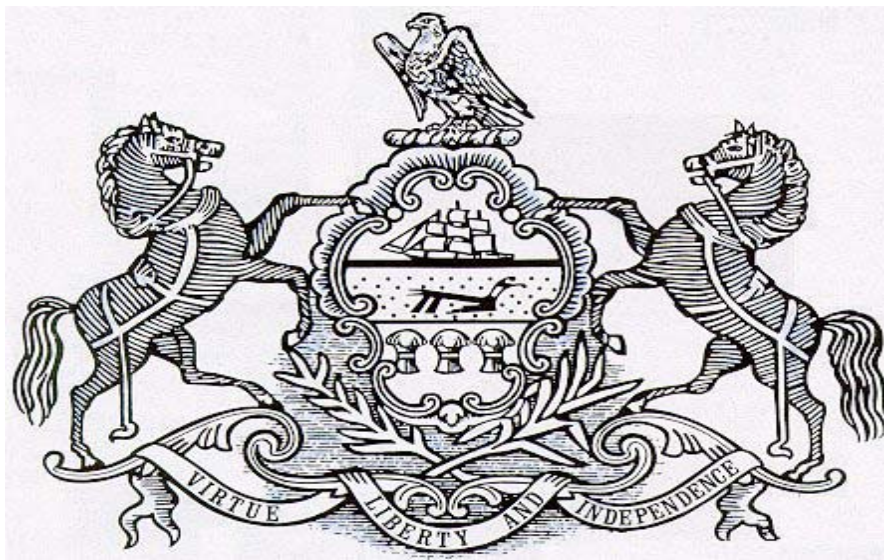


**REPORT OF
THE INDEPENDENT MONITOR
OF THE
PENNSYLVANIA STATE POLICE**



**FIRST QUARTERLY REPORT
FOR THE PERIOD ENDING
JANUARY 31, 2004**

Issued March 1, 2004

Kroll

*Office of the Independent Monitor
of the Pennsylvania State Police*

EXECUTIVE SUMMARY

This First Quarterly Report of the Independent Monitor of the Pennsylvania State Police (PSP) covers the period beginning on November 1, 2003 and ending on January 31, 2004. During this first quarter, the PSP has cooperated fully with the Independent Monitor. The PSP has provided the Monitor with complete access to all materials requested and has put forth great efforts to familiarize the Monitor with all relevant aspects of the PSP to allow the Monitor to fulfill its role efficiently and effectively.

The Monitoring Team¹ began its work by holding initial meetings with representatives of the Office of the Governor of the Commonwealth of Pennsylvania (Governor) and the Office of General Counsel (General Counsel) to develop the scope of the monitoring assignment.

The Monitoring Team carefully reviewed the Report of the Office of Inspector General (OIG) and met with Inspector General Donald L. Patterson and his senior staff, including legal counsel, to understand more fully the scope of the Inspector General's investigation. The OIG also provided the Monitor with substantial documentation gathered during its investigation. The documents provided by the OIG include: all Administrative Regulations, Field Regulations, Management Directives, and Special Orders considered relevant to the sexual harassment and sexual misconduct investigation; the Collective Bargaining Agreements (CBA) between the Commonwealth of Pennsylvania and the Pennsylvania State Troopers Association (July 1, 2000 to June 20, 2004, and July 1, 1998 to June 30, 2000); and numerous Bureau of Professional Responsibility (BPR) files of complaints concerning investigations of sexual harassment and sexual misconduct. The Monitor has reviewed and analyzed the material provided, and will continue to reference this documentation during the performance of its monitoring assignment.

The Monitor has met with Colonel Jeffrey B. Miller, the Commissioner of the PSP (Commissioner), his Deputy Commissioner of Administration, and other members of his senior staff, to review the PSP's responses to the OIG Report and its efforts to date to implement recommendations in the report. The Monitor has communicated on an as-needed basis with the Commissioner and his senior staff. The Monitor commends the Commissioner for his responsiveness to all requests, and for always making himself and his senior staff available when requested by the Monitor. The Commissioner has at all times demonstrated a serious commitment to work with the Monitor to implement recommendations in the OIG Report, and to work on improvements in complaint processing, investigation, prevention, and training.

¹ The terms "Monitoring Team" and "Monitor" are used interchangeably and refer to those individuals at Kroll involved in this assignment. The leadership team is comprised of William C. Nugent, Sheryl L. Robinson and Michael A. Pavlick. The Monitoring Team will, when appropriate and advantageous to the Commonwealth of Pennsylvania, the public, and the State Police, utilize designated subject matter experts from Kroll on specific issues including internal investigations, policing, auditing, computer technology, data management, and report writing.

The Monitor has met with the President of the Pennsylvania State Troopers Association (PSTA) and its counsel to hear the union's response to the OIG Report and its position on implementing recommendations in the report. The Monitor believes it has developed a good working relationship with the union. The union has made itself available when requested by the Monitor. The President of the PSTA and its counsel have stated that they seek to work with the Monitor and the PSP to accomplish implementation of many of the recommendations in the OIG Report, and to work with all parties to improve complaint processing, investigation, prevention and training in the areas of sexual harassment and sexual misconduct.

The Monitor has conducted numerous meetings and interviews with the Director of the BPR, and members of his staff, including the Director of the Early Intervention Program (EIP). The Monitor has been working closely with the Director of the BPR and his staff to monitor and assess State Police implementation of recommendations in the OIG Report, and to work on improvements to complaint processing and investigation. The Director of the BPR has been very cooperative in producing substantial relevant documentation to the Monitor, and has made great efforts, even being available late nights and on weekends, to respond to requests for information. The Monitor has carefully reviewed all of the materials provided to it by the BPR.

The Monitor has met with the Department Discipline Officer (DDO) to, among other things, understand the disciplinary processes and policies in greater detail, work on establishing uniformity in discipline, and begin monitoring and assessing State Police implementation of the OIG's recommendations. The DDO has been very helpful during the first quarterly reporting period and will continue to support all efforts to improve the disciplinary process.

The Monitor has met with the Director of the Equal Employment Opportunity Office (EEOO) to discuss her role in the development and implementation of the PSP's equal employment opportunity program, which includes the prevention of sexual harassment. The OIG's recommendations in this area generally involve increased staffing and training. The PSP, primarily through its EEOO and Bureau of Training and Education, has made efforts to increase training on sexual harassment and sexual misconduct issues and has implemented new training programs. The Monitor will continue to assess the effectiveness of such training programs. It will also work with the Commissioner to evaluate organizational structure and budget issues as they affect the EEOO and other office staffing needs.

Many factors have contributed to the current situation, including some cultural, historical, institutional, and legal barriers to change. Because of the complex nature of this problem, continuing to implement change will require the ongoing efforts of many individuals and organizations working together over a significant period of time. In order for the PSP to organize itself effectively to deal with sexual harassment issues, the Monitor recommends that the PSP form a working group which includes representation from all relevant bureaus and offices that are directly impacted by the OIG's recommendations. The Monitor further recommends that the PSP explore developing a risk management function to assist in the identification of negative trends and impending issues in the agency and to assist in developing solutions through policy development, training or other means. Under the PSP's current structure, the risk management function, whether it is housed in an office, bureau or otherwise,



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could report to a Deputy Commissioner. If this function is developed, the PSP could consider moving the EIP out of BPR and into Risk Management.² The Commissioner has informed the Monitor that he has developed a solution that addresses the Monitor's recommendations in this area. The Monitor will evaluate the solution when implemented by the PSP.

The Monitor will continue monitoring the PSP's responses to the OIG report. The Monitor will issue its second, third, and fourth quarterly reports in or about June, September, and December of this year.

² The EIP, explained further in Section Four of this report, is a risk management tool that is focused on individual officers. This risk management function suggested by the Monitor here is focused on agency-wide issues.

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SECTION ONE: INTRODUCTION

A. APPOINTMENT OF THE MONITOR AND THE CONTRACT FOR SERVICES

Kroll Associates, Inc. (Kroll) has been appointed by the Governor to serve as the Independent Monitor of the PSP. Accordingly, Kroll is acting on behalf of the Governor, working through his General Counsel, to monitor the implementation of recommendations contained in the Office of the Inspector General's Investigative Report on Sexual Harassment and Sexual Misconduct at the Pennsylvania State Police (OIG Report). In addition, the Governor has requested Kroll to perform other services, including providing technical assistance and assisting with the implementation of best practices. Kroll will serve as the Independent Monitor of the PSP for a period of one year, beginning on November 1, 2003 and ending on October 31, 2004. At the Governor's discretion, Kroll's role may continue after the expiration of the one-year period and/or expand within the one-year period.

The Commonwealth and Kroll have entered into a contract dated November 3, 2003 providing, among other things, that Kroll will act as the Independent Monitor of the PSP. Specifically, the services to be provided pursuant to the contract include: 1) development of a work plan to monitor and assess implementation by the State Police of measures to improve State Police processing and investigation, disciplinary procedures, pre-employment background investigations and probationary employment, and training with respect to all matters of sexual harassment and sexual misconduct issues; 2) implementation of the work plan; and 3) monitoring the State Police's implementation of recommendations for improving its processes for the prevention, investigation and proper disposition of complaints of sexual harassment and sexual misconduct.

B. THE MONITORING TEAM

The Monitoring team includes William C. Nugent, Sheryl L. Robinson and Michael A. Pavlick in leadership roles.

Mr. Nugent serves as a Senior Managing Director and Regional Counsel and is head of Kroll's Pennsylvania office. In addition to his accomplishments as a prosecutor where, among other matters he investigated and prosecuted cases involving organized crime, political corruption, and federal civil rights, he has conducted numerous internal investigations and reviews at Kroll, including internal investigations involving alleged sexual harassment and sexual misconduct.

Ms. Robinson serves as Vice President and Managing Director of Kroll Government Services, Inc. and leads Kroll's practice in Washington, DC. She offers unique expertise in police integrity practices in both the litigation and policy development areas. During her time in the Civil Rights Division of the U.S. Department of Justice (DOJ), Ms. Robinson evaluated, investigated and/or prosecuted hundreds of allegations of excessive use of force and sexual abuse

matters in police agencies across the country. Furthermore, in the policy area, she actively participated in DOJ's efforts to identify promising police practices for state and local police agencies. Ms. Robinson served as the Department's primary contact for state and local law enforcement agencies and associations on police integrity and civil rights policy matters. Ms. Robinson was recently appointed by the Honorable Julian A. Cook, Jr., United States District Court Judge for the Eastern District of Michigan, to serve as the Independent Monitor for the Detroit Police Department.

Mr. Pavlick provides extensive law enforcement experience including an outstanding career at the Drug Enforcement Administration and work as a consultant with the United States State Department and the Executive Branch of the United States Government. Mr. Pavlick has conducted numerous investigations in Internal Affairs of corrupt DEA agents and police officers, and handled many allegations of sexual harassment while at the DEA.

The Monitoring team will, when appropriate and advantageous to the Commonwealth of Pennsylvania, the public, and the State Police, utilize designated subject matter experts on specific issues including internal investigations, policing, auditing, computer technology, data management, and report writing. In addition to acting as the Independent Monitor of the PSP in this matter, Kroll is currently acting as the Court-Appointed Independent Monitor of both the Los Angeles Police Department and the Detroit Police Department. Both of these monitorships are five-year appointments. The Kroll team monitoring the PSP will be able to draw upon the insights and experience of the Kroll teams working in Los Angeles and Detroit.

The Monitor takes this appointment by the Governor very seriously. Sexual harassment and sexual misconduct by police officers is especially intolerable. This is a trying time for the vast majority of State Troopers, honorable men and women who risk their lives to protect the public, and who have not been accused of wrongdoing; these good men and women cannot help but feel ashamed by the improper and immoral acts of some fellow officers. However, it is also a time of opportunity. The Monitor is confident that, with the promised support of all the parties, significant improvements should occur in this important area of police conduct.

SECTION TWO: BRIEF HISTORY

This section briefly outlines a portion of the relevant history leading up to the Governor's hiring of Kroll as the Independent Monitor of the PSP. It is not intended to be a complete history of this matter, nor does it cite all of the pertinent news articles or events during the relevant time period.

A. SEXUAL MISCONDUCT BY FORMER PSP TROOPER MICHAEL K. EVANS AND RESULTING CRIMINAL AND CIVIL ACTIONS

On October 3, 2000, former Pennsylvania State Trooper Michael K. Evans pled guilty to solicitation of prostitution, indecent exposure, indecent assault (three counts), corruption of minors (three counts) and official oppression (three counts). Evans committed these crimes,

while on duty, against three women and three juvenile girls. He was sentenced to five to 10 years in prison for his sexual misconduct and is currently incarcerated at Waymart State Correctional Institution. In 2000 and 2001, five related civil cases were filed in the United States District Court for the Eastern District of Pennsylvania (E.D. Pa.) by five different females. These cases were consolidated under Maslow v. Evans, No. 01-CV-3636. To date, the Commonwealth has settled two of these federal civil rights lawsuits filed against it arising from the criminal conduct of former Trooper Evans, and two of the cases have been dismissed with prejudice by the district court.

On May 30, 2003, another federal civil rights lawsuit was filed in the E.D. Pa., arising from some of the criminal acts of former Trooper Evans. Haber v. Evans, No. 03-CV-3376.³ This pending lawsuit alleges, among other things, that State Police management “adopted, maintained, acquiesced and condoned” sexual misconduct within the ranks of the PSP.⁴ The plaintiff’s complaint and attachments disclosed details of 89 cases involving alleged sexual harassment and sexual misconduct by more than 100 PSP Troopers from 1995 to 2001.⁵ The plaintiff alleges that these sexual harassment and sexual misconduct cases show a “widespread and longstanding pattern of sexual harassment and misconduct which permeate the PSP.”⁶

B. MEDIA COVERAGE

Beginning on June 10, 2003, there was extensive media coverage -- in all the major newspapers in Pennsylvania, on all the major Pennsylvania television and radio stations, and on such national news outlets as CNN, MSNBC and Fox News -- of the allegations contained in the Haber v. Evans case, including the allegations that there was a widespread pattern of sexual harassment and sexual misconduct and that State Police management acquiesced in and condoned such harassment and misconduct. Because of the disclosure in the Haber v. Evans case of the 89 other complaints against State Troopers during the period 1995 to 2001, the media coverage could be fairly read as raising serious questions as to the propriety of State Police management practices. This reporting was understood by many in state government as showing the need for a comprehensive internal investigation to determine the need for reform and led, in part, to the aggressive actions to accelerate change taken by the Governor, the Commissioner, the General Counsel and the OIG, as described more fully below. Likewise, the president of the Pennsylvania State Troopers Association (PSTA), Bruce A. Edwards, responding to the extensive media coverage, stated, in a letter to the editor, that the union favors a number of

³ This case was filed as related to the five previously consolidated cases under Maslow v. Evans. See Haber v. Evans, No. 03-CV-3376, Mem. Op. at 2 (E.D. Pa. June 17, 2003).

⁴ Complaint at Heading B, preceding Paragraph 59.

⁵ Although the Haber v. Evans lawsuit referred to 89 complaints of sexual harassment and sexual misconduct filed against Pennsylvania State Troopers, the PSP, through spokesman Jack Lewis, disclosed that there were 118 case files for the period 1995 to 2001 which had been provided to Haber’s attorney.

⁶ Complaint at Paragraph 64.

reforms, including improved Cadet training and a disciplinary code that is “tough [and] fair to all.” Philadelphia Inquirer, October 24, 2003.⁷

The media coverage has focused attention on the need for reform and has suggested that the State Police, the legislature, the unions, and others should be accountable for their respective roles in what may (or may not) prove to be widespread instances of misconduct. Such media coverage has generally continued to be a positive agent for change. However, the Monitor believes that the sensational nature of some of this publicity has the potential to create an image of the PSP that would be unfair to the vast majority of dedicated public servants at the PSP who risk their lives daily to protect and serve the public.

C. THE GOVERNOR’S AND THE COMMISSIONER’S INITIAL RESPONSE TO ALLEGATIONS OF SEXUAL HARASSMENT AND SEXUAL MISCONDUCT AT THE PSP

On June 10, 2003, Pennsylvania Governor Edward G. Rendell directed the Commissioner of the PSP, Colonel Jeffrey B. Miller, to thoroughly review the 89 cases referenced in the Haber v. Evans case filings “to see if all the wrongdoers have been ferreted out” and to determine if additional measures could be taken to prevent similar misconduct in the future. Later in June, the Governor left open the possibility of an independent review depending on the PSP’s findings from its initial review. The accusations in the 89 cases were made prior to Governor Rendell’s election to office, and prior to the Governor’s appointment of Colonel Miller as Commissioner of the PSP.

On June 25, 2003, the Commissioner released the findings of his internal review at a news conference and announced recommendations to prevent future cases, including, but not limited to, the reaffirmation of a “zero tolerance” policy against sexual harassment and sexual misconduct, the creation of an early intervention program, the tightening of pre-employment screening practices, and the provision of additional training focused on sexual harassment and sexual misconduct. In an effort to restore public trust in the PSP, the Commissioner also recommended that the Governor bring in an outside investigator to continue the probe of State Police practices. The Governor thereafter directed the state Inspector General, Donald L. Patterson, to conduct the independent probe.

⁷ In the interest of completeness, the Monitor notes that, on various dates in 2003, the PSTA has filed, with the Pennsylvania Labor Relations Board, three charges of unfair labor practices against the Commonwealth and the PSP. These unfair labor practice charges specify four labor violations. In future quarterly reports, the Monitor will evaluate the subjects of these specifications. The topics specified in the charges concern: (1) the implementation of the Early Intervention Program to identify Troopers who may potentially violate rules of conduct; (2) the implementation of a new regulation, which provides that a Trooper who knowingly provides false information can be dismissed from the PSP; (3) the implementation of a policy that a Trooper will no longer be able to exchange vacation leave for days which have been designated for disciplinary suspension of that Trooper; and (4) implementation of a policy that the PSP would no longer negotiate with the PSTA regarding the discharge of a Trooper. The Monitor has not yet had detailed discussions with the PSTA leadership and/or its counsel as to what, if any, impact these charges of unfair labor practices may have on the union’s position favoring reforms to deter and prevent any future misconduct.

D. THE OIG'S INVESTIGATION AND REPORT

On June 30, 2003, the OIG initiated an investigation concerning the allegations of sexual harassment and sexual misconduct at the PSP. The OIG did not investigate specific acts of alleged sexual harassment or sexual misconduct, nor did it establish individual culpability; rather, with the full cooperation of the PSP, it examined the handling of the Trooper Evans cases and past and present policies, procedures and practices, interviewed relevant parties, and considered the PSP's organizational culture in an effort to improve the PSP's processes and prevent similar situations from occurring in the future.

On September 8, 2003, the OIG issued its "Investigative Report On Sexual Harassment and Sexual Misconduct at the Pennsylvania State Police." The Report focused on the PSP's uniformed members and its procedures for handling: (1) complaints; (2) discipline; (3) background investigations and probationary periods related to hiring; and (4) sexual harassment (including training). The OIG examined these areas and built upon the foundation for change established by the Governor and the Commissioner by making specific recommendations to deter, detect, and prevent sexual harassment and sexual misconduct at the PSP.

E. THE GOVERNOR'S RESPONSE TO THE OIG INVESTIGATION AND REPORT

The OIG made approximately forty recommendations in its Report and the Governor accepted virtually all of these recommendations as appropriate for implementation. The OIG recommended, among other things, that the Governor appoint a Commission to monitor the PSP's progress in handling complaints of sexual harassment and sexual misconduct. The OIG further recommended that such Commission: be comprised of individuals with expertise in law enforcement, sexual harassment and sexual misconduct; report directly to the Governor and exist for at least three years (subject to extension by the Governor); and have access to all PSP records and personnel necessary to carry out its monitoring function.⁸

On September 16, 2003, Governor Rendell announced at a news conference that he endorsed all but one of the recommendations in the OIG Report, that is, the OIG's recommendation to appoint a Commission to monitor the PSP. Rather than appoint a Commission, the Governor stated his intention to hire Kroll as the Independent Monitor of the PSP for a period of one year. In hiring Kroll, he recognized that it would take time to repair the damage, but he wanted to look forward to "continuing to lay the groundwork for change and ensure that these kinds of problems are not a part of our future." The Governor stated that Kroll had a national reputation for the expertise and impartiality that it had brought to its appointments by federal courts to act as the independent monitor for the Los Angeles Police Department and for the Detroit Police Department, where there were significant allegations of widespread misconduct by those police forces.

⁸ OIG Report at p.79.

F. LEGISLATIVE EFFORTS TO REFORM DISCIPLINE WITHIN THE PSP

On January 29, 2004, Governor Rendell signed into law an act to be known and cited as the “Confidence in Law Enforcement Act” (CLE Act). The law, which goes into effect on July 1, 2004, mandates that State Police suspend without pay law enforcement officers (including State Troopers) charged with offenses graded as a felony or misdemeanor of the first or second degree (punishable by imprisonment for more than one year). The CLE Act also mandates that State Police terminate law enforcement officers convicted of such offenses.

SECTION THREE: THE OIG’S RECOMMENDATIONS, THE PSP’S RESPONSES AND THE MONITOR’S ASSESSMENT OF COMPLIANCE AND RECOMMENDATIONS

Section Three contains a brief summary of the OIG’s recommendations, the PSP’s responses and the Monitor’s assessment of compliance and recommendations for the first quarter ending January 31, 2004 for: (1) Complaint Processing and Investigations; (2) Discipline; (3) Pre-Employment Background Investigations and Probationary Employment; and (4) Sexual Harassment Training, and Attitudes Regarding Sexual Harassment and Sexual Misconduct. The Monitor has juxtaposed the OIG’s recommendations and the PSP’s responses below for ease of reference.⁹

I. COMPLAINT PROCESSING AND INVESTIGATIONS

A. THE OIG’S RECOMMENDATIONS AND BACKGROUND

In the complaint processing and investigations area, the OIG made numerous specific recommendations regarding PSP policies, staffing, discipline, community outreach, and BPR and Troop responsibilities. Because complaint intake, processing and investigations for IAD matters generally flow through the BPR but affect the entire department, the OIG stressed that the BPR take steps to “emphasize the importance of investigating alleged sexual harassment and sexual misconduct” and to reinforce those objectives through training and supervisory reviews.¹⁰

The OIG identified several issues of serious concern regarding complaint processing. First, the PSP does not always report and document members’ misconduct. The OIG correctly pointed out that the PSP’s failure to document and forward complaints to the BPR has “profound ramifications” by not only preventing investigations from commencing, but also by depriving the PSP of a critical “opportunity to monitor the activities of its members.”¹¹ According to the OIG,

⁹ See Appendix C for a complete summary of this information, as well as the Monitor’s assessment of compliance.

¹⁰ OIG Report at 30.

¹¹ OIG Report at 11.

the PSP's failure to promptly and properly document complaints of misconduct was apparent from the history of former Trooper Evans case, and at least one other case involving alleged sexual misconduct. This led the OIG to recommend mandatory reporting of any sexual harassment or sexual misconduct directly to the BPR, and the imposition of discipline on those members with personal knowledge of sexual harassment or sexual misconduct who violate this rule. The OIG recommended that the PSP issue a new field regulation to specifically prohibit its practice of allowing supervisors to investigate allegations of subordinate misconduct, to provide training in this area and to enforce violations of such field regulation through discipline.¹² The OIG also noted that State Police members had, on occasion, improperly contacted other members who were the subjects of an investigation. The OIG recommended that the PSP reiterate the need for strict confidentiality of all investigations, again with enforcement of violations through discipline.¹³ Finally, the OIG found that the PSP did not always follow up on complaints of misconduct when complainants fail to submit a complaint verification form. In this area, the OIG recommended policy development and implementation.¹⁴

In order to publicize and facilitate more effective complaint intake, the OIG recommended that the State Police develop and implement a community outreach program including, but not limited to, creation of an informational campaign and a 24-hour toll-free telephone hotline for citizens to make complaints.¹⁵

In the complaint investigations area, the OIG made a number of recommendations relating to BPR and Troop responsibilities, staffing, witness interview documentation, and domestic violence cases. The OIG recommended that the BPR handle exclusively all investigations involving sexual harassment and sexual misconduct, with increased emphasis on the importance of these types of investigations.¹⁶ The OIG also recognized the unique problems posed by domestic violence cases, and, in particular, those cases involving Protection From Abuse Orders. The OIG encouraged the State Police to adopt a policy similar to the International Association of Chiefs of Police model policy on Police Officer Domestic Violence, and to adopt a policy of proceeding with BPR investigations even when a complaining witness recants or withdraws the Protection From Abuse Order.¹⁷

Based upon its comprehensive review and evaluation of the PSP's complaint processing and investigations, specifically in the context of sexual harassment and sexual misconduct, the OIG made the specific recommendations listed in the charts below.

¹² OIG Report at 17-18.

¹³ OIG Report at 18-19.

¹⁴ OIG Report at 19-20.

¹⁵ OIG Report at 21-22.

¹⁶ OIG Report at 22-24, 28-30.

¹⁷ OIG Report at 26-28. The Monitor notes that, due to the unique nature of domestic violence cases, witnesses sometimes recant or withdraw complaints; unfortunately, this is true not only in cases of police officer domestic violence, but in all cases of domestic violence.

B. THE PSP’S RESPONSES

Shortly after the OIG Report became public, the PSP responded to the OIG’s recommendations by stating that they were either: (1) already in place; (2) will be implemented; (3) under consideration; or (4) will not be implemented. The PSP also provided a brief explanation of the reasoning behind each response.

For the following OIG recommendations, the PSP has responded that the recommendations are already in place:

OIG Recommendation	PSP Response – Already in Place
Require all members to report personal knowledge of sexual harassment or sexual misconduct and complaints of sexual harassment or sexual misconduct committed by other members directly to the Bureau of Professional Responsibility (BPR) and discipline members who fail to report such conduct.	Members are already required to report misconduct.
Issue a Field Regulation prohibiting supervisors from independently investigating allegations of direct subordinate sexual misconduct and discipline supervisors who violate the Field Regulation.	Current policy allows the BPR to make decisions on assignment of investigators.
Discipline any member violating the confidentiality of a sexual harassment or sexual misconduct complaint by disclosing or otherwise discussing the complaint with the subject.	Members can be disciplined under current regulations.
Develop and implement an effective outreach program to facilitate the ability of citizens to complain or otherwise provide feedback on State Police conduct directly to the BPR in person, by mail, by telephone, via the Internet, by e-mail, by facsimile transmission, and by a 24-hour toll-free telephone hotline.	The PSP web page now explains in detail how an individual can file a complaint against PSP personnel and provides the form for filing the complaint. The complaint must be signed. The web site also provides telephone numbers, which an individual can call at any time to report a complaint.

OIG Recommendation	PSP Response – Already in Place
Stop assigning allegations of sexual harassment or sexual misconduct to investigators at the Troop level and permanently assign it to the BPR.	Allegations of sexual misconduct are currently assigned to the BPR. The determination of assignments of sexual harassment complaints is decided by the BPR in consultation with the Equal Employment Opportunity Office (EEOO).
Commit to the assignment of additional investigators to the BPR sufficient to permit it to conduct all investigations of sexual harassment and sexual misconduct by permanently assigned personnel.	The PSP has added one investigator to the Internal Affairs Division and is considering the possibility of adding a second investigator. ¹⁸
Emphasize the importance of completing a full investigation into allegations of sexual harassment and sexual misconduct through training and supervisory reviews.	This is mandated by regulation and will be further emphasized through training.

For the following OIG recommendations, the PSP has responded that it will implement these items:

OIG Recommendation	PSP Response – Will Implement
Develop informational material describing the complaint and feedback process in English, Spanish, and other languages for distribution at State Police headquarters, State Police stations, state operated rest stops, and other locations throughout the Commonwealth.	This recommendation will be implemented by EEOO.
Host quarterly or other periodic informational meetings designed to inform communities on proper State Police functions and procedures and the methods for reporting civilian complaints and compliments regarding members.	This recommendation will be implemented through community outreach programs conducted by the Troops.
Establish a firm, written policy for all BPR investigations requiring documentation of each witness interview.	Documentation is now required in all BPR investigations. Changes will be implemented requiring documentation in all investigations done at Troop level.

¹⁸ The PSP added a second investigator to the IAD on December 6, 2003.

OIG Recommendation	PSP Response – Will Implement
Implement additional measures in addressing Protection From Abuse (PFA) proceedings involving members, including proceeding with BPR investigations even if the complaining victim recants or withdraws a PFA Order. Specifically, the PSP should follow the International Association of Chiefs of Police model policy on Police Officer Domestic Violence.	The Department is studying the model policy regarding PFA's generated by International Association of Chiefs of Police and will implement such a policy in PSP regulations.
Provide information about all sustained, not sustained, unfounded, and withdrawn cases to the current supervisor and to the new supervisors when members are transferred.	This recommendation will be implemented.

For the following OIG recommendation, the PSP response stated that it is under consideration:

OIG Recommendation	PSP Response – Under Consideration
Follow up on every complaint, regardless of whether the complainant submits a Complaint Verification, and prohibit the closure of an internal misconduct complaint by deeming it withdrawn on the basis that a Complaint Verification is not returned.	The Department follows up in all cases of alleged criminal activity. The Department will consider seeking changes to also require follow-up in cases of alleged non-criminal activity. Such a change would require the cooperation of the Pennsylvania State Troopers Association (PSTA) and a change in The Collective Bargaining Agreement (CBA).

For the following OIG recommendation, the PSP responded that it will not implement this item:

OIG Recommendation	PSP Response – Will Not Be Implemented
Establish a policy of interviewing all complainants' even if the complainant does not return the Complaint Verification.	Face-to-face meetings are pursued in all cases involving serious allegations. In other cases, decisions on pursuing meetings are determined by the availability of investigative personnel.

C. THE MONITOR'S ASSESSMENT OF COMPLIANCE

The PSP has taken steps to implement many of the recommendations in the OIG Report in the area of complaint processing and investigations. For example, the Commissioner and the Director of the BPR are in the process of drafting Special Orders and Bureau Special Orders that will serve as interim department and bureau directives for proposed sweeping changes to AR 4-25, Internal Investigations, and AR 4-26, Sexual Harassment Policy, specifically addressing

sexual harassment and sexual misconduct.¹⁹ These Special Orders and Bureau Special Orders reflect policy development initiatives to strengthen and broaden the PSP's internal policies concerning complaint processing and investigations.

The PSP has Field Regulations already in place that require members to report personal knowledge of any criminal activity or violation of any law, rule, regulation or order.²⁰ As set forth above, the PSP is in the process of drafting directives that will specifically address sexual harassment and sexual misconduct. The Monitor will report on these directives in the second quarterly report. The Monitor will use the additional reporting periods to evaluate carefully the PSP's efforts to follow existing field regulations and to measure compliance.

Because of the "profound ramifications" stemming from the PSP's failure to document and forward complaints to the BPR,²¹ the Monitor will actively and aggressively scrutinize the PSP's efforts to always report and document members' misconduct, and to discipline those members who fail to do so. The Monitor is mindful that it may be difficult at times for the BPR and/or the Monitor to learn of violations of these field regulations; for example, when a member intentionally disregards the field regulations by failing to report a co-member's misconduct, and witnesses to both the misconduct and the failure to report violation either do not exist or have not come forward, the violation of the field regulation will remain undetected until a witness decides to come forward or other evidence surfaces. Thus, a significant period of time may elapse before a problem becomes known to the BPR, if at all. The ultimate issues that the Monitor will evaluate are: whether current regulations are being enforced; and, whether situations are being scrutinized to determine if members present at the scene of a violation are forthcoming in providing information. The Monitor understands that the PSP has instituted training at the State Police Academy for all new Cadets concerning the responsibility to report misconduct, and the disciplinary consequences for failure to do so.²²

The Monitor is closely evaluating whether the PSP is making sufficient efforts in pursuing complaints where complaint verification forms are not returned specifically where the allegations involve sexual harassment and/or sexual misconduct.

¹⁹ The Director of the BPR provided the Monitor with the completed draft of the Special Order and Bureau Special Order on February 24, 2004. The Monitor anticipates that these directives will be forwarded to the PSP's legal counsel for internal review and approval for compliance with the CBA and other rules and regulations. Because these developments occurred during the second quarterly monitoring period, these directives will be discussed in more detail in the Monitor's Second Quarterly Report.

²⁰ FR 1-1, 1.17, Code of Conduct, does not specifically address sexual harassment or sexual misconduct; it does, however, mandate that members report knowledge of any criminal activity or violation of any law, rule, regulation or order.

²¹ The OIG found that "[t]he failure to document and forward complaints to the [BPR] has 'profound ramifications.'" OIG Report at 11.

²² The PSP provided its Honor of the Force Training to the 115th Cadet class at the State Police Academy on December 3, 2003.

D. THE MONITOR'S RECOMMENDATIONS

The Monitor recommends that the PSP implement an effective outreach program that expands beyond the Internet. The Monitor also recommends that the PSP explore the effectiveness of adding a 24-hour toll-free telephone hotline for citizens to report allegations of sexual harassment and/or sexual misconduct by PSP members.

II. DISCIPLINE

A. THE OIG'S RECOMMENDATIONS AND BACKGROUND

In the discipline area, the OIG made a number of recommendations that would generally affect the operations of the entire agency and specifically affect the operations and mission of the Department Discipline Officer (DDO). The implementation of several of the OIG recommendations would involve making major changes to current PSP policies.

The OIG examined the PSP's current procedure under which Troop Commanders adjudicate alleged violations and determine whether to file a Disciplinary Action Report (DAR) against the subject member(s). The OIG determined that the process allowed the Troop Commander²³ to decline to issue a DAR and to instead address the matter independently. If there is a sustained adjudication and a DAR is issued, it is forwarded to the DDO along with the investigative file including the supplemental General Investigative Report (GI).²⁴ The DDO can only impose sanctions if a DAR is filed; otherwise, the DDO has no role in the process. In order to determine discipline, the DDO considers the DAR and investigative reports, after comparing the alleged misconduct to instances of similar misconduct, reviewing the subject's disciplinary records, official personnel files and any information provided by the subject member in response to the DAR.²⁵ The DDO may request further investigation or conduct limited inquiries, as necessary.

With regard to discipline, after evaluating the DAR, the DDO may impose sanctions ranging from written reprimands to a maximum of a 30-day suspension without pay on the basis of a single DAR. The DDO may impose more serious sanctions, including suspension in excess of 30 days without pay, intertroop transfers, demotions in rank, and dismissal from the PSP with the concurrence of the Deputy Commissioner of Administration and by the authority of the Commissioner on the basis of a single DAR, provided, in court-martial cases, the member has elected the grievance procedure rather than a court-martial.²⁶ The DDO assigns the appropriate

²³ According to Field Regulation 3-3, a member's Area Commander, or Bureau, Office or Division Director may also issue DARs. FR 3-3, Section 3.08.

²⁴ The situation where there is a "sustained with counseling" adjudication issued, and a DAR is not issued, is described in the Monitor's Assessment of Compliance section below.

²⁵ FR 3-3, Section 3.06.

²⁶ Since 1989, only one individual has selected the court-martial proceeding instead of arbitration. The member retired prior to the proceeding.

disciplinary penalty. After the penalty is assigned, there is a 15-day deadline to file a grievance with the Governor's Office of Administration. The matter then goes to the Grievance Committee, which consists of five representatives from the PSTA, four members of the PSP (the DDO, Deputy DDO, and two representatives from Human Resources) and a representative of the Governor's Office of Administration. The matter could be settled in the Grievance Committee.²⁷ If not, the matter proceeds to arbitration where the grievance will be denied or affirmed and an award will be implemented. In accordance with the CBA, discipline is not imposed until the full grievance process is completed.

Based upon the OIG's evaluation of the disciplinary process, specifically in the context of sexual harassment and sexual misconduct cases, it made a number of recommendations listed in the charts below.

B. THE PSP'S RESPONSES

As explained above, the PSP's responses were divided into four categories, three of which are applicable to the recommendations in the discipline area: (1) that the recommendation is already in place; (2) that the recommendation is under consideration; and (3) that the recommendation will not be implemented. The PSP also provided a brief explanation of the reasoning supporting each response.

For the following OIG recommendations, the PSP has responded that the recommendations are already in place:

OIG Recommendation	PSP Response – Already in Place
Establish a policy treating sexual harassment and sexual misconduct as serious offenses and discouraging both offenses institutionally.	This recommendation was accomplished through Special Order 2003-39.
Establish a policy requiring serious disciplinary consequences for members engaging in sexual harassment and/or sexual misconduct. The PSP should set disciplinary guidelines for sexual misconduct that recognize the seriousness of such misconduct.	The PSP has a policy calling for serious disciplinary consequences for members engaging in sexual harassment and/or sexual misconduct.
Authorize the DDO to determine appropriate infractions and discipline.	The DDO determines discipline and lists infractions under current regulations.

²⁷ There is no deadline governing the duration of the committee's consideration of a given matter.

OIG Recommendation	PSP Response – Already in Place
Support S.B. No. 877 or similar legislation requiring the dismissal of members convicted of felonies and some misdemeanors.	The PSP called for and supports this legislation.

For the following OIG recommendation, the PSP responded stated that it is under consideration:

OIG Recommendation	PSP Response – Under Consideration
Establish definitive guidelines setting forth the appropriate discipline for specific kinds of misconduct, which will establish consistency as well as notify members and the public of the PSP's expectations and standards.	In conjunction with the PSTA, the Department is evaluating the use of a disciplinary matrix to ensure uniformity in penalty imposition.

For the following OIG recommendations, the PSP responded that it will not implement these items:

OIG Recommendation	PSP Response – Will Not Be Implemented
Centralize disciplinary procedures to allow the DDO to make all disciplinary determinations.	This recommendation runs counter to PSP policy of having field commanders make adjudications as part of their command role. Centralizing these procedures in the DDO would be unwieldy and costly.
Remove disciplinary decisions from Troop Commanders.	This recommendation runs counter to PSP policy and takes away an important function of the Troop Commanders.
Provide additional staffing to the DDO.	This recommendation is not realistic at this time because of budget constraints.

Additional Actions Taken by The PSP

1. Adjudication Review Committee

The PSP has an Adjudication Review Committee, which includes representation from the BPR, the Bureau of Human Resources, one Area Commander, one Troop Commander, the Chief Counsel and the DDO. The committee is considering various ways to revise and/or improve the disciplinary process. In addition to drafting the Special Order, which is discussed below, the committee is developing training on how to render adjudications. The training will be for Area and Troop Commanders and Bureau/Office/Division Directors. The committee is also considering how and whether to provide training to the sergeants and lieutenants who may be future Troop Commanders or serve in that capacity

and have to render adjudications when a Troop Commander is on vacation or otherwise unavailable.

2. Proposed Special Order -- Administrative Investigation Adjudication Review Process

The PSP has drafted a Special Order that will clarify procedures for the review of Commanders' adjudications. Administrative Regulation 4-25, Internal Investigations, requires Area Commanders/Bureau Directors, or, if circumstances warrant, a Deputy Commissioner, to serve as reviewing officers for all administrative investigations, provide guidance to the Area/Troop Commander or Bureau/Office/Division Director responsible for the adjudication, and endorse the adjudication indicating concurrence or non-concurrence. The draft Special Order will require the Area/Troop Commanders and Bureau/Office/Division Directors to consult with the appropriate reviewing officer prior to advising the subject of the investigation and/or the adjudication.²⁸ The draft Special Order, if implemented, will require that the date and time of the consultation be documented in the adjudicating officer's supplemental GI report.

3. Disciplinary Matrix

The PSP has developed a proposed disciplinary matrix and is currently in consultation with the PSTA on this issue. The purpose of the matrix is to strive for consistency in the application of discipline. The matrix, if adopted, will be used as a guideline for the level and range of disciplinary penalties to be applied to specific violations of the PSP's rules and regulations. The DDO will still take mitigating or aggravating circumstances into account, as well as the member's work history and disciplinary record.

Legislative and Other Efforts to Reform Discipline Within the PSP – The “Confidence in Law Enforcement Act.”

On January 29, 2004, Governor Rendell signed into law the CLE Act. The CLE Act mandated that the State Police suspend without pay State Troopers charged with serious offenses and terminate from employment State Troopers convicted of such offenses. The exception that previously existed - enabling Troopers terminated from employment for serious criminal misconduct only to be possibly reinstated through binding arbitration - has been eliminated. State Police officers are now held to the same standards of accountability as municipal police officers. Thus, the prior practice of State Police arbitrators' meting out discipline (or lack of discipline), through reinstatement to employment of Troopers convicted of serious crimes, is now prohibited by law.

Senate Bill No. 877 was introduced into the General Assembly under a previous administration and sat in legislative committees for years, stalled by opposition to the bill. It was not until after

²⁸ In order to be meaningful, the consultation must take place prior to the subject being advised of the adjudication so changes can be made, if appropriate.

the filing of the sexual misconduct complaints against Evans and the PSP, and the ensuing publicity, that the bill was propelled through the legislature. The Monitor believes it is important to point out that the Commissioner of the PSP supported passage of Senate Bill 877 long before the Evans cases became headline news. At the time of its enactment, the CLE Act had the support of the Governor, the State Legislature, the Commissioner of the PSP, the State OIG and the Pennsylvania State Troopers Association (PSTA).²⁹

The CLE Act does not apply to State Troopers who commit crimes graded below “serious misdemeanor” offenses. Moreover, the CLE Act does not amend Act 111, the law governing police and other Commonwealth employee arbitrations. Act 111, as interpreted by the Pennsylvania Supreme Court, severely restricts the PSP’s ability to seek judicial review of arbitration decisions in discipline cases; that is, the court has applied a narrow scope of review to appeals of discipline grievance arbitrations. In order to achieve further reform in the area of discipline for State Troopers in general, and in the area of discipline for acts of sexual harassment and sexual misconduct in particular, the Monitor believes that serious consideration should be given to amending Act 111 to grant the courts a broader scope of review of arbitration decisions. At the same time, care would have to be taken to ensure that there was no unfairness to the Troopers.

The CLE Act also does not address the pension eligibility of a State Trooper convicted of sexual misconduct. While the state employee pension law prohibits those convicted of certain crimes, such as theft and forgery, from receiving a full pension, it does not prohibit State Troopers convicted of sexual assault and other sexual misconduct crimes from receiving a full pension. The Monitor believes that the state employee pension law should be studied and examined in an effort to determine if an amendment to this law prohibiting state employees, including State Troopers, convicted of sexual misconduct crimes from receiving a full pension is in the best interests of the employees and citizens of the Commonwealth.

The CLE Act is a critical step to implementing the reforms necessary to deter sexual misconduct and other illegal activity in the State Police. The Monitor believes the passage of this law serves the important purpose of restoring public trust in law enforcement by signaling that dramatic changes in discipline are occurring in the State Police. The passage of this law also demonstrates the high level of commitment and cooperation of many diverse parties to effect real change in discipline within the PSP. The Monitor strongly supports the Governor’s and the Commissioner’s continuing efforts to review and evaluate the value of additional legislative measures to continue the progress made to date.

²⁹ Bruce Edwards, President of the PSTA, was quoted as saying that some provisions had been made in the bill along the way to ensure that no language would weaken Act 111, which gives police collective bargaining rights backed by arbitration. “These convictions are now taken out of that entity. There’s no right to arbitration . . . They know the association is not going to be put in a position to try to get a job back if they are convicted of a felony or serious misdemeanor because that’s the law.” Edwards was also quoted as saying that the PSTA is looking to “overhaul the whole disciplinary process.” *Rendell Signs Act That Would Suspend Officers Charged with Felonies*, DailyLocal.com, January 30, 2004.

C. THE MONITOR'S ASSESSMENT OF COMPLIANCE

The PSP has taken steps toward treating sexual harassment and sexual misconduct as serious offenses and discouraging this conduct institutionally. The Commissioner's zero tolerance policy in Special Order 2003-39 is indicative of the emphasis being placed on this issue. PSP officials had difficulty identifying a specific policy outside of Special Order 2003-39 that "call[s] for serious disciplinary consequences for members engaging in sexual harassment and sexual misconduct," although the PSP has expressed its commitment to doing so.

The DDO is charged with rendering disciplinary penalties, centralizing the disciplinary procedures in that regard. The PSP has expressed a reluctance to remove adjudication decisions from Troop/Area Commanders or Bureau/Office/Division Directors. However, the changes proposed in the Special Order related to the adjudication review process described above will assist in addressing the concerns related to the current process by enforcing a supervisory review mechanism of adjudications rendered by Troop Commanders. Furthermore, Troop Commanders were previously allowed to issue a "sustained with counseling" adjudication for investigations. As a result, a DAR would not be issued and the DDO would not render discipline. The Commissioner has disallowed the issuance of the "sustained with counseling" adjudications. This will also assist in increasing accountability on the issue of adjudications.

The PSP has stated that it is instituting a practice of imposing higher levels of discipline for sexual misconduct. The Monitor will further evaluate the PSP's efforts in future months. The proposed disciplinary matrix should also assist in establishing serious penalties for these and other types of offenses and ensuring that the penalties are imposed fairly.

With regard to additional staffing, the DDO is currently staffed by a Director and a Deputy Director. According to the DDO, if the other proposed reforms are implemented and the Troop Commanders continue to render adjudications, there is less of a need for additional staffing. There are no deadlines in the regulations which establish the time within which the DDO must administer a penalty decision. Obviously, the investigative files received by the DDO vary in size and complexity. The Monitor will evaluate the length of time it takes for penalty decisions to be made in order to determine whether there is a legitimate need for additional staffing.

The Monitor will continue to evaluate progress on the proposed Special Order and disciplinary matrix, including training for those who render adjudications and the implementation of serious consequences for sexual harassment and sexual misconduct matters.

D. THE MONITOR'S RECOMMENDATIONS

1. Notably, while sexual harassment is defined in AR 4-26, there is no clear definition of sexual misconduct and no distinction made between the two. The Monitor will provide a definition of sexual misconduct to the PSP, which conforms to Federal EEO guidelines. The Monitor recommends that the PSP incorporate and define sexual misconduct in the appropriate administrative regulations.

2. The PSP should provide for uniform handling of sexual harassment complaints throughout its regulations. The role of the EEO Officer should be clarified to all Area/Troop Commanders and Bureau/Office/Division Directors. For example, AR-25, Internal Investigations, does not effectively incorporate the specific requirements for sexual harassment complaints. In the Duties and Responsibilities Section, the EEO Officer is only mentioned under duties of the Director of the BPR. There, the EEO Officer is referred to as an “Affirmative Action Officer,” which fails to describe the title or duties of the officer.³⁰ The regulations also refer to “affirmative action-related complaints,” the definition of which is unclear. The PSP’s Sexual Harassment Policy, AR 4-26, specifically states that the EEO Officer must endorse any complaint alleging sexual harassment prior to the BPR’s initiating an investigation. Although AR-25 clearly states that all department directives and other relevant provisions and statutes must be strictly adhered to while conducting investigations,³¹ it would be helpful to indicate the appropriate requirements where sexual harassment complaints or the EEOO are specifically mentioned. Also in AR 4-25, under Investigative Procedures for complaints of physical abuse, discrimination and sexual harassment, there is a requirement that all such complaints be investigated immediately at the request of the Office of Chief Counsel.³² However, once again, there is no mention of the requirement, specifically for sexual harassment complaints, that an endorsement from the EEO Officer is required prior to initiating the investigation. This requirement should be listed directly or by reference in AR 4-25.

3. AR 4-25 lists the requirements for the submission of internal investigation reports for full investigations.³³ The regulation states that after reviewing the investigative file, the Director of the BPR should forward it to the Deputy Commissioner for Administration (with copies to the Office of Chief Counsel) for further processing or return it to the investigator for additional investigation. The regulation goes on to list the requirements for an adjudication to be made and communicated to the subject without mentioning the requirement that the EEO Officer must participate in sexual harassment investigations prior to adjudication. Although this regulation is applicable to all investigations, not only sexual harassment, where procedural steps are outlined it would be helpful to list directly these requirements or specifically reference the other relevant directives.

³⁰ AR 4-25, Section 25.08 (B) (2).

³¹ AR 4-25, Section 25.09 (D) (14).

³² AR 4-25, Section 25.09 (D) (1).

³³ AR 4-25, Section 25.09 (G) (2) (3).

III. PRE-EMPLOYMENT BACKGROUND INVESTIGATIONS AND PROBATIONARY EMPLOYMENT

A. THE OIG'S RECOMMENDATIONS AND BACKGROUND

The OIG identified two primary issues in the area of pre-employment background investigations. First, the OIG noted inconsistencies in the manner in which background checks have been conducted and recommended limiting the number of investigators performing background checks in order to gain greater consistency. Second, the OIG observed several cases where applicants were initially screened, only to have such non-hiring decisions overturned by the Appeal Panel. The OIG thus recommended that the Background Investigation Appeal Panel receive more training and adhere to specific standards and burdens of proof in rendering its decisions.

In the area of probationary employment, the OIG examined the deficiencies that occurred in the Evans case, and recommended that the State Police take steps to extend the probationary period of any member when there is a pending BPR investigation. The OIG also recommended greater coordination among the BPR, the EEOO, and the person assigned to the investigation.

B. THE PSP'S RESPONSES

For the following OIG recommendation, the PSP has responded that the recommendation is already in place:

OIG Recommendation	PSP Response – Already In Place
Exercise greater caution in preparing and reviewing the general investigation of every probationary member.	The PSP agrees to emphasize the use of caution.

For the following OIG recommendations, the PSP has responded that it will implement these items:

OIG Recommendation	PSP Response – Will Implement
The PSP should take steps to guide the Background Investigation Appeal Panel and assist it in making more considered decisions with training and articulation of more specific standards.	The PSP will implement this recommendation in that the Bureau of Human Resources will provide appropriate training.
Coordinate the BPR, the EEOO and the member assigned to conduct the general investigation before the end of a probationary period.	This recommendation will be implemented in all cases.

OIG Recommendation	PSP Response – Will Implement
Re-examine the pre-employment background investigation when a complaint is made against a probationary member.	The PSP is implementing this recommendation at this time.

For the following OIG recommendation, the PSP responded stated that it is under consideration:

OIG Recommendation	PSP Response – Under Consideration
Limit the number of investigators performing pre-employment background investigations and encourage investigators performing pre-employment background investigations to express their opinions regarding the suitability of applicants.	The PSP states that investigators are encouraged to express opinions. The PSP is considering a program in which retired Troopers would be hired to perform investigations. This can be accomplished only with cooperation of PSTA.
Take steps to coordinate the probationary review with the BPR and the EEOO before a member passes his or her probationary period. If there is an open investigation, the PSP should take steps to extend the probationary period until the investigation is resolved.	The PSP states that it is currently extending probationary periods, but a formal change would require the cooperation of the PSTA. ³⁴

C. THE MONITOR’S ASSESSMENT OF COMPLIANCE

The PSP has taken limited steps to address deficiencies in its pre-employment background screening and probationary employment. It has stated that investigators are encouraged to express opinions, however, the Monitor has not had an opportunity to verify this statement during the first quarterly reporting period. The OIG’s identification of the need to coordinate the BPR, the EEOO and the investigator conducting the background check has raised awareness and appears to have created a climate for greater information sharing.

Standards have not yet been developed for the Appeal Panel, nor has training been provided. The Monitor will evaluate the PSP’s efforts to articulate standards and develop training for the Background Investigation Appeal Panel.

According to the PSP, further reforms in this area, such as extending the probationary period, will require the cooperation of the PSTA and a change in the CBA.

³⁴ The current CBA requires that the PSTA agree to a probationary period extension; if it does not, the probationer gets member status and full contract coverage. It would therefore be necessary to change the CBA or obtain a side letter agreement with the union in order to get automatic extensions of probationary periods for open investigations of probationers.

D. THE MONITOR'S RECOMMENDATIONS

The Monitor has no specific recommendations in the pre-employment background investigations and probationary employment area at this time. The Monitor has discussed the issues identified by the OIG with several parties and there is no consensus. The Monitor believes that the PSP should seriously consider the option of outsourcing its background checks, not to retired State Troopers, but to a private company that focuses exclusively on pre-employment background screening. The Monitor will continue to evaluate the PSP's options and progress in this area.

IV. SEXUAL HARASSMENT TRAINING AND ATTITUDES REGARDING SEXUAL HARASSMENT AND SEXUAL MISCONDUCT

A. THE OIG'S RECOMMENDATIONS AND BACKGROUND

The OIG's recommendations in this area primarily involve increasing staffing in the Equal Employment Opportunity Office and increasing sexual harassment training at all levels of the PSP.

The EEOO is tasked with developing and implementing the PSP's equal employment opportunity program, which includes the prevention of sexual harassment.³⁵ The office is staffed by a Director and an administrative assistant. The regulations that relate to the responsibilities of the EEOO are contained in Executive Order 2002-5, Management Directive 505.30, Administrative Regulation 1-1, and Administrative Regulation 4-26 (Sexual Harassment Policy).

In the Sexual Harassment Policy, the EEO Officer's duties are generally listed as follows:

1. Ensure the Department's sexual harassment policy is reviewed and updated as needed.
2. Ensure the Governor's policy on sexual harassment is distributed to all personnel on an annual basis.³⁶
3. Ensure that all allegations of sexual harassment are processed in accordance with this regulation (AR-25).
4. For all complaints of sexual harassment, determine whether the complaint is to be handled with a supervisory inquiry or an investigation.

³⁵ Executive Order 2003-10.

³⁶ All PSP employees are required to sign a form acknowledging receipt of the policy during their annual performance review. This form is placed in the employee's personnel file.

5. Ensure all complainants have been advised of their right to file a complaint with the Equal Employment Opportunity Commission, Pennsylvania Human Relations Commission, and/or the State Civil Service Commission, and, advised of the applicable time limitations.
6. Recontact the complainant to provide follow-up information regarding the processing of the complaint.
7. Review, comment on, and forward all Use of Force or Complaint Reception and Processing Worksheets, Form SP 1-101, alleging sexual harassment that were not brought to the attention of the EEO Officer prior to submission, to the Director of the BPR.
8. Ensure the maintenance of a record relative to all complaints of sexual harassment for the PSP.
9. Ensure the PSP personnel are trained with regard to sexual harassment and the PSP's policy.
10. Document complaints on the Grievance/Complaint Record, Form STD-473, and forward it annually to the Office of Administration, and EEOO, for review.
11. Review all completed investigations prior to adjudication.

The Director of the BPR is to ensure that all complaints and worksheets alleging sexual harassment have been endorsed by the EEO Officer prior to initiating an investigation. The BPR Director must also assign an Internal Affairs Division control number and investigator and notify the EEO Officer, in addition to ensuring that the EEO Officer reviews all investigations prior to adjudication.

Each Troop has an EEOO Liaison who is the Troop Staff Services Section Commander or Bureau Labor Relations Coordinator. The Liaisons are tasked with ensuring that: the EEO Officer is contacted for all complaints of harassment prior to any action taking place; all incidents of sexual harassment are handled in accordance with the regulations; the complainant is notified of his or her rights; and the alleged harasser and the harasser's employer are notified (if the alleged harasser is not a PSP employee).³⁷ Liaisons, along with Commanders, Directors and Supervisors, are also tasked with ensuring that the work environment is monitored to keep it free of sexual harassment.

³⁷ AR 4-25, Section 26.04 (C).

B. THE PSP'S RESPONSES

As explained above, the PSP's responses were divided into four categories: (1) the recommendation is already in place; (2) the recommendation will be implemented; (3) the recommendation is under consideration, and (4) the recommendation will not be implemented. The PSP also provided a brief explanation of the reasoning behind each response.

For the following OIG recommendations, the PSP has responded that the recommendations are already in place:

OIG Recommendation	PSP Response – Already in Place
Offer specific sexual harassment training to supervisors at all levels.	Specific sexual harassment training is now being provided.
Support the EEO Officer's efforts to develop a computer based training module and other methods designed to reinforce the Commonwealth's strict prohibition of sexual harassment.	The PSP is supporting these efforts.

For the following OIG recommendations, the PSP has responded that it will implement these items:

OIG Recommendation	PSP Response – Will Be Implemented
Provide specific training on sexual harassment investigations to BPR investigators and EEO Liaisons.	Specific training on sexual misconduct for all enlisted personnel will begin in November 2003.
Make sexual harassment training a more significant portion of cadet training.	Will be implemented by the Bureau of Training and Education.
Make sexual harassment training part of the annual in-service training.	Will be initiated in November 2003 and become part of annual training.
Involve the EEO Officer when an allegation potentially constitutes sexual harassment even if the BPR is already investigating the allegation as a more generalized complaint.	The BPR notifies the EEO Officer of all investigations. The PSP will ensure that the BPR works closely with the EEO on sexual harassment and sexual misconduct issues.
The Monitor should receive periodic status reports from the PSP on any proposed changes and statistical data regarding complaints of sexual harassment and sexual misconduct.	This recommendation will be implemented by providing reports quarterly through a tracking system now under development.
Establish a method by which the BPR and the EEO can measure and monitor sexual harassment and sexual misconduct complaints.	An Internal Affairs Division (IAD) Complaint tracking system is being developed to ensure that the BPR and the EEO can measure and monitor complaints.

For the following OIG recommendation, the PSP response stated that it is under consideration:

OIG Recommendation	PSP Response – Under Consideration
Adopt policies consistent with applicable Commonwealth Executive Orders and Management Directives on sexual harassment.	AR 4-26 was written to comply with orders and directives. The CBA imposes certain constraints on the Department.

For the following OIG recommendation, the PSP responded that it will not implement these items:

OIG Recommendation	PSP Response – Will Not Be Implemented
Amend its Administrative Regulations to reflect that the BPR will investigate all allegations of sexual harassment.	Amending the Administrative Regulations as suggested would adversely impact the responsibilities of the EEOO and would conflict with Management Directive 410.10.
Increase the staffing and support for the EEO Officer to promote greater visibility and to provide a greater role in training and the conduct of investigations.	This recommendation will be evaluated in light of budget constraints.
Amend the organizational structure to require the Director of the BPR to report solely and directly to the Commissioner.	This recommendation presents legal problems by compromising the Commissioner's ability to serve an adjudicative function in court martial cases.

Additional Actions Taken by the PSP

1. Honor of the Force Training

In November 2003, the PSP began offering mandatory training entitled "Honor of the Force." The training was developed to deal with the impact of the sexual misconduct cases and the subsequent OIG investigation. The purpose of the training is to reinforce honor and integrity in the conduct of PSP members. The PSP presented the training to several community organizations for their input prior to its implementation, including the Pennsylvania Coalition Against Rape (PCAR), the Pennsylvania Coalition Against Domestic Violence (PCADV), and the Victims Advocate. According to the PSP, the training has been provided to all sworn members and all Liquor Enforcement Officers. Training for civilians will commence at the end of March 2004.

2. EEOO Database

The EEOO is in the process of developing a database that will track notifications, investigations and training needs. This confidential database will also identify repeat

complainants, repeat offenders and dispositions of complaints thereby serving as a risk management tool. The database will also provide automatic notifications to the BPR.

C. ASSESSMENT OF COMPLIANCE

The PSP has made efforts to increase the amount of training on sexual harassment and sexual misconduct issues and has implemented two new training programs. The Monitor will continue to evaluate the effectiveness of the training programs and the development of the computer based training module.

As for sexual harassment investigations, AR 4-25 does not specifically authorize the EEO Officer to conduct or directly supervise sexual harassment investigations (only supervisory inquiries), although she currently does so at times. In addition to the recommendations in the Discipline section above, the Monitor will assess whether any changes should be made to AR 4-25 or any other regulation to improve investigatory procedures related to this issue.

The Monitor will also evaluate the duties and mandate of the EEO Office to determine whether changes are necessary to effect the recommendations in the OIG Report.

D. THE MONITOR'S RECOMMENDATIONS

1. Equal Opportunity Employment Office Liaisons (Troop Staff Services Section Commanders and Bureau Labor Relations Coordinators) should receive training specifically developed for them on dealing with sexual harassment and sexual misconduct complaints and investigations. At a minimum, the training should take place annually.
2. The Director of Training and Education and the EEO Officer should work closely together in the development of any training which covers sexual harassment.

SECTION FOUR: ADDITIONAL ACTIONS TAKEN BY THE MONITOR

Section Four contains a brief summary of additional actions taken by the Monitor during the first quarterly reporting period. These actions relate to New Investigations and the Early Intervention Program.

I. NEW INVESTIGATIONS

A. THE OIG'S RECOMMENDATIONS AND BACKGROUND

The OIG recommended that the Governor appoint a "Commission . . . to monitor the State Police progress in handling complaints of sexual harassment and sexual misconduct."³⁸ The Monitor determined, with the General Counsel's concurrence, that this recommendation applied to it and suggested a review of all new and pending non-adjudicated investigations involving sexual content to assess compliance with the OIG's numerous other recommendations. The Monitor and the BPR thereafter established a database that contains all active sexual harassment and sexual misconduct investigations. The database includes cases opened before the Monitor became engaged (and not yet adjudicated), as well as cases opened after engagement. The database acts as a tracking mechanism, providing the Monitor with the ability to oversee the progress of new investigations.

The Monitor is reviewing all new and pending non-adjudicated investigations involving sexual content to assess compliance with the OIG's numerous other recommendations.

B. THE PSP'S RESPONSES

The PSP's responses to the OIG's recommendations as detailed in Section Three of this quarterly report apply to the area of New Investigations.

C. THE MONITOR'S ASSESSMENT OF COMPLIANCE

The Monitor needs additional time to evaluate the PSP's compliance with the OIG's many recommendations impacting new investigations. The Monitor will assess compliance in future quarterly reports.

D. THE MONITOR'S RECOMMENDATIONS

The BPR assumed investigative responsibility for all sexual harassment and sexual misconduct investigations in September 2003. However, existing AR 4-25 does not specifically require the BPR to conduct such investigations. The Monitor recommends that AR 4-25 be amended to include specific language mandating that BPR investigators handle all investigations of sexual harassment and sexual misconduct instead of using investigators from the Troops. The Monitor understands that the PSP is in the process of drafting sweeping revisions to AR 4-25 to address this and other issues that the PSP deems to be deficiencies in the existing regulation.

³⁸ OIG Report at p. xiv.

The BPR database does not currently track complaints of sexual harassment and sexual misconduct separately from other types of complaints. The Monitor recommends that the BPR define a specific category of offenses as sexual harassment and sexual misconduct to facilitate more efficient tracking of complaints. The Monitor further recommends that the BPR and the EEOO coordinate the development of their relevant databases to facilitate notifications and other requirements applicable to sexual harassment investigations.

II. EARLY INTERVENTION PROGRAM

A. THE OIG'S RECOMMENDATIONS AND BACKGROUND

Prior to the extensive media coverage of the Evans cases, the PSP initiated efforts to develop an Early Intervention Program.³⁹ The EIP was officially established and became operational on November 24, 2003 with the issuance by the Commissioner of AR 4-36. AR 4-36.01 states that the purpose of the program is "to aid supervisors in identifying members/enforcement officers who may be experiencing stress or are exhibiting a pattern of conduct which may be of concern to the Department." The program requires the creation of an electronic database.

The OIG Report stated that PSP supervisors are sometimes unaware of their subordinates' full record of conduct. While Sustained Disciplinary Action Reports are maintained in a member's official personnel file, complaints that are not sustained, are unfounded, or are withdrawn are not available to supervisors. The OIG recommended that information about all sustained, not sustained, unfounded, and withdrawn cases be provided to current supervisors and new supervisors when a member transfers.

B. THE PSP'S RESPONSES

The Monitor did not note any specific PSP response to the OIG's report on this issue. However, the PSP has created an EIP and the Monitor will continue to review the EIP and provide recommendations for improvement as needed.

C. THE MONITOR'S ASSESSMENT OF COMPLIANCE

The Monitor has met with the Director of the BPR and the Director of the EIP to review and assess the newly created EIP, and to discuss possible improvements to the program. The Director of the EIP has provided the Monitor with complete information about the program and

³⁹ The PSP appointed a Director to develop the EIP, researched 11 State Police/Patrol organizations accredited by the Commission on Accreditation for Law Enforcement Agencies, Inc. (CALEA), and met with three law enforcement agencies: the Philadelphia Police Department; the Pittsburgh Police Department; and the New Jersey State Police, all with existing early warning systems. Pittsburgh and New Jersey are currently under federal consent decrees mandating the creation of early warning systems.

its operation. In addition, the BPR has been cooperative and receptive to the Monitor's ideas to improve the program. The parties are currently evaluating possible changes to the existing EIP.

Since the program's inception through the date of this report, five candidates have been identified for potential inclusion in the EIP. None of the candidates identified have been involved in incidents of sexual harassment or sexual misconduct.

D. THE MONITOR'S RECOMMENDATIONS

The BPR is working with the PSP's Bureau of Technology Services to determine the feasibility of possible modifications to the EIP and IAD computer programs and databases. The Monitor is providing technical assistance in this area. The Monitor will continue to meet with the Director of the EIP on a regular basis to evaluate the effectiveness of this early warning system.

CONCLUSION

The Monitor has developed a comprehensive work plan and has initiated its monitoring of the PSP's implementation of the OIG's recommendations. The first quarter of monitoring activity has revealed that the PSP recognizes the level of commitment necessary to improve State Police complaint processing and investigations, disciplinary procedures, pre-employment background investigations and probationary employment, and training with respect to sexual harassment and sexual misconduct issues. The PSP has taken some steps toward improving its processes for prevention of sexual harassment and sexual misconduct, and for the thorough investigation and proper disposition of complaints. Over the next quarter, the Monitor will continue to familiarize itself with the PSP, conduct compliance assessments and offer recommendations and technical assistance. The Monitor is confident that, with the continued cooperation of the PSP and all other relevant entities, real and meaningful reforms should occur.

Kroll Associates, Inc.
Independent Monitor

March 1, 2004

Principal Contributors

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APPENDIX A

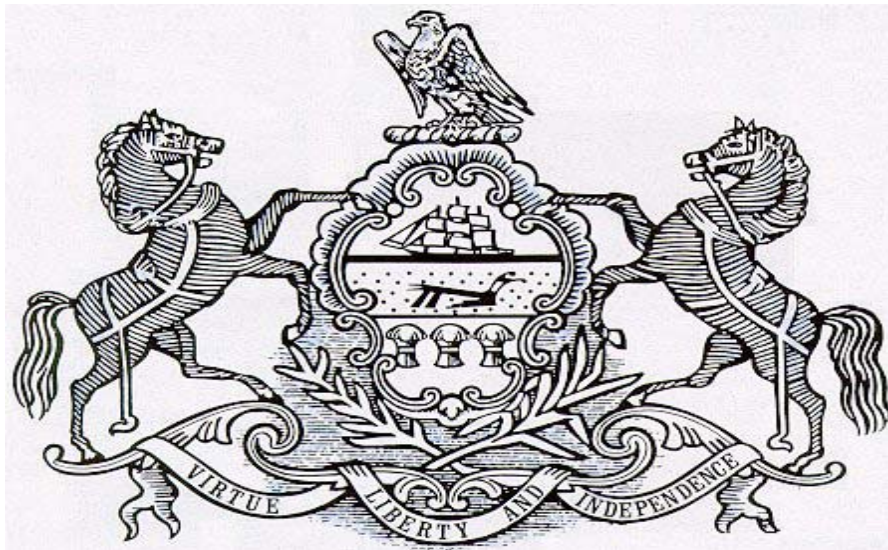
REPORT OF THE INDEPENDENT MONITOR OF THE PENNSYLVANIA STATE POLICE

ACRONYMS

This Appendix provides a listing of acronyms frequently utilized in the Independent Monitor's Quarterly Report.

<u>Acronym</u>	<u>Definition</u>
AR	Administrative Regulations
BPR	Bureau of Professional Responsibility
CALEA	Commission on Accreditation for Law Enforcement Agencies
CBA	Collective Bargaining Agreement
DAR	Discipline Action Report
DDO	Department Disciplinary Office
EEOO	Equal Employment Opportunity Office
EIP	Early Intervention Program
FR	Field Regulations
GI	General Investigative Report
IAD	Internal Affairs Division
OIG	Office of Inspector General
PFA	Protection From Abuse Order
PSP	Pennsylvania State Police
PSTA	Pennsylvania State Troopers Association

**WORK PLAN OF
THE INDEPENDENT MONITOR
OF THE
PENNSYLVANIA STATE POLICE**



Issued March 1, 2004

Kroll

*Office of the Independent Monitor
of the Pennsylvania State Police*

WORK PLAN OF THE INDEPENDENT MONITOR OF THE PENNSYLVANIA STATE POLICE

Kroll Associates, Inc. (“Kroll”) has been appointed by the Office of the Governor of the Commonwealth of Pennsylvania to serve as the Independent Monitor of the Pennsylvania State Police (“PSP”). Pursuant to the terms of its contract, the Monitor provides this Work Plan to the Commonwealth. The Work Plan identifies compliance measurement and assessment processes that will be utilized “to monitor and assess State Police implementation of measures to improve State Police complaint processing and investigation, disciplinary procedures, pre-employment background investigations and probationary employment, and training with respect to all matters of sexual harassment and sexual misconduct issues.”¹

I. Complaint Processing and Investigations

- A. Review relevant rules, regulations, orders, directives, policies and procedures (collectively, “Rules”) to determine whether the recommendations contained in the Office of the Inspector General’s Investigative Report on Sexual Harassment and Sexual Misconduct at the Pennsylvania State Police (“OIG Report”) relating to Complaint Processing and Investigation have been effectively implemented by the PSP, where the PSP has represented that the recommendations are “already in place” or “will be implemented.”

- B. Evaluate whether the PSP has effectively implemented the Rules relating to Complaint Processing and Investigation in its day-to-day operations. In order to make this evaluation, the Monitor will perform the following procedures:
 - 1. Review documentation to confirm or refute whether the Rules are being implemented;
 - 2. Assess training provided on the subject matter;
 - 3. Review investigative files dealing with alleged violations of the Rules;
 - 4. Analyze disciplinary records to determine whether PSP employees have been appropriately disciplined under the relevant Rules;
 - 5. Determine whether the PSP has a function which measures the effectiveness of the Rules;
 - 6. Interview PSP employees regarding the effectiveness of the Rules; and
 - 7. Interview PSP supervisors and review relevant documentation to determine whether employees have been counseled on the Rules.

¹ See Contract For Services entered into on November 3, 2003 by and between Kroll and the Commonwealth of Pennsylvania, Appendix A, Description of Services, at p. 8, ¶ 1.

- C. Evaluate the PSP's outreach program and informational material designed to inform citizens of their right to make complaints or provide feedback to the PSP.
- D. Evaluate and track the progress of the implementation of the recommendations set forth in the OIG Report relating to Complaint Processing and Investigation that the PSP represented it has taken "under consideration." Consider solutions and recommend alternative approaches designed to accomplish implementation of the recommendations contained in the OIG Report, such as changes to the Collective Bargaining Agreement ("CBA") and/or introduction of new legislation or amendments to existing law.
- E. Evaluate the recommendations in the OIG Report relating to Complaint Processing and Investigations that the PSP said "will not be implemented." Determine whether the recommendations should in fact be implemented and/or recommend alternative approaches such as identification of sources of funding and staffing, and, as appropriate, changes to existing Rules.
- F. Evaluate and track new complaints or investigations related to sexual harassment and/or sexual misconduct and review changes to Rules reflecting new policies and procedures.
- G. Provide best practices recommendations, as appropriate.

II. Discipline

- A. Review the Rules to determine whether the recommendations contained in the OIG Report relating to Discipline have been effectively implemented by the PSP, where the PSP has represented that the recommendations are "already in place" or "will be implemented."
- B. Evaluate whether the PSP has effectively implemented the Rules relating to Discipline into its day-to-day operations. In order to make this evaluation, the Monitor will perform the following procedures:
 - 1. Review documentation to confirm or refute whether the Rules are being implemented;
 - 2. Assess training provided in the area of Discipline, if any;
 - 3. Review investigative files and disciplinary proceedings to determine consistency and uniformity of discipline meted out to violators of PSP's Rules relating to sexual harassment and sexual misconduct;
 - 4. Analyze disciplinary records to determine whether PSP employees have been appropriately disciplined under the relevant Rules; and
 - 5. Interview PSP employees regarding the effectiveness of the Rules.

- C. Evaluate and track the progress of implementation of the recommendations set forth in the OIG Report relating to Discipline that the PSP represented it has taken “under consideration.” Consider solutions and recommend alternative approaches designed to accomplish implementation of the recommendations contained in the OIG Report, such as changes to the CBA and/or introduction of new legislation or amendments to existing law.
- D. Evaluate the recommendations relating to Discipline that the PSP said “will not be implemented.” Determine whether the recommendations should in fact be implemented and/or recommend alternative approaches such as identification of sources of funding and staffing, and as appropriate, changes to existing Rules.
- E. Provide best practices recommendations, as appropriate.

III. Sexual Harassment Education and Training

- A. Review the Rules to determine whether the recommendations contained in the OIG Report relating to Sexual Harassment Education and Training have been effectively implemented by the PSP, where the PSP has represented that the recommendations are “already in place” or “will be implemented.”
- B. Evaluate whether the PSP has effectively implemented the Rules relating to Sexual Harassment Education and Training into its day-to-day operations. In order to make this evaluation, the Monitor will perform the following procedures:
 - 1. Assess training curricula to determine whether training is “adequate;”
 - 2. Attend training classes to determine effectiveness; and
 - 3. Assess training schedule and attendance records.
- C. Evaluate and track the progress of implementation of the recommendations in the OIG Report relating to Sexual Harassment Education and Training that the PSP represented it has taken “under consideration.” Consider solutions and recommend alternative approaches designed to accomplish implementation of the recommendations.
- D. Evaluate the recommendations relating to Sexual Harassment Education and Training that the PSP said “will not be implemented.” Determine whether the recommendations should in fact be implemented and/or recommend alternative approaches such as identification of sources of funding and staffing, and, as appropriate, changes to existing Rules.
- E. Provide best practices recommendations, as appropriate.

IV. Pre-Employment Background Investigations and Probationary Employment

- A. Review the Rules to determine whether the recommendations contained in the OIG Report relating to Pre-Employment Background Investigations and Probationary Employment have been effectively implemented by the PSP, where the PSP has represented that the recommendations are “already in place” or “will be implemented.”
- B. Evaluate whether the PSP has effectively implemented the Rules relating to Pre-Employment Background Investigations and Probationary Employment into its day-to-day operations. In order to make this evaluation, the Monitor will perform the following procedures:
 - 1. Review documentation to confirm or refute whether the Rules are being implemented;
 - 2. Assess training provided in the area of Pre-Employment Background Investigations, if any;
 - 3. Review investigative files relating to Pre-Employment Background Investigations to determine whether Rules are being followed and/or implemented; and
 - 4. Interview PSP employees regarding the effectiveness of the Rules.
- C. Evaluate and track the progress of implementation of the recommendations in the OIG Report relating to Pre-Employment Background Investigations and Probationary Employment that the PSP represented it has taken “under consideration.” Consider solutions and recommend alternative approaches designed to accomplish implementation of the recommendations contained in the OIG Report, such as changes to the CBA.
- D. Evaluate the recommendations relating to Pre-Employment Background Investigations and Probationary Employment that the PSP said “will not be implemented.” Determine whether the recommendation should in fact be implemented and/or recommend alternative approaches such as identification of alternative sources of funding and staffing, and, as appropriate, changes to existing Rules.
- E. Provide best practices recommendations, as appropriate.

The Monitor will at all times use its best professional judgment and effective means to prevent and respond to events of sexual harassment and sexual misconduct. The Monitor will also identify best practices, make recommendations and provide technical assistance, as required.

The foregoing task descriptions and methodologies are the starting point, as well as tools, for the Monitor to determine the degree of compliance by the PSP with the recommendations set forth in the OIG Report. The Monitor believes that the application of the methodologies will, in most cases, be dispositive of the issue of compliance. The Monitor reserves the right to reach conclusions relative to compliance that may be at odds with the results of any mechanical formulations set forth in the Work Plan. If such occasion arises, the Monitor must clearly articulate the reasons and rationale for deviation from the measures contained in this document. The Monitor in no way intends by this document to limit full access to documents, meetings or facilities which may not be specifically referred to herein, or to limit its ability to utilize techniques not specifically enumerated herein in order to further measure compliance and/or to validate the methodologies defined herein.

The Monitor will issue quarterly reports assessing the degree of compliance by the PSP with the recommendations set forth in the OIG Report. The quarterly reports will address the issues set forth above, either separately or in some combination, including complaint processing and investigation, disciplinary procedures, pre-employment background investigations and probationary employment, and training with respect to all matters of sexual harassment and sexual misconduct issues. The First Quarterly Report will be provided to the Commonwealth on a mutually agreeable date in March 2004.

Summary of the OIG's Recommendations, the PSP's Responses and the Monitor's Assessment of Compliance
 First Quarterly Report For The Period Ending January 31, 2004

P - Already in Place

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I. COMPLAINT PROCESSING AND INVESTIGATIONS

<u>The OIG's Recommendations</u>	<u>The PSP's Responses</u>	<u>The Monitor's Assessment of Compliance</u>
<p>Require all Members to report personal knowledge of sexual harassment or sexual misconduct and complaints of sexual harassment or sexual misconduct committed by other Members directly to the Bureau of Professional Responsibility and discipline Members who fail to report such conduct. (See OIG Report at p.16)</p>	<p>P Members already required to report misconduct.</p>	<p>The Monitor has determined that all members are mandated to report misconduct by existing Field Regulation (FR) <u>See FR 1-1</u>, Code of Conduct Sections 1.1, Reporting of Information, and 1.28, Internal Investigations. The Monitor will conduct compliance reviews in future quarterly reports to determine if these regulations are being adhered to.</p>
<p>Issue a Field Regulation prohibiting supervisors from independently investigating allegations of direct subordinate sexual misconduct and discipline supervisors who violate the Field Regulation. (See OIG Report at p.17-18)</p>	<p>P Current policy allows Bureau of Professional Responsibility (BPR) to make decisions on assignment of investigator.</p>	<p>BPR in collaboration with the DDO is drafting a proposed command/supervisory FR to specifically address this issue. It is anticipated that the proposed FR, after review and approval by PSP's counsel, will become official PSP policy in AR 4-25. BPR has advised the Monitor that it assigns all investigators to work on matters of sexual harassment and sexual misconduct that involve members of the PSP.</p>
<p>Discipline any Member violating the confidentiality of a sexual harassment or sexual misconduct complaint by disclosing or otherwise discussing the complaint with the subject. (See OIG Report at p.18-19)</p>	<p>P Member can be disciplined under current regulation.</p>	<p>The Monitor has determined that FRs are already in place for this OIG recommendation. Pursuant to FR1-1, Section 1.05, Dissemination of Information, employees of the PSP can be disciplined for violation of disclosure. Pursuant to Sections 1.18, Interference of Investigation, Section 1.20, Interference of a Supervisor in the Disciplinary Process, employees can also be disciplined for breaching the confidentiality of an investigation. FR1-2, Section 2.02, Performance Of Duty, can also be used as an official means of censure for supervisors who violate this rule. The Monitor will conduct further compliance reviews to determine if these regulations are being adhered to department-wide.</p>
<p>Follow up on every complaint regardless of whether the complainant submits a Complaint Verification and prohibit the closure of an internal misconduct complaint by deeming it withdrawn on the basis that a Complaint Verification is not returned. (See OIG Report at p.20)</p>	<p>U Department follows up in all cases of alleged criminal activity. Will consider seeking change to also require in cases of alleged non-criminal activity. Would require cooperation of PSTA and a change in CBA.</p>	<p>The PSP has advised that it is making policy changes to mandate that all cases of alleged non-criminal activity will be followed-up by the BPR. The PSP has stated that it will include the PSTA in making policy changes to AR-25. Such policy changes will also necessitate changes to the CBA. The BPR is in the process of drafting proposed Bureau Special Order 2004-01 which will mandate that, in all cases of sexual harassment and sexual misconduct, BPR will follow-up regardless of whether a complaint verification form is being utilized and/or not returned by the initial complainant.</p>

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<u>The OIG's Recommendations</u>	<u>The PSP's Responses</u>	<u>The Monitor's Assessment of Compliance</u>
Establish a policy and pursue a face-to-face (interview) meeting with the complainant in all cases even if the complainant fails to submit a Complaint Verification. (See OIG Report at p.20)	N Face-to-face meeting is pursued in all cases involving serious allegations. In other cases, decision on pursuing meeting is determined by availability of investigative personnel.	According to the PSP, a face-to-face meeting has been pursued in past cases involving serious allegations. The BPR is in the process of drafting proposed Special Bureau Order 2004-01 which will mandate that, in all sexual harassment and sexual misconduct cases, the BPR will pursue a face-to-face meeting and follow-up. The Monitor will conduct further compliance reviews to determine if the BPR pursues face-to-face meetings.
Develop and implement an effective outreach program to facilitate the ability of citizens to complain or otherwise provide feedback on State Police conduct directly to the Bureau of Professional Responsibility in person, by mail, by telephone, via the Internet, by e-mail, by facsimile transmission, and by a 24-hour toll-free telephone hotline. (See OIG Report at p.21)	P The Department web page now explains in detail how an individual can file a complaint against Department personnel and provides the form for filing the complaint. The complaint must be signed. Site also provides telephone numbers that person can call at any time to report complaint.	The Monitor recommends that the PSP implement an effective outreach program that expands beyond the Internet. The Monitor also recommends that the PSP explore the effectiveness of adding a 24-hour toll-free telephone hotline or other alternatives for citizens to report allegations of sexual harassment and/or sexual misconduct by PSP members.
Develop informational material describing the complaint and feedback process in English, Spanish, and other languages for distribution at State Police headquarters, State Police stations, state operated rest stops, and other locations throughout the Commonwealth. (See OIG Report at p.21)	W Will be implemented Equal Employment Opportunity Office (EEOO).	The PSP was not in compliance with this OIG recommendation at the end of the first quarterly reporting period. The Monitor understands that informational materials are currently being developed by the PSP and the EEOO.

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I. COMPLAINT PROCESSING AND INVESTIGATIONS

<u>The OIG's Recommendations</u>	<u>The PSP's Responses</u>	<u>The Monitor's Assessment of Compliance</u>
<p>Host quarterly or other periodic informational meetings designed to inform communities on proper State Police functions and procedures and the methods for reporting civilian complaints and compliments regarding Members. (See OIG Report at p.22)</p>	<p>W Will be implemented through community outreach programs conducted by troops.</p>	<p>The PSP was not in compliance with this OIG recommendation during the first quarterly reporting period. The Director of the BPR has made plans to work with the Executive Officer for the Deputy of Operations and the Bureau of Training and Education to develop a Special Order mandating that complaint and compliment information be provided to citizens at PSP troop community outreach meetings. The PSP has stated that information will be provided monthly and will be tied in with the PSP's Problem Specific Policing Initiative when PSP officials meet with the community to learn what is most affecting the community's quality of life. The PSP has stated that its new plan will also document what information was provided at these meetings and the results. The Monitor will attend select troop community outreach meetings and conduct compliance reviews in future quarterly reports to determine if the PSP is hosting meetings and providing information relevant to this matter to the various committees.</p>
<p>Stop assigning allegations of sexual harassment or sexual misconduct to investigators at the Troop level and permanently assign it to the Bureau of Professional Responsibility. (See OIG Report at p.24-25)</p>	<p>P Allegations of sexual misconduct are assigned to BPR. Determination of assignment of sexual harassment decided by BPR in consultation with EEOO.</p>	<p>The PSP has advised the Monitor that, as of September 26, 2003, all allegations involving both sexual harassment and sexual misconduct have been investigated by the BPR, either at its headquarters or at one of its four off-site field units. The PSP has further advised that no investigations involving sexual content are being referred out to the troops. The BPR is in the process of drafting proposed Bureau Special Order 2004-01 addressing this issue. The Monitor will conduct compliance reviews in future quarterly reports to assess the PSP's implementation of this recommendation.</p>
<p>Commit to the assignment of additional investigators to the Bureau of Professional Responsibility sufficient to permit it to conduct all investigations of sexual harassment and sexual misconduct by permanently assigned personnel. (See OIG Report at p. 25)</p>	<p>P Department has added one investigator to Internal Affairs Division. Considering possibility of adding second investigator.</p>	<p>Two BPR investigators have been added to BPR off-site units in Pennsylvania; one was assigned on August 16, 2003 to the Harrisburg office of the Internal Affairs Division, and one was assigned to the Harmarville office on December 6, 2003. Both investigators report directly to the Director of the BPR and handle BPR investigations exclusively. The Monitor recommends that one additional investigator be added to the Philadelphia Office of the BPR to meet the demanding workload being generated in the Philadelphia area. The Monitor also recommends adding one officer and one non-commissioned officer to BPR headquarters, to handle the additional workload being generated by the OIG's Report.</p>

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<u>The OIG's Recommendations</u>	<u>The PSP's Responses</u>	<u>The Monitor's Assessment of Compliance</u>
Establish a firm, written policy for all Bureau of Professional Responsibility investigations requiring documentation of each witness interview. (See OIG Report at p. 26)	W Documentation now required in all BPR investigations. Change will be implemented requiring documentation in all investigations done at Troop level.	An informal policy was adopted by the BPR in September 26, 2003 and, according to the BPR, has been followed since that date. The BPR is in the process of drafting proposed Bureau Special Order 2004-01 which will establish a firm written policy requiring documentation of all witness interviews. BPR has modified its pre-existing forms, including interview verification forms, for all internal investigations. If the internal investigation form is not being utilized, then all interviews must be taped. AR 4-25 provides written authority to insist on both the interview verification form and/or any taping of witness interviews.
Implement additional measures in addressing Protection From Abuse proceedings involving Members, including proceeding with Bureau of Professional Responsibility investigations even if the complaining victim recants or withdraws a Protection From Abuse Order. Specifically, PSP should follow the International Association of Chiefs of Police model policy on Police Officer Domestic Violence. (See OIG Report at p.27-28)	W Department is studying model policy regarding PFAs generated by International Association of Chiefs of Police and will implement in PSP regulations.	The BPR is currently in the process of drafting a policy that will be modeled after the International Association of the Chiefs of Police proposal.
Emphasize the importance of completing a full investigation into allegations of sexual harassment and sexual misconduct through training and supervisory reviews. (See OIG Report at p.30)	P Mandated by regulation. Will be further emphasized through training.	Existing regulations, the AR 4-26 Sexual Harassment Policy and AR 4-22 Employee Performance Review Program, address this OIG recommendation. Each employee is graded in his/her annual performance review for compliance with this regulation. The Monitor will conduct compliance reviews in future quarterly reports to assess the PSP's implementation of this recommendation.

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I. COMPLAINT PROCESSING AND INVESTIGATIONS

<u>The OIG's Recommendations</u>	<u>The PSP's Responses</u>	<u>The Monitor's Assessment of Compliance</u>
Provide information about all sustained, not sustained, unfounded, and withdrawn cases to the current supervisor and new supervisors when Members are transferred. (See OIG Report at p.34)	W Will implement.	The PSP has stated that it will implement this OIG recommendation with the first transfers of members as a result of disciplinary problems during the year 2004. The Monitor will confirm the methodology as each individual gets transferred. Troop Commanders and Bureau Directors have been briefed with a synopsis of the disciplinary transfers dating back to five years from offense. IAD computer software is being reviewed and formatted in order to accomplish this task and to provide intelligence to all Troop Commanders. The new database system will be able to track and provide information of disciplinary infractions that have been committed by PSP employees prior to their new post of duty when they are transferred. The Monitor notes that the PSTA has filed, with the Pennsylvania Labor Relations Board, a charge of unfair labor practice against the PSP for implementation of the EIP to identify Troopers who may violate rules of conduct.

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II. DISCIPLINE

<u>The OIG's Recommendations</u>	<u>The PSP's Responses</u>	<u>The Monitor's Assessment of Compliance</u>
<p>Consistent with the Commissioner's zero tolerance policy on sexual misconduct, establish and embrace a policy treating sexual harassment and sexual misconduct as serious offenses and discouraging it institutionally. (See OIG Report at p.37)</p>	<p>P Accomplished through Special Order 2003-39.</p>	<p>The Commissioner's zero tolerance policy has been established in Special Order 2003-39. This Special Order reaffirmed existing guidelines on this topic. See AR 4-26, FR 1-1, Code of Conduct and Section 1.35, the Section on Discrimination and/or Harassment.</p>
<p>Establish a policy of serious disciplinary consequences for Members engaging in sexual harassment and sexual misconduct. (See OIG Report at p.37)</p>	<p>P Department has policy calling for serious disciplinary consequences for members engaging in sexual harassment and sexual misconduct.</p>	<p>The PSP has developed a proposed disciplinary matrix and is currently in consultation with the PSTA on this issue. The purpose of the matrix is to strive for consistency in the application of discipline. The matrix, if adopted, will be used as a guideline for the level and range of disciplinary penalties to be applied to specific violations of the PSP's rules and regulations. The DDO will still take mitigating or aggravating circumstances into account, as well as the member's work history and disciplinary record. Effective June 25, 2003, the Commissioner announced that members disciplined can no longer trade suspension days for annual leave days. The Monitor notes that the PSTA has filed, with the Pennsylvania Labor Relations Board, a charge of unfair labor practice against the PSP for implementation of the policy that a Trooper will no longer be able to exchange vacation leave for days which have been designated for disciplinary suspension of that Trooper.</p>
<p>State Police centralize its disciplinary procedures to allow the Department Disciplinary Officer to make all disciplinary determinations. (See OIG Report at p.38)</p>	<p>N This recommendation runs counter to State Police policy of having field commanders make adjudications as part of their command role. Centralizing of procedure in DDO would be unwieldy and costly.</p>	<p>The PSP's disciplinary procedures are being evaluated by the Commissioner, the BPR, the DDO and the PSTA. Adjudication Training is scheduled for the next quarter and being coordinated with the BPR, the DDO, Legal, and the Area Committee.</p>
<p>Remove disciplinary decisions from Troop Commanders. (See OIG Report at p.38)</p>	<p>N This recommendation runs counter to State Police policy and takes away an important function of the troop commander.</p>	<p>The PSP has an Adjudication Review Committee, which includes representation from the BPR, HR, one Area Commander and one Troop Commander. The committee is considering various ways to improve the disciplinary process. The Monitor will conduct further evaluation of this OIG recommendation in future quarterly reporting periods.</p>

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Authorize the Department Disciplinary Officer to determine appropriate infractions and discipline. (See OIG Report at p.39)	P DDO determines discipline and lists infractions under current regulations.	The PSP is currently in consultation with the PSTA in development of a proposed disciplinary matrix. The PSP has advised that, under the matrix, the DDO will determine discipline taking mitigating and aggravating circumstances into account, as well as a member's work history and disciplinary record.
Provide additional staffing to the Department Disciplinary Officer. (See OIG Report at p.39)	N Not realistic at this time because of budget constraints.	The DDO is currently staffed by a Director and a Deputy Director. According to the DDO, if the other proposed reforms are implemented and the Troop Commanders continue to render adjudications, there is less of a need for additional staffing. The Monitor will continue to evaluate the DDO's potential needs for additional staffing.
Establish definitive guidelines setting forth the appropriate discipline for specific kinds of misconduct, which will establish consistency as well as notify Members and the public of State Police expectations and standards. (See OIG Report at p.39)	U In conjunction with the Pennsylvania State Troopers Association, Department is evaluating the use of a discipline matrix to ensure uniformity in penalty imposition.	As set forth above, this OIG recommendation will be addressed with the establishment of the discipline matrix. The matrix will be made available to all members of the PSP and to the general public.
Support S.B. No. 877 or similar legislation requiring the dismissal of Members convicted of felonies and some misdemeanors. (See OIG Report at p.43)	P The Department called for and supports this legislation.	On January 29, 2004, Governor Rendell signed into law the CLE Act mandating that the State Police suspend, without pay, State Troopers charged with serious offenses and terminate from employment Troopers convicted of such offenses. The law becomes effective July 1, 2004.

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III. PRE-EMPLOYMENT BACKGROUND INVESTIGATIONS AND PROBATIONARY EMPLOYMENT

<u>The OIG's Recommendations</u>	<u>The PSP's Responses</u>	<u>The Monitor's Assessment of Compliance</u>
<p>Limit the number of investigators performing pre-employment background investigations and encourage investigators performing pre-employment background investigations to express their opinions regarding the suitability of applicants. (See OIG Report at p.51)</p>	<p>U Investigators are encouraged to express opinions. Department considering program in which retired troopers would be hired to perform investigations. This can be accomplished only with cooperation of PSTA.</p>	<p>The PSP has taken limited steps to address deficiencies in its pre-employment screening and probationary employment. It has stated that investigators are encouraged to express opinions, however, the Monitor has not verified this statement during the first quarterly reporting period. The Monitor recommends that the PSP seriously consider the option of outsourcing its background checks, not to retired State Troopers, but to a private company that focuses exclusively on pre-employment background screening. The Monitor will continue to evaluate the PSP's progress in this area.</p>
<p>State Police take steps to guide the Background Investigation Appeal Panel and assist it in making more considered decisions with training and articulation of more specific standards. (See OIG Report at p.57)</p>	<p>W Training will be provided by Bureau of Human Resources.</p>	<p>The PSP is not in compliance with this OIG recommendation. Standards have not yet been developed for the Appeal Panel, nor has training been provided. The Monitor will further evaluate the PSP's compliance with this recommendation in future quarterly periods.</p>
<p>Take steps to coordinate the probationary review with the Bureau of Professional Responsibility and the Equal Employment Opportunity Officer before a Member passes his or her probationary period. If there is an open investigation, the State Police should take steps to extend the probationary period until resolved. (See OIG Report at p.58)</p>	<p>U Department extending probationary periods now, but formal change requires cooperation of PSTA.</p>	<p>The PSP has stated that extending the probationary period will require the cooperation of the PSTA and a change in the CBA. The Monitor will continue to evaluate the PSP's progress in this area.</p>
<p>Coordinate with the Bureau of Professional Responsibility, the Equal Employment Opportunity Officer and the member assigned to conduct the general investigation before the end of a probationary period. (See OIG Report at p.58)</p>	<p>W Will implement in all cases.</p>	<p>The OIG's identification of the need to coordinate the BPR, the EEOO and the investigator conducting the background check has raised awareness and appears to have created a climate for greater information sharing.</p>

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Re-examine the pre-employment background investigation when a complaint is made against a probationary member. (See OIG Report at p.59)	W Implementing at this time.	The PSP has stated that it is re-examining its investigation practices when a complaint is made against a probationary member. Implementation of this recommendation implicates the CBA.
Exercise greater caution in preparing and reviewing the general investigation of every probationary Member. (See OIG Report at p.59)	P Department agrees to emphasize use of caution.	The PSP has stated that it agrees to emphasize greater caution in preparing and reviewing the general investigation of every probationary member. The Monitor will assess the PSP's compliance with this recommendation in future quarterly reports.

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IV. SEXUAL HARASSMENT AND TRAINING

<u>The OIG's Recommendations</u>	<u>The PSP's Responses</u>	<u>The Monitor's Assessment of Compliance</u>
<p>Amend its Administrative Regulation to reflect that the Bureau of Professional Responsibility will investigate all allegations of sexual harassment. (See OIG Report at p.64)</p>	<p>N Amending of Administrative Regulations as suggested would adversely impact the responsibilities of the EEOO and would conflict with Management Directive 410.10.</p>	<p>The Monitor will assess whether any changes should be made to existing regulations to improve investigatory procedures related to this issue in future quarterly reports.</p>
<p>Adopt policies consistent with applicable Commonwealth Executive Orders and Management Directives on sexual harassment. (See OIG Report at p.64)</p>	<p>U AR 4.26 was written to comply with orders and directives. The CBA imposes certain constraints on the Department.</p>	<p>The Monitor will assess whether any changes should be made to existing policies in future quarterly reports. The Commissioner has reaffirmed the PSP's zero tolerance policy against sexual harassment and sexual misconduct.</p>
<p>Provide specific training on sexual harassment investigations to Bureau of Professional Responsibility investigators. (See OIG Report at p.66)</p>	<p>W Specific training on sexual misconduct for all enlisted personnel will begin in November 2003.</p>	<p>The PSP has made efforts to increase the amount of training on sexual harassment and sexual misconduct issues. The BPR has advised that it is currently developing a training course specifically designed to meet the needs of the BPR's IAD investigators. The BPR is developing such training course with women having expertise in the area of sexual harassment.</p>
<p>Make sexual harassment training a more significant portion of cadet training. (See OIG Report at p.68)</p>	<p>W Will be implemented by Bureau of Training and Education.</p>	<p>The PSP has advised that the 115th Cadet class received sexual harassment training from the EEOO on November 9, 2003. The Monitor will conduct compliance reviews of cadet training in future quarterly reports. The Monitor has determined that this is an ongoing priority within the Bureau of Training and Education (BTE) and that the Monitor will work closely with BTE to conform to this OIG recommendation. It should be noted that the BTE is preparing a course of instruction on this topic.</p>

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<p>Offer specific sexual harassment training to supervisors at all levels. (See OIG Report at p.68)</p>	<p>P Specific sexual harassment training now being provided.</p>	<p>In November 2003, the PSP began offering mandatory training entitled "Honor of the Force." The training was developed to deal with the impact of the sexual misconduct cases and the subsequent OIG investigation. The purpose of the training is to reinforce honor and integrity in the conduct of PSP members. The PSP presented the training to several community organizations for their input prior to its implementation, including the Pennsylvania Coalition Against Rape (PCAR), the Pennsylvania Coalition Against Domestic Violence (PCADV), and the Victims Advocate. According to the PSP, the training has been provided to all sworn members and all Liquor Enforcement Officers. Training for civilians will commence at the end of March 2004.</p>
<p>Make sexual harassment training part of the annual in-service training. (See OIG Report at p.68)</p>	<p>W Will be initiated in November 2003 and become part of annual training.</p>	<p>The PSP has stated that specific sexual harassment training is being provided through the Honor of the Force training for all personnel. The Monitor will conduct compliance reviews of the PSP's training efforts in future quarterly reports.</p>
<p>Support the Equal Employment Opportunity Officer's efforts to develop a computer based training module and other methods designed to reinforce the Commonwealth's strict prohibition of sexual harassment. (See OIG Report at p.68)</p>	<p>P The Department is supporting these efforts.</p>	<p>The EEO is in the process of developing a database that will track notifications, investigations and training needs. This confidential database will also identify repeat complainants, repeat offenders and dispositions of complaints thereby serving as a risk management tool. The database will also provide automatic notifications to the BPR.</p>
<p>Increase the staffing and support for the Equal Employment Opportunity Officer to promote greater visibility and to provide a greater role in training and the conduct of investigations. (See OIG Report at p.69)</p>	<p>N Will be evaluated in light of budget constraints.</p>	<p>The Monitor will continue to evaluate the need for increased staffing and support for the EEO Officer taking into consideration other changes being implemented by the PSP to prevent sexual harassment and sexual misconduct.</p>
<p>Involve the Equal Employment Opportunity Officer when an allegation potentially constitutes sexual harassment even if the Bureau of Professional Responsibility is already investigating the allegation as more generalized misconduct. (See OIG Report at p.70)</p>	<p>W BPR notifies EEO Office of investigations. Department will ensure that BPR works closely with EEOO on sexual misconduct and sexual harassment issues.</p>	<p>The BPR and the EEO Officer have stated that the BPR notifies EEOO when an allegation potentially constitutes sexual harassment. The Monitor will conduct compliance reviews in future quarterly reports to assess whether the BPR is involving the EEO Officer sufficiently in sexual harassment and sexual misconduct investigations.</p>

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V. ATTITUDES REGARDING SEXUAL HARASSMENT AND SEXUAL MISCONDUCT

<u>The OIG's Recommendations</u>	<u>The PSP's Responses</u>	<u>The Monitor's Assessment of Compliance</u>
<p>Establish a method by which the Bureau of Professional Responsibility and the Equal Employment Opportunity Officer can measure and monitor sexual harassment and sexual misconduct complaints. (See OIG Report at p.77)</p>	<p>W An Internal Affairs Division Discipline tracking system is being developed to ensure that BPR and EEOO can measure and monitor complaints.</p>	<p>The Monitor recommends that the PSP explore developing a risk management function to assist in the identification of negative trends and impending issues in the agency. The Commissioner has stated that he will evaluate and consider the Monitor's recommendation in this area.</p>
<p>The Monitor should receive periodic status reports from PSP on any proposed changes and statistical data regarding complaints of sexual harassment and sexual misconduct. (See OIG Report at p.77)</p>	<p>W Will be provided quarterly through tracking system under development.</p>	<p>The PSP has provided the Monitor with all information requested, including status reports on proposed changes to rules, regulations and policies, and statistical data regarding complaints of sexual harassment and sexual misconduct. The BPR and the Bureau of Technology Services are currently evaluating new computer software to track complaints and investigations.</p>
<p>Amend the organizational structure to require the Director of the Bureau of Professional Responsibility to report solely and directly to the Commissioner. (See OIG Report at p.78)</p>	<p>N This presents legal problems by compromising Commissioner's ability to serve an adjudicative function in court martial cases</p>	<p>The Monitor recommends that the PSP form a working group which includes representation from all relevant bureaus and offices that are directly impacted by the OIG's recommendations. The Monitor also recommends that the PSP consider developing a risk management function. The Commissioner has informed the Monitor that he has developed a solution that addresses the Monitor's recommendations in this area. The solution developed by the Commissioner would amend that organizational structure to, in effect, bring the PSP in compliance with this OIG recommendation.</p>