to fill positions of a critical nature at the very same time we are downsizing, so that decisions were made in the last couple of years not to fill many positions to save the money.

SENATOR BENNETT: Well, more importantly than that, the decision was made in the last couple of years to reduce the overall size of the State Police as far as the number of spots, through the budgetary process.

MR. DeVESA: That is not true. There was no attempt to reduce the size of the State Police. There was simply an attempt to operate the State Police within the existing funds that were appropriated. We get "X" amount of dollars to run the State Police and the rest of the Department of Law and Public Safety. There has been a hiring freeze--

COLONEL DINTINO: That's the main thing. We have been in a hiring freeze since February of 1989. That's really never been lifted and the Governor has chosen to lift it in this particular case for a new State Police class.

SENATOR BENNETT: Okay. I don't follow that at all, but I'll accept it for the sake of argument.

Going on: From 1985, there began to be discussions that the consent order, in fact, the Justice Department was not satisfied that the terms of the consent order -- of '75, I think -- were not being implemented at a pace that they were comfortable with; is that correct?

COLONEL DINTINO: No.

MR. DeVESA: Starting in 1985 a new written exam was under development. The Justice Department had always taken the position that the written exam in use by the State Police and many other police agencies in this country was unacceptable, but there was no new written exam that was any better. Beginning in 1985 and 1986, they began to explore the use of a new written exam, and ultimately have taken a position that this is the best written exam to pick police officers without having any discriminatory impact, and have taken the position with us that it will be required in the future.

SENATOR BENNETT: Okay. That it will be required in the future. Have they done that by writing you and telling you that?

MR. DeVESA: No.

SENATOR BENNETT: They just call you up and tell you that?

MR. DeVESA: We have ongoing discussions with the Justice Department continuously in this process because there are many modifications in the selection process that are-- You know, the number of push-ups and sit-ups that have to be done, and the type of oral interviews that have to be done. There was no need to have any writing because we weren't in a hiring position at that time. All during these last three or four years there was an understanding that there was no State Police class that was being selected.

SENATOR BENNETT: I can accept that they want you to change your test, if that's what you're telling me, but I can't imagine in my wildest dreams that you just go and make the

changes based on verbal representations. Unfortunately, some of us have seen when we're dealing with some forms of State government that we may get something in verbal that by the time it's implemented -- or frankly, even before it's implemented -- we may have a different verbal direction to go. So we generally try to ask, well, can we have it in writing? And you're telling me that you don't have that same type of a thing. I guess, when the Feds tell you to do something, you act based upon the verbal negotiations.

MR. DeVESA: We haven't made the final decision. We haven't signed a contract to administer this new written exam, so we haven't acted yet. We have been negotiating with respect to the necessity of employing this new written exam, the cost of employing this new written exam, and many other recommended modifications to the selection process. So we haven't acted yet. Final decisions have not been made.

SENATOR BENNETT: But no one has told you in writing you have to do it anyway?

MR. DeVESA: No. But the Justice Department has gone into court here in the State of New Jersey against the Department of Personnel because of the position that this new exam is the one that is to be used, and they have attempted to enjoin the Department of Personnel with respect to local police hiring, because--

SENATOR GORMLEY: Is that the same test for firemen, also?

MR. DeVESA: I don't know that. I know it's the same for local police.

They have been in the court in other jurisdictions, so that it is more than simply our projection that the Justice Department is requiring this exam.

SENATOR GORMLEY: Senator Smith?

SENATOR SMITH: Mr. DeVesa, I just wanted a clarification on the budget aspect, I think, that Senator

Bennett was trying to clarify. In your new budget this year, you have 80 positions which are funded but not filled. Is that accurate?

MR. DeVESA: Yes.

SENATOR SMITH: Okay. And if you had, say, 130 retire this past year, you're actually reducing the size of your personnel budget by maybe 50 people.

COLONEL DINTINO: Are you talking about '92, or '93?

SENATOR SMITH: In other words, are you still -- in the coming budget -- are you still funding those positions from which people have retired?

MR. DeVESA: No, no. Those positions-- As people have retired, my understanding -- I'm not a budget expert -- but as my understanding, through the early retirement program and other ordinary retirements, in effect, the salary accounts are reduced to our Department by those numbers of people who are retiring.

SENATOR SMITH: Well, it would happen each budget year. If you had 130 retire, you either carry those positions over into the new budget at the same level, or you reduce your budget. So if you have lost 130 and you have 80 new positions that are funded but not filled, your net is a loss of, say, 50 positions in the coming budget. Is that what's being said here?

MR. DeVESA: I don't think we're losing the positions. I think it's a question of we have the vacancies but we don't have the salary money to fill all of those positions. In the next budget we, in effect, are seeking salary dollars that will pay for the existing complement of State Police in filled positions, plus 80 additional filled positions.

SENATOR SMITH: And the 130 that have retired are not being funded?

MR. DeVESA: That's correct.

SENATOR SMITH: If you can look at it that way.

MR. DeVESA: Yes.

COLONEL DINTINO: Senator, the reason for that being, that we went for the early retirement, is so that we could make up the deficit so that we wouldn't have to lay off more people than we were forced to lay off.

SENATOR SMITH: I just wanted to get it clear in my mind as to what you were funding in this next budget, and I think I understand it now. Thank you.

SENATOR GORMLEY: Senator Cafiero?

SENATOR CAFIERO: Mr. Chairman, through you: On the budget items again, have those 80 positions been budgeted for the past three-and-a-half years in anticipation of the class finally being selected?

MR. DeVESA: No.

SENATOR CAFIERO: Weren't they budgeted when the class was first picked? There was no plan at that time to fill those vacancies?

MR. DeVESA: I do not know the answer to that.

SENATOR CAFIERO: Colonel?

COLONEL DINTINO: When you are talking about budget positions, we would have vacancies. I think that's where the confusion here is. In other words, we, no doubt, had more than 80 vacancies at that time. We're trying to fill the vacancies. Right now we have 269 vacancies. These 80 positions will help fill those 269, but we'll still be left with, say, 180 vacancies. Do you follow me?

SENATOR CAFIERO: I remember the budget procedure when I was here in 1972 that used to be an item, say, "Budgeted new positions." And I understood you to say that it was budgeted for 80 new positions.

COLONEL DINTINO: Well, they are not new positions. They are old positions that are vacant. In fact, two years ago there were 110 State Police positions abolished. When I came in, we were close to 2800 troopers and we're-- The figure now

is 2396. And during that time frame there have been 110 State Police positions abolished, besides the vacancies of 269.

SENATOR CAFIERO: So these 248 eligible members of that class were going to be the source of the 80 spots that you were going to fill?

MR. DeVESA: Yes.

COLONEL DINTINO: That's correct.

MR. DeVESA: I said 80 new troopers and I obviously didn't make it clear.

SENATOR CAFIERO: Whether they are new positions or-- Eighty of the 269 are going to be filled in that budget agreement. Now this budget expires when -- July 1? -- this current budget? In the past would these moneys lapse and be wiped out?

MR. DeVESA: It is my understanding that from the time that the hiring freeze was imposed that there were no funds budgeted or allocated to fill vacant positions.

COLONEL DINTINO: That's correct.

SENATOR CAFIERO: I thought I heard you to say that it was budgeted for 80?

COLONEL DINTINO: In 1990--

MR. DeVESA: Prior to the hiring freeze being imposed.

SENATOR CAFIERO: That was three-and-a-half years ago?

MR. DeVESA: Yes.

SENATOR CAFIERO: So there has been no appropriation for 80 spots in the last three-and-a-half years?

MR. DeVESA: No.

SENATOR CAFIERO: Okay. One final question: The list-- What's the date of the list on which these 248 candidates appear?

MR. DeVESA: I believe it was December of 1989. I'm not sure.

SENATOR CAFIERO: And what's the life expectancy of that list?

MR. DeVESA: Well, we don't use a civil service list.

SENATOR CAFIERO: It never expires?

MR. DeVESA: No.

SENATOR CAFIERO: When did you decide to retest and expand that list?

COLONEL DINTINO: They took the test in July of 1988, if that's your question.

SENATOR CAFIERO: How long do those names remain active on that list as potential appointees?

COLONEL DINTINO: They can remain active as long as we want. In the past the same thing has occurred as is occurring now, and we decided not to go with that list. I think some people are forgetting even though I agree with you, you know, that we owe something out of fairness and whatnot, these are applicants. They are not members of the State Police yet. They have to go into the academy and they have to graduate from the academy. And in the past when this has happened before and we've decided to go with another test, we did.

SENATOR GORMLEY: When was that?

SENATOR CAFIERO: You can expand the list any time you want?

COLONEL DINTINO: Years ago.

SENATOR GORMLEY: I'm curious. What year?

COLONEL DINTINO: I don't have any idea what year, but in talking to my people from Affirmative Action, I was advised of that, as recently as yesterday.

SENATOR GORMLEY: But what I'm saying, was that test thrown out because it was in violation of the Justice Department ruling, or because of litigation, it was thrown out because the test was probably illegal? There's a difference here. I mean, if the test was thrown out a number of years ago because it was violative of the Civil Rights Act or something, that's different than this being thrown out.

COLONEL DINTINO: I'm not sure what year it was.

SENATOR CAFIERO: Mr. Chairman, I want to get straightened out about the list. If you take a test, and I assume you have to pass at a certain point to get on the list of qualified candidates, do you not? And that list has no life expectancy? It never terminates?

MR. DeVESA: No.

SENATOR CAFIERO: And somebody can make the decision at any time to have another test, to expand that list again?

COLONEL DINTINO: When it terminates is when we run-- When we run this 113th class, it's always been our policy the next class we run, we start a new test. So the life expectancy of the previous test is finished.

SENATOR CAFIERO: It remains until a class is selected, then you start over again?

COLONEL DINTINO: That's right. That's right.

SENATOR CAFIERO: So, you wouldn't want another test while that class is still hanging in limbo, waiting in the minor leagues.

COLONEL DINTINO: In other words, any of the candidates from the 113th would not become part of the 114th.

SENATOR CAFIERO: Thank you.

SENATOR GORMLEY: John?

SENATOR GIRGENTI: Just a couple of things, Colonel. First of all, at the beginning of this hearing we heard Senator La Rossa make a few remarks, and I was just curious: Was that an accurate reflection of your comments that were stated, something to the effect that these are not my people, or-- That was kind of what came across. Would you say that was accurate?

COLONEL DINTINO: I have never said that. I resent that accusation. I mean, these people will be treated the same as every other class that goes into the academy. But they also will not receive any preferential treatment, either. It's a

22-week course, and it's a tough course. That's why we take 140 candidates, and we expect to graduate 80 -- five or ten either way -- because most of them withdraw of their own accord.

SENATOR GIRGENTI: All right. So that comment, it didn't reflect--

COLONEL DINTINO: I don't know where that comment emanated from, but the very fact that anybody makes that and says that, I resent it, and I would like them to explore what they are saying a little bit further, just to make that comment.

SENATOR GIRGENTI: That's why I wanted to hear your response to that because it's kind of sad.

COLONEL DINTINO: Well, I'm very angry at that kind of a comment. I'll tell you that right now.

SENATOR SMITH: It's a quote from a newspaper article.

COLONEL DINTINO: Well, I was questioned by Assemblyman Catania last week about the same thing, that I had some ulterior motive, and I didn't say anything out of respect to the Assemblyman. But at this point I am going to say something because I'm very angry over that type of a statement.

SENATOR GIRGENTI: All right. The only other question that I would have, now that this delay has taken place and so forth, what do you have to do? Would you have to retest people in certain areas like, obviously, the physical exam? Three years are gone. Does that have to be done again?

COLONEL DINTINO: We have to complete the complete process, all, with the exception of the written examination. The background investigation will consist of about 90 percent of what we did previously. The only thing we won't have to do is, say, high school records and college records. We have to go out, we have to reinterview neighbors. We have to-- Employers; the whole gamut. We have to check again for arrest records, because we're talking about a three-year period here. A lot of things could have happened. So we almost have to do a complete background investigation -- medical, agility, physical.

SENATOR GIRGENTI: Because when I heard about these hearings I know that we had a number of people who came to my office to with the same situation, and really they are victims of the process in a sense, because here they took the test, they went through this whole effort, and that's why I think this is what this is all about in the sense that you do have people who really felt that they had no recourse at that point. Maybe because the system is the way it is and so forth, they have become, to some extent, victimized, because now they have given up opportunities that they had, other opportunities of other positions, because they were truly interested in going into this type of a position.

I understand that, and I understand where you are coming from, too, in terms of what you had to do, but the fact is, I think it was an educational problem. I don't think the people really understood that. I think it is important that we had this kind of a hearing to make people understand what was going on, because they were kind of lost. One thing I heard, somebody came to me and said, "We heard off the record, somebody called me, and said, 'Tell them you're not interested in being this.'" I heard comments like this. You know, they were taking a poll at one point.

So I think this is important and it brings a light to the process. I know you're interested in getting more State Troopers. Obviously, you want more.

COLONEL DINTINO: Absolutely.

SENATOR GIRGENTI: I know you're not trying to detract from the process, you're trying to-- You want what you want in terms of people coming aboard, because you have slots that are open. So I think this is important that everything is out in the air, and especially like I said, I brought this up not to criticize you, but that comment was attributed, and I thought that you should respond to it.

SENATOR GORMLEY: Senator O'Connor?

SENATOR O'CONNOR: Thank you, Mr. Chairman. Colonel, I heard you say at one point that when you first took over the job of Superintendent, you had-- What was the number, 2800?

COLONEL DINTINO: Close to 2800 troopers.

SENATOR O'CONNOR: And you're down now under 2400?

COLONEL DINTINO: Two-thousand-three-hundred-ninety-six.

SENATOR O'CONNOR: I'm a little surprised that you're not telling us that you need a whole lot more troopers than what I have heard so far.

COLONEL DINTINO: You didn't ask me, sir. In fact, somebody said, about the 269 vacancies, and I said, if this Committee wants to appropriate the money, I'd be ecstatic. Because I could use 269 troopers.

SENATOR O'CONNOR: I think what the Committee -- this Committee -- and the Appropriations Committee are going to need to hear is a little encouragement from you along those lines. I mean, I don't think they are going to volunteer all this extra money. I think you have to make your case. That's why I said I'm a little surprised that we're only hearing you say that we're looking at a class of 80 on July 1.

I'm encouraged by the fact that this is moving forward now, and this class -- the 113th -- is going to be getting their day in court, so to speak. But I would assume that what you are going to do is, right after that class starts out, you are going to be calling for a test for a follow-up class.

COLONEL DINTINO: Senator, I've been trying for two years, from the time I came in, to start a new class. It was only with the Governor's and the Attorney General's agreement to use forfeiture funds to pay for the salaries and the testing of a new class that started this process, because of the hiring freeze and whatnot.

Now, how low are we in the troops? We're at a dangerous level. We're at a point where we have four-man

So whenever we have a selection process, we don't draw from the troopers on the road. When we lose people, we take them from the administrative positions.

SENATOR O'CONNOR: Thank you very much. Thank you, Senator.

SENATOR KOSCO: Are there any more questions down at that end? (no response)

SENATOR GORMLEY: I have just a few other points: 1) Obviously, the focus of having you here today relates to, as best we can, let's say clearing up confusion on either side, and we'll leave it at that. I would be curious-- With whom are you dealing at the Justice Department? Who is the Attorney General you are dealing with -- Deputy Attorney General?

MR. DeVESA: Katherine Baldwin.

SENATOR GORMLEY: And she is the person who has been assigned to this--

MR. DeVESA: She is the litigation attorney who is in charge of this particular matter.

SENATOR GORMLEY: Colonel, I don't disagree with you about being upset by certain inferences that were placed in that newspaper article. You deserve to be upset. A question I have, however, is: With the next class, just in terms of procedure, I assume you intend to implement reforms that are not required by the Justice Department, but are reforms that you would like in terms of the selection process and in terms of the level of education -- college degrees or whatever. Is it your intent to implement that for the next class?

COLONEL DINTINO: The 113th class?

SENATOR GORMLEY: The 114th.

COLONEL DINTINO: Oh, the 114th.

SENATOR GORMLEY: Beyond that. I mean--

COLONEL DINTINO: The 114th class, I feel strongly -- and so does the Attorney General -- that we should move toward a college education; at least two years, preferably four years.

squads in a number of areas. We have at least 70 municipalities where we have the primary responsibility. Now, four-man squads in a station area is totally unacceptable. What it means is that a trooper when he goes out on a call -- it could be a dangerous call -- has no backup patrol car. It also means on night patrols, where the policy has been throughout the history of the State Police where we have had two men in a car, we now sometimes have one man in a car, which is a dangerous situation and it is unacceptable to me. It's a danger to the troops, and I would like to be able to do something about that.

Sure, I'd be glad to take this class. I would have been glad to take this class last year. I wanted to take it last year. And I would be hopeful that we can start to move forward with the 114th class.

SENATOR O'CONNOR: I know what you're saying about the dangerous levels, but how, actually, does it impact your mission? I mean, are you still able to cover the areas that you have to cover, or is that also--

COLONEL DINTINO: Yeah, we're able to cover the areas, but our response time is a lot slower than it was before. Someone may call and maybe they don't see a trooper for 30 minutes or 45 minutes. Through computer printouts, we know how many troopers we should have in an area because of the amount of complaints we receive, and the optimal is twelve-man squads. The minimum is six. We're operating two below the minimum -- the absolute minimum -- which is a dangerous situation.

Now as far as the other operations within the State Police, and we're very diversified, when we had these 133 early retirements, we eliminated a lot of administrative positions. We haven't replaced a number of captains. We haven't replaced a number of lieutenants. The troopers on the road are my number one priority, and I try to keep as many as I can there.

SENATOR GORMLEY: Okay; all right. Senator Kosco, I know, had some points regarding procedure and time frames.

SENATOR KOSCO: Yes. I just want to reiterate what Senator Gormley said to make it clear that no one member of this Joint Committee made any of those statements. Those statements were attributed to the newspapers, and we have no idea who said them. So, you know, we don't blame you for being upset about it.

What I would like to do is try to put this whole thing into a package right now, and try to get some dates and some times and some numbers from you, so that we will leave this room -- and the people from the "Fighting 113th" who are here represented will leave this room -- with some kind of a time frame; so we can say what date we are going to begin the process, what date we expect to go through the process, and by when do we think we will have 80 new troopers on the road. What is the time frame we could have? I would like to have some--

COLONEL DINTINO: Senator, meeting with my people yesterday-- I had gotten a report from them previously in which they said we couldn't start before May, and we would graduate sometime in, like, April of 1993. I sent it back and said that we had to do it quicker. As of now, if we get-- We expect to complete this poll by the end of this week. Hopefully, next week we can get some response from the Justice Department.

If all of that occurs we could start this process March 23, which would be the physical notification of the applicants by which they would receive a 22-page application which they have to fill out and get back to us. Then next is the investigators' orientation. That would be the investigators who conduct the background investigations. Then the physical examination. The bottom line is that we would graduate this class on January 21, 1993.

While these are just-- They are not etched in stone, keep in mind, and I do not object to giving you a copy of this.

SENATOR GORMLEY: Well, if I may interject -- and I really appreciate your giving us an outline like that -- \$470,000 is to be spent, approximately, to upgrade the testing. This is presented in the outline you provided us. At what point do you know -- do you anticipate that the Justice Department would sign off on the class? In other words, do you have to spend the \$470,000 first and then you find out? Could it be before? Are there going to be meetings to try to--

You know, we seem to have this-- Although it is not in writing, we seem to have this question hanging out there that you could go -- at least it would appear from our conversation with you today -- through the whole process of spending the \$470,000, and the Justice Department might say, "No." Can that be resolved? I think that is a reasonable request to the Justice Department, that that not be expended, especially since we don't want to see these individuals go through the additional process, the additional exams, the additional delay, and hear that it was wasted time; aside from the cost, also their personal time.

When do you think you could sit with the Justice Department and say, you know, either as a package or just for the class? I mean, I prefer the package concept to say, "This is what we are doing for the 113th. The next class has the new test." When is this going to be done, because I know, Colonel, given your limited budgetary resources and what you are trying to do, and the problems you have related, which are real ones, that \$470,000-- If that were to be used for a class and then the Justice Department were to say something else, that would be very frustrating for you.

So, what is the time frame? What is the time frame to settle this with the Justice Department?

COLONEL DINTINO: Senator, the medical exam would be July 18, 1992. After that we would be able to have exact numbers. But I think we should move forward with this process now, because I feel confident that even if our numbers are lower-- Let's say we come up with a lower amount of minorities. We will just have to reduce the 120 figure to comply.

SENATOR GORMLEY: Okay, fine.

COLONEL DINTINO: Also, possibly maybe we can move for an exemption.

SENATOR GORMLEY: As I said earlier, this does strike me as a high level of good faith from all sides.

COLONEL DINTINO: Yes.

SENATOR GORMLEY: I mean, this is not a case of-- This has not been maneuvered to maneuver around the consent order. It is obviously a high level of good faith which you have shown, and your predecessor has shown. I assume the Justice Department would tend to agree with that.

MR. DeVESA: We will also, as soon as we complete the poll that the Colonel referred to, be sending a letter to the Justice Department advising them specifically what we intend to do, so that if there is any initial opposition, we will get it in writing from them. We do not expect any because of these negotiations we have had. Then we must adhere to the numerical goals. If we cannot--

SENATOR GORMLEY: How soon -- and I know this is a difficult question, so we are talking ranges-- How soon do you think you would get that correspondence back from the Justice Department?

MR. DeVESA: I would hope in a couple of weeks.

SENATOR GORMLEY: Okay, fine. I assume that correspondence would be -- I assume -- appropriate to share with the Committee, barring any personnel matters being-- I mean, I would hope that at least upon receipt of the

correspondence you could reflect those portions of the correspondence that are the subject of the scrutiny and the review the Committee has given.

I can understand if any personnel matters might be related, or any matters related to litigation or confidentiality. We would not want to violate that. However, if you finally get the first piece of correspondence from them on this, we would appreciate your sharing at least that portion of the information that reflects on the issue we have dealt with. Can we have that?

MR. DeVESA: I will make that request of the Justice Department, so hopefully they will be careful not to write back to us in any context that they would feel is privileged and part of this litigation. What we would be trying to do in our letter to the Justice Department, is to prepare a letter that will not contain confidential information, so our position and the request we are making to the Justice Department is very clear to the members of the Committee, and hopefully the Justice Department will do the same thing. They have their own considerations about, you know, the confidentiality of their privileged communications. But, I will make it clear to them that there is this interest on the part of these Committees, and others.

SENATOR GORMLEY: I would ask that the Committees -- and I think we would all agree -- reflect that interest in a very polite letter from the Committees to the Justice Department, so that they understand, you know, what our basis of concern is. It is obviously a legislative oversight one. We do not want to infringe, obviously, on the State Police or their mission, because it is an important mission and we don't want to get involved in the area of law enforcement. You are the professional, Colonel. You are entrusted with that, and we do not want to become involved in certain -- what might relate to certain confidential personnel matters, which should not be the subject of public disclosure.

But in terms of the public policy of this class, and whatever, it is obviously germane to the Committees. We will reflect that in correspondence to the Justice Department, so that they know that concern is there. But we obviously are not going to overreach into the areas you are entrusted with.

SENATOR KOSCO: It seems to me, then, that March 23 is the kickoff date--

COLONEL DINTINO: Yes.

SENATOR KOSCO: --according to the numbers you gave us, and by January, the whistle blows and the game is all over, and we have 80 new troopers, hopefully, who will be ready to perform on the highways of the State.

COLONEL DINTINO: Yes, sir.

SENATOR KOSCO: So, we are going to look forward to March 23, and then you are going to keep us up-to-date. So this class 113 can look at somewhere between the next 11 months, if they complete their end of it, to be State Troopers.

COLONEL DINTINO: Yes, sir.

SENATOR KOSCO: Okay, that is what I needed.

SENATOR GORMLEY: One other matter, and we appreciate your giving us so much time today and being so frank-- If we could check with the-- I assume that all of this flows through the Attorney General's Office. If we could have a copy of the complaint filed by the Department of Justice against the Department of Personnel-- A member of the Committees has requested it, and I think it would be interesting for us to review it regarding the utilization of tests or whatever. It seems to be cropping up, at least in my legislative office now. We are hearing, "The Justice Department said, the Justice Department said--" This is beyond your particular test.

What we would like to do is have this information made available in terms of the particular complaint from the Justice Department, so we can get a better feel for what the Justice Department said. We would appreciate it if you could provide that to us. Thank you very much.

We are going to call Mr. Hartman now, the attorney for the 113th.

SENATOR KOSCO: Thank you.

SENATOR GORMLEY: (addressing witnesses) Could you stay here? In case he brings up a point, you might care to disagree with him from time to time.

COLONEL DINTINO: Chairman Kosco and Chairman Gormley, I want to thank you for allowing us to testify. We appreciate it.

F R A N C I S J. H A R T M A N, ESQ.: Chairmen and members of the Committee: First we would like to thank you for letting us speak to you on behalf of the Fighting 113th. I represent 137 men and women who were on that original list who were told they could report to the academy at the conclusion of the medical examination; that they would probably be in the academy on March 8. Unfortunately, on February 21, 1989, they received a letter saying that there was a projected revenue shortfall and a freeze that was put on employment, and as a result they would be put on hold until a later date.

I share Senator Gormley's concerns about why there would not have already been Justice approval of that class, because it is difficult to believe that if they were within literally a couple of weeks of going into the academy, were it not for the intervention of the freeze, that they would not have already been approved by the Justice Department. We have never seen any correspondence about that. We have never heard anything about that. But in any event, we are encouraged to hear that Justice is going to be contacted on behalf of the class separately, apart from the other problems the State has with Justice.

I think the other thing that I have come to learn -- and I hope all of you have learned as well from some other sources -- is this: In 1975, Justice was concerned about the minority makeup of the State Police. They decided that one of

the reasons for that was the attitude of the officialdom, and the second thing was the testing. They set, by consent, a goal; not a necessary thing because it took a lot of years to achieve it, but the goal was 14% minority representation. Although in 1985 the test was seen as an obstacle to achieving the goal, as long as every class that went in contained a third minorities going into the class, that is, going into the academy, no matter how many came out, Justice was satisfied that the then testing methods were producing that number of minority applicants who were going into the academy, and that that was okay.

We are happy to tell you that by that method, without any new test, the State Police, I learned last week in the Assembly hearing, have reached the goal, a little bit over by 1/10th of 1 percent, I think. It is 14.1 percent now. I say that only because we should expect Justice to say, "Well, the old test certainly did what it was supposed to do."

I have also been informed that there was a meeting where Justice said: "If you will take this new test, we will dissolve the entire decree." A couple of people in the committee room who heard that conversation felt uncomfortable, because they felt it was almost like a blackmail type of situation; that, you know, something was being forced upon the State which was not necessarily the best thing for the State. It was apparently the only thing, because for all these years the reason we went with the test we went with, was because there was no viable alternative.

Interestingly enough, I am informed that the test, which has now been adopted in some other jurisdictions, has already been declared illegal in Nassau County, New York, for the reason that it adversely impacts on minorities. So, here Justice has come full circle back to where they started from trying to protect minorities, trying to get a new test, and then having a court say that that test does not protect minorities.

But, I am not here to fight with Justice.

SENATOR GORMLEY: Excuse me?

MR. HARTMAN: Sure.

SENATOR GORMLEY: I want to--

MR. DeVESA: I can respond to that.

SENATOR GORMLEY: On Nassau County?

MR. DeVESA: Yes.

SENATOR GORMLEY: Would you, please?

MR. DeVESA: The RBH test that Mr. Hartman is referring to is in use in Suffolk County, and it has been approved by a court in Las Vegas. The Nassau County authorities chose not to use that test and developed their own test, and that test has been deemed to be invalid. I have checked on that twice since Mr. Hartman first brought that information to our attention. I have also checked with the Justice Department. The exam the State Police are contemplating using in the future that is endorsed by the Justice Department has never been declared invalid and, in fact, has been declared valid in at least one or two proceedings.

MR. HARTMAN: You know, Mr. Chairman, it is wonderful when you have these hearings, because we find we learn something every time we come to them. We never get any other advice except through the public investigative process. But as I said, I didn't come here to fight with Justice. I am reasonably satisfied, after discussing it with the person at Justice, that if the State makes a proposal to them, they are prepared to act on the proposal promptly.

So, now that we know they are going to do it, we expect to keep in touch with Justice, just as you are, to make sure that the promises that were contained in the Governor's press release come to fruition.

There are two other things I am concerned about. I read the Governor's press release and it sounded wonderful, and

I would like to thank him publicly for being in support of our group. But I am always worried that somewhere between the cup and the lip, there is going to be a slip. I appreciate the continuing interest. I heard Senator Kosco mention, "Are you going to keep your eye on this process?" and we want to keep our eye on the process.

The procedure that has been outlined by the Colonel sounds to me awfully typical of a cumbersome, bureaucratic situation. We would like to propose, right now, to him -- as I proposed partly in the Assembly last time -- that we would be glad to cooperate in suggesting ways by which the process could be speeded up. For example: Rather than send out a brand-new 22-page questionnaire, which each of our applicants filled out previously, if they would simply send us a copy of the questionnaire and say, "Please respond as to any question which has changed since the last time"-- That would be a lot simpler.

We proposed before, with respect to the medical examinations, that we would be happy to have the applicants, themselves, go to a doctor and have him certify that his or her health is still good and that they are still fit for the position, reserving, of course, to the State Police the right to check anyone they want to check if they have any question about them. And they are checked from time to time when at the academy anyhow. That would be another process, instead of having to wait until July 18, 1992 to have a lot of people examined by a doctor. I don't know why we couldn't send in, within the next couple of weeks, a doctor's report which would indicate -- which would certainly weed out any--

SENATOR GORMLEY: A family physician?

MR. HARTMAN: Yes, a personal physician. I don't know whether it would be a family one necessarily, but some independent physician, saying that they are qualified. At least if they get one saying they are not qualified, they would not have to wait until July to test them.

SENATOR GORMLEY: Well, they are not going to send that one in.

MR. HARTMAN: I would hope they would be honest. In any event, Senator, there are other things which I think could be done. Certainly I agree with your suggestion that Justice ought to be contacted and followed up on promptly, without waiting for all of these tests to be done.

The State needs troopers. The Colonel says he needs the troopers: as a citizen, I feel we need the troopers. These troopers want to serve and they want to get through that academy as fast as possible. Any way that we can advance the cause, we would be delighted to advance the cause.

The one other thing we are concerned about -- and maybe the Committee could help us with this, too, if you would -- we do not have access to the list of the 140, sometimes 150-- I have a letter from the Attorney General which says, "Out of the approximately 250 who underwent the process, approximately 140 were told that they would be the applicants in the class." Now, anybody who comes forward and fights to get his proper place in the sun is always concerned that there will be some retaliation about that. I don't want to think that the State Police would do that, but it would be nice if we could have a list of the 140 who were originally selected, so we would know that someone who is in our group who thought he was selected does not end up not being in the group that is being repolled and reconsidered.

So, maybe one of the things the Committee could ask the Attorney General's Office to send them so it would become public information, would be the list of the people and the order in which they were notified before. I know that Senator Cafiero suggested that-- In fact, it seemed odd to him, I gather, that they didn't keep a list from time to time, and instead they just test a group, and if there are 250 they take

140 and throw away the other 110 names. That is something that maybe your Committee would like to deal with on another occasion, because it seems like kind of a wasteful process.

But, I didn't come to talk about that. All I did come to talk about on this aspect is, we would like to know if we could get access to that list, so we would know where everybody is and know that everybody comes out at the other end the way they went in. Do you think that is possible?

SENATOR GORMLEY: Colonel, regarding-- First of all, if I may offer just a comment--

MR. HARTMAN: You're the Chairman. You can talk to anybody in any way you want, sir.

SENATOR GORMLEY: No, then they would vote me out.

This is a personal feeling: In terms of upgrading testing, I think the Colonel-- Obviously that is appropriate. I don't think we can have a diversion of procedures in terms of testing. Obviously there is a cost involved, but there has been a three-year gap. I think, obviously, that certain tests, certain standards have to be maintained, so I would agree with the Colonel on that.

In terms of the list, Colonel, what is your feeling regarding the availability of it?

COLONEL DINTINO: My feelings there would be that that would be confidential, and that it should not be released -- no way, shape, or form.

MR. DeVESA: (speaking from audience) Senator, if I could just--

SENATOR GORMLEY: Sure.

MR. DeVESA: At the point where the process was adjourned, or deferred the last time, there was no list of 140. It was understood that the class had reached a point where there were approximately 240 eligible remaining candidates. No one was yet selected for the academy. It was the intention to select approximately 140 to go into the

academy, to produce a class of 80 troopers. There had been no selection at that point. So, there is no list, in effect. There is a list of 237 candidates that remained eligible at that time, and that list is confidential because it contains a lot of information regarding individuals who, I am sure, have their own interest in remaining confidential.

MR. HARTMAN: Mr. Chairman, I find that very difficult to understand, because I have a letter written to me dated February 26, 1992 from Alexander P. Ward, Jr., Assistant Attorney General, with a copy to First Assistant Attorney General De Vesa, and reading only this pertinent sentence from the letter it says: "In fact, of the approximately 250 who are still undergoing the process, only approximately 140 would have been given the opportunity to attend the State Police Academy had the class not been deferred." Now obviously he is saying that there was a list of 140 that were selected.

SENATOR GORMLEY: No, no. He is saying exactly what the Attorney General just said.

MR. HARTMAN: I don't think so, because then we got a letter from the Major--

SENATOR GORMLEY: I should have read this other letter first, though, you see, and then the answer you have in that letter.

MR. HARTMAN: I got a letter from the other Major dated February 21, and what he says is, "Dear Applicant: There is a Governor projected revenue shortfall," and that only went to the 140 people who were on the list. The other people didn't even get that letter, so we know these were the ones who were supposed to enter the academy. They were told when they left the medical examination, by a representative of the State Police, that they were expected to be at the academy in early March. So, I have trouble saying there is not a determined list of those who were going to be the 113th class going into the academy. Whoever came out is a different story.

SENATOR GORMLEY: Well, it has been represented that there was not such a list.

MR. HARTMAN: Well, you know, that is the problem. I have representations that they talked to Justice before, and I talked to Justice and they said they never spoke to them about this issue. So I have trouble with these representations.

SENATOR MATHEUSSEN: Mr. Chairman, if I may-- That second letter you referred to, I am not sure I understood.

MR. HARTMAN: The second letter I referred to, Senator, is a letter on the letterhead of the Division of State Police signed by -- apparently, I don't know his signature-- The typed name is John T. Reim, Major.

SENATOR MATHEUSSEN: What is the date of that letter?

MR. HARTMAN: Who gave it to me? One of the applicants.

SENATOR MATHEUSSEN: No, what is the date of the letter?

MR. HARTMAN: The date, excuse me. February 21, 1989.

SENATOR MATHEUSSEN: And it is addressed to?

MR. HARTMAN: "Dear Applicant." Then it says that because of a projected shortfall, they have cut out the class for now and they will contact you with further details. No need to call us; we will call you. You know, the theatrical expression, but not in those words. "You should be proud of your progress, and we hope you maintain a high degree of interest in a career with our organization," and they sure have. "Thank you for your understanding and continued interest." That was written on behalf of the Colonel by the Major.

SENATOR MATHEUSSEN: How do you draw the conclusion that that was only sent to 140 applicants?

MR. HARTMAN: Because I talked to the 137 people in my group, the ones who got the letter.

SENATOR GORMLEY: So you know who they are.

MR. HARTMAN: Well, we know who they are, but--

SENATOR GORMLEY: You've got them all, then you have to narrow it down.

MR. HARTMAN: No, we don't have them all. We don't know whether that is all. We never-- You know, we don't have every member in our group who was there. We can't contact every person. We have had to do this, Senator, by word of mouth, by the publicity that has been generated, but there may be six other people out there, or 10 other people.

SENATOR GORMLEY: That can't be, because--

SENATOR MATHEUSSEN: Well, I think the Colonel could clear it up very quickly. If the Colonel could tell us now whether that letter was sent to all 240--

MR. HARTMAN: Well, maybe he could tell us who it went to. That might be helpful. A great suggestion, Senator.

SENATOR MATHEUSSEN: Colonel, if you could respond-- Do you have information as to whether or not that letter was just sent to--

COLONEL DINTINO: The letter you are referring to was sent out to all 248 applicants.

SENATOR MATHEUSSEN: That answers my question.

SENATOR GORMLEY: Thank you, Colonel.

MR. HARTMAN: Then can we have the list of the 248 applicants?

SENATOR GORMLEY: It's confidential information.

MR. HARTMAN: All we want are the names and addresses. I don't want anything else. I don't care anything about the people, except that we want to let them know that we exist, and we want to let them know what is going on, so they are not being dealt with in a different way than any other person in that group. That is all we are interested in. I don't know what great privacy restrictions that would have.

MR. DeVESA: (speaking from audience) Our position is that that list is confidential. We do not see a need to

provide it to Mr. Hartman in order to increase the number of clients that he is currently representing.

SENATOR KOSCO: How many people are going to be notified that in July we are going to start the process again -- we are going to continue the process March--

MR. DeVESA: All of the people who remained eligible when the process was deferred.

SENATOR KOSCO: The 257?

MR. HARTMAN: Two-hundred-and-forty-eight? All 248 that we just heard about?

SENATOR KOSCO: The 240-something, or the--

MR. HARTMAN: That's a good question, Senator.

MR. DeVESA: Those of that original group who advised us that they are interested and want to continue the process.

SENATOR KOSCO: Which is, approximately?

SENATOR MATHEUSSEN: You are at 191 now, I think you said before, right?

MR. DeVESA: Excuse me?

SENATOR MATHEUSSEN: Polling is at 191 now?

MR. DeVESA: Right now it is 191.

SENATOR MATHEUSSEN: Of 248. So you are still out approximately 50.

COLONEL DINTINO: We had 19 who responded that they are no longer interested.

SENATOR MATHEUSSEN: Negatively, okay.

COLONEL DINTINO: There are only 14 at this time that we have not contacted. Maybe that--

SENATOR KOSCO: Out of the 250?

COLONEL DINTINO: Fourteen is the number that we have not contacted.

SENATOR KOSCO: Out of the approximate 250?

COLONEL DINTINO: No.

HEARING REPORTER: Excuse me, Mr. Chairman. Many of these comments may not be captured by the tape machine from the gentlemen in the audience. I'm sorry.

SENATOR KOSCO: Out of the approximately 250, there are only 14 who have not been contacted?

MR. HARTMAN: That is not what I heard, Senator.

COLONEL DINTINO: There are 235 remaining, because-- The last group, when we polled them before there were 11 who were not interested. So there were 235 remaining who we are now polling. Out of that group, we have had 191 who said yes, they are interested; 19 are not interested; and there are still some more that we are trying to contact.

SENATOR KOSCO: Okay, but you are trying to contact all of the people of the approximately--

COLONEL DINTINO: We have contacted them all. The 14 we have not gotten responses from, at this point.

SENATOR GORMLEY: And, Colonel, you are certifying that there is a uniformity of procedure, that each person has--

COLONEL DINTINO: Absolutely. I mean, everyone is contacted and we will get a response from everyone.

SENATOR GORMLEY: Are there any further questions?

MR. HARTMAN: Mr. Chairman, in reaction to the response I have had that they don't want to-- Would you ask the Colonel if he or the Attorney General -- if they would have any objection if we sent a letter to them to be distributed to those 235 people who said they were still interested, whenever last they were asked, so that if they want to contact us, they can contact us, thus protecting their privacy and still giving us an opportunity to be able to more effectively monitor the activity and see that it is, in fact, being uniformly applied?

SENATOR GORMLEY: No. I would not recommend something like that.

MR. HARTMAN: I didn't ask you to recommend it. I just asked you to ask the Colonel if he would do it.

SENATOR GORMLEY: Fine. Colonel, would you do that?

MR. DeVESA: May I hear the question?

MR. HARTMAN: Sure. The question was-- Oh, I'm sorry. Do you want to repeat it?

SENATOR GORMLEY: If I may repeat the question-- The question was: Could correspondence be made available from Mr. Hartman that would be provided to you, and you would distribute it, so that those in the class who would want to contact the group represented by Mr. Hartman would have the opportunity to know of the existence of the group and could contact Mr. Hartman?

MR. DeVESA: We have some concerns about doing that because Mr. Hartman represents, according to him, a large number of people who are, in effect, competing with each other for a limited number of State Police positions in the academy. I don't think we would prefer to be involved in communications between Mr. Hartman and those individuals.

We have represented before these Committees that we intend to notify all those who are interested. We intend to move forward in a fair and expeditious way. Obviously there is Justice Department scrutiny and scrutiny from this Legislature and Mr. Hartman, and we are prepared to resolve all of these issues in a fair and expeditious manner. But I do not think it is appropriate for us to somehow become involved with Mr. Hartman in the communication process with his proposed clients.

MR. HARTMAN: Well, we at least know their position. They won't even mail a letter for us to somebody so we can keep tabs on it. If that is their position, that is their position.

I have nothing else to offer the Committee. I am prepared to answer any questions, to the extent of my knowledge, from anyone who wants to ask them.

SENATOR GORMLEY: Well, Mr. Hartman, I appreciate your coming in today. I appreciate the--

MR. HARTMAN: More importantly, we appreciate your having us.

SENATOR GORMLEY: I was quite impressed by the members of the 113th who visited my office, as I know other Senators were, and other Assembly persons were, not only by their

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appearance, but you could just tell that they are a fine group of individuals. Those who are chosen, I think, will serve the State of New Jersey very well and will work very well with the Colonel in serving the State of New Jersey. I appreciate their efforts. They dealt with us in a very professional manner, as I know they will do in the same way when some of them become members of the State Police of New Jersey. So, thank you very much.

Any other member of the Committee have any comments to make?

SENATOR SMITH: I would just request that Mr. Hartman leave his -- or state his address and telephone number for the record.

MR. HARTMAN: Oh, certainly. It is: 300 Chester Avenue, Moorestown, New Jersey, (609) 235-0220.

SENATOR SMITH: Thank you.

MR. HARTMAN: Sure. Thank you very much, Senators -- ladies and gentlemen of the Committee. I appreciate it.

SENATOR GORMLEY: Thank you.

SENATOR KOSCO: Thank you.

(MEETING CONCLUDED)

