



# OLEPS

OFFICE OF LAW ENFORCEMENT PROFESSIONAL STANDARDS

## Fourth Monitoring Report October 2012

New Jersey Office of the Attorney General • Jeffrey S. Chiesa, *Attorney General*

Office of Law Enforcement Professional Standards • Christina M. Glogoff, *Director*



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## Executive Summary

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OLEPS Fourth Monitoring Report utilizes revised monitoring standards to assess the New Jersey State Police (State Police). Since the Consent Decree, dissolved in September 2009, was no longer in effect during the fourth reporting period, OLEPS determined that the task requirements of 90% and 94% error free activities were no longer appropriate. These standards were created to enable the possibility of dissolving the Decree. Now that the Decree has been dissolved, OLEPS has implemented a new methodology for assessment.

Many of the tasks of the Decree have been incorporated into State Police Standing Operating Procedures (S.O.P.s), rules, regulations, Operating Instructions (O.I.s), and policies. Since the Decree is no longer in effect, OLEPS now assesses and evaluates the State Police's adherence to its own policies and procedures. Accordingly, the items referred to as "Tasks" in previous monitoring reports are now "Performance Standards". All references to "compliance" have been removed from the report, with the exception of Appendix Two, which serves as a historical record of State Police compliance.

This new format of assessment did not change the procedure of OLEPS' assessment; a sample of motor vehicle stops still underwent detailed review by OLEPS staff. As in previous reports, records and documentation from Field Operations, MAPPS, OPS, and the Training Bureau were also reviewed. OLEPS also reviewed data on management activities of the State Police, contained in the Management Awareness Personnel Performance System (MAPPS). Audits of the State Police internal affairs procedures were also assessed for compliance. Training activities conducted during this reporting period will be assessed in the Fifth OLEPS Monitoring Report.

OLEPS reviewed and analyzed data from 714 motor vehicle stops and associated records of these stops to determine whether State Police activity was consistent with performance standards developed from the State Police's own policies and procedures. The major findings of this report include:

- OLEPS did not find evidence that the State Police was engaging in any race/ethnicity based decision making processes in this reporting period. Differences in enforcement activities are more likely the result of chance rather than purposeful behavior.
  - OLEPS did note a pattern where motor vehicle stops of Hispanic drivers with RAS Consent Requests were significantly longer than those of White and Black drivers. OLEPS examined each of these stops to determine whether there were any issues of "fishing" for RAS. There were no apparent issues with the stops themselves. OLEPS will continue to monitor the length of motor vehicle stops including those with a variety of enforcement activities.
- OLEPS continues to find that consent to search forms are missing or incomplete. The stops in this reporting period were conducted in 2010, just prior to policy changes requiring computer scans of forms. OLEPS recognizes the State Police has implemented this change and recommends the State Police continue its effort to ensure that these forms are filled out appropriately and filed according to State Police policies.
- There were several motor vehicle stops that involved canine deployments not conducted according to State Police policy requiring supervisory approval. OLEPS noted several stops

where a canine was used at the scene of a stop because the trooper handling the canine was serving as back up. In these stops, there was no formal request for a canine deployment made to a supervisor not involved in the stop. OLEPS recommends that the State Police reiterate its policy on canine deployments to troopers, ensure that these deployments are conducted correctly, and meet the appropriate evidentiary standards of either reasonable articulable suspicion or probable cause.

- As found in the previous monitoring report, standard reviews of critical motor vehicle stops are being conducted by troop level reviewers rather than station level reviewers. It is OLEPS' opinion that these reviews should be handled by station level supervisors who are more directly involved with the individual trooper conducting the stop to facilitate feedback of job performance.
- During the MAPPS Audit performed for this reporting period, OLEPS noted an issue with training records in MAPPS. Specifically, training that was provided by an outside vendor, NJ Learn, is not recorded in MAPPS as completed training for troopers. OLEPS recommends that NJ Learn training results be entered into the ACTS database, which feeds into MAPPS training information.
- As in the Third Monitoring Report, OLEPS noted several issues with the meaningful review process. Specifically, in this reporting period, the triggers for a meaningful review changed since the previous reporting period whereby reviews were now begun while misconducts were still pending investigation. However, unlike the last reporting period, there was only one meaningful review that was not noted as either an intervention or journal entry in MAPPS. OLEPS continues to recommend the State Police formalize this process and include language specifying when a meaningful review can begin, the process for conducting the review, and the appropriate way to document such reviews within MAPPS.

In sum, the State Police adheres to its policies and procedures regarding trooper activities. While OLEPS did find some evidence of aberrations from policy, the majority of troopers perform their duties as required. OLEPS anticipates that this and future monitoring reports will serve as a resource for the State Police and be used to identify any potential areas of weakness or in need of improvement.

# FOURTH MONITORING REPORT OF THE NEW JERSEY STATE POLICE OFFICE OF LAW ENFORCEMENT PROFESSIONAL STANDARDS JANUARY 1, 2010 TO DECEMBER 31, 2010

## Introduction

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Pursuant to the Law Enforcement Professional Standards Act of 2009 (N.J.S.A. 52:17B-222, et. seq.) (the Act), the Office of Law Enforcement Professional Standards (OLEPS) is required to publish biannual reports assessing the New Jersey State Police's (State Police) compliance with relevant performance standards and procedures. Dissolved in September 2009, the federal Consent Decree (the Decree) outlined procedures and policies for State Police to implement. Many of the reforms accomplished under the Consent Decree have been codified in rules, regulations, standing operating procedures (S.O.P.s), operating instructions (O.I.s), or the operating procedures of the organization. The monitoring reports, which formerly assessed compliance with the Decree, now reflect the State Police's adherence to these reforms. For a more detailed history concerning the Consent Decree, see previous monitoring reports at [www.nj.gov/oag/oleps](http://www.nj.gov/oag/oleps).

This Fourth Monitoring Report reviews activities undertaken by the State Police between January 1, 2010 and December 31, 2010. This report represents the first full reporting period after the dissolution of the Decree and maintains the spirit of compliance within the Decree as discussed in previous monitoring reports. While substantively similar to the Decree, OLEPS has implemented several changes to this report to better reflect the current policies, procedures, and practices of the State Police. The "Tasks" of previous monitoring reports are now known as "Performance Standards." Additionally, several Tasks from the Decree may be encompassed by a single performance standard. OLEPS has revised these standards to reflect current practices of the State Police with the understanding that these standards will be updated as the S.O.P.s of the organization evolve.

The methodology employed by OLEPS in developing this report and operational definitions of compliance are described in Part I of the report. Part II of the report, describes the data and sample utilized for this reporting period. Part III, Assessment, includes the findings of OLEPS' monitoring process. Specific examples of behavior observed during the monitoring process are also noted. Within Part III, several chapters detail standards based on overall relevance to Field Operations, Supervisory Review, Management Awareness Personnel Performance System (MAPPS), Training, the Office of Professional Standards (OPS), and Oversight and Public Information requirements. The methodology used to assess performance standards is outlined at the beginning of each Chapter. Chapter Six of the report, Summary, provides an overall assessment of the State's performance and any potential recommendations. Appendix One presents a listing of all previous monitoring reports, their date of publication, and the reporting period covered. Appendix Two summarizes levels of compliance with Consent Decree tasks and the date on which compliance was achieved. Appendix Three presents additional analyses relevant to Part III. Appendix Four lists definitions for commonly used abbreviations in this report. Finally, Appendix Five contains a map of the State Police's troops and stations.

Introduction

# PART I

## MONITORING METHODOLOGY & PROCESS

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Part I details the methodology used to assess the State Police. This methodology applies to all standards within this report (supplemental methodologies may also be listed for each standard). The bulk of the data utilized in this report pertain to field operations and activities occurring during motor vehicle stops.

All assessments of the State Police are data and policy review based, formed by a review of records and documents prepared in the normal course of business. No special reports prepared by the State Police were accepted as evidence of adherence to performance standards. Instead, OLEPS reviewed records created during the delivery or performance of tasks/activities.

OLEPS legislation (Act) requires the publication of two monitoring reports a year, which is traditionally handled by publishing reports covering two six month reporting periods. The Fourth Monitoring Report, however, will cover an entire calendar year, January 1, 2010- December 31, 2010.

### Standards for Assessment

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As of September 2009, the State Police were no longer subject to the Consent Decree. The standards of 90% and 94% were originally created as a benchmark of achievement that once reached, would enable the dissolution of the Consent Decree. Since these benchmarks are no longer applicable, OLEPS now assesses the State Police according to its rules and procedures. Dissolution of the Consent Decree was contingent upon the continued promulgation of those tasks outlined in the Consent Decree and codified by the Act.

For the current report, the State Police are deemed to be functioning appropriately to the extent that the organization adheres to the policies and procedures set forth in the Act and the Division's own rules, regulations, S.O.P.s, and O.I.s.

The text of the report will include a discussion of how many stops did and did not follow the required policies and procedures, how many errors were noted in a supervisory review, and how many errors generated a formal intervention.<sup>1</sup> OLEPS will discuss motor vehicle stop activity in the current reporting period and situate it in the context of past monitoring reports to determine changes in overall activity and adherence to State Police policies and procedures. OLEPS will continue to issue recommendations to the State Police based on observed events, especially where a pattern or practice of behavior is developing.

Supervisory review plays a prominent role in the monitoring of the State Police. Many of the tasks under the Decree dealt with supervisor responsibilities, accountability to supervisors, and a system to aid in supervision of all troopers (MAPPS). In light of this, OLEPS continues to monitor the State Police as the independent monitors did; by comparing the number of errors caught by supervisors to

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<sup>1</sup> The majority of errors do not generate a formal intervention, despite the requirement to do so. This issue was addressed with the State Police. For the current reporting period, OLEPS will not assess whether a formal intervention was made for each error. OLEPS and the State Police have agreed that this requirement will be assessed beginning in the Fifth Monitoring Report.

those caught by OLEPS. This allows OLEPS to assess the ability of the State Police to monitor itself through proper supervision, review, and documentation.

The Performance Standards listed in this report will evolve with State Police rules, regulations, S.O.P.s, O.I.s, and organizational operating procedures. In this sense, the monitoring report should be seen as a living document that will evaluate the State Police in accordance with current policies and procedures. Through this report, OLEPS maintains its goal of assisting the State Police in self-assessment. As such, these monitoring reports should be used as a tool to supplement the State Police's own assessments and evaluations.

## PART II

# DATA & SAMPLE DESCRIPTION

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To assess the State Police's performance, OLEPS examines State Police activity in a number of ways. Field Operations are monitored through a detailed review of a sample of motor vehicle stops. OLEPS also accesses State Police databases and records systems to find evidence of requirements and adherence to policies. OLEPS reviews S.O.P.s for the State Police prior to implementation to ensure that they are appropriate, consistent with the Act, and adequately address any developments in constitutional law.

### Field Operations

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The State Police provided data to OLEPS, pursuant to specific data requests. Under no circumstances were the data selected by OLEPS based on provision of records of preference by personnel from the State Police. In every instance of the selection of samples, State Police personnel were provided lists requesting specific data or the data were drawn directly by members of OLEPS.

The motor vehicle stop (MVS) data for this period, as with those for the previous report, were drawn exclusively from the universe of incidents that have post-stop activity. The data requested are based on requirements originally formed by the independent monitors. Updates have been made to the request to reflect any changes in State Police reporting procedures.

Historically, the independent monitors selected two samples of motor vehicle stop incidents for review. These samples consisted of all incidents deemed critical under the Consent Decree<sup>2</sup> and a sample drawn on a rotating basis from two troops each reporting period. In this monitoring report, OLEPS again chose to utilize two samples of motor vehicle stops, however, they were not identical to the monitors' sample. The first sample has remained unchanged since it was developed by the independent monitors. All critical motor vehicle stops were selected for review: RAS consent requests, canine deployments, and uses of force. The second sample is a selection of probable cause (PC) based consent requests. Half of the PC sample selected were motor vehicle stops involving consent to search requests that were denied by motorists and the other half were randomly selected PC based consent searches, oversampled for minority drivers.

All critical incidents were subject not only to a paper review of reports relevant to the incident (formerly Type I), but also to video review (formerly Type II). The incidents in the second sample, denied probable cause based consent to search requests, were subject to a video review while the remaining PC based consent requests received only a paper review.

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<sup>2</sup> Critical stops were those that included any of the following: consent to search requests based on reasonable articulable suspicion (RAS), canine deployments, and uses of force that occur during a motor vehicle stop.

## *Data Requests*

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Prior to beginning reviews, OLEPS requested data regarding State Police operations. These data requests included the following data for 2010:

- Data for all motor vehicle stops selected for review. All reports, records checks, and videos of stops were to be included.
- Data for all trooper-initiated motor vehicle stop communications center call-ins for the stops selected, including time of completion of the stop and results of the stop.
- Copies of documentation, including supplemental reports created for all consent search requests, canine deployments, and incidents involving use of force that took place during a motor vehicle stop.

OLEPS was provided with all motor vehicle stop (MVS) records requested (taken from the State Police's motor vehicle stop report (MVSR) system, known as RMS). CAD System records were also requested for all motor vehicle stop activity for the selected events. The requested data were thus the same as previous reporting periods. As noted above, however, the selection process for incidents to review differed from previous reporting periods.

## *Types of Reviews*

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### *Report*

A Report review (formerly Type I) involves examination of all available hard-copy and electronic documentation of an event. For example, a review could consist of reviewing the MVSR, associated records in the patrol log, a supporting consent to search form, and associated summonses or arrest records. Each post-stop event consisting of law enforcement procedures of interest to the Decree<sup>3</sup> was subjected to a structured analysis using a form the independent monitors developed. Problems with the motor vehicle stop were noted and tallied using this form. These data were shared with the State Police. Clarifications were requested and received in instances in which there was doubt about the status of an event or supporting documentation. All 714 events were subject to Report reviews in this period.

### *Tape*

A Tape review (formerly Type II) consisted of examining the associated video of a given motor vehicle stop. OLEPS compared the actions noted on the tape with the elements reported in the official documents related to the event. These data were collected and were shared with the State Police. Clarifications were requested and received in instances in which there was doubt about the status of an event or supporting documentation. A total of 434 Tape reviews were conducted this period. Members of OLEPS reviewed available video recordings and associated documentation (stop reports, patrol charts, citations, arrest reports, DUI reports, etc.) for *all*<sup>4</sup> of the following State Police activities in the monitoring period:

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<sup>3</sup> E.g., request for permission to search; conduct of a search; ordering occupants out of a vehicle; frisks of vehicle occupants; canine deployment; seizure of contraband; arrest of the occupants of the vehicle; or use of force.

<sup>4</sup> To the extent these tapes were available.

- Known RAS consent search requests
- Known uses of force
- Known deployments of canine units

### *Sample*

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A sample of motor vehicle stops reviewed for this reporting period was selected from all motor vehicle stops made by the State Police from January 1, 2010 to December 31, 2010. Stops made by all troops and stations were eligible for selection. The sample is best described in two parts:

- I. All stops deemed critical by the Consent Decree
  - All RAS based consent searches
  - All canine deployments
  - All uses of force
  
- II. Select PC based consent requests
  - Randomly selected denied consent to search requests

A total of 714 motor vehicle stops were reviewed for this reporting period. Table One lists the activities involved in the motor vehicle stops reviewed this reporting period. There were a total of 280 motor vehicle stops that received a report only review while 434 received a review that included both reports and tape.

**Table One: Incidents Reviewed**

4<sup>th</sup> OLEPS Reporting Period

Type of Activity	Report Only Reviews	Tape & Report Reviews <sup>5</sup>
Total MVS Selected	280	434
MVS Involving Consent Search Requests (PC & RAS)	275	396
MVS Involving Canine Deployment	2	42
MVS Involving Use of Force	1	42
Probable Cause Searches of Vehicles	83	74

The sample of reviewed stops in this reporting period differs from the previous reporting period in several ways. First, this reporting period includes a much higher number of motor vehicle stops. In OLEPS Third Monitoring Report, OLEPS chose to review a fewer number of motor vehicle stops because of the time that had passed between the reporting period and review of stops. Second, the current reporting period, unlike the OLEPS third reporting period, includes a sample of PC based consent to search requests. Specifically, the current sample primarily contains PC based consent to search requests which were denied by the driver and/or passenger. Overall then, this reporting period represents a sample closer to earlier samples in terms of the types and number of events

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<sup>5</sup> Tape and report reviews for each type of activity total more than 714 due to the fact that most stops involved more than a single category of law enforcement activity.

reviewed. However, the current sample contains no rotating sample of other motor vehicle stop activities, which the earliest monitoring samples contained.<sup>6</sup>

In this reporting period, January 1, 2010 to December 31, 2010, there were 44 canine deployments and 43 uses of force. In 2009, (OLEPS' second and third reporting periods) there were 39 canine deployments and 30 uses of force, fewer than in the current reporting period. This increase is likely due to an increase in the number of overall motor vehicle stops made in 2010 rather than sample selection since all canine deployments and uses of force are always reviewed.

Table Two lists the number of incidents reviewed by station and type of review. In January 2011 (post reporting period), the State Police combined Troops D and E to form Troop D Parkway and Troop D Turnpike. Technically then, Bass River, Bloomfield, and Holmdel stations are part of Troop D. Because of this merger, Troop D makes up the highest number of motor vehicle stops reviewed, with 231 motor vehicle stops. Troop A had the second highest number of motor vehicle stops, 193 of reviewed stops. Cranbury Station (Troop D) contributed the highest single total of any station to the sample, conducting 81 motor vehicle stops.

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<sup>6</sup> The Independent Monitors selected a sample of stops to review from all motor vehicle stops. These stops were those that contained no post-stop activity/enforcements and may have only resulted in a summons or warning. Also, these stops did not generally receive a supervisory review. This sample would be selected from the stops of specific troops, rotating the troops selected each monitoring period.

**Table Two: Distribution of Events by Station**  
4<sup>th</sup> OLEPS Reporting Period

Station	Report Reviews	Tape & Report Reviews
A010 Metro South	0	1
A040 Bridgeton	3	23
A050 Woodbine	7	8
A090 Buena Vista	5	18
A100 Port Norris	9	7
A140 Woodstown	8	13
A160 Atlantic City Expressway	15	24
A310 Bellmawr	18	34
B020 Hope	3	10
B050 Sussex	2	3
B060 Totowa-Sub	8	9
B080 Netcong	3	12
B110 Perryville	1	11
B130 Somerville	20	16
B150 Washington	0	6
C020 Bordentown	17	37
C040 Kingwood	2	2
C060 Hamilton-Sub	10	11
C080 Red Lion	4	10
C120 Tuckerton	6	7
D010 Cranbury	23	58
D020 Moorestown	11	12
D030 Newark	18	25
E030 Bass River	19	17
E040 Bloomfield	5	6
E050 Holmdel	16	21
Other	47	33
<b>Total</b>	<b>280</b>	<b>434</b>

## Trends

For several reporting periods, OLEPS has tracked trends in the motor vehicle stops reviewed. Since OLEPS reviews all motor vehicle stops with RAS based consent to search requests, all canine deployments, and all uses of force, these numbers represent the actual volume of motor vehicle stops with these events. Figure One depicts the annual trends in these events for 2008-2010. Overall, the number of RAS consent requests has remained fairly stable, increasing slightly in 2009, but then dropping slightly in 2010. The number of canine deployments has generally decreased. There was a minor increase in these deployments from 2009 to 2010, but this increase is nowhere near as dramatic as the decrease from 2008 to 2009. Uses of force have remained fairly stable but do show a slight increase from 2009 to 2010. From 2009-2010 there was a 20,000 stop increase in

the number of motor vehicle stops conducted<sup>7</sup>. This increase in the overall number of motor vehicles stops could explain the increases in canine deployments and uses of force from 2009 to 2010 since more stops mean more trooper-motorist interactions.

**Figure One: Annual Trends of RAS Consent Requests, Uses of Force, and Canine Deployments**  
2008-2010

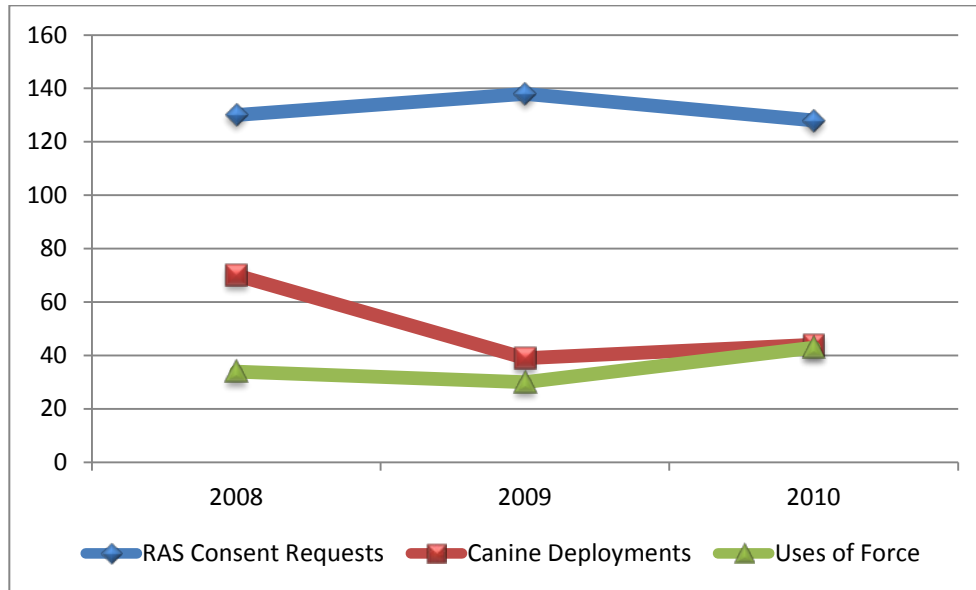


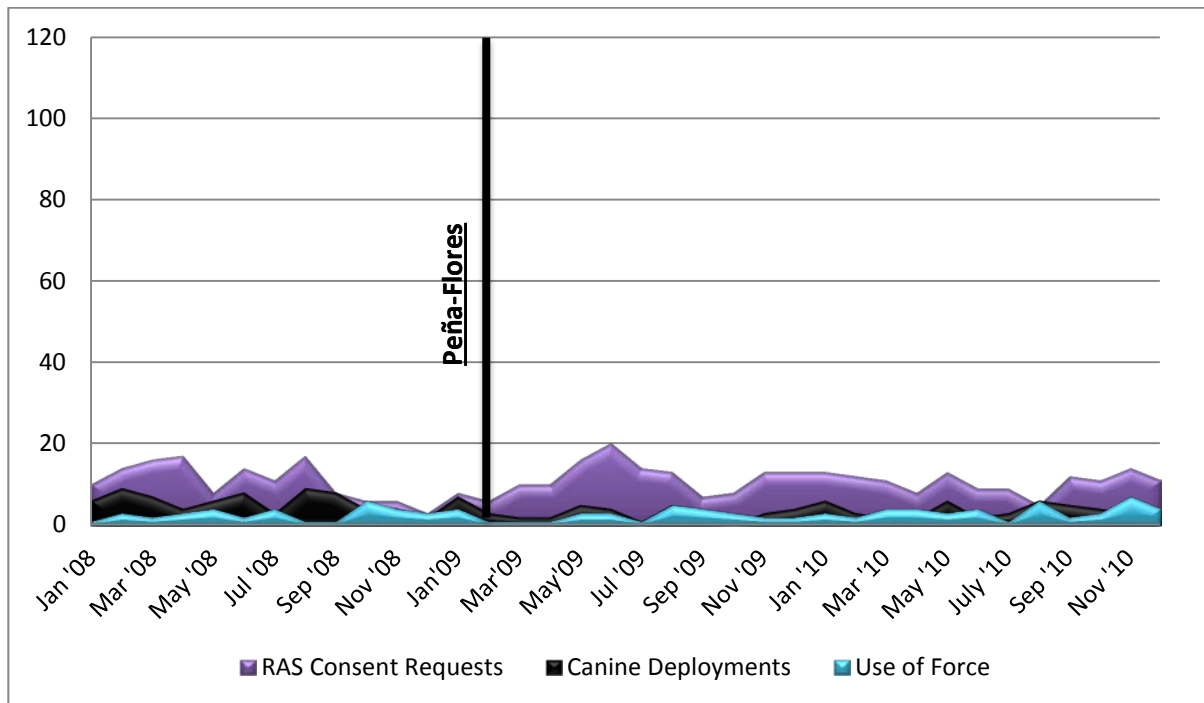
Figure Two presents the number of RAS consent requests, uses of force, and canine deployments for January 2008 through December 2010, OLEPS First, Second, Third, and Fourth Monitoring Reports. Unlike Figure One, Figure Two presents monthly trends in order to determine changes in the volume of these events in the time period following key events (e.g., *State v. Peña-Flores*, 198 N.J. 6 (2009)<sup>8</sup>). As seen in the graph, these enforcement activities are relatively infrequent in a given month and there is much variation from month to month. Figure One, presented the annual totals for these activities and concealed these monthly fluctuations. There is a small jump in the number of RAS consent Requests for May 2009 to July 2009, but no real consistent trend.

For canine deployments and uses of force, no consistent trend appears other than inconsistency. The number of canine deployments and uses of force fluctuate each month. Overall, there was a slight increase in the total number of canine deployments and uses of force from 2009 to 2010. However, the numbers for 2010 are slightly less than the numbers for 2008.

<sup>7</sup> This increase was primarily driven by the Traffic Office in Troop B. Traditionally, Troop B conducts the highest number of motor vehicle stops as the area served by this Troop is densely populated with commuter roadways. From 2009 to 2010 there was likely an increased emphasis placed on Aggressive Driving, leading to more motor vehicle stops.

<sup>8</sup> *State v. Peña-Flores*, 198 N.J. 6 (2009), hereafter referred to as *Peña-Flores*, served to further define the exigent circumstances under which a search of a vehicle could be conducted without securing a search warrant under the automobile exception when there was probable cause to believe that a crime had been (or will be) committed.

**Figure Two: Motor Vehicle Stops with RAS Consent Requests, Canine Deployments, and Uses of Force**  
January 2008 – December 2010



Two other enforcement activities appear frequently in the stops selected for OLEPS review. These are PC consent to search requests and arrests. The total number of PC consent to search requests has increased dramatically in the wake of Peña-Flores. Figure Three depicts trends in the reviewed motor vehicle stops with PC consent requests and/or arrests. The numbers do not represent the total volume of PC consent requests and arrests but rather only those stops selected for review in which these events occurred. In actuality, there were over 2,500 PC consent searches in motor vehicle stops for 2010. The 200 represented in Figure Three for January-December 2010 only represent a small fraction of the total number of PC consent searches. An annual graph, similar to Figure One, is not presented for PC consent searches and arrests because the variation seen in these events in the monitoring reports is the result of stops selected rather than variation in the use of such enforcement activities.

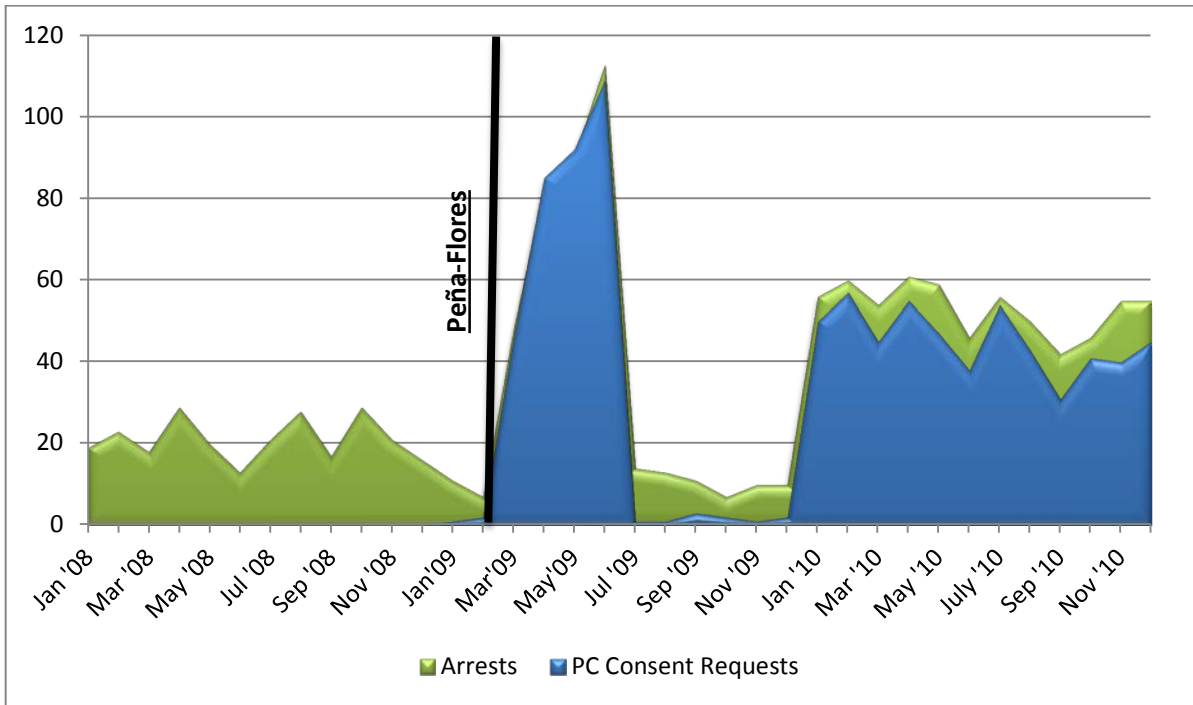
Historical context is important to understanding Figure Three. In February 2009, the New Jersey Supreme Court issued Peña-Flores. This decision restricted the ability of law enforcement to conduct searches covered under the automobile exception rule. The decision resulted in the State Police developing the practice of PC consent searches. Because the decision led to a dramatic change in the type of enforcement activities engaged in by the State Police, OLEPS altered its sample selection to include PC consent searches. For OLEPS' Second Monitoring Report, a sample of PC consent searches was reviewed. Due to time constraints, the sample selected for OLEPS' Third Monitoring Report did not include a sample of PC consent searches. During that reporting period, July 2009 to December 2009, OLEPS reviewed a dramatically lower number of arrests and virtually no PC consent searches. In the current period, OLEPS returned to reviewing an entire sample of PC consent searches, but reviewed a much smaller sample than in the Second Reporting Period.

Motor vehicle stops with PC consent searches and arrests appear to have increased sharply in the current reporting period. Again, this reflects OLEPS' choice to review more stops with PC consent searches.

The number of motor vehicle stops with arrests mirrors the pattern of motor vehicle stops with PC consent searches. This is the result of State Police policy which requires troopers to arrest a motorist when they have probable cause prior to requesting consent to search.

**Figure Three: PC Consent Requests and Arrests**

January 2008 – December 2010



## OPS & Investigations

Evidence of OPS' compliance with S.O.P.s is assessed in an audit of OPS investigations. These audits are conducted twice a year by OLEPS investigators. OLEPS reviews a sample of misconduct cases and makes a determination of whether the case was handled properly and in accordance with OPS' policies and procedures. Because the details of these cases represent privileged and confidential information, this report includes only a general summary of the audit, rather than specifics of the cases in the audit.

## Training

Functions performed by the Training Bureau are assessed on an annual basis as training occurs throughout an entire year. It is the responsibility of the Bureau to ensure that all troopers continue to receive quality training, including those troopers who rise to supervisory and managerial levels. It is also the Training Bureau's responsibility to identify training goals, identify measures to gauge goal

performance, collect data, and determine where data fall on those measures. OLEPS oversees this process and will present an assessment of training for calendar years 2010 and 2011 in the Fifth Monitoring Report.

## **Management Awareness & Personnel Performance System**

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For tasks relating to MAPPS, OLEPS directly accesses MAPPS to ensure functionality. At various times during the review period, OLEPS checked to ensure that all relevant information was entered into the system. OLEPS also examined whether the State Police undertook appropriate risk management activities based on the information contained in MAPPS.

## **Oversight and Public Information**

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These standards generally refer to OLEPS' involvement with the State Police. OLEPS will provide discussion of these standards based on interactions with the State Police throughout the monitoring process.

# **PART III**

## **ASSESSMENT OF STATE POLICE**

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Part III of this monitoring report assesses the State police on Performance Standards created from State Police practices and operating procedures. These standards are broken out according to the following subgroups:

- Field Operations
- Supervisory Review
- OPS and Investigations
- Training
- MAPPS
- Oversight and Public Information

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## Field Operations

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The standards in this section refer to the day-to-day operations and procedures to which the State Police is to adhere. The text of each standard is presented followed by a description of the analysis and/or research conducted to assess the State Police.

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### Assessment Process

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OLEPS assesses Field Operations by reviewing the selected stops. This review includes an examination of all reports and documentation of the stop. Videos of stops are reviewed for those selected to receive Tape reviews. OLEPS' staff examines the facts and circumstances of the stop to determine whether the State Police acted appropriately and consistently with the State Police's requirements for motor vehicle stops. Instances where troopers behave in a manner inconsistent with these requirements are noted and checked to ensure that State Police supervisory review also noted these errors. All information is recorded in OLEPS' Motor Vehicle Stop Assessment form, which is then entered into a database for statistical analysis. This assessment form was initially developed by the Independent Monitors and subsequently revised by OLEPS according to the development of the law and any observed patterns of performance.

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### Performance Standard 1: Race may not be considered except in B.O.L.O.

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#### Requirements

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The requirements for this performance standard are taken directly from the language of the Consent Decree, though several State Police S.O.P.s reference the prohibition of race/ethnicity based decision making.

*Except in the suspect-specific B.O.L.O. ("be on the lookout") situations, state troopers are strictly prohibited from considering the race or national or ethnic origin of civilian drivers or passengers in any fashion and to any degree in deciding which vehicles to subject to any motor vehicle stop and in deciding upon the scope or substance of any enforcement action or procedure in connection with or during the course of a motor vehicle stop. Where state troopers are seeking to detain, apprehend, or otherwise be on the lookout for one or more specific suspects who have been identified or described in part by race or national or ethnic origin, state troopers may rely in part on race or national or ethnic origin in determining whether reasonable suspicion exists that a given individual is the person being sought.*

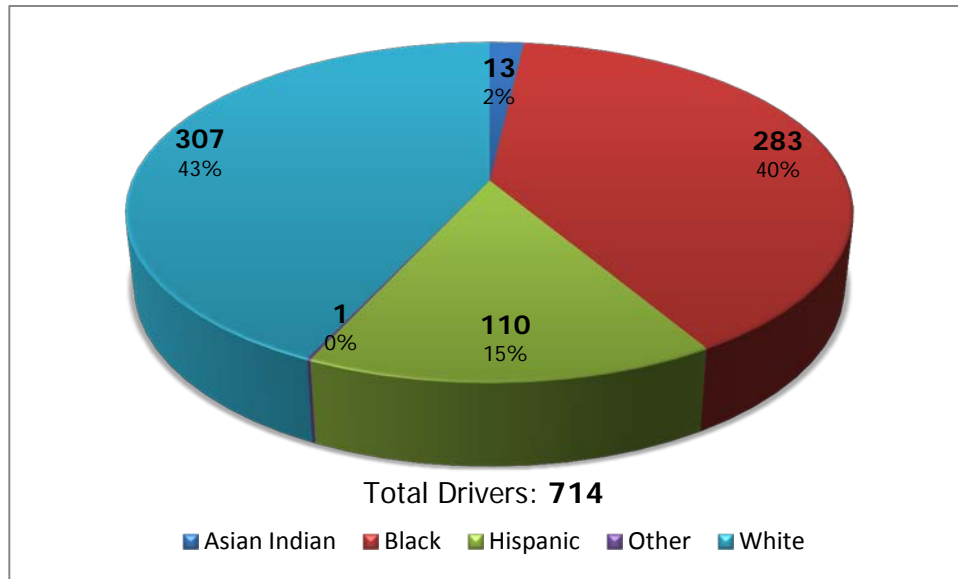
This standard will also examine the potential effect of trooper discretion on racial/ethnic differences in stops and enforcement activities.

## Racial/Ethnic Differences

### All Motor Vehicle Stops

All 714 of the stops sampled for this reporting period involved some form of a post-stop interaction (e.g., a consent search request, canine deployment, or use of force), but not all stops contained all post-stop activities. Figure Four presents the racial/ethnic breakdown of all stops in the current sample. These numbers do not reflect the racial and ethnic distribution of all drivers stopped by the State Police. Rather, they reflect the racial and ethnic distribution of drivers who were involved in the stops selected for review.

**Figure Four: Race/Ethnicity of Drivers**  
4<sup>th</sup> OLEPS Reporting Period



In the current reporting period, there were more stops with White drivers than any other racial/ethnic group. There were 307 (43%) drivers in this sample who were White, 283 (40%) who were Black, 110 (15%) who were Hispanic, 13 (2%) who were Asian Indian, and one (0%) who was identified as "Other." The percentages for each race/ethnicity are comparable to the previous reporting period where 46.3% of drivers were White, 40% were Black and 13.7% were Hispanic. The majority of trooper-citizen interactions in this reporting period appeared to be with White or Black drivers.

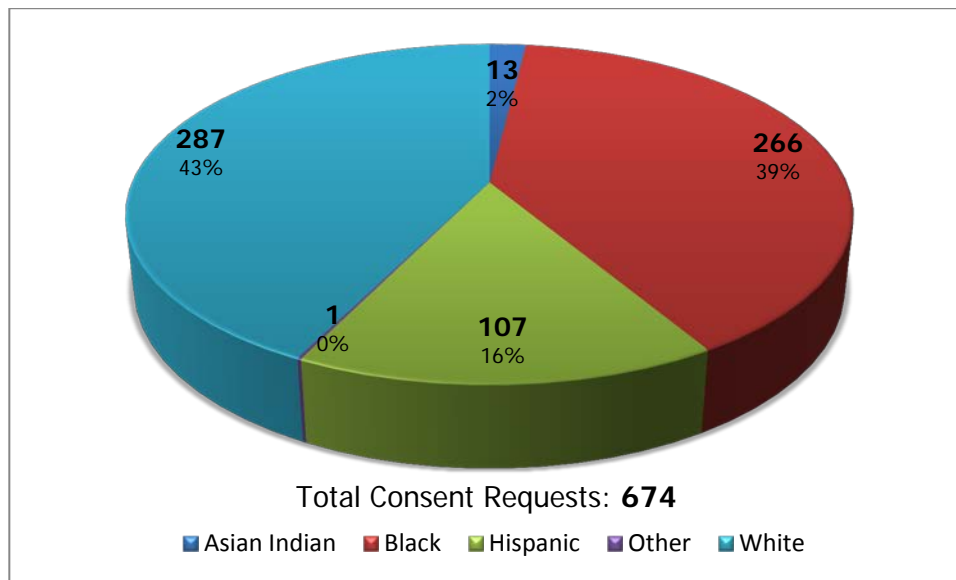
This overall racial/ethnic distribution will be compared to the racial/ethnic distribution of several types of post-stop interactions to determine whether any potential bias exists in terms of which drivers receive certain enforcements.

*Consent Requests*

Figure Five depicts the total number of drivers, by race, who were asked for consent to search in the overall sample of 714 motor vehicle stops. This Figure represents all consent requests: PC based; RAS based; those that were granted; and those that were denied. White drivers made up the highest number and percentage of consent requests with 287 or 43% of all requests made. Black drivers made up the second highest portion, 266 requests or 39%. Hispanic drivers were asked for consent to search in 107 stops or 16% of the overall sample. Finally, Asian Indian drivers were involved in 13 (2%) stops with consent requests while drivers listed as "Other" were only in one stop with a consent request. Compared to the previous reporting period, White drivers make up a slightly higher portion of consent requests and Black drivers make up a slightly lower portion of consent requests in this period.

The number and percentages of consent requests by race and ethnicity are nearly identical to the numbers and percentages of all motor vehicle stops. The racial/ethnic distribution of consent requests does not appear skewed in any direction that could indicate a potential racial/ethnic bias.

**Figure Five: Consent Requests by Race/Ethnicity of Driver**  
4<sup>th</sup> OLEPS Reporting Period



Chi-square analysis (Appendix Three, Table One) was conducted to determine whether there were significant differences in the racial/ethnic distribution of consent to search requests. The analysis yielded a chi-square with a *p*-value of .328. Unlike the last reporting period, this distribution is not significant. This means that OLEPS' cannot conclude that the likelihood of receiving a consent request is more or less likely for a specific racial/ethnic group. Chi-square analysis was based on White, Black, and Hispanic drivers only as including the categories of Asian Indians and Other rendered the results invalid. The previous reporting period did find a significant difference between Whites and Non-Whites (Black and Hispanic) in terms of consent requests. The diverging findings in this reporting period may be because both PC and RAS consent requests were examined, increasing the total number of consent requests. In analyses not shown, *Chi-Square* analysis was used to

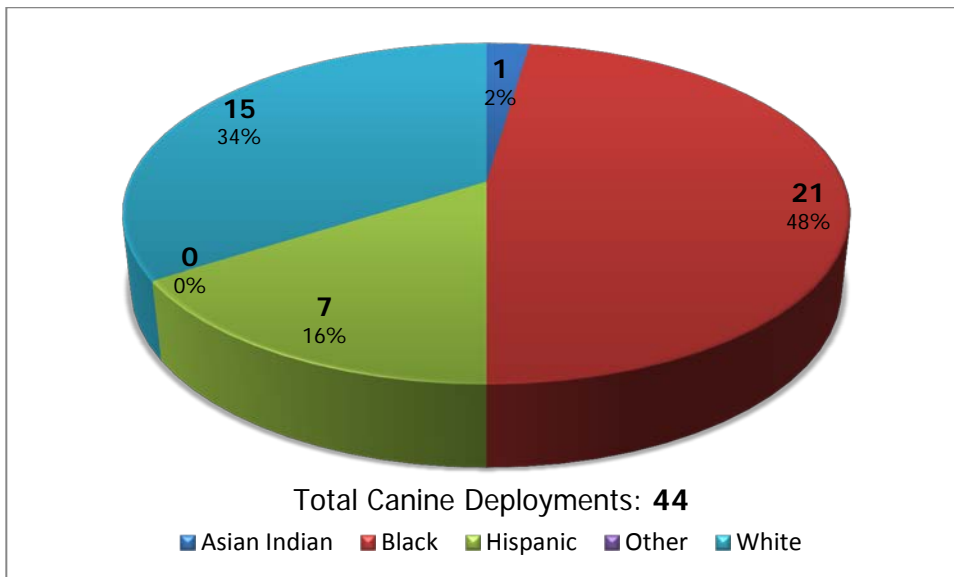
determine if the racial/ethnic distribution of only RAS consent requests was significant (as a comparison to the previous reporting period). The results (available upon request) do not indicate a significant difference between White drivers and non-White drivers for RAS consent requests. The lack of a significant relationship is a return to the findings of previous reporting periods (except the third OLEPS reporting period), where consent requests were not more likely for one racial/ethnic group than another.

*Canine Deployments*

In the current reporting period there were 44 canine deployments, slightly more than the total number of deployments in the second and third reporting periods (2009). Figure Six depicts the number and percentage of canine deployments by race and ethnicity of the driver. Black drivers make up the largest portion of motor vehicle stops with canine deployments. In total, 21 deployments (48%) occurred in motor vehicle stops with Black drivers. In contrast, only 15 (34%) of all canine deployments occurred in stops with White drivers, despite White drivers composing a higher number of all motor vehicle stops. Hispanic drivers were involved in only seven stops where a canine was deployed and Asian Indians had only one stop with a canine deployment.

This overall pattern is consistent with the previous reporting period; Black drivers made up the highest number and percentage of deployments while White and Hispanic drivers made up a much smaller portion of these events. White drivers made up 43% of all stops, yet, only 34% of motor vehicle stops with canine deployments. Black drivers made up 40% of all stops and 48% of canine deployments. This means that Black drivers received more canine deployments than other groups—more than their proportion of all motor vehicle stops. Further analysis is needed to determine whether this difference is significant or could result from chance.

**Figure Six: Canine Deployments by Race/Ethnicity of Driver**  
4<sup>th</sup> OLEPS Reporting Period



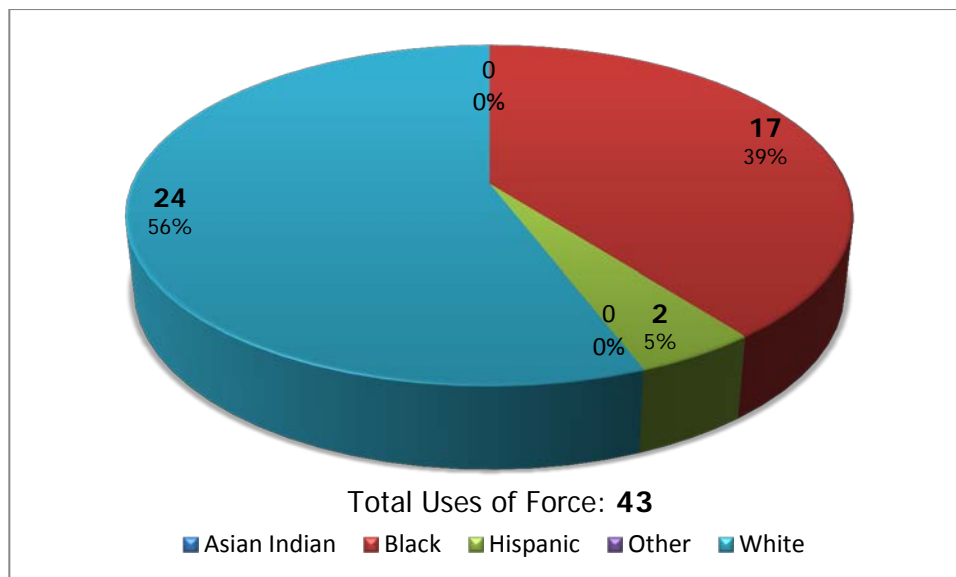
Chi-Square analysis revealed that the racial/ethnic distribution of canine deployments is not statistically significant. The analysis resulted in a  $p$ -value of .438 and was conducted using only White, Black, and Hispanic drivers. These racial/ethnic differences in canine deployments may be the result of chance. These results offer no evidence that these enforcements are intentionally being used differently based on race/ethnicity. However, OLEPS recommends continued examination of the racial/ethnic distribution of canine deployments to further explain this difference.

*Uses of Force*

Figure Seven presents the racial/ethnic distribution of uses of force in 2010. In total, there were 43 uses of force, more than in the second and third reporting periods which cover 2009. Of the uses of force, 24 (56%) involved White drivers, 17 (39%) involved Black drivers, and two (5%) involved Hispanic drivers. There were no uses of force in stops with Asian Indian or "Other" drivers. This racial/ethnic distribution of force mirrors that of the third reporting period, where the majority of force incidents involved White drivers.

Compared to the percentages for all motor vehicle stops, the percentage of use of force for White drivers is much higher. White drivers accounted for more than half of all uses of force and fewer than half of all motor vehicle stops. Black drivers make up a similar percentage of uses of force and all motor vehicle stops. Hispanic drivers make up a much smaller percentage of uses of force. Statistical analyses need to be used to determine whether these differences result from chance or directed behavior.

**Figure Seven: Uses of Force by Race/Ethnicity of Driver**  
4<sup>th</sup> OLEPS Reporting Period



Chi-Square analysis indicates that the racial/ethnic distribution of the use of force is not statistically significant at the .05 level, indicating that the differences may be attributable to chance. The  $p$ -value for this distribution is .079, approaching significance. Technically, there is no significant racial/ethnic difference in the use of force. However, because the  $p$ -value is so close to the significant point,

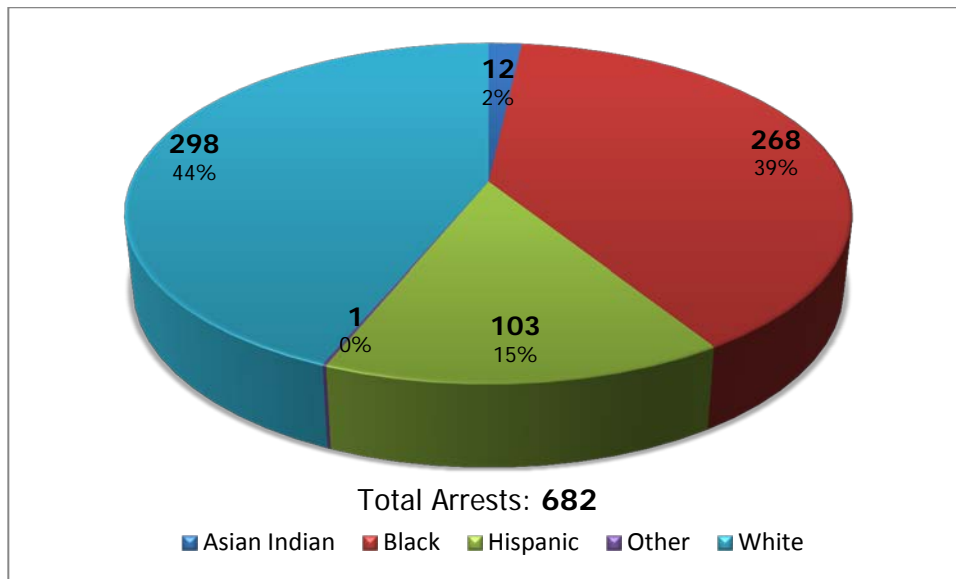
further analysis is warranted. The overall increase in uses of force is likely the result of increases in motor vehicle stops, especially for White drivers. As in the Third Monitoring Report, OLEPS recommends continued examination of the racial/ethnic distribution of uses of force.

*Arrests*

Figure Eight depicts the racial/ethnic distribution of motor vehicle stops in which an arrest was made. Overall, the sampled stops involved in this reporting period contained many more arrests than the previous reporting period. This is primarily the result of including the sample of motor vehicle stops with PC consent requests.<sup>9</sup> Despite the much higher number of arrests made during the stops sampled in this reporting period, the racial/ethnic distribution remains similar to that of the third reporting period. Again, White drivers have the highest number with 298 (44%). Black drivers were involved in 268 (39%) stops where an arrest was made. Hispanic drivers were involved in 103 (15%) stops where an arrest was made. Asian Indians were involved in 12 (2%) stops where an arrest was made. "Other" drivers were involved in one (0%) stop where an arrest was made.

Compared to the overall racial/ethnic distribution, the distribution of arrests presents no obvious issues of potential bias. The percentages for each racial/ethnic group are roughly the same for all stops and arrests.

**Figure Eight: Arrests by Race/Ethnicity of Driver**  
4<sup>th</sup> OLEPS Reporting Period



Chi-Square analysis was conducted to determine whether any significant differences exist in the racial/ethnic distribution of arrests. The analysis presents arrest versus no arrest for White versus non-White drivers (due to invalid cells in the use of White, Black, and Hispanic categorizations) and yielded a *p*-value of .089. There is no significant difference between arrests of Whites and arrests of

<sup>9</sup> According to State Police procedures, when a trooper has PC to request consent, they must arrest the individual first and then ask for consent to search.

non-White drivers. However, as with use of force, the significance level approaches significance. Again, continued examination of these racial/ethnic differences is recommended.

## **The Role of Discretion**

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Discretion is vital to a police organization. It allows troopers to determine on which legal transgressions to focus their time and energy. Discretion is based, at least partly, in the context of situations- what facts and circumstances make a transgression more egregious or less egregious- and trooper experiences- what transgressions have been found to be indicators of larger problems or issues in their past.

OLEPS has historically examined how discretion impacts the racial/ethnic distribution of motor vehicle stops. Traditionally, OLEPS classified motor vehicle stop reasons as high, median, or low discretion. However, OLEPS recognizes, and agrees with the State Police, that all reasons represent a violation of the law, and as such should all technically be viewed as low discretion. In light of this, discussions of discretion will no longer be based on the categories utilized in previous reports. This report will present a discussion of racial and ethnic differences in the most common stop reasons. The possibility of differences in discretion may be discussed, but there will be no categorization of a reason as a specific level of discretion.

In order to determine whether race/ethnicity based decision making is being employed, highly discretionary tasks need to be reviewed to see if similarly situated individuals (regardless of race and ethnicity) are being treated similarly. To do this, a discretionary model of policing is used.

Constructing the model of discretionary policing is straightforward. The following outlines the steps in determining how race, ethnicity, and discretion interact.

### **Identify routine police tasks subject to potential abuse.**

These activities are the outcome variables. To the extent that individual drivers are treated differently, any disparity in treatment will come within or among these variables. For example, if White drivers were treated more leniently, we would see lower levels of some outcomes. For the current reporting period, the tasks examined will only be the decision to stop, the decision to request consent, or to request a canine deployment.

### **Identify and define the levels of discretion associated with each of the critical police tasks and their respective sub-elements.**

The variables leading to execution of outcome variables (stops) is what can be referred to as the reason for the stop. These are considered input variables. They are the actions that give rise to the use of law enforcement powers and can be classified as more or less discretionary. Less discretionary activities are those that will almost always result in a law enforcement response if they are observed by the police. More discretionary events usually result in a law enforcement response if they are observed by the police.

### **Identify the critical decision point associated with each level of discretion.**

The critical decision point is the point at which enforcement is chosen for a highly discretionary violation or activity. If discretion will be abused to any significant degree, it will be in areas of enforcement in which high levels of discretion are present.

**Define abuse of discretion.**

Law enforcement discretion is abused when it is used differently in relation to protected classes such as race and ethnicity. If both input (reason for the stop) and outcome (e.g., arrest) variables indicate higher rates for a given race or ethnicity, a strong case could be made for the presence of an abuse of discretionary powers on the part of the enforcing agent.

**Test for abuse of discretion.**

If there is no abuse of discretion, there would be no statistical difference in stop rates of drivers sampled this reporting period (by race or ethnicity), especially for highly discretionary violations. There would also be no difference in outcome variables (stop, detention, warning, citation, release, frisk, arrest, search, use of force, and seizure) by race and ethnicity for these highly discretionary violations after controlling for intervening variables (lack of identification, proof of ownership, etc.)

During OLEPS' assessment of motor vehicle stops, the reason for a motor vehicle stop is recorded by investigators, as given by the primary trooper of the stop. These reasons are myriad and as such, have been categorized to assist analysis. Any mention of "Speeding" is classified as "Rate of Speed." "Failure to Maintain Lane" is self-evident. The category of "Seat Belt" represents any mention of a seat belt violation. "Equipment Violations" is a catchall category of any violation referring to the vehicle itself rather than what the driver is doing with the vehicle. These include non-functioning lights (head or break), cracked or broken glass, inappropriate window tint, failure to make repairs, or other issues pertaining to the vehicle. The category of "Safety Violations" is another catchall category. It is comprised of violations that may impact the safety of that individual motorist or other motorists and includes: violation of road laws such as stop signs, impeding traffic, delaying traffic, running a red light, obstructed views, or aggressive, careless, or reckless driving. Finally, the category of "Failure to Signal/Improper Lane Change" includes any instance where a trooper cited the reason as the driver failed to use a turn signal or made an unsafe lane change.

Table Three presents the five most common reasons for motor vehicle stops for the current and past two reporting periods. Consistent with analysis conducted by the State Police, the most common reasons rarely change dramatically. Generally, the common reasons are some combination of rates of speed, failure to maintain lane, equipment violations, safety violations and one other reason (seat belts or failure to signal/improper lane change). The total percentage of all violations for each violation category is also included in the table. Generally, the top five reasons for motor vehicle stops account for over 65% of all the stops in the reporting period.

For all three reporting periods, rate of speed is the most commonly cited violation in the reason for a motor vehicle stop. These violations can vary from 1 M.P.H. over the speed limit to 50 M.P.H. over the speed limit. In previous reports, a distinction would be made regarding how much over the speed limit the driver was driving. However, that is no longer being done in this report. Troopers are required to pull drivers over who may be violating the law; speeding even 1 M.P.H. over the limit represents a violation.

**Table Three: Top Reasons for Trooper Initiated Motor Vehicle Stops**  
2<sup>nd</sup>, 3<sup>rd</sup>, & 4<sup>th</sup> OLEPS Reporting Periods

2 <sup>nd</sup> OLEPS Reporting Period		3 <sup>rd</sup> OLEPS Reporting Period		4 <sup>th</sup> OLEPS Reporting Period	
	%		%		%
Rate of Speed	31.7	Rate of Speed	16.8	Rate of Speed	25.2
Failure to Maintain Lane	20.7	Safety Violations	16.8	Failure to Maintain Lane	20.0
Seat Belt	7.4	Failure to Maintain Lane	15.7	Equipment Violations	11.4
Equipment Violations	6.0	Failure to Signal/ Improper Lane Change	9.4	Safety Violations	8.1
Safety Violations	4.8	Equipment Violations	7.3	Failure to Signal/ Improper Lane Change	6.1
<b>Total %:</b>	<b>71.5</b>	<b>Total %:</b>	<b>66.3</b>	<b>Total %:</b>	<b>70.8</b>

Motorist Aids/Motorist Accidents that turn into a motor vehicle stop are actually a common occurrence, more so than other reasons listed in Table Three. In the current reporting period, they account for 7.2% of all motor vehicle stops. These instances do not represent a trooper's decision to stop a vehicle and are not included in the above table. Instead, aids and accidents represent a trooper's public service requirement to assist motorists should they need help.

*All Motor Vehicle Stops*

The most common stop reasons for the current reporting period are presented based on race/ethnicity in Table Four<sup>10</sup>. The table only presents information for White, Black, and Hispanic drivers since there were only six Asian Indian drivers and one Other driver who were stopped for these reasons. Generally, the racial/ethnic distribution of reasons for stop is similar to the overall distribution of motor vehicle stop reasons, with rate of speed and failure to maintain lane being the two most common reasons for all racial/ethnic groups. The most common reason for a motor vehicle stop was Rate of Speed for White, Black, and Asian Indian (not shown) drivers. Hispanic drivers, however, were most commonly stopped for Failure to Maintain Lane, though this difference is actually small. Through years of patrolling, drivers who cannot maintain a lane may be presumed to be under the influence of drugs and/or alcohol. Equipment Violations make up a much smaller percentage of stops for White drivers, about 12%, than for Black and Hispanic drivers, closer to 20%. This is consistent with the State Police's own analysis, which finds that Equipment Violations are a very common stop reason among Hispanic motorists.

<sup>10</sup> The top five reasons for stops were cited in 507 of 714 motor vehicle stops. Table Four only presents the stops where the most common reasons were cited, not all stops. For example, the total listed for White drivers is 220, which represents the number of stops with White drivers where one of these reasons was cited, not the total number of stops with White drivers (which is 307).

While there do appear to be differences, albeit small, among the racial/ethnic distribution of motor vehicle stop reasons, additional analysis is needed to determine whether these reasons are significant.

**Table Four: All Stops by Race/Ethnicity of Driver and Level of Discretion**  
4<sup>th</sup> OLEPS Reporting Period

	<b>White</b> (% of Total Stops)	<b>Black</b> (% of Total Stops)	<b>Hispanic</b> (% of Total Stops)
<b>Rate of Speed</b>	78 (35.45%)	76 (37.07%)	21 (27.63%)
<b>Failure to Maintain Lane</b>	69 (31.36%)	50 (24.39%)	23 (30.26%)
<b>Equipment Violations</b>	27 (12.2%)	37 (18.04%)	18 (23.68%)
<b>Safety Violations</b>	27 (12.27%)	20 (9.75%)	11 (14.47%)
<b>Failure to Signal/ Improper Lane Change</b>	19 (8.63%)	22 (10.73%)	3 (3.94%)
<b>Total</b>	<b>220</b>	<b>205</b>	<b>76</b>

Chi-Square analysis was conducted to determine whether there were any significant racial/ethnic differences in the most common reasons for motor vehicle stops. The analysis did not reveal a significant difference. Though there do appear to be differences among the number of stops for each reason based on race/ethnicity, these differences are not significant and do not indicate any patterns of potential bias.

### *Consent Search Requests*

Discretion can also be examined in post-stop activities. RAS, as a legal standard, is less strict than PC, which suggests that the potential for individual trooper discretion does exist in RAS more than in PC. Since post-stop enforcements arise out of the circumstances and facts occurring after a vehicle is stopped, it is inappropriate to examine how the discretion in the reason for a stop relates to a post-stop enforcement. Instead, differences among the PC and RAS legal standards will be explored for consent requests and canine deployments.

The tables below present the racial/ethnic distribution of types of consent to search requests- RAS or PC. Each table presents the number of drivers of each race and ethnicity that received the outcome of interest and the level of discretion that was used. The mean column indicates the arithmetic average of the stops for each racial/ethnic group. Since the standard involving a lower level of discretion, probable cause, is assigned a value of two, higher scores actually indicate the use of less discretion. RAS consents/deployments are assigned a value of one. A mean closer to one indicates that, on average, more enforcements are based in a more discretionary standard for that racial/ethnic group. When this mean is used in conjunction with the chi-square statistics, which shows whether the differences are due to chance, the existence and direction of potential bias can be determined.

The majority of consent requests reviewed in the current sample are based on PC, as seen in Table Five. Over 500 stops involved a PC consent while only 128 stops contained an RAS consent. Because there are so many PC consents, naturally the majority of consents for each race/ethnicity are PC based.

**Table Five: Consent Requests by Race/Ethnicity of Driver and Legal Standard**  
4<sup>th</sup> OLEPS Reporting Period

<b>Race/Ethnicity</b>	<b>Reasonable Articulable Suspicion (1)</b>	<b>Probable Cause (2)</b>	<b>Mean</b>
<b>White</b>	50	237	1.82
<b>Black</b>	63	203	1.76
<b>Hispanic</b>	13	94	1.87
<b>Asian Indian</b>	2	11	1.84
<b>Other</b>	0	1	2.00
<b>Total</b>	128	546	1.80

Chi-Square analysis was used to determine whether there were any significant differences in the racial/ethnic distribution of the legal standards used in consent requests. The analysis revealed a significant difference ( $p < .05$ ) among White, Black, and Hispanic drivers and the legal standard used to request consent. The pattern observed is unlikely to be due to chance; all drivers are more likely to be asked for consent to search based on PC than on RAS. This is likely due to the fact that the majority of consent requests in this reporting period were PC based. Obviously, the nearly five times more PC requests will be significantly different from RAS requests.

The mean values in Table Five, in conjunction with the Chi-Square results can further explain these significant differences. First, for White drivers, the mean value is 1.82, which is closer to the value of two, which is assigned to PC. This means that White drivers are more often receiving consent requests based on PC. For Black drivers, the mean value is 1.76, again closer to PC. Black drivers then, are also more frequently receiving PC searches rather than RAS. However, this mean value is lower than that for White drivers. This suggests that a slightly higher proportion of consent requests are RAS based for Black drivers than for White drivers. Finally, the mean for Hispanic drivers is 1.87, again closer to PC than RAS. Overall, as indicated by the individual group means but also the overall mean, the direction of the significant difference is toward PC rather than RAS consent requests; the majority of consent requests are based on PC. The distribution of racial/ethnic groups is not equal across legal standards; the majority of consent to search requests are PC not RAS.

### *Variation Among RAS Consent Requests*

While RAS may involve more discretion than PC consent requests, there is variation in discretion within categories of RAS. The reasons for a RAS consent request can be described as intangible, tangible, or probative. Intangible reasons are observations such as nervousness, failure to make eye contact, uncertainty in answers, and conflicting statements. Tangible reasons include the existence of air fresheners, modifications to vehicle interiors, "boost" cell phones, etc. Probative reasons include artifacts of gang membership (such as tattoos, admitted membership), odor of burnt or raw

marijuana in the vehicle, admissions against self-interest, and criminal histories related to a tangible crime. In most incidents, there was more than one type of reason for requesting consent; however, probative reasons are recorded if given, regardless of other reasons stated. If the table lists an intangible reason, those are instances in which only intangible reasons were given. If a stop had tangible reasons articulated and probative reasons, these are recorded as probative. Thus, the higher numbers for probative reasons do not reflect that *only* probative reasons were given but rather that all incidents with tangible reasons articulated also had probative reasons given and are displayed in the probative column only.

**Table Six: Reason for RAS Consent Requests by Race/Ethnicity of Driver**  
4<sup>th</sup> OLEPS Reporting Period

<b>Race/Ethnicity</b>	<b>Intangible (1)</b>	<b>Tangible (2)</b>	<b>Probative (3)</b>	<b>Mean</b>
<b>White</b>	1	0	49	2.96
<b>Black</b>	1	0	62	2.96
<b>Hispanic</b>	2	0	11	2.69
<b>Asian Indian</b>	0	1	1	2.50
<b>Total</b>	4	0	122	2.93

Consistent with previous reporting periods, the most common reasons for RAS consent requests are probative reasons. In 122 stops with RAS requests, there was at least one probative reason cited. There were zero requests based solely on tangible reasons, and only four requests based solely on intangible reasons. This pattern is consistent with the previous two reporting periods; the majority of RAS consent requests are based on probative reasons. The mean values for White and Black drivers are identical, while the mean for Hispanic drivers is slightly lower (due to the additional stop utilizing intangible reasons alone).

Chi-Square analysis was conducted to determine if the racial/ethnic differences in reasons for RAS requests are statistically significant. The results indicate that any observed differences are not significant and not valid. There is not a large enough amount of variation among the reasons. Overwhelmingly, probative reasons are cited. The instances where only intangible or tangible reasons are cited are so few, that there are not discernable differences among reasons based on race and ethnicity.

### *Canine Deployments*

Racial/ethnic variation among the legal standard used to deploy canines was also examined. Table Seven reveals that the majority of the 44 canine deployments are based on RAS rather than PC. This is expected since State Police policy allows troopers to use the results of a canine deployment to bolster facts and circumstances, strengthening RAS and PC reasons needed to request consent from a driver, arrest a driver, or to obtain a search warrant. Overall, RAS deployments are the most common for each race/ethnicity, with Black drivers having the highest overall proportion of RAS based deployments and the most overall canine deployments.

Chi-Square analysis was employed to determine whether the observed differences were statistically significant. The results reveal that there was not a statistically significant racial/ethnic difference in the legal standard used to deploy canines. This means that there is more than a 5% likelihood that these results observed are indeed due to chance encounters.

**Table Seven: Canine Deployments by Race/Ethnicity of Driver and Legal Standard**  
4<sup>th</sup> OLEPS Reporting Period

<b>Race/Ethnicity</b>	<b>Reasonable Articulable Suspicion (1)</b>	<b>Probable Cause (2)</b>	<b>Mean</b>
<b>White</b>	8	7	1.46
<b>Black</b>	17	4	1.19
<b>Hispanic</b>	5	2	1.28
<b>Asian Indian</b>	0	1	2.00
<b>Total</b>	30	14	1.30

Despite the non-significant results, the mean was used to determine the direction (RAS vs. PC) of deployments for each racial ethnic group. Means of one would indicate RAS and means of two would indicate PC. The mean for White drivers is 1.46, roughly halfway between RAS and PC. This suggests, more or less, an even distribution across legal standards for White drivers. In contrast, the mean for Black drivers is 1.19, much closer to RAS than PC. Overall, Black drivers have more deployments based on RAS than PC. Finally, the mean for Hispanic drivers is 1.28, again closer to RAS than PC. Because the Chi-Square analysis did not yield significant results, we cannot conclude that there is a bias toward a less stringent standard for Black and Hispanic drivers as compared to White drivers.

### *Arrests*

There are instances where troopers have little discretion to arrest. For example, troopers are required to arrest when motorists have outstanding warrants. Other incidents may be rooted in probable cause, which involves more discretion than a warrant, but is still limited in the use of trooper discretion. The racial/ethnic distribution of arrests across these limited discretion reasons is presented below. In the current reporting period, arrests occurred in 682 motor vehicle stops. As mentioned earlier, State Police policy requires an arrest to be made upon the satisfaction of the probable cause standard to request consent to search. Table Seven presents the racial/ethnic distribution of arrests and reasons for arrests.

The majority of arrests were based on probable cause: 548 stops had an arrest listed as probable cause, 20 were warrant based, and 114 were based on a combination of these two reasons. Overall, these data suggest that in 2010, sampled drivers were more likely to be arrested on probable cause, not on warrants, and if arrested on probable cause, to have charges filed.

Of the arrests made in stops with White drivers, nine (3.02%) were warrant based, 250 (83.89%) were PC based, and 39 (13.09%) were based in both warrant & PC. Compared to the previous reporting period, a slightly higher percentage of arrests in stops with White drivers were based on probable cause in this reporting period while there were fewer instances where there were no

charges filed. However, this may be due to sample characteristics and the large sample of PC based consent to search requests.

**Table Eight: Reason for Arrest by Race/Ethnicity of Driver**  
4<sup>th</sup> OLEPS Reporting Period

<b>Race/ Ethnicity</b>	<b>Arrests</b>	<b>Warrant Arrests (% of arrests)</b>	<b>Probable Cause Arrests (% of arrests)</b>	<b>Warrant &amp; Probable Cause (% of arrests)</b>	<b>No Charges Filed (% of arrests)</b>
<b>White</b>	298	9 (3.02)	250 (83.89)	39 (13.09)	19 (6.38)
<b>Black</b>	268	9 (3.36)	201 (75.00)	58 (21.64)	17 (6.34)
<b>Hispanic</b>	103	2 (1.94)	85 (82.52)	16 (15.53)	4 (3.88)
<b>Asian Indian</b>	12	0 (0.00)	11 (91.67)	1 (8.33)	2 (16.67)
<b>Other</b>	1	0 (0.00)	1 (100.00)	0 (0.00)	0 (0.00)
<b>Total</b>	682	20	548	114	42

Of the arrests made in stops with Black drivers, the majority involve probable cause. In the fourth reporting period, there were 201 (75.00%) stops with a Black driver where an arrest was made based on PC. In contrast, the previous reporting period results indicated that arrests made in stops where the driver was Black were more commonly based on warrants than probable cause. In the current reporting period, only 9 (3.36%) arrests were made based on warrants alone in stops with Black drivers and 58 (21.64%) were based on a combination of warrants and PC in stops with Black drivers. This difference may be due to sample characteristics and the arrest requirement when facts meet the standard of PC. If all stops with PC consent searches were removed from the sample, the expectation would be that the remainder of arrests for Black drivers would be warrant based. In fact, examining stops without a PC consent request, half of the arrests in stops with Black drivers are solely PC arrests and the other half involve a warrant and/or a warrant and PC.

As with Black and White drivers, the majority of arrests in stops with Hispanic drivers were based on probable cause. Overall, 85 (82.52%) of these arrests were based on probable cause alone. An additional 16 (15.53%) were based on warrants and probable cause. This is consistent with the previous reporting period where the majority of arrests in stops with Hispanic drivers are PC based.

In incidents where a vehicle search was conducted, no evidence found, probable cause dissipated, and no charges were lodged, the vehicle occupants were able to leave the scene. Instances in which no charges were filed are those where an individual was released either at the scene of the stop or at the station. These instances were not all that common. They comprise roughly 6% of all arrests made. White drivers had the highest number of instances in which no charges were filed. There were 19 stops with a White driver, 17 stops with a Black driver, 4 stops with a Hispanic driver, and 2 stops with Asian Indian drivers where no charges were filed.

### *Probable Cause Arrests*

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The change in State Police procedures following Peña-Flores requires immediate arrest with probable cause. The trooper is then required to obtain a search warrant or consent to search the vehicle. There were no incidents during this period where search warrants were applied for at the scene of the stop.

Further examining incidents of probable cause arrest can indicate whether the potential for disparity exists. There were 114 arrests made on the basis of probable cause and at least one outstanding warrant. Compared to the previous reporting period, this number is obviously larger but does reflect a slightly smaller proportion of all arrests (16.71% in this period versus 19.6% in the previous period.) These instances mean that although probable cause was a reason for the arrest, the overarching reason was an outstanding warrant, which drastically limits a trooper's discretion. Of incidents with PC and a warrant, 39 drivers were White, 58 were Black, 16 were Hispanic, and one was Asian Indian. This pattern is consistent with previous periods that find that Black drivers are most commonly arrested for warrant related reasons.

There are no statistically significant differences by race and ethnicity in terms of arrest. The number of warrant arrests comprises only 2.93% of all arrests, representing a dramatic decrease from the previous reporting period and a return to the findings of the second reporting period. This difference from the previous period may be the result of a higher number of stops reviewed in this reporting period.

While arrest rates are different, it appears that they are different based on the nature of the interaction and the criminal offenses committed in the troopers' presence, not based on race/ethnicity. Unlike the previous reporting period, probable cause is the most common reason for arrests for all racial/ethnic groups, likely resulting from sample selection.

### *Additional Analyses: Time of Day*

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In determining whether any racial/ethnic bias exists in trooper activity, it is important to consider the time of day when the stop and activities occurred. During the daytime, generally, there is more light that can help a trooper identify the race/ethnicity of the driver. At night, darkness can make this determination more difficult. Research on motor vehicle stops has corroborated this suggestion, often finding differences in the racial/ethnic distribution of day and night stops.

Table Nine indicates that slightly more motor vehicle stops were made at night (375) than during the day (325). This pattern holds true for all racial/ethnic groups- there were more stops at night for White drivers, Black drivers, and Hispanic drivers. The largest difference between the number of day and night stops is for Black drivers; there were 25 more night stops than day stops.

Chi-Square analysis was used to determine whether the observed differences in Table Eight are significant. The results did not reveal a significant difference among racial/ethnic groups in the distribution of day and night stops, suggesting that this distribution could likely result from random sampling of the events reviewed. The racial/ethnic differences between day and night stops do not present a pattern suggesting trooper bias.

**Table Nine: Racial/Ethnic Distribution of Day & Night Stops**  
4<sup>th</sup> OLEPS Reporting Period

<b>Race/Ethnicity</b>	<b>Day</b>	<b>Night</b>	<b>Total</b>
<b>White</b>	148	159	307
<b>Black</b>	129	154	283
<b>Hispanic</b>	48	62	110
<b>Asian Indian</b>	7	6	13
<b>Other</b>	1	0	1
<b>Total</b>	333	381	714

### Summary of Standard 1

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Unlike the last reporting period, the results presented here do not indicate any significant differences based on race/ethnicity for trooper activity. A significant difference was found for the differences in RAS and PC based consent to search requests; all racial/ethnic groups were more likely to have been subject to a PC, rather than RAS, consent to search request. Overall, there may be differences in the number of enforcements for certain racial/ethnic groups, but these differences are not statistically significant, meaning that they are likely the result of chance. Nonetheless, OLEPS will continue to monitor the racial/ethnic distribution of canine deployments and uses of force as these differences approached significance.

For the current reporting period, OLEPS compared the racial/ethnic distribution of each enforcement activity with the overall racial/ethnic distribution for all stops. This benchmark represents the best currently available. However, if the racial/ethnic distribution of all stops is skewed, it could mask bias in enforcement activities. OLEPS continues to recommend the development of an appropriate internal or external benchmark to compare these enforcement activities. OLEPS will continue to explore benchmarking opportunities to improve the analyses presented here.

## Performance Standard 2: Consent Search Requests

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### Standards

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According to State Police policies and procedures, consent to search requests and consent searches must adhere to the following guidelines:

- Must be made with a minimum of RAS
- Must have supervisory approval
- Communication call-in must be made prior to requesting consent
- Troopers must notify consenter of their right to refuse
- Troopers must notify consenter of their right to be present
- The consent request must be limited in scope
- The consent search must be terminated upon withdrawal of consent
- A/V recording of request for approval, supervisors response, request to citizen, response, signing of form, and actual search
- Consent form should be completed properly

### Overview

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In the current reporting period, OLEPS reviewed a total of 674 motor vehicle stops where a consent to search request was made. Unlike the Third Reporting Period, OLEPS sampled stops with PC consents and reviewed all stops with RAS consents for the current reporting period. Of the stops with consent requests, the majority, 546, were based on PC and 128 were based on RAS.

Table Ten depicts the numbers of RAS consent requests dating back to the Monitors' Ninth Report under the independent monitors. The 128 RAS consent requests in the current reporting period represent a slight decrease from the 140 in 2009 (72 in the first half of the year and 68 in the second half of the year). Generally, there has been great fluctuation in the number of RAS consent requests from period to period. However, in recent years (since 2009), the numbers have generally leveled off, likely due to the rise in PC consent to search requests.

The numbers in the total consent requests column only became relevant in 2009, as a result of the Peña-Flores decision. This ruling increased reliance on PC consent requests, dramatically increasing the numbers of all consent requests, but primarily PC consent requests. The 546 PC consent requests reviewed in this reporting period represent the largest sample of PC consent requests reviewed to date. The current reporting period is almost a full year after the Peña-Flores decision. Accordingly, troopers have had several months to adjust to the policy and procedural changes that resulted from the decision.

In addition to reviewing consent requests for the above requirements, OLEPS renders determinations about whether the consent requests are overall, appropriate or inappropriate. The vast majority of consent requests were appropriate in this reporting period; there were only 10 requests that were deemed inappropriate by OLEPS investigators.

**Table Ten: Consent Requests for Previous Reporting Periods**

Reporting Period	RAS Consent Requests	Total Consent Requests
IMT 9 <sup>th</sup>	9	9
IMT 10 <sup>th</sup>	7	7
IMT 11 <sup>th</sup>	12	12
IMT 12 <sup>th</sup>	34	34
IMT 13 <sup>th</sup>	23	23
IMT 14 <sup>th</sup>	30	30
IMT 15 <sup>th</sup>	94	94
IMT 16 <sup>th</sup>	134	134
IMT 17 <sup>th</sup> a <sup>11</sup>	85	85
IMT 17 <sup>th</sup> b	57	57
OLEPS 1 <sup>st</sup> a	79	79
OLEPS 1 <sup>st</sup> b	51	51
OLEPS 2 <sup>nd</sup>	72	405
OLEPS 3 <sup>rd</sup>	68	78
OLEPS 4 <sup>th</sup> a	66	358
OLEPS 4 <sup>th</sup> b	62	316

### *RAS & PC*

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At a minimum, consent searches must meet the standard of RAS. However, since the Peña-Flores decision in 2009, PC was created as a reason justifying consent searches. As a legal standard, PC is stricter than RAS, requiring more specific facts and circumstances for troopers to ask for consent.

Generally, the facts and circumstances surrounding the motor vehicle stop meet the respective standards for which they are requesting consent. Of the 128 stops with RAS consent requests, two stops (1.56%) had facts and circumstances that did not meet the standard of RAS. These two issues were noted by the State Police in their review of motor vehicle stops. In the previous reporting period, six stops (8.8%) with RAS consents lacked RAS and in only three of those stops did supervisors note the lack of RAS. Thus, the current reporting period represents an improvement in the appropriate use of RAS and noting of errors by supervisory review.

Of the 546 stops with PC consent requests, three stops had facts and circumstances that did not meet the standard of PC. These three issues were noted by the State Police in their review of motor vehicle stops. Because the previous reporting period included very few, 10, PC consent requests, the appropriateness of PC was not assessed in the Third Monitoring Report, but is discussed here. In the second half of 2009, the facts and circumstances in all 10 PC consents met the standard of PC.

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<sup>11</sup> Reporting periods identified with "a" or "b" are the six month periods for that Monitoring Report. IMT 17<sup>th</sup>, OLEPS 1<sup>st</sup>, and OLEPS 4<sup>th</sup> reports were written based on a full year of data. The "a" and "b" portions of these reporting periods correspond to the first half and second half of that year, respectively.

## *Consent Forms*

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All troopers requesting consent to search from a motorist are required to fill out a consent to search form. This form provides evidence that an individual did or did not give their consent for a trooper to search a vehicle (or other area). This form includes the location(s) to be searched, the individual(s) involved, the location of the stop, the rights of the individual(s) involved in the consent request, whether consent is granted or denied, and a log of any evidence recovered in the search. As such, it is important that these forms are filled out and completed properly.

Of the 674 stops with consent to search requests, a consent form was filled out appropriately in 533 instances. In 26 instances, OLEPS was unable to determine whether a consent form was completed properly because the form was not provided to OLEPS. An additional 58 stops had forms that were not completed appropriately. These errors most often relate to fields not being filled out. For example, many forms did not have a mark indicating whether consent was granted or denied. Of these 58 errors, 26 were caught by the State Police's review of forms. The remaining 32 errors were noted by OLEPS and not the State Police. The number of errors is much larger compared to the previous reporting period, where only 2 forms were missing or incomplete, only one of which was not noted by supervisory review. The dramatic increase in missing forms most likely results from the nearly seven-fold increase in sample size (95 stops to 714 stops), the majority of which were consent requests and likely the dramatic increase in the overall number of motor vehicle stops with PC consent to search requests.

During this review, OLEPS noted an issue regarding the proper completion of consent forms. Consent forms require a trooper to write the CAD incident number for the motor vehicle stop on the form. During OLEPS' initial data review, there were nearly 100 motor vehicle stops in which a consent to search form was missing. In the instance of a missing consent form, OLEPS does access State Police records directly to find missing forms. When these searches produced no results, the State Police was given an opportunity to provide these forms by searching the individual stations for the forms. Roughly 70 of the 100 forms were found and provided to OLEPS. However, for a number of the forms the CAD incident number on the original form was missing. It is OLEPS understanding that because these forms were initially missing a CAD incident number, they were not appropriately filed within CAD or RMS and scanned into the records of a stop.

OLEPS continues to recommend that the State Police stress the importance of appropriately filed consent forms. An incomplete or missing form could lead to potential problems should an individual challenge the legality of a search performed by the State Police. OLEPS does recognize that two years have currently passed since these stops were conducted, but OLEPS reviews began in late 2011, less than a year from the date of stops. OLEPS anticipates that consent forms will be more readily available in future reporting periods due to changes in State Police procedures for consent forms in 2010 and 2011, which now require these forms to be scanned into State Police databases.

## *Rights*

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Troopers are instructed to read the consent to search form in its entirety to the individual whose vehicle is being searched so that s/he clearly understands his/her rights. Such rights are the right to refuse the search and the right to be present during the search. In 15 motor vehicle stops, a trooper did not appropriately notify the driver of the right to refuse the consent search. These instances were all noted by State Police review of the stop. In 23 stops, a trooper failed to notify the driver of

the right to be present during the consent search. Of these, 22 were noted by State Police review and one was noted by OLEPS review. In the previous reporting period, OLEPS noted three stops where troopers failed to notify motorists of their rights, two of which were noted by State Police review. Again, the seeming increase in these errors in this reporting period does not necessarily represent inappropriate behavior on the part of troopers, it more likely results from the increase in the number of stops reviewed for this report.

### *Accountability & Safety*

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There are several requirements of troopers implementing a consent search. These requirements are designed to protect both the troopers and the individuals involved in the search. For example, troopers are required to obtain permission from a supervisor (not involved in the stop) to request consent of the motorist. This ensures that troopers are requesting consent searches based on facts and circumstances that meet the appropriate standards of RAS or PC. Troopers must request permission to search from a supervisor not involved in the stop to ensure objectivity in determining whether the search is appropriate. In the majority of stops with consent searches, 516, the supervisor was advised of the facts via the radio. In 129 stops, a supervisor was notified of the facts and circumstances at the scene of the stop. Additionally, a supervisor was notified via a cell phone in 28 stops. There was only one motor vehicle stop where OLEPS was unable to determine whether a supervisor was notified of the facts and circumstances surrounding the request.

After a supervisor approves the request to ask for consent to search, troopers may begin the search after they notify communication that the search is beginning. This was done in 400 motor vehicle stops. There were only five stops where a trooper failed to notify communication that the search was beginning, all of which were noted in State Police review of the stops. In the remainder of stops, it was not applicable to notify communication of the beginning of the search since these consent requests were denied.

Troopers are also required to read the consent form (including the rights to be present and to refuse) while the MVR is recording. This provides evidence that troopers notified motorists of their rights. This question is only answered for those stops in which OLEPS reviewed recordings of the motor vehicle stop in addition to reports. In 404 stops, consent was requested while the MVR was recording, while in seven stops the consent request was not recorded. These errors were caught by State Police review. In the remainder of stops, OLEPS only performed a paper review and, therefore, could not determine whether the consent form was read while the MVR was recording. Despite the increase in the number of consent searches reviewed, the number of consent requests not recorded did not increase during the current reporting period. In the third reporting period, there were only 6 stops where a trooper failed to record the reading of a consent request, all of which were caught by supervisory review.

According to State Police policy, troopers are also required to record the actual search. Whether a trooper complied with this requirement can only be answered for those motor vehicle stops in which OLEPS reviewed a tape of the stop. In 134 stops, the consent search was properly recorded. Consent searches were not recorded in five motor vehicle stops, but these errors were noted by supervisory review. In the previous reporting period, six stops where a search was not recorded were caught by supervisory review.

As noted above, the consent to search form specifically identifies the parts of a motor vehicle a trooper is allowed to search per supervisory approval and motorist consent. Troopers may not deviate from this scope. OLEPS noted that in 391 stops, troopers appropriately heeded the scope requirements of the search. In only one motor vehicle stop with a consent search did a trooper violate the scope requirements, but this was caught by State Police supervisory review. Again, this requirement is assessed only for those stops with tape reviews and for those where consent was granted.

A motorist retains the right to withdraw their consent to the search at any time during the search. Troopers must immediately terminate a search upon withdrawal of consent. Generally, withdrawal of consent is rare; there were no withdrawals in the previous reporting period. In this reporting period, consent was withdrawn in five motor vehicle stops. Troopers appropriately terminated the search upon this withdrawal in all five stops.

## **Summary of Standard 2**

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Overall, the State Police adhered to policies and procedures governing consent search requests. OLEPS did note a few instances where the facts and circumstances surrounding a consent to search request did not meet the minimum standard of RAS or PC, but these instances were relatively infrequent. Consent forms continue to be an issue for the State Police. OLEPS noted many instances where forms were initially unavailable and then when produced, were not appropriately filled out. OLEPS continues to recommend that the State Police stress the importance of filling out these forms completely and correctly and appropriately cataloging these forms.

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## Performance Standard 3: Deployment of Drug Detection Canines

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### Standards

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According to State Police policies and procedures, canine deployments must adhere to the following guidelines:

- Must be authorized by a supervisor not involved in the stop
- Must be radioed through dispatch
- Must have a minimum of RAS
- Must be recorded (since all stops must be)

### Canine Deployments

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In the current reporting period, there were 44 motor vehicle stops where a canine was deployed. Of these deployments, 30 were based on RAS and 14 were based on PC. All of the RAS deployments met the standard of RAS and all of the PC deployments met the standard of PC.

All canine deployments must be recorded according to State Police policy. In the current reporting period, 38 deployments were recorded appropriately, two were not recorded at all, and OLEPS was unable to determine whether four were recorded. The two unrecorded deployments were appropriately caught by State Police supervisory review.

OLEPS did note one issue warrants further examination by the State Police. In certain instances, OLEPS noted that there was no documentation of a formal canine requested. Rather, the canine was present at the stop because the supervisor who handled the canine was serving as a "back-up" to the primary trooper. In several instances, the dog was allowed to perform a sniff test despite no formal request for a deployment. OLEPS cautions the State Police to inform these back up troopers to follow the requirements applicable to the appropriate use of a canine search. The State Police should continue to remind troopers that in order to request a canine deployment, the deployment must be authorized by a supervisor (not on scene), radioed through dispatch, requested with a minimum of RAS, and must be recorded. The State Police has noted this issue and will address the matter with troopers.

For the current monitoring period, OLEPS did not measure whether canine deployments were authorized by supervisors or radioed through dispatch. However, these items will be assessed in future monitoring reports.

### Summary of Standard 3

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Canine deployments were generally, conducted in accordance with State Police policies and procedures. OLEPS has discussed the issue of canine handlers performing back up duties with the State Police and anticipates that this issue will be resolved in future reporting periods.

## Performance Standard 4: Use of Force

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### Standards

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Troopers must adhere to the following guidelines related to the use of force:

- Used for protection of self or others from unlawful force by another, suicide/bodily injury
- Used to prevent the commission of a crime involving potential injury, damage, loss of property, or breach of peace
- Used in self defense
- Used to prevent an escape
- Used to effect an arrest only if the purpose of the arrest is made reasonably known, if a warrant is reasonably believed to be valid, or when the arrest is lawful
- Use of force forms filed completely and properly

### Assessment

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In the current reporting period, there were 43 uses of force. Compared to the previous two reporting periods, which had a total of 30 uses of force,<sup>12</sup> this number is certainly larger. However, from 2009 to 2010, there was a 20,000 stop increase in the number of motor vehicle stops conducted. With 20,000 more stops, the frequency of all enforcement activities, use of force included, is likely to increase because of the higher number of trooper-citizen contacts.

**Table Eleven: Uses of Force by Type of Force**  
4<sup>th</sup> OLEPS Reporting Period

Type of Force	Number of Stops
Mechanical	1
Physical	23
Chemical	9
Mechanical & Physical	3
Chemical & Physical	6
Mechanical, Chemical, & Physical	1
<b>Total</b>	<b>43</b>

Table Eleven presents the types of force used in the current reporting period. As was the case in the previous reporting period, physical force is the most frequently used type of force. There were 23 instances where physical force was used, nine where chemical force was used, six where a mix of chemical and physical force was used, three where a mix of mechanical and physical was used, one where mechanical force alone was used, and one where a combination of mechanical, chemical, and physical force was used.

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<sup>12</sup> The current reporting period is compared to the Second and Third OLEPS Reporting Periods since together, they cover the entire calendar year of 2009.

OLEPS reviews all uses of force in connection with motor vehicle stops and assesses whether these uses were appropriate and necessary. In 41 instances, the force was deemed necessary and appropriate, based on the requirements above. One instance of force was deemed not to meet the State Police standards for such force by OLEPS; the State Police noted the same in its review of the stop. There was also one additional use of force where OLEPS was unable to determine whether force was appropriate because the incident occurred outside the view of the DIVR camera.

Use of force reports are required to be filed in all instances of force. For 41 stops with uses of force, a use of force form was filed. For one instance of force, a report was not filed, and this was not noted in State Police supervisory review. There was one additional use of force where OLEPS was unable to determine whether a use of force report was filed, which means that the report was not available to OLEPS.

### **Summary of Standard 4**

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OLEPS concluded that the uses of force in the current reporting period were conducted in accordance with the State Police's requirements. The few issues pertaining to missing use of force reports reiterate OLEPS' recommendations for appropriate documentation and cataloging of State Police enforcement activities.

## Performance Standard 5: Recording & Reporting of Motor Vehicle Stops

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### Standards

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State Police policies and procedures require audio and video recording of ALL motor vehicle stops, from just prior to the first communication center call in until the stop is cleared.

State Police policies and procedures require that specific instances and information be radioed to the State Police Communication center. They include the following:

- Trooper Badge number & activity (i.e., motorist aid or vehicle stop)
- Location, direction of travel, municipality
- Vehicle description
- Occupant description- race, gender
- Stop statute
- Status update
- Race and gender update
- Driver DOB
- Vehicle registration, make, model
- Checks on licenses/identity, wanted persons status, criminal history
- Requesting backup
- Final disposition
- Stop cleared

State Police policies and procedures require that that motor vehicle stop reports be filed for all stops that involved post-stop enforcement activity. Investigation reports are also required when a stop involves investigative functions (e.g., search warrants). These reports are expected to be filled out completely and without errors.

### *Recording*

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In the current reporting period, a total of 714 motor vehicle stops were reviewed. According to State Police policy, all motor vehicle stops should be recorded, beginning when a trooper signals a car to stop (e.g., turns on lights and sirens). In 587 stops (82.21%), the MVR was activated appropriately. There were 6 stops where OLEPS was unable to determine whether the MVR was activated due to missing or unavailable MVR or DIVR tapes. In 20 stops, MVR activation was not applicable, likely because the stop began as motorist aid or as a rest area check and not as trooper initiated stop. In total, there were 101 stops (14.14%) where the MVR was not activated appropriately when the trooper signaled the stop. All of these instances were noted by supervisory review. In most of these instances, troopers turned the MVR on during the stop, but it was not automatically activated while stopping a vehicle, as policy requires.

In addition to initiating the recording of a stop at the beginning of the stop, audio and video recording of the stop is required to continue until the completion of the stop. There were 562 stops (78.71%) where recording continued to the completion of the stop. In four stops, OLEPS was unable to determine whether recording continued to the end of the stop. In three stops it was not applicable for recording to continue to the end of the stop. Two of these stops received a report review only and one stop began as a dismounted rest area patrol, and so there was no recording of the stop. In total, there were 145 stops where the audio and video recording did not continue to the completion of the stop. In all of these instances, supervisory review noted these errors.

For the past several reporting periods, OLEPS has assessed the quality of audio and video recordings. While an MVR may be recording, the audio may be unintelligible or the camera may not be aimed at the stopped vehicle. In these instances, OLEPS notes whether there are any audio or video difficulties that make it difficult to determine trooper actions. In the current reporting period, there were 92 stops (12.88%) in which some sort of audio difficulty made it challenging to determine trooper actions. These difficulties often result from the noise of traffic passing or other external factors. In addition, there were 36 stops (5.04%) where there was a malfunction in the audio. Malfunctions may result from microphones dying or fading in and out throughout the stop. The percentage of stops with audio difficulties in the current reporting period is much less than the previous reporting period (31%) and is reflective of the State Police's continued efforts to keep equipment up-to-date and in working order.

Video difficulties were noted in 43 stops (6.02%) that made it difficult to determine trooper actions. The video difficulties may result from the camera being positioned away from the stopped vehicle or because of environmental conditions (dark, rainy, etc.). In addition, there were 13 stops (1.82%) where OLEPS noted a video malfunction.

The number of malfunctions and audio and video difficulties in this reporting period are obviously higher than the previous reporting period because there were many more stops reviewed in this period. However, the percentage of stops with these issues is much lower for this reporting period than the previous period likely due to efforts to repair broken equipment and enforce these requirements. To keep these issues at a minimum, the State Police should continue its vigilance in keeping recording equipment in working order.

### *Communication Call-Ins*

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State Police policies and procedures contain a number of requirements relating to communication center call-ins during a motor vehicle stop. The purpose of these call-ins is two-fold. First, and most importantly, these communication call-ins monitor officer safety. By updating dispatch regularly on location, description of the vehicle stopped, and events occurring within the stop, there is a record of what that trooper is doing and where s/he is located. Should there be an issue during a stop, there is a recording of the trooper's whereabouts and actions. Second, communication call-ins serve as a record of the events of the stop. Should there be audio/video recording difficulties, communication call-ins represent an additional timeline record of the stop.

Upon stopping a vehicle and prior to approaching the vehicle, troopers are required to call in: the location of the stop; a vehicle description; the number of occupants; the race/ethnicity of the occupants; and the reason for the stop. In the overwhelming majority of stops, troopers called in the appropriate information to communication. In the current reporting period, there were only 19 stops where a trooper failed to notify communication of his/her location prior to approach. All of these errors were caught by supervisory reviews. Vehicle descriptions were not called in for 19 stops, all of which were noted by supervisors. The number of occupants were not called in for 21 stops and all were noted in reviews by State Police. Troopers called in the race/ethnicity of occupants in the majority of stops, but failed to do so in 21 stops, which were all caught by State Police supervisors. Finally, the reason for the stop was not called in for 18 stops prior to approach, which were all noted in reviews. Even though troopers may have failed to notify communication in a few motor vehicle stops, these were all caught by supervisory review. It remains that the majority of stops had the required call-ins per State Police policy.

Upon completion of the stop, troopers are required to notify communication that the stop has been completed and what actions were taken during the stop (e.g., summons, warning, towing the vehicle). There were only six motor vehicle stops where troopers failed to notify communication of the completion of a stop and five stops where the actions taken during the stop were not called in. These errors were noted by State Police supervisory review.

Generally, troopers follow the requirements of communication call-ins. In the previous reporting period, there were less than 15 stops that had errors stemming from these communication call-ins. The State Police should continue their vigilance to communication call-ins, especially as these call-ins are designed to enhance trooper safety.

### *Reporting*

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Motor vehicle stop reports are filed by troopers. These reports detail the timeline of the stop, the individuals involved, and all enforcements/activities that occurred. These reports are reviewed and approved by supervisors. OLEPS reviews these reports to ensure that they are consistent with the events of the stop.

In the 714 stops reviewed, there were 117 stops (16.38%) with stop reports containing errors. Of these errors, 85 were caught by supervisory review of the reports and 32 were not. There was one additional stop where OLEPS was unable to determine whether the report was correctly completed because the report was unavailable.

Investigation reports are required to be completed by troopers for stops involving investigative activities. In the current reporting period, the majority of stops had appropriately completed investigation reports. There were 647 stops (90.61%) where an investigation report was completed without errors. Investigation reports were not completed properly in only 22 stops (3.08%). Of these errors, 19 were caught by supervisory review and three were caught by OLEPS review.

Overall, investigation reports appear to be completed appropriately. Motor vehicle stop reports tend to contain more errors than the investigation reports. These errors are usually an inappropriate response to a question. For example, listing a different reason for the stop, or not indicating that an action occurred. These errors are generally minor and do not necessarily reflect any specific patterns requiring a tailored focus. OLEPS is aware that the State Police has made concerted efforts to improve the writing of these reports and anticipates improvements in these errors in the next reporting period.

### **Summary of Standard 5**

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OLEPS has noted an improvement in the number of issues pertaining to audio/video recordings of stops. The State Police has heeded recommendations to improve or upgrade failing and aging recording equipment.

OLEPS continues to note issues and errors in the completion of motor vehicle stop reports and investigation reports that have not been caught by supervisory review. While these errors may be viewed as merely "procedural," incorrect reports can be an issue should they be required in legal proceedings. The State Police should place emphasis on appropriate reporting by troopers and/or detailed supervisory reviews of these reports.

## Performance Standard 6: Exits & Frisks

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### Standards

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State Police policies and procedures limit the circumstances under which a trooper may request an individual to exit a vehicle or perform a frisk on an individual. These circumstances include:

- Driver exit only for sobriety or officer safety
- Passenger exit for heightened suspicion, Title 39 violation, or to perform search of vehicle
- Frisks conducted for weapons, DTT, or of the MV

In addition, pursuant to New Jersey law<sup>13</sup>, a driver may be asked to exit a vehicle for any reason.

### *Exits*

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A trooper may request that a driver or passenger exit a vehicle for a number of reasons. Drivers may be asked out for any reason. Passengers may be asked to exit based on a heightened suspicion that there is criminal activity or they may be asked to exit as duty to transport (DTT).

In the current reporting period, there were 675 stops where a driver or occupant(s) was asked to exit the vehicle. Of these stops, 670 involved at least a driver exit, 17 of which were for sobriety reasons.

There were 413 stops where the passenger, labeled "passenger 1," was asked to exit a vehicle. Of these stops, 408 were based on heightened suspicion and 4 were asked to exit as duty to transport. There was one stop where a "passenger 1" was asked to exit a vehicle for a reason other than heightened suspicion or DTT. This error was noted by State Police supervisory review. There were 162 stops where "passenger 2" was asked to exit the vehicle, 161 of which were based in heightened suspicion. The one instance where "passenger 2" was asked for a reason other than heightened suspicion or DTT was noted by State Police supervisory review. Overall, vehicle exits appear to be conducted appropriately and according to policy.

### *Frisks*

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Frisks are a tactic utilized by troopers to protect themselves and the individuals involved in the stop. A frisk is an open-handed, non-manipulating, cursory, pat-down for weapons of a person's outer clothing. To frisk a person, a trooper must have RAS that the person may be armed and dangerous. Troopers may also frisk individuals prior to putting them into a troop car for trooper safety (e.g., if a trooper was transporting a passenger of a vehicle whose driver was under the influence).

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<sup>13</sup> *State v. Smith*, 134 N.J. 599, 611 (1994); see *State v. Peña-Flores*, 198 N.J. 6, 31 n.7 (2009)- describes the right of an officer to remove a driver from a lawfully stopped vehicle as "established precedent."

In the current reporting period, there were frisks in 98 motor vehicle stops. Eighty of these frisks were based on RAS and 14 were DTT. There were four frisks that did not meet the requirement of RAS, three of which were noted by State Police review. Thus, there was one instance where a trooper inappropriately frisked an individual that was not caught by supervisory review.

OLEPS also reviews the mechanics of a frisk to make sure that it is not extending beyond the appropriate boundaries, making the frisk an illegal search. Of the 98 stops in which a frisk occurred, 65 were appropriate and followed the requirements. OLEPS was unable to determine whether frisks were appropriate in 26 instances. Thirteen of these stops received only a paper review, so the tape was not reviewed. For the remaining 13 stops OLEPS was unable to determine if the frisk was appropriate because there were audio/video difficulties or the frisk was not recorded. There were seven frisks that extended beyond a cursory pat-down. These instances were noted by State Police supervisory review.

### **Summary of Standard 6**

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OLEPS' review found the majority of exits and frisks occur in accordance with State Police policies and procedures. In the instances where exits and frisks were not in accordance with State Police policies, the errors were noted by State Police reviews.

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## Performance Standard 7: Non-Consensual Searches/Seizures

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### Standards

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State Police policies and procedures provide the circumstances under which non-consensual searches/seizures are permitted to be used. All searches/seizures should be based on probable cause or incident to arrest and should be called into communication prior to execution.

#### *Non-Consensual Searches/Seizures: Vehicles*

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There were 157 non-consensual vehicle searches/seizures in the current reporting period. Of these searches/seizures, 133 were identifiable as plain view searches/seizures,<sup>14</sup> five were credential searches, seven were vehicle frisks, and six were identified as "other." These "other" searches could result from exigent circumstances or the execution of a search warrant.

There were three vehicle searches that did not meet a PC standard, but were identified as PC searches by the trooper conducting the search. There were also six non-consensual vehicle searches that contained another error (e.g., violating the requirements of a frisk). Of these errors pertaining to non-consensual searches/seizures, six were noted by the State Police and three were not.

#### *Non-Consensual Searches/Seizures: Persons*

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In the current reporting period, there were 682 stops where a search of a person occurred. Per State Police policy, these searches should be incident to arrest. There were 660 searches of drivers incident to arrest and one search that was not incident to arrest. This error was noted by State Police supervisory review. There were 388 stops with searches of "passenger 1" incident to arrest and 145 stops with searches of "passenger 2" incident to arrest.

### Summary of Standard 7

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OLEPS' review of non-consensual searches/seizures found them to be in accordance with State Police policies and procedures.

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<sup>14</sup> Technically, plain view incidents are classified as seizures, not searches. However, State Police policies classify plain view similar to vehicle frisks and thus, searches, not seizures.

## Performance Standard 8: Length of Stops

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### Standards

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According to State Police procedure, RAS stops should be “brief.” Because the length of stop may be indicative of inappropriate enforcement (*i.e.*, detaining a motorist until RAS has been established for a consent search), it is an important characteristic of stops.

All motor vehicle stops based on RAS should be “brief.” For the purposes of this report, “brief” will be defined as deviations from the average (mean) stop length. Any motor vehicle stop found to be more than one standard deviation from the average length (of that type of stop—for example, length of stops with PC consent searches will only be compared with PC consent searches) will be examined for potential reasons for the additional length. Appropriate explanations include stop complexity (several enforcements such as several searches, a search warrant request, etc.), waiting for appropriate reinforcements (*i.e.*, back up), waiting for responses from communication regarding criminal history/warrants, or questions regarding ownership.

### Overview

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The average length of motor vehicle stops reviewed during this reporting period is 51.64 minutes and the standard deviation of this distribution is 29.44. Thus, all stops greater than 81.08 minutes or less than 22.19 minutes are more than one standard deviation from the mean. There are 96 stops greater than one standard deviation above the mean, 95 of which had consent requests and 30 which also contained a canine deployment. These stops also contained additional enforcements such as non-consensual searches, vehicle exits, frisks, and arrests.

In contrast, there are 139 stops that are one standard deviation below the mean stop length. The majority of these stops did not involve consent to search requests or had consent to search requests that were denied.

### *Duration of Stops*

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Table Twelve displays the average length of the motor vehicle stops sampled in this reporting period. The first row in the table presents the average length of all stops in the sample, 51.64 minutes. This number is a large decrease from the average for the third reporting period, which was 81.1 minutes. This dramatic change most likely stems from the changes to the sampled stops for this period. In the third reporting period, the majority of stops were RAS consent requests. In this reporting period, less than ¼ of all stops are RAS consent requests. Specifically, there are over 500 PC based consent requests in this reporting period, 257 of which were denied by the driver or vehicle occupant. Thus, there was no search to execute, likely shortening the motor vehicle stop.

**Table Twelve: Average Length (minutes) of Motor Vehicle Stops**  
4<sup>th</sup> OLEPS Reporting Period

	Average Stop Length
All Stops	51.64
All stops with Consent Requests	52.72
RAS Consent Requests	83.88
PC Consent Requests	45.41
Consent Granted	61.82
Consent Denied	39.99
Canine Deployment	100.27
Consent Requests & Canine Deployments	101.49
Consent Granted & Canine Deployed	113.63
Consent Denied & Canine Deployed	81.00

Since the majority of stops have a consent request, as that is a selection criterion for the sample, the average length of stops with consent requests and the average length of all stops are very close. The average length of all stops with consent requests is 52.72, only slightly higher than the 51.64 for all stops. There is a difference between the length of RAS consent request stops and PC consent request stops. Again, this is likely due to the sampling of denied PC consent requests this reporting period. The average stop length for stops with a PC consent request was 45.41 minutes while the average for RAS consents was 83.88 minutes. An independent samples *t*-test can determine whether this difference is statistically significant. The *t*-test revealed a statistically reliable difference between the mean length of stops with PC consent requests ( $M=45.41$ ,  $s=23.10$ ) and those with RAS consent requests ( $M=83.88$ ,  $s=34.14$ ),  $t(672)=15.325$ ,  $p=.000$ ,  $\alpha=.05$  (two-tailed). This means that there is a statistically significant difference between RAS and PC consent requests. Because of the high value of the *t* statistic and significance level ( $p$ ), it can also be surmised that a one-tailed *t*-test would be significant,<sup>15</sup> indicating that the length of stops with RAS consent requests are not only different than PC consent requests, but they are also significantly longer than PC consent request stops.

There is also a difference in the length of stops where consent was granted compared to those where consent was denied. Stops with consent searches that were granted have an average stop length of 61.82 minutes while those with consent searches that were denied have an average stop length of 39.99 minutes. An independent samples *t*-test was used to determine whether this difference was indeed statistically significant. The results indicate that there is a significant difference between the length of stops where a consent request was granted ( $M=61.78$ ,  $s=21.327$ ) and where a consent request was denied ( $M=40.13$ ,  $s=21.675$ ),  $t(672)=10.008$ ,  $p=.000$ ,  $\alpha=.05$  (two-tailed). Again, the high  $p$ -value for the two-tailed test would still be significant in a one-tailed test, indicating that the difference between stops with granted and denied consent to search requests is orderable; stops with granted consent requests are significantly longer than those with denied consent to search requests.

The average length of a motor vehicle stop with a canine deployment is 100.27 minutes, considerably longer than the average length for all other stops. An independent samples *t*-test revealed a

<sup>15</sup> Because SPSS only calculates two-tailed significance for an Independent Samples *t*-test, one-tailed significance is determined by dividing the  $p$ -value in half. In this case, .000 divided by 2 is still .000 and is still significant.

significant difference in stop length for those with a canine deployment ( $M=100.27$ ,  $s=38.635$ ) and without a canine deployment ( $M=48.45$ ,  $s=25.73$ ),  $t(712)=12.475$ ,  $p=.000$ ,  $\alpha=.05$  (two-tailed). Due to the high  $p$ -value, a one-tailed test would also be significant indicating that stops with canine deployments are significantly longer than those without canine deployments.

Naturally, as motor vehicle stops involve more enforcement activities, the length of the stop increases. Thus, it is expected that a stop with a consent request and a canine deployment would be longer than a stop with only a consent request. Motor vehicle stops with consent requests and canine deployments have an average stop length of 101.49. Breaking this down by granted and denied consent requests indicates a much larger difference. Stops with a granted consent search and a canine deployment had an average length of 113.63 minutes while those stops with a denied request and a canine deployment had an average length of only 81 minutes. Results of an independent samples  $t$ -test failed to find a statistically significant difference between stops with a canine deployment and a granted consent request ( $M=113.63$ ,  $s=34.792$ ) and those with a canine deployment and denied consent request ( $M=81.00$ ,  $s=35.796$ ),  $t(41)=2.941$ ,  $p=.961$ ,  $\alpha=.05$  (two-tailed). Thus, while certain stops may, on average, be longer, this difference is not statistically significant.

**Table Thirteen: Average Length (minutes) of Motor Vehicle Stops by Race/Ethnicity**

4<sup>th</sup> OLEPS Reporting Period

**Part A**

	All Stops	Consents	RAS Consent	PC Consents
White Drivers	45.62	46.59	73.78	40.85
Black Drivers	55.64	56.88	88.35	47.11
Hispanic Drivers	58.47	59.27	105.15	52.93
Asian Indian Drivers	48.15	48.15	57.50	46.45
Other Drivers	64.00	64.00	---	64.00

3<sup>rd</sup> OLEPS Reporting Period

**Part B**

	All Stops	Consents	RAS Consent	PC Consents
White Drivers	78.91	83.69	76.69	87.67
Black Drivers	78.42	86.07	87.45	69.50
Hispanic Drivers	96.38	85.89	99.30	86.67
Asian Indian Drivers	---	---	---	---
Other Drivers	---	---	---	---

Racial and ethnic differences in the length of motor vehicle stops are also explored. These differences were not explored in the Third Monitoring Report. However, these differences were calculated for the Third Monitoring Report as comparison for the current reporting period. The first column in Table Fourteen presents the average length of all motor vehicle stops reviewed in this reporting period based on race and ethnicity. White drivers have the lowest average stop length at 45.62 minutes, while Black drivers have an average of 55.64 minutes, and Hispanic drivers have an average of 58.47 minutes. Other drivers have an average stop length of 64.00 minutes and Asian Indian drivers have an average of 48.15 minutes. Significant differences between the average length of stop for all stops were found between White ( $M=45.62$ ,  $s=23.86$ ) and Black drivers ( $M=55.64$ ,  $s=33.03$ ),  $t(588)=-$

4.247,  $p=.000$ ,  $\alpha=.05$  (two-tailed). The negative  $t$  statistic indicates that a one-tailed test would conclude that the length of stops for White drivers is significantly less than the length of stops for Black drivers. A significant difference was also found in the length of stop for White drivers ( $M=45.62$ ,  $s=23.86$ ) and Hispanic drivers ( $M=58.67$ ,  $s=31.42$ ),  $t(415)=-4.43$ ,  $p=.000$ ,  $\alpha=.05$  (two-tailed). A one-tailed  $t$ -test would indicate the length of stops for White drivers are significantly lower than the length of stops for Hispanic drivers. In sum, White drivers have the shortest average stop length. Since the differences between Black and Hispanic drivers were not found to be significant, we cannot rank the average length of stops in any way other than stating that White drivers have stops that are, on average, shorter than Black drivers and Hispanic drivers.

The average stop length for all stops in each racial/ethnic group is much shorter in this reporting period compared to the previous reporting period (Part B of Table Thirteen). The largest decrease was for Hispanic drivers, whose average went from 96.38 to 58.47. These decreases are likely the result of sample selection since this reporting period contains a much higher number of denied PC based consent requests, which are generally shorter stops than RAS based consents.

In the current reporting period, for all racial/ethnic groups, the average length of motor vehicle stops with consent to search request<sup>16</sup> either remained unchanged or increased slightly compared to the average for all motor vehicle stops. The average length of motor vehicle stops increased for White drivers from 45.62 minutes to 46.59 minutes, for Black drivers from 55.64 minutes to 56.88 minutes and for Hispanic drivers from 58.47 minutes to 59.27 minutes. The averages for Asian Indian and Other drivers remained unchanged since all stops with these drivers involved consent requests. An independent samples  $t$ -test revealed significant differences between the length of consent request stops for White drivers ( $M=46.59$ ,  $s=23.82$ ) and Black drivers ( $M=56.88$ ,  $s=33.52$ ),  $t(551)=-4.18$ ,  $p=.000$ ,  $\alpha=.05$  (two-tailed). Again, the negative  $t$ -statistic indicates that a one-tailed test would conclude that the consent to search request stops with White drivers were significantly shorter than those with Black drivers. A significant difference was also found for the length of consent request stops with White drivers ( $M=46.59$ ,  $s=23.82$ ) and Hispanic drivers ( $M=59.27$ ,  $s=31.41$ ),  $t(392)=-4.292$ ,  $p=.000$ ,  $\alpha=.05$  (two-tailed). A one-tailed test would indicate that White drivers have significantly shorter stops with a consent request than Hispanic drivers. Compared to the average length of stops with consent to search requests in the previous reporting period, the average length of stops with consent to search requests decreased substantially. Thus, on average, consent to search request stops are longer than the average for all stops but they are shorter than consent to search request stops from the previous reporting period.

As seen in Table Thirteen, the average length of all stops with RAS consent requests is much higher than the average for stops with any consent requests. The same results are found when examined by race and ethnicity. Asian Indian drivers had the shortest average length for RAS consent requests with 57.50 minutes, followed by White drivers with 73.78 minutes, then Black drivers with 88.35 minutes, and finally Hispanic drivers with an average of 105.15 minutes. An independent samples  $t$ -test found a statistically significant difference between the length of stops with RAS consent requests for White drivers ( $M=73.78$ ,  $s=24.40$ ) and Black drivers ( $M=88.35$ ,  $s=37.43$ ),  $t(111)=-2.37$ ,  $p=.014$ ,  $\alpha=.05$  (two-tailed). A one-tailed significance test would indicate that the length of stops with RAS consent requests for White drivers were significantly shorter than the same stops for Black drivers. An independent samples  $t$ -test also revealed a significant difference in the length of stops with RAS consent requests for White drivers ( $M=73.78$ ,  $s=24.40$ ) and Hispanic drivers ( $M=105.15$ ,  $s=38.99$ ),  $t(61)=-3.61$ ,  $p=.056$ ,  $\alpha=.05$  (two-tailed). A one-tailed significance test indicates that length of stops

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<sup>16</sup> This assessment includes both denied and granted consent to search requests.

for White drivers is significantly less than that of Hispanic drivers. Again, this means that White drivers, on average, have the shorted length motor vehicle stops. However, due to non-significant differences between other groups, ranking of all groups cannot be done.

For the most part, the average length of motor vehicle stops with RAS consent requests did not change substantially since the last reporting period. The average length for White drivers decreased from 76.69 minutes to 73.78 minutes. The average length for Black drivers increased from 87.45 to 88.35 minutes. For Hispanic drivers, the change is slightly larger, showing an increase from 99.30 minutes to 105.15 minutes.

### *RAS Consent to Search- Hispanic Drivers*

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Since the average length of a motor vehicle stop with an RAS based consent request for Hispanic drivers is so much larger than the averages for other drivers, OLEPS further reviewed these stops to ensure that there were no issues. First, there were only 13 RAS consent request stops for Hispanic drivers, much fewer than the 50 and 63 for White and Black drivers, respectively. This means that for Hispanic drivers, each stop affects the average length more than if there were more stops in this category. Thus, even one or two extremely lengthy stops would dramatically change the average. However, of those 13 stops for Hispanic drivers, 9 were over 90 minutes and only 4 were under 90 minutes. This means that a larger proportion of these stops are long, more so than for White drivers (14 of 50 over 90 minutes) and Black drivers (26 of 63 over 90 minutes).

As discussed previously, the complexity of a motor vehicle stop can lengthen the stop. The longest stop with a Hispanic driver, 3 hours and 4 minutes, involved waiting for a tow truck to unlock a vehicle prior to the driver producing any sort of identification. Once the vehicle was opened, the stop proceeded normally. Additionally, 5 of the 13 stops had a canine deployment in addition to an RAS consent request. Most commonly, the canine was deployed prior to the consent to search request. Additionally, several of these motor vehicle stops included questions regarding the identity of the individuals in the vehicle (using false names or IDs) and the ownership of the vehicle. In these instances, the motor vehicle stops began to resemble an investigation while the trooper attempted to identify the individuals and/or the owner of the vehicle.

As noted in previous reports, there has been concern that troopers may unnecessarily prolong a motor vehicle stop in order to "build up" RAS and obtain approval for a consent request. In the 13 RAS consent request stops with Hispanic drivers, two had permission for consent requested less than a half hour into the stop, five requested permission for consent to search 30 minutes into the stop, and four requested permission an hour into the stop. The longest time to consent occurred in a stop where permission for consent to search was not requested until an hour and 50 minutes into the stop. This stop involved a tractor trailer and a canine deployment that occurred prior to the consent request.

OLEPS only found one motor vehicle stop where there was no justification for the length of the stop. This stop included an inappropriate RAS consent request. However, the State Police noted the same. Overall, the disparity in length of motor vehicle stops with RAS consent requests is generally explainable through stop complexity.

## **Summary of Standard 8**

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OLEPS' review of the length of motor vehicle stops revealed some concerning patterns at first glance. However, after closer examination of the stops with RAS consent to search requests for Hispanic drivers, the concerns were alleviated. While these stops are much longer than similar stops for other racial/ethnic groups, OLEPS did not find evidence of unnecessary delays in these stops. OLEPS will continue to examine the length of motor vehicle stops, paying close attention to any potential racial/ethnic disparities.

# Supervisory Review

## Performance Standard 9: Supervisory Review of Motor Vehicle Stops

### Standards

**This standard was Task 36 in the previous monitoring report and the substantive meaning remains unchanged.** According to State Police policies and procedures, motor vehicle stops must be reviewed by State Police supervisory personnel. Specifically, all critical incidents were required to be reviewed in this reporting period. These reviews are detailed and require the supervisor to assess adherence to policies and procedures, and to assess whether legal standards (RAS or PC) are met.

This standard refers to errors made in connection with any aspect of any motor vehicle stop (from appropriate levels of RAS or PC to reporting and recording requirements). Because this standard assesses supervisory review, a violation of policy made by a trooper is an error when it is found by OLEPS and not noted by a previous State Police supervisory review. This standard refers to ALL errors not caught by supervisory review.

### Overview

In the current reporting period, OLEPS no longer assesses the number of errors not caught by supervisory review in comparison to a specific percentage. This discussion instead will focus on the volume of errors and any patterns observed.

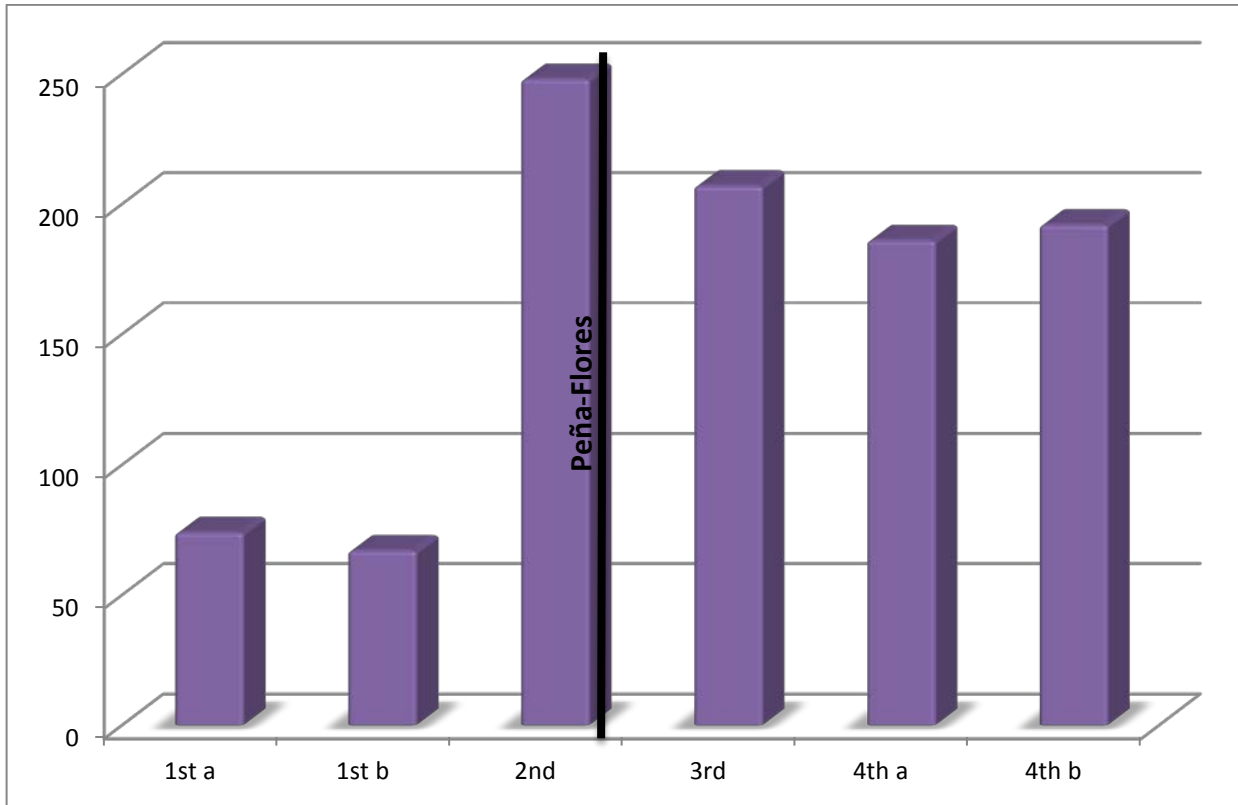
The State Police have specific guidelines that detail the requirements, trooper responsibilities, and appropriate actions required in motor vehicle stops. To ensure adherence to these procedures, supervisory personnel in the State Police review motor vehicle stops to determine whether all requirements were followed and that there were no violations of individual rights or deviations from policy. In addition, OLEPS reviews these motor vehicle stops and notes instances in which supervisors did or did not identify violations of State Police S.O.P.s.

### Errors

In the current reporting period, 378 stops contained errors, more than the number of errors found in the previous reporting period. This is likely due to the higher number of motor vehicle stops reviewed in this reporting period compared to the previous period. The total number of stops reviewed this reporting period is nearly seven times that of the previous reporting period. Understandably, therefore, the number of errors would increase. However, breaking the current reporting period into two six month reporting period, akin to the previous reporting period, indicates that for each 6 month portion of the current period, there were fewer errors made than in the 3<sup>rd</sup> or 2<sup>nd</sup> reporting periods.

Of these 378 stops, 334 contained errors caught by the State Police and 74 contained errors not caught by supervisory review. That is, 10.36% of all motor vehicle stops contained an error not caught by supervisory review. This percentage is lower than the 11.5% in the previous reporting period. Despite the number of total errors made by the State Police, the State Police appropriately identified these errors in motor vehicle stop reviews.

**Figure Seven: Total Errors, by Reporting Period<sup>17</sup>**  
1<sup>st</sup> through 4<sup>th</sup> OLEPS Reporting Periods



OLEPS emphasizes the importance of individual troopers being notified of the errors made during motor vehicle stops. In the next reporting period, OLEPS Fifth Monitoring Report, OLEPS will examine the extent to which supervisors note that they informed the trooper of errors by reviewing MAPPS.

*Level of Review*

The number of supervisory reviews conducted at the supervisor, station management, and troop level are also assessed. According to State Police policy, reviews of critical incidents should be conducted by troop level administrative officers, rather than a trooper’s immediate supervisor. However, in order to address the high number of motor vehicle stops deemed critical, the State Police have accepted

<sup>17</sup> The high number of errors noted in the 2<sup>nd</sup> reporting period are generally procedural in nature and stem from changes pursuant to Peña-Flores.

reviews conducted at the troop level. In the current reporting period, 46 (6.52%) of all reviews were conducted by station management, 343 (48.65%) were conducted by a supervisor, and 316 (44.82%) were conducted by troop level reviewers. OLEPS continues to recommend that supervisory reviews be conducted by an immediate supervisor or station management to facilitate the flow of information regarding the quality of the stop back to the trooper.

### **Summary of Standard 9**

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Supervisory review of motor vehicle stops caught a higher proportion of errors in the current reporting than the previous. OLEPS continues to recommend that the State Police appropriately record errors in motor vehicle stops as interventions to ensure that troopers are being properly notified.

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## Performance Standard 10: Supervisory Referral to OPS

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### Standards

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If it is determined that the conduct recorded during a motor vehicle stop reasonably indicates misconduct (e.g., an intentional failure to follow any of the documentation requirements of the Consent Decree, an intentional constitutional violation, an unreasonable use of force or a threat of force), a Reportable Incident Form is required to be filled out.

This standard will be assessed through OLEPS' review of stops and audit of OPS.

### Overview

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OLEPS has reviewed records of referrals to OPS based on actions or omissions by road personnel. Such referrals have become rarer in recent reporting periods, likely due to levels of more routine supervision. During the current reporting period, OLEPS did not find any incidents that should have been referred to OPS but had not been.

# Performance Standard 11: Supervisory Presence in the Field

## Standard

This standard remains unchanged from the Consent Decree:

*The State Police shall require supervisors of patrol squads that exclusively, or almost exclusively, engage in patrols on limited access highways to conduct supervisory activities in the field on a routine basis.*

In light of motor vehicle stop review requirements that take up much of a supervisor’s available road time, a specific numeric requirement of supervisory presence will not be given at this time. Since the State Police is exploring potential changes to their MVS Review plan, an official requirement will not be specified until that new system is in place. In the interim, the State Police should, at minimum, maintain, but ideally, improve, their rate of supervisory presence in the field.

## Overview

OLEPS has noted a trend of declining supervisory presence for several reporting periods. In the current reporting period, 248 motor vehicle stops, or 34.73% of all stops reviewed had a supervisor present during the stops. This is an increase from percentage of supervisor reviews in the previous reporting periods. Only 22.1% of all stops reviewed in the Third Reporting Period and 39.2% in the Second Reporting Period had a supervisor present at the scene of the stop. OLEPS recognizes the increase in supervisory presence noted for this reporting period but continues to **strongly** recommend increased supervisory presence in the field.

Supervisors were present in 34.86% of all stops with consent requests, 68.18% of all stops with canine deployments, and 41.86% of stops with uses of force. These numbers represent increases in field supervision compared to the previous reporting period where only 20.5% of stops with consent requests, 50.00% of stops with canine deployments, and 29.4% of stops with uses of force had a supervisor on scene.

OLEPS anticipates increases in supervisory presence in the field in the coming reporting periods, especially since the State Police has implemented a revised review schedule for motor vehicle stops in 2011.

Performance Standard 11

# Office of Professional Standards & Investigations

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The Office of Professional Standards (OPS) was released from the requirements of the Consent Decree in July 2004, with the exception of two tasks. These tasks related to the timeliness of investigations and the appropriateness of investigations. As such, OLEPS will continue to monitor OPS based on these standards, including an audit of the citizen complaint process.

## Methodology

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Currently, OLEPS monitors the activities of OPS in two ways. First, OLEPS conducts a legal review of substantiated disciplinary investigations. The purpose of each legal review is to determine whether there is sufficient evidence to move forward with disciplinary action; that is, whether the findings are supported by a preponderance of evidence. This is accomplished by examining the investigative activities undertaken by OPS and assessing the quality and admissibility of the evidence. OLEPS also reviews the proposed penalty for each substantiated investigation. In conducting its review, OLEPS has full access to MAPPS information concerning the trooper's prior disciplinary history. This information is evaluated in conjunction with the evidence developed in the investigation before disciplinary charges are filed and a penalty recommended. OLEPS also reviews the proposed penalty for each substantiated investigation, providing guidance and advice on the level of discipline imposed to guarantee that it is appropriate and fair. In doing so, OLEPS may consider: the member's history of discipline; discipline imposed on other members with the same or similar substantiated charges; and any other factors deemed relevant to the recommendation of discipline.

Second, OLEPS conducts audits of OPS investigations on a biannual basis. The audits determine if the evidence in the case supports the findings of either "substantiated," "insufficient evidence," "exonerated," or "unfounded." The audits involve a review of all complaints regarding racial profiling, disparate treatment, excessive force, illegal or improper searches, false arrests, and domestic violence. In addition to a review of these complaints, a sample of all other complaints received by the State Police is selected for review. For each complaint, a complete review of the written investigative file is conducted. In some instances, those reviews lead to a review of all available investigative evidence, such as audio and video tapes assembled by OPS.

## Performance Standard 12: Appropriate & Timely Investigations

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### Standards

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OPS is required to attempt to complete misconduct investigations within 120 days. In instances where an investigator believes the case will extend beyond 120 days, an extension is required to be filed with the IAIB Bureau Chief.

Additionally, discipline should be appropriate to the case and must be proportionate to the facts, circumstances, nature, scope of the misconduct case, past disciplinary history of the trooper, and comparable substantively similar charges.

OLEPS may re-open any cases for further investigation.

### Overview

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In the current reporting period, OLEPS performed two audits of investigations conducted by the State Police Office of Professional Standards. Each audit covered a period of six months: January 1, 2010- June 30, 2010 and July 1, 2010- December 31, 2010.

The first audit consisted of a review of 101 closed misconduct cases. Of this total, 56 consisted of complaints involving racial profiling, disparate treatment, excessive force, illegal or improper searches, and domestic violence. An additional 45 cases were randomly selected for review from all other misconduct investigations. A review of the written files for all 101 closed investigations was conducted. An additional review of audio and video evidence was conducted for nine cases.

The second audit consisted of a review of 107 closed misconduct cases. Of this total, 69 consisted of complaints involving racial profiling, disparate treatment, excessive force, illegal or improper searches, and domestic violence. An additional 38 cases were randomly selected for review from all other misconduct investigations. A review of the written files for all 107 closed investigations was conducted. An additional review of audio and video evidence was conducted for nine cases.

### *Investigation Length*

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During the OLEPS audit of OPS, OLEPS examined the length of misconduct investigations to determine if they were appropriate based on justifiable reasons. These reasons include:

- Pending criminal investigation/prosecution
- Concurrent investigation by another jurisdiction/plea
- Witness unavailability
- Evidence unavailability
- Investigator changes
- Changes to the investigation (addition or change to allegations/principals)
- Case complexity (*i.e.*, number of principals, witnesses, allegations)

- Conflict of interest development
- Criminal conspiracy requiring isolation of principal
- Awaiting opinion from DAG/county prosecutor

In the current reporting period, there was one case reviewed during the two audits where OLEPS questioned the length of the investigation. In that case, OLEPS determined that OPS failed to appropriately document any good faith basis explaining why the investigation could not be completed within the proper time period. The effectiveness of discipline is contingent upon timeliness and as such, overly lengthy investigations may render punishment ineffective. OPS was notified of OLEPS' findings on the case.

### *Appropriate Interventions*

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In addition to evaluating the investigation length of all misconduct cases, OLEPS also reviews the proposed penalty for each substantiated investigation. During this review, OLEPS has full access to the involved trooper's disciplinary history. This is evaluated in conjunction with the evidence developed by the investigation before disciplinary charges are filed and a penalty recommended. Disciplinary matters cannot move forward unless OLEPS has performed a legal sufficiency and penalty review. In 2010, OLEPS performed roughly 75 legal sufficiency and penalty reviews.

### *Re-Open Cases*

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Per the Consent Decree, OLEPS has the authority to re-open cases for further investigation. In the current reporting period, there were no cases that OLEPS determined should be re-opened.

## Performance Standard 13: Internal Audits of Citizen Complaint Processes

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### Standards

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According to State Police policies and procedures, the following requirements govern the citizen complaint process:

- All calls must be recorded
- All complaints reviewed as to whether they constitute allegations of misconduct and whether the allegation is:
  - criminal
  - requires administrative investigation
  - non-disciplinary performance matter
  - administratively closed

### Overview

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OLEPS is tasked with auditing the citizen complaint process. This is accomplished through an audit of the complaint hotline, checking for proper classification and reception of complaints. This audit was performed twice during the reporting period. The first audit covered the time period of January 1, 2010- June 30, 2010. The second covered the time period of July 1, 2010-December 31, 2010. In the first audit, 90 complaint calls were made to the hotline and OLEPS reviewed 10% of these calls or nine randomly selected calls. All calls were found to be classified correctly and case files were appropriately opened for each call. In the second audit, there was a total of 87 calls on the hotline. OLEPS reviewed ten randomly selected phone calls from this reporting period. All calls were found to be classified correctly and case files were appropriately opened for each call.

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# Training

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The Training Bureau shall continue its mandate to oversee and ensure the quality of training for state troopers, including the development and implementation of pre-service and post-service curriculum and the selection and training of both trooper coaches and instructors. OLEPS' primary focus is on training topics pertaining to cultural awareness, ethics, leadership, arrest, and search and seizure.

## Methodology

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OLEPS reviews "normal course of business"<sup>18</sup> records and conducts interviews with the Training Bureau staff. OLEPS utilizes a seven-step process as outlined in the State Police's S.O.P.s to evaluate training. This process, also known as the seven-step training cycle, was originally presented by the federal monitors and adopted by the State Police. The components of the process include: needs assessment, development of curriculum, delivery of training, evaluation of training, revision of curriculum, evaluation of operational implementation, and documentation of training.

OLEPS will be presenting its overall assessment of the training process (Training Performance Standards 14 through 22) for calendar years 2010 and 2011 in the Fifth Monitoring Report.

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<sup>18</sup> Documentation, such as memorandums, reports, etc., created by the State Police throughout the course of a year as work product.

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# MAPPS

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The Management Awareness Personnel Performance System (MAPPS) went into effect January 1, 2004, during the tenth reporting period. Full compliance with all MAPPS tasks (40 through 53 [6])<sup>19</sup> was reached in the Twelfth Monitors' Report (July 2005), when State Police demonstrated their ability to analyze aggregate stop data and trends (see Appendix One). This reporting period is the third since the issuance of the MAPPS S.O.P on December 31, 2008. The S.O.P. codified MAPPS policies that previously existed in annual Operations Instructions and were refined since system implementation in 2004. The independent monitors approved the S.O.P.

Responsibility for the data in the MAPPS system is spread across multiple units within the State Police. The system itself is maintained primarily by an outside vendor that implements upgrades and enhancements to the system. The vendor is responsive to needs of the MAPPS Unit (within the Office of the Chief of Staff and under the Strategic Initiatives Officer<sup>20</sup>). The information contained in MAPPS is pulled from other information systems in the Division. Stop data stored in MAPPS come from the CAD system and RMS, which are managed by the Information Technology Bureau. Misconduct data and complaints that are handled as performance issues (e.g., Performance Investigation Disposition Reports or PIDRs) come from the IA-Pro database of the Office of Professional Standards. Information in MAPPS on assignments and promotions is fed from the Human Resources Bureau. Training information displayed in MAPPS is a live view of the Academy's database known as the Academy Computerized Training System (ACTS).

MAPPS data are the responsibility of multiple organizational entities. Many reviews themselves are entered into MAPPS, creating additional available performance data about troopers. All supervisors, regardless of their unit assignment, are required to review MAPPS data and are required by MAPPS policy to note certain reviews in MAPPS. All evaluations and quarterly appraisals are to be entered into MAPPS, as are any interventions taken for members, regardless of unit assignment. Most stop data reviews of individuals and video reviews obviously fall primarily to supervisors in the Field Operations Section. Certain State Police policies further require that action be taken by supervisors to address performance issues. Unit and troop analyses of stop data and trends fall to the MAPPS Unit's Risk Analysis Core Group (RACG) that provides the synthesized data to a command-level panel for review. The RACG is also responsible for analyzing MAPPS data for specific units, such as for the Academy on trends that indicate training issues. Patterns of individual misconduct are primarily reviewed by OPS.

## Methodology

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This reporting period, OLEPS assessed MAPPS to ensure that the system is used according to State Police policy. MAPPS tasks, as originally outlined in the Consent Decree, require a review that includes assessment of whether appropriate data are available in a timely manner and stored in a secure way. Additionally, whether the system is used as a management tool to inform supervisory and management decision making is assessed.

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<sup>19</sup> Compliance with Tasks 54 and 55 was obtained by the end of 2001, and was noted in the first report. These tasks required a survey of drivers on the New Jersey Turnpike to obtain estimates of the racial compositions of drivers and permitted additional surveys of other roadways.

<sup>20</sup> In June 2012, the State Police reorganized this structure. The MAPPS Unit now reports to the Office of Quality Assurance within the Office of the Chief of Staff.

A formal audit of MAPPS is conducted in two parts. First, OLEPS accesses MAPPS as a normal course of business to find evidence of specific information as required by State Police policy and procedures. Second, all troopers subject to a meaningful review<sup>21</sup> in the current reporting period are queried in MAPPS to determine whether there was a resolution of the review. Finally, OLEPS audits the MAPPS system by selecting a sample of troopers and accessing all records in MAPPS to ensure that all requirements per State Police S.O.P.s are appropriately recorded.

OLEPS also communicates with the State Police MAPPS Unit regularly. Any issues with MAPPS are noted and communicated to the Unit. Additionally, since this Unit handles the RACG report, discussions of trends and patterns in trooper behavior are also discussed.

## Performance Standard 23: Maintenance of MAPPS

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## Performance Standard 23

### Standards

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According to State Police policies and procedures MAPPS must include the following types of data:

- Motor Vehicle Stop Data
- Misconduct Data
- Performance Data
- Interventions
- Assignments
- Training
- Compliments
- Motor Vehicle Reviews
- Journals

### Overview

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A sample of troopers was randomly selected from the badge numbers of those involved in motor vehicle stops selected for review in this reporting period. The troopers selected are representative of all troops. The size of the trooper sample depends on the size of the overall motor vehicle sample selected. For the current reporting period, a 10% sample of all troopers listed as the primary trooper. This resulted in a sample of 71 troopers for the MAPPS audit. Each trooper's MAPPS records were accessed to determine whether the required information was recorded for the reporting period in question.

### *Motor Vehicle Stop Data*

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MAPPS must contain information on all motor vehicle stops performed by a given trooper. This module contains several analytic choices that allow a trooper's stop data to be examined in relation

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<sup>21</sup> Meaningful reviews are conducted on troopers who receive 3 misconduct allegations within 2 years.

to both internal and external benchmarks. MAPPS contained motor vehicle stop data for all 71 troopers for the current reporting period.

### *Performance Data*

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#### *Trooper Reviews*

For this reporting period, OLEPS accessed the MAPPS Performance Module for evidence of quarterly and annual trooper reviews. Quarterly reviews are conducted three times a year, and the annual review is conducted in December of each year.

Of the troopers sampled, OLEPS found that three troopers did not receive any quarterly appraisals throughout this reporting period. There were also 11 troopers who received some quarterly appraisals but did not receive the required total of three appraisals, as of June 2012.

OLEPS found that two troopers did not receive an annual review for this reporting period. Annual evaluations are categorized as Partial, Second Probationary and Third Probationary evaluations. There were 15 evaluations that were Partial, five evaluations that were Second Probationary, and five that were Third Probationary evaluations.

### *Assignments*

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MAPPS provides information on trooper assignments, containing both current and historical assignments for each trooper. In the current reporting period, MAPPS listed current and past assignments for all 71 troopers.

### *Training*

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The Academy Computerized Training System (ACTS), which feeds data into MAPPS regarding training completion.

An audit of the Training Module was performed to determine if requisite training was being captured. The results of the audit indicated that MAPPS maintains access to current and historical information for all training courses with the exception of those courses taken through NJ Learn, an online resource. Currently, MAPPS does not have the ability to interface with NJ Learn. Therefore, OLEPS advised the State Police to determine whether this issue can be resolved. If not, measures may need to be taken, such as manually entering the training information into the ACTS database, so that it will be captured by MAPPS.

This audit also revealed issues relating to the completion, or lack thereof, of mandatory training topics that will be further discussed in the training section of OLEPS' Fifth Monitoring Report.

### *Compliments*

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The compliments module in MAPPS contains records of all compliments received for troopers for service performed. OLEPS found that the State Police is successfully implementing this module and lists general information pertaining to the compliment. In total, OLEPS found that 32 of the troopers sampled received a compliment in 2010.

### *MVR*

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Motor vehicle stops are required to undergo supervisory review as determined by Field Operations' review schedule. For this requirement, OLEPS determined whether the stops conducted by the sampled troopers were reviewed and stored in MAPPS. OLEPS found evidence that all 71 sampled troopers had reviews of motor vehicle stops on record for the current reporting period.

### *Journals*

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MAPPS Journal module provides supervisory personnel a method to formally document non-intervention information. Supervisors are required to notify their subordinates of journal entries in which the staff member is the subject.

There were only three journal entries made in 2010 for the sample of troopers. OLEPS is aware of the possibility that no events occurred that required journal entries for these troopers during the reporting period. However, OLEPS recommends that State Police more effectively use this module, especially given that the State Police does not regularly utilize interventions to record errors made in motor vehicle stops.

### *Interventions*

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#### *Interventions*

MAPPS contains an Interventions module wherein members may take an intervention action or task another member with administering an intervention directed toward improving a member's performance. OLEPS found that interventions were recorded for 51 of the 71 sampled troopers.

#### *Commendation Performance Notices*

Commendation PN's are stored within the Intervention module and are used by supervisors to commend a trooper for a job well done. OLEPS found that 69 troopers had at least one commendation performance notice in 2010.

### *Misconduct*

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MAPPS contains information regarding trooper misconduct. This information is used by supervisors to remedy any deficiencies through a progressive system that utilizes interventions. In 2010, out of the 71 sampled troopers, 13 had at least one misconduct listed in MAPPS.

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*Meaningful Reviews/ 3 in 2 Reviews*

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The State Police has developed a notification system that triggers a detailed review when a third misconduct investigation occurs in a two-year period (3 in 2 reviews). Development of protocols for implementation of this provision has been a primary focus for several reporting periods. During the tenth reporting period, the State Police had assigned responsibility for this task to OPS. The data indicated that these reviews are being conducted by OPS. Evidence available in MAPPS indicates that supervisory personnel are meeting with troopers who are the subject of a meaningful review and, when necessary, discussing any applicable patterns of complaints.

The procedure for evaluating meaningful reviews differs slightly from the overall MAPPS review. Instead of utilizing a sample of all troopers involved in stops, a list of all troopers receiving a meaningful review in 2010 was obtained from the State Police's IA-PRO database.

Protocols for these reviews were redrawn as a result of issues raised in the Monitors' Seventeenth Report (See the Monitors' Seventeenth Report for details of these issues). OPS is required to document meaningful reviews in the Intervention Module in MAPPS. Supervisors are required to note the review with the member by documenting it in the Journal Module (if no further formal intervention is required). In addition, the MAPPS Unit undertook an examination of all data published in MAPPS from the IA-Pro system and set up new protocols for routine auditing of the IA-Pro data, implemented during the previous reporting period.

The OPS process for the 3 in 2 reviews for this reporting period allowed meaningful reviews to begin while individual misconducts were still pending investigation. In the second reporting period, meaningful reviews were not conducted until all misconduct investigations were completed.

MAPPS contained interventions for 52 of the 60 meaningful reviews conducted in 2010. In 44 meaningful reviews, there was evidence of a journal entry documenting a supervisor's meeting with the trooper. Again in this time period, OPS reviews are geared toward determining if there are any training issues identified by the three (or sometimes more) cases reviewed.

Only one meaningful review did not contain information that indicated the review was ever conducted, completed, or reviewed with a trooper. In this instance, the trooper was involved in an additional meaningful review later in the year. The first meaningful review may lack information simply because the second case was opened.

As noted in the last report, OLEPS recommends that the State Police formally document their procedures concerning meaningful reviews. To date, OLEPS has not received a formal written policy.

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Central to the development and maintenance of the MAPPS system is the issue of appropriate staffing to work on the system. While earlier reporting periods (17<sup>th</sup>) praised the number and quality of personnel resources in the MAPPS unit, since then the MAPPS unit has experienced a loss of personnel. Accordingly, the Unit's small staff are overly burdened given their numerous responsibilities. Previous reports noted the Division's attempt to receive a waiver of the State hiring freeze in order to hire a skilled civilian replacement; the waiver application was denied. A sufficient core civilian staff that would not be subject to transfer is necessary to fulfill the Division's growing analytic needs and is, therefore, a priority. In the continuing opinion of OLEPS, the addition of a senior analyst with strong technical report-writing skills would be an excellent addition to the civilian

staff. Concern does exist regarding the ability of the MAPPS Unit to continue compliance with its requirements given its limited personnel. Support for analytic capabilities within the State Police must remain a high priority so that sufficient and appropriately trained civilian and enlisted personnel are able to maintain routine functions at this level. MAPPS personnel need to perform an increasing array of new analytic tasks in an organization with escalating data needs to inform its decisions.

### **Summary of Standard 23**

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OLEPS' audit of MAPPS indicated that MAPPS contains the requisite information and data. As noted in Performance Standard 10, OLEPS recommends the State Police utilize the intervention module in MAPPS to record communication to troopers who have made an error during a motor vehicle stop. Additionally, the audit revealed an issue between the MAPPS, ACTS, and NJLearn databases which will be discussed in more detail in the Fifth Monitoring Report.

## Performance Standard 24: MAPPS Reports

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### Standards

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This standard was Task 50 in the previous monitoring report and remains unchanged. The data held within MAPPS is used in the creation of reports that assist the State Police in self-assessment and risk management. Pursuant to State Police policy, these reports will be used to identify both organizational and member/personnel risk issues and trends over time. As noted in the Consent Decree, analyses of MAPPS data concerning motor vehicle stops shall include comparisons of:

- Racial/ethnic percentages of all motor vehicle stops
- Racial/ethnic percentages of all motor vehicle stops by reason for the stop (e.g., moving violation, non-moving violation, other)
- Racial/ethnic percentages of enforcement actions and procedures taken in connection with or during the course of stops
- Racial/ethnicity for motor vehicle consent searches
- Racial/ethnic percentages for non-consensual searches/seizures of motor vehicles
- Racial/ethnic percentages of requests for consent to search vehicles with "find" rates
- Evaluations of trends and differences over time
- Evaluations of trends and differences between troopers, units and subunits
- To the extent possible, a benchmark racial/ethnic percentage should be used

### Overview

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The requirements of this standard are assessed through OLEPS review of the quarterly Risk Analysis Core Group (RACG) Reports. OLEPS reviewed reports published by MAPPS on the racial/ethnic distribution of stops and post-stop interactions. OLEPS also attended meetings in which these reports were reviewed. OLEPS ensured that trends found in trooper behavior continue to be reviewed.

For several reporting periods, the State Police has presented detailed documentation regarding benchmarking and trend analysis. The State Police has formed specific units and workgroups who are assigned to analyze motor vehicle stop data according to these requirements and to coordinate decision making regarding the results of this in-depth analysis.

These reports include the examination of racial/ethnic percentages for all stops based on reasons for the stop and enforcement actions. The analysis specifically focuses on both PC and RAS consent searches and the find rates for these searches. Non-consensual searches are also examined. Each report and presentation focuses not only on the current year, but also two previous years. The focus of these reports and presentations changes each quarter. One troop is selected for primary analysis each quarter, but analysis for the entire division is also presented.

The State Police created an external benchmark in 2000. However, the usefulness of this benchmark has expired. The population of the United States and New Jersey in particular has changed dramatically since 2000, rendering the benchmark an inappropriate comparison for current

enforcement activities. Additionally, advancements and focuses in policing have shifted dramatically since the measurement of the available benchmark. As such, the State Police utilize a rough internal benchmark (the Division-wide racial/ethnic percentages) to compare motor vehicle stops and associated activity.

OLEPS reviews the MAPPS RACG Report and provides commentary and suggestions for future analytic directions. The State Police has been very receptive to these suggestions, providing a response and a rationale regarding each of OLEPS' suggestions.

Overall, the MAPPS Reports exceed the requirements of this performance standard.

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# Oversight & Public Information

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## Performance Standard 25: Maintenance of the Office of Law Enforcement Professional Standards

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### Standards

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The Law Enforcement Professional Standards Act of 2009 (N.J.S.A. 52:17B-222, et. seq.) (the Act), created the Office of Law Enforcement Professional Standards (OLEPS). OLEPS is tasked with monitoring the State Police. Existence of and appropriate staffing of OLEPS will serve as evidence of maintenance of the office.

OLEPS is required to complete the following tasks:

- Timely publication of biannual reports assessing aggregate patterns and trends in motor vehicle stop data
- Timely publication of biannual monitoring reports assessing State Police compliance with all requirements put forth in the Act

### Overview

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The Office of Law Enforcement Professional Standards continued its function in the current reporting period. However, OLEPS noted a delay in receiving data for this report from the State Police, which lead to a delay in the assessment of motor vehicle stops, the writing of this report, and publication of this report.

During the current reporting period, OLEPS was behind on the publication of both the aggregate and monitoring reports. Since then, OLEPS has published all required aggregate reports. With the publication of this report, OLEPS will be only one reporting cycle behind. OLEPS anticipates that the Fifth Monitoring Report will be published at the end of 2012 or beginning of 2013, fulfilling the requirements of this standard.

All of reports and publications can be found on the OLEPS' website: <http://www.nj.gov/oag/oleps>

## **Performance Standard 26: Approval of Revisions to Protocols, Forms, Reports, and Logs**

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### **Standards**

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This standard remains unchanged from the Consent Decree:

*Prior to implementation, of any revised protocols and forms, reports, and logs adopted pursuant to subparagraph (d) of this paragraph, the State shall obtain approval of OLEPS and the Attorney General. Such approval shall be deemed provided unless they advise the State of any objection to a revised protocol within 30 days of receiving same. The approval requirement of this subparagraph extends to protocols, forms, reports, and logs only insofar as they implement practices and procedures required by this Decree.*

### **Overview**

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The State Police continues to discuss changes/revisions to protocols, forms, reports, and logs with OLEPS. OLEPS reviews and comments on proposed changes to State Police S.O.P.s and associated documentation.

**Performance Standard 26**

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# Summary

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## Overview

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The results of OLEPS' analysis of the State Police from January 1, 2010 to December 31, 2010 indicate that, overall, the State Police follow the guidelines regulating trooper activity. The 714 motor vehicle stops, MAPPS data, and OPS cases reviewed indicate that the State Police adheres to its own policies and procedures.

The review of motor vehicle stops indicated that there was no evidence of a significant racial/ethnic bias in stops or post-stop activities. The significance level for the racial/ethnic distribution of uses of force did approach significance, indicating that there were more uses of force in motor vehicle stops with White drivers, which may be a product of the fact that there are more motor vehicle stops with White drivers. Additionally, there were significant differences in the length of motor vehicle stops for White and Black and White and Hispanic drivers. White drivers, generally, had the shortest stops for all stops, those with consent requests, and those with RAS consent requests. The most noticeable difference was found for RAS consent requests, where Hispanic drivers had stops that were much longer than those of any other racial/ethnic group. Further examination of this difference revealed no apparent violations or instances where the stops were prolonged unnecessarily. OLEPS will continue to explore racial/ethnic differences in trooper activities and motor vehicle stop lengths and recommends that the State Police undertake their own analysis.

OLEPS continues to note issues pertaining to the completion of consent forms. The forms were unavailable when data were requested from the State Police. This is likely due to State Police policy not requiring that the forms be scanned into databases in 2010 and possibly because many forms were not completed properly. OLEPS noted several instances where the CAD number was missing and/or where the forms were not checked off as to whether consent was granted or denied. OLEPS anticipates that the issue of missing forms will be resolved in future reporting periods since the State Police have adopted a policy of scanning these forms directly into RMS.

As in the previous monitoring report, supervisory reviews of critical motor vehicle stops in 2010 were conducted by troop level reviewers rather than management level reviewers. It is OLEPS' opinion that these reviews should be handled by station level supervisors rather than troop level reviewers. Direct supervisory review may facilitate communication and feedback to troopers regarding motor vehicle stops. Additionally, supervisors who know the trooper who committed the error may be more qualified to assess whether the issue is recurring and requiring further training/remediation or whether the incident was an anomaly.

In the second reporting period, OLEPS noted that supervisory presence in the field was extremely low. There was an increase in supervisory field presence in the current reporting period, but the overall percentage of stops where a supervisor was present still remains around one-third of all stops.

The MAPPS audit revealed an issue linking training records to MAPPS. Specifically, training courses provided by NJLearn did not appear in trooper's training records in MAPPS. OLEPS will discuss this issue further in the Training section Fifth Monitoring Report and has alerted the State Police to this issue.

The MAPPS audit also indicated that there is still inconsistency in the meaningful review process. While only one review had no record in MAPPS, some had interventions and some had journal entries detailing the review. While it is understandable that not all reviews may generate the need for action, the State Police should develop an agreed upon method for documenting the review in MAPPS.

Previous monitoring reports have noted issues in the audio and video recording of motor vehicle stops. OLEPS noted an improvement in the number of stops with these issues and credits the State Police's vigilance in maintaining recording equipment.

In the 2010 reporting period, OLEPS noticed a few instances where a DIVR was unavailable for a motor vehicle stop. After discussions with the State Police regarding the missing DIVRS, it was determined that these recordings were unavailable because, when the State Police upgraded to a DIVR system, it did not have adequate storage for the recordings. OLEPS has since addressed the issue with the State Police, but will likely see evidence of more purged recordings in the Fifth and Sixth Monitoring Reports, which will cover January 2011 to December 2011 and January 1, 2012 to June 30, 2012, respectively.

## **Recommendations**

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Given the issues noted in this report. OLEPS recommendations are as follows.

- Continue analysis on racial/ethnic distributions and differences of motorists involved in stops.
- Continue detail focused supervisory reviews, paying special attention to consent to search forms.
- Supervisory reviews should be conducted by first line supervisors rather than troop level managerial staff.
- Continue to increase supervisory presence in the field.
- Provide appropriate personnel, support, and funding to all units within the NJSP, especially those who handle a large portion of tasks related to the Consent Decree.
- Clearly and formally detail the process for conducting 3 in 2, or meaningful, reviews.
- Address issues between State Police databases that lead to incomplete records.
- Continued vigilance in upgrades or repairs to aging audio and video equipment.

**APPENDIX ONE**  
Semiannual Monitoring Reports

<b>Report ("Short Name")</b>	<b>Publication Date</b>	<b>Covering Activity from - through</b>
Monitors' First Report: Long-term Compliance Audit Civil Number 99-5970(MLC) ("First Monitors' Report")	October 6, 2000	December 31, 1999-September 15, 2000
Monitors' Second Report: Long-term Compliance Audit Civil Number 99-5970(MLC) ("Second Monitors' Report")	January 10, 2001	September 30, 1999-December 15, 2000
Monitors' Third Report: Long-term Compliance Audit Civil Number 99-5970(MLC) ("Third Monitors' Report")	April 12, 2001	December 16, 2000-March 15, 2001
Monitors' Fourth Report: Long-term Compliance Audit Civil Number 99-5970(MLC) ("Fourth Monitors' Report")	July 17, 2001	January 1, 2001-March 31, 2001
Monitors' Fifth Report: Long-term Compliance Audit Civil Number 99-5970(MLC) ("Fifth Monitors' Report")	January 14, 2002	May 30, 2001-December 15, 2001
Monitors' Sixth Report: Long-term Compliance Audit Civil Number 99-5970(MLC) ("Sixth Monitors' Report")	July 19, 2002	December 31, 2001-May 30, 2001
Monitors' Seventh Report: Long-term Compliance Audit Civil Number 99-5970(MLC) ("Seventh Monitors' Report")	January 17, 2003	May 1, 2002-October 30, 2002
Monitors' Eighth Report: Long-term Compliance Audit Civil Number 99-5970(MLC) ("Eighth Monitors' Report")	August 21, 2003	October 1, 2002-March 31, 2003
Monitors' Ninth Report: Long-term Compliance Audit Civil Number 99-5970(MLC) ("Ninth Monitors' Report")	January 23, 2004	April 1, 2002-September 30, 2003
Monitors' Tenth Report: Long-term Compliance Audit Civil Number 99-5970(MLC) ("Tenth Monitors' Report")	July 16, 2004	October 1, 2003-March 31, 2004
Monitors' Eleventh Report: Long-term Compliance Audit Civil Number 99-5970(MLC) ("Eleventh Monitors' Report")	December 20, 2004	April 1, 2004-September 30, 2004

**Appendix One**

<b>Report ("Short Name")</b>	<b>Publication Date</b>	<b>Covering Activity from - through</b>
Monitors' Twelfth Report: Long-term Compliance Audit Civil Number 99-5970(MLC) ("Twelfth Monitors' Report")	July 12, 2005	October 1, 2004- March 31, 2005
Monitors' Thirteenth Report: Long-term Compliance Audit Civil Number 99-5970(MLC) ("Tenth Monitors' Report")	December 2005	April 1, 2005- September 30, 2005
Monitors' Fourteenth Report: Long-term Compliance Audit Civil Number 99-5970(MLC) ("Fourteenth Monitors' Report")	June 2006	October 1, 2005- March 31, 2006
Monitors' Fifteenth Report: Long-term Compliance Audit Civil Number 99-5970(MLC) ("Fifteenth Monitors' Report")	January 2007	April 1, 2006- September 30, 2006
Monitors' Sixteenth Report: Long-term Compliance Audit Civil Number 99-5970(MLC) ("Sixteenth Monitors' Report")	August 2007	October 1, 2006- March 31, 2007
Monitors' Seventeenth Report: Long-term Compliance Audit Civil Number 99-5970(MLC) ("Seventeenth Monitors' Report") <sup>22</sup>	April 16, 2009	January 1, 2007- December 31, 2007
First Monitoring Report Prepared by Office of Law Enforcement Professional Standards ("First Monitoring Report"/1 <sup>st</sup> Reporting Period)	April 29, 2010	January 1, 2008- December 31, 2008
Second Monitoring Report Prepared by Office of Law Enforcement Professional Standards ("Second Monitoring Report"/ 2 <sup>nd</sup> Reporting Period)	August 2011	January 1, 2009- June 30, 2009
Third Monitoring Report Prepared by Office of Law Enforcement Professional Standards ("Third Monitoring Report"/ 3 <sup>rd</sup> Reporting Period)	July 2012	July 1, 2009- December 31, 2009

<sup>22</sup> First report written by the Office of State Police Affairs (OSPA), which became the Office of Law Enforcement Professional Standards (OLEPS).

**APPENDIX TWO**  
Summary of Achievement of Phase II Compliance

TASK		Compliance Since	IMT Report	
Field Operations	26:	Prohibition from Using Race/Ethnicity in Decision Making	1/10/2001	2nd
	27:	Monitor & Evaluate Implementation of Motor Vehicle Stop Criteria	7/19/2004	10th
	28:	Request for Consent to Search Only Upon Reasonable Suspicion	4/12/2001	3rd
	29a:	Recording Requirements for Motor Vehicle Stops	<b>OUT</b>	
	29b:	Expeditious Implementation of Motor Vehicle Stop Criteria	1/10/2001	2nd
	29c:	Forms to Support Execution of Tasks 31, 32 and 33	10/6/2000	1st
	29e:	Approval of Revisions to Protocols, Forms, Reports and Logs	10/6/2000	1st
	30:	Communications Center Call-Ins	10/6/2000	1st
	30a:	Notice of Call-In at Beginning of Stop	10/6/2000	1st
	30b:	Notice Prior to Search	7/19/2004	10th
	30c:	Call-Ins Upon Completion of Stop	10/6/2000	1st
	30d:	CADS Incident Number Notification	10/6/2000	1st
	31:	Reporting Consent to Search Requests	1/10/2001	2nd
	31a-c:	Recording Consent to Search Requests	1/17/2003	7th
	32:	Recording and Reporting of Non-Consensual Searches	4/12/2001	3rd
	33:	Recording and Reporting Deployment of Drug Detection Canines	7/17/2001	4th
	34a:	Use of Mobile Video Recording Equipment	10/6/2000	1st
	34b-c:	Training in Motor Vehicle Recording Operation and Procedures	7/19/2002	6th
	35:	Supervisory Review of Trooper Reports	12/20/2004	11th
	36:	Supervisory Review of Motor Vehicle Recording Tapes	<b>OUT</b>	
37:	Supervisory Referral To Professional Standards Bureau of Observed Inappropriate Trooper Conduct	1/18/2002	5th	
38:	Periodic Reviews of Referral Decisions	1/23/2004	9th	
39:	Regular Supervisory Activity in the Field	8/21/2003	8th	
MAPPS	40:	Development of Management Awareness and Personnel Performance System	7/14/2005	12th
	41:	Data Included in the MAPPS System	7/19/2004	10th
	42:	Annual Access to Troopers' Personal MAPPS Data	7/19/2004	10th

Appendix Two

TASK		Compliance Since	IMT Report	
MAPPS continued	43:	Production of "Counts" and Percentages for Stop Data	7/19/2004	10th
	44:	Common Control Numbers	7/19/2004	10th
	45:	Timely Access to MAPPS Data	7/19/2004	10th
	46:	Development of a MAPPS Plan	1/23/2004	9th
	47:	Supervisory and Management Reviews	7/19/2004	10th
	48:	Quarterly Reviews of MAPPS Data	7/19/2004	10th
	49a,b:	Reporting Capabilities of MAPPS	7/19/2004	10th
	50:	Comparisons Using Benchmarks	7/14/2005	12th
	51:	Analysis of Trends	7/14/2005	12th
	52:	Supervisors to Implement Necessary Changes	12/20/2004	11th
	53:	Supervisory Review of Troopers with More than Two Misconduct Investigations in Two Years	7/19/2004	10th
	54:	Drivers Survey of the New Jersey Turnpike	10/6/2000	1st
OPS and Investigations	57:	Troopers to Provide Name and Badge Number	1/10/2001	2nd
	58:	State to Inform Civilians Regarding Complaints/Compliments	1/10/2001	2nd
	59:	Availability of Complaint/Compliment Forms	7/17/2001	4th
	60:	Community Outreach	1/10/2001	2nd
	61:	Receipt of Citizens' Complaints	1/10/2001	2nd
	62:	Institution of 24-hour Toll-Free Hotline	1/10/2001	2nd
	63:	Professional Standards Bureau to Receive Citizens' Complaints	1/10/2001	2nd
	64:	Relocation of the Office of Professional Standards Offices	1/10/2001	2nd
	65:	Referral to Office of Attorney General of Specific Dismissed Charges	4/12/2001	3rd
	66:	Notice to Office of State Police Affairs of Pending Civil Actions	1/10/2001	2nd
	67:	Notice of Criminal Involvement of Members	7/17/2001	4th
	68:	Notice of Adverse Involvement	7/17/2001	4th
	69:	Duty to Report Misconduct	7/17/2001	4th
	70:	Creation of the Office of Professional Standards	7/19/2002	6th
	71:	Formal Eligibility Requirements for Professional Standards Bureau	4/12/2001	3rd

TASK		Compliance Since	IMT Report	
OPS and Investigations-continued	72:	Execution of Training for OPS Staff	4/12/2001	3rd
	73:	Initiation of Misconduct Investigations	1/10/2001	2nd
	74:	Responsibility for Conducting Internal Investigations	1/10/2001	2nd
	75:	Prohibition of Conflict of Interest in Investigations	1/10/2001	2nd
	76:	Prohibition of Group Interviews	1/10/2001	2nd
	77:	Alternative Locations for Interviews	1/10/2001	2nd
	78:	Investigation of Collateral Misconduct	1/10/2001	2nd
	80:	Revision of the "Internal Investigations Manual"	1/18/2002	5th
	81:	Preponderance of the Evidence Standards For Internal Investigations	1/10/2001	2nd
	82:	Motor Vehicle Recording Tape Review in Internal Investigations	1/10/2001	2nd
	83:	State to consider Circumstantial Evidence in Internal Investigations	1/10/2001	2nd
	84:	Required Case Dispositions in Internal Investigations	1/10/2001	2nd
	85:	No Closure upon Withdrawal of Complaint	1/10/2001	2nd
	86:	Development of a Final Investigative Report	1/10/2001	2nd
	87:	Office of Professional Standards	8/21/2003	8th
	88:	Imposition of Appropriate Discipline Upon Sustained Complaint	7/17/2001	4th
	89:	Imposition of Appropriate Discipline Upon finding of Guilt or Liability	1/18/2002	5th
	90:	Office of Professional Standards - Imposition of Appropriate Discipline	7/19/2004	10th
91:	Tracking of Open OPS Cases	4/12/2001	3rd	
92:	Inform the Complainant upon Resolution of Investigations	4/12/2001	3rd	
Training	93:	Development and Evaluation of Quality of Training Programs	7/14/2005	12th
	97:	Encourage Superior Troopers to Apply for Academy	1/10/2001	2nd
	98:	Formal Eligibility Criteria for Training Personnel	7/19/2004	10th
	99:	Training for Academy Instructors	7/19/2004	10th
	100:	Training in Cultural Diversity	7/19/2004	10th
	101:	Recruit and In-Service Training on the 4th Amendment and Non-Discrimination Requirement	4/12/2001	3rd
	102:	Training Protocols for the Trooper Coach Process	1/18/2002	5th

TASK		Compliance Since	IMT Report	
Training-continued	103:	Provision of Copies of the Decree to All State Troopers	10/6/2000	1st
	104:	Systems Improvement Processes for Police Training	1/10/2001	2nd
	105:	Provision of Training for Supervisors	1/17/2003	7th
	106:	Training for Newly Promoted State Troopers	1/10/2001	2nd
	107:	Provision of Specialized Training	1/18/2002	5th
	108:	Inclusion of Training Data in MAPPs Program	7/19/2004	10th
	109:	Establishment of a Central Repository for Training Records	10/6/2000	1st
Oversight & Public Information	110:	Creation of the Office of State Police Affairs	7/14/2005	12th
	111:	Audits of Motorists Subjected to Motor Vehicle Stops	4/12/2001	3rd
	112:	Internal Audits of Citizen Complaint Processes	7/17/2001	4th
	113:	Full and Unrestricted Access for Office of State Police Affairs	10/6/2000	1st
	114:	Publication of Semi-Annual Reports Of Aggregate Traffic Stop Statistics	10/6/2000	1st
	115:	Appointment of Independent Monitor	10/6/2000	1st
	118:	Full and Unrestricted Access for Monitors	1/10/2001	2nd
	120:	State Police Reopen Internal Investigations Determined to be Incomplete	7/17/2001	4th
	122:	State to File Routine Progress Reports	10/6/2000	1st
	123:	State to Maintain All Necessary Records	1/10/2001	2nd
	124:	Unrestricted Access for the Department of Justice	10/6/2000	1st

## APPENDIX THREE

### Supplemental Data Analysis Results

#### Chi-Square Overview:

Chi-square analysis is often referred to as a "Goodness-of-Fit Test". This test is used to estimate how closely an observed distribution matches an expected distribution. The expected distribution is what would be expected assuming all events had an equal likelihood of occurring.

For each use of chi-Square in this report, the test is assessing a null and an alternative hypothesis. The null hypothesis is that the two variables- generally race/ethnicity and the enforcement activity- are independent. This means that the likelihood of each enforcement activity is the same for all racial/ethnic groups. The alternative hypothesis is that these two variables are not independent; that the likelihood of an enforcement activity is not the same for all racial/ethnic groups.

Using a statistical program, an estimate of the expected distribution of each enforcement is calculated. The expected distribution and the observed distribution are used in the chi-square formula:

$$\chi^2 = \sum \frac{(\text{observed} * \text{frequency} - \text{expected} * \text{frequency})^2}{(\text{expected} * \text{frequency})}$$

Once the chi-square statistic is calculated, assessment of significance can be done. First, to assess significance, a significance level must be agreed upon. Throughout statistics,  $p < .05$  is a common significance level. A "p" level indicates the probability that a statistical relationship could reflect only chance. The smaller the size of "p," the smaller the probability the relationship happened by chance. If a reported chi-square statistic reaches a "p" level of 0.05 (or smaller), there is no more than a five-percent probability that the distribution of the data in that table happened by chance, and therefore any differences across groups seen in the table are considered statistically significant.

After obtaining the agreed upon significance level, the degrees of freedom need to be calculated. "Degrees of freedom" (df) refer to the how much about the observed data needs to be known (or can "be free" to vary) before all the observations would be determined. The size of a statistic needed to achieve a particular level of significance ("p") is determined by the degrees of freedom. For the chi-square statistic, the degrees of freedom translate into the number of cells in a table for which the data distribution needs to be known before all the cells are determined. To calculate the degrees of freedom, use the following formula:

$$\text{df} = (\# \text{ of columns} - 1) * (\# \text{ of rows} - 1)$$

After calculating the chi-square statistic, the degrees of freedom, and establishing the significance level, you must consult a chi-square distribution table to determine whether the chi-square statistic allows you to reject your null hypothesis or fail to reject it. If your chi-square value is less than the value under your level of significance, you cannot reject your null hypothesis that the likelihood of each enforcement activity is the same. If your value is more than the value reported on the Distribution table, you can reject the null hypothesis and conclude that the likelihood of enforcement is not the same for all racial/ethnic groups.

**Example:**

As an example, the calculation of the chi-square will be reviewed for Table One.

Table one presents the observed frequencies for whether a consent request was made of Black, White, and Hispanic drivers. The null hypothesis is that Black, White, and Hispanic drivers have an equal chance of receiving a consent request or not. The alternative hypothesis is that Black, White, and Hispanic drivers do not have an equal chance of receiving a consent request.

**Table One: Consent Requests by Race/Ethnicity of Driver**  
4<sup>th</sup> OLEPS Reporting Period

	<b>Black</b>	<b>White</b>	<b>Hispanic</b>	<b>Total</b>
<b>No Consent Request</b>	17	20	3	40
<b>Consent Request</b>	266	287	107	660
<b>Total</b>	283	307	110	700

While a statistical program usually calculates the expected frequencies, they can also be calculated by hand. To do this we will use the following formula:

$$\frac{\text{Row total} * \text{Column Total}}{\text{Total n for the table}}$$

First, calculate the expected frequency for Black drivers with no consent request. The row total is 40 and the column total is 283. The total n for the table is 700.

$$\frac{40 * 283}{700} = 16.17$$

Thus, the expected value of Black drivers without a consent request is 16.17. The same formula is calculated for each racial/ethnic group for no consent request and for consent request. The table below presents the expected values for each cell in parentheses.

	<b>Black</b>	<b>White</b>	<b>Hispanic</b>	<b>Total</b>
<b>No Consent Request</b>	17 (16.17)	20 (17.54)	3 (6.28)	40
<b>Consent Request</b>	266 (266.82)	287 (289.45)	107 (103.71)	660
<b>Total</b>	283	307	110	700

Using the chi-square formula, the chi-square value is calculated.

$$\chi^2 = \sum \frac{(\text{observed*frequency} - \text{expected*frequency})^2}{(\text{expected*frequency})}$$

$$\chi^2 = \frac{(17-16.17)^2}{16.17} + \frac{(266-266.82)^2}{266.82} + \frac{(20-17.54)^2}{17.54} + \frac{(287-289.45)^2}{289.45} + \frac{(3-6.28)^2}{6.82} + \frac{(107-103.71)^2}{103.71}$$

$$\chi^2 = 2.23$$

We will use the standard significance level of  $p < .05$ .

Next, calculate the degrees of freedom.

$$df = (\# \text{ of columns} - 1) * (\# \text{ of rows} - 1)$$

$$df = (3 - 1) * (2 - 1)$$

$$df = 2$$

Consulting the chi-square Distribution Table (available in most basic statistics books or online), indicates that in order to reject the null hypothesis at a significance level of .05, the chi-square statistic needs to be 5.99 or greater. Our value is 2.23, less than the required value. This means that we fail to reject the null hypothesis. In this case, we cannot conclude that these groups do not have an equal chance of receiving a consent request.

**Table Two: Canine Deployments by Race/Ethnicity of Driver**  
4<sup>th</sup> OLEPS Reporting Period

	Black	White	Hispanic	Total
<b>No Canine Deployment</b>	262	292	103	657
<b>Canine Deployment</b>	21	15	7	43
<b>Total</b>	283	307	110	700

$\chi^2=1.652, df=2$

$p=.438$   
<sup>23</sup>

**Table Three: Uses of Force by Race/Ethnicity of Driver**  
4<sup>th</sup> OLEPS Reporting Period

	Black	White	Hispanic	Total
<b>No Force</b>	266	283	108	657
<b>Use of Force</b>	17	24	2	43
<b>Total</b>	283	307	110	700

$\chi^2=5.071, df=2$

$p=.079$

**Table Four: Arrest Data by Race/Ethnicity of Driver**  
4<sup>th</sup> OLEPS Reporting Period

	White	Non-White	Total
<b>No Arrest</b>	9	22	31
<b>Arrest</b>	298	371	669
<b>Total</b>	307	393	700

$\chi^2=2.895, df=1$

$p=.089$

<sup>23</sup> The *p*-values reported here indicate the standard of significance required to conclude that the likelihood of these enforcement activities is not equal among groups, as reported by the statistical software used. The standard significance level used is  $p<.05$ . This means that if the *p*-value reported in any of these tables is .05 or less, then we can conclude that there is a significant difference in the likelihood of enforcement activities based on race/ethnicity. If the difference is not significant, the same results could have been achieved by chance rather than purposive behavior.

**Table Five: Sampled Vehicle Stop Rates by Reason for Stop**  
4<sup>th</sup> OLEPS Reporting Period

	<b>White</b> (% of Total Stops)	<b>Black</b> (% of Total Stops)	<b>Hispanic</b> (% of Total Stops)
<b>Rate of Speed</b>	78	76	21
<b>FTML</b>	69	50	23
<b>Equipment Violations</b>	27	37	18
<b>Safety Violations</b>	27	20	11
<b>Failure to Signal/ Improper Lane Change</b>	19	22	3
<b>Total</b>	<b>220</b>	<b>205</b>	<b>76</b>

$\chi^2=12.622$ , df=8  
p=.126

**Table Six: Consent Request Stop Rates by Reason for Consent**  
4<sup>th</sup> OLEPS Reporting Period

<b>Race/Ethnicity</b>	<b>Reasonable Articulate Suspicion</b> (1)	<b>Probable Cause</b> (2)	<b>Mean</b>
<b>White</b>	50	237	1.82
<b>Black</b>	63	203	1.76
<b>Hispanic</b>	13	94	1.87
<b>Total</b>	126	534	1.80

$\chi^2=9.811$ , df=4  
p=.044

**Table Seven: Canine Deployment Rates by Reason for Deployment**  
4<sup>th</sup> OLEPS Reporting Period

<b>Race/Ethnicity</b>	<b>Reasonable Articulate Suspicion</b> (1)	<b>Probable Cause</b> (2)	<b>Mean</b>
<b>White</b>	8	7	1.46
<b>Black</b>	17	4	1.19
<b>Hispanic</b>	5	2	1.28
<b>Total</b>	30	13	1.30

$\chi^2=4.693$ , df=4  
p=.320

**Table Eight: Reason for Consent Request by Race and Ethnicity**  
4<sup>th</sup> OLEPS Reporting Period

	White	Non-White	Total
<b>Intangible (1)</b>	1	3	4
<b>Tangible (2)</b>	0	0	0
<b>Probative (3)</b>	49	74	123
<b>Total</b>	50	77	127

$\chi^2 = .357$ , df=1

p=.550

2 cells have expected counts less than 5.

**Table Ten: Day v. Night Stops**

4<sup>th</sup> OLEPS Reporting Period

	Day	Night	Total
<b>White</b>	148	159	307
<b>Black</b>	129	154	283
<b>Hispanic</b>	48	62	110
<b>Total</b>	325	375	700

$\chi^2 = .817$ , df=2

p=.665

## Independent Samples *t*-test

### Overview

This test can be used to determine whether two means are different from each other when the two samples are independent. For this report, the independent samples are the racial/ethnic categorizations of drivers involved in motor vehicle stops. These groups are independent, they have not been matched.

The first step in a *t*-test is to develop hypothesis. The null hypothesis is that the lengths of stops for each group are equal. The alternative is that the lengths of stops are not equal. Because these hypotheses only mention difference and not direction, a two-tailed test will be used. As with the *Chi-Square* test, the significance level to be used is .05.

SPSS was used to calculate the *t* value, however this can also be done by hand using the following formula:

$$t = \frac{(\bar{x}_1 - \bar{x}_2) - (\mu_1 - \mu_2)}{S_{\bar{x}_1 - \bar{x}_2}}$$

$X_1$  = mean of group 1

$X_2$  = mean of group 2

$\mu_1$  = population 1

$\mu_2$  = population 2

$S$  = estimated standard error<sup>24</sup>

### Example:

Hypothesis: Do White and Black drivers differ in the length of their motor vehicle stops? The mean stop length for White drivers is 45.62, the standard deviation is 23.86, and  $n=307$ . The mean stop length for Black drivers is 55.64, the standard deviation is 33.03, and  $n=283$ .

Hypothesis:

$H_0$  = the length of stops are equal for White and Black drivers

$H_1$  = the length of stops are not equal for White and Black drivers

Set criteria:

Significance level ( $\alpha$ ) = .05

For this test, the degrees of freedom are calculated using this formula:

$$df = n_1 + n_2 - 2$$

$n_1$  = the number of observations in sample 1

$n_2$  = the number of observations in sample 2

<sup>24</sup> There are several steps required to calculate the estimated standard error. Information on how to calculate this can be found in a statistics text book.

$$df = 307 + 283 - 2$$

$$df = 588$$

Critical value for the  $t$ -test:

This is determined by looking at a  $t$ -distribution and finding where the degrees of freedom for the sample and the desired significance level intersect. For this example,  $t$  critical is: 1.64

Calculate the mean and standard deviation. This information has been provided. The mean stop length for White drivers is 45.62, the standard deviation is 23.86, and  $n=307$ . The mean stop length for Black drivers is 55.64, the standard deviation is 33.03, and  $n=283$ .

To calculate the  $t$ -statistic begin by plugging in values into the above equation.

$$t = \frac{(45.62 - 55.64) - (\mu_1 - \mu_2)}{S_{x_1 - x_2}}$$

$(\mu_1 - \mu_2)$  defaults to 0

$$t = \frac{(45.62 - 55.64)}{S_{x_1 - x_2}}$$

To calculate  $S$ , use this equation:

$$S_{\bar{x}_1 - \bar{x}_2} = \sqrt{\frac{S_{pooled}^2}{n_1} + \frac{S_{pooled}^2}{n_2}}$$

First, the estimated standard error of the difference must be calculated:

$$S_{pooled}^2 = \frac{(df_1)s_1^2 + (df_2)s_2^2}{df_1 + df_2}$$

$$df_1 = n_1 - 1 \quad df_1 = 307 - 1 \quad df_1 = 306$$

$$df_2 = n_2 - 1 \quad df_2 = 283 - 1 \quad df_2 = 282$$

$$S_{pooled}^2 = \frac{(306)23.86^2 + (282)33.03^2}{306 + 282}$$

$$S_{pooled}^2 = \frac{(306)569.29 + (282)1098.98}{588}$$

$$S^2_{pooled} = \frac{174203.74 + 309912.36}{588}$$

$$S^2_{pooled} = 823.32$$

$$S_{\bar{x}_1 - \bar{x}_2} = \sqrt{\frac{S^2_{pooled}}{n_1} + \frac{S^2_{pooled}}{n_2}}$$

$$S_{x1-x2} = \sqrt{\frac{823.32}{307} + \frac{823.32}{283}}$$

$$S_{x1-x2} = \sqrt{2.68 + 2.90}$$

$$S_{x1-x2} = \sqrt{5.58}$$

$$S_{x1-x2} = 2.36$$

Plug this value back into the equation for  $t$ :

$$t = \frac{(45.62 - 55.64)}{2.36}$$

$$t = \frac{(45.62 - 55.64)}{S_{x1-x2}}$$

$$t = \frac{10.02}{2.36}$$

$$t = 4.24$$

Compare the  $t$  value calculated, 4.24, to the critical  $t$  value from the table, 1.64.

Since the calculated  $t$  value is higher, we can reject the null hypothesis and accept the alternative hypothesis.

Therefore, there is a significant difference in the length of motor vehicle stops for White drivers and Black drivers.

**APPENDIX FOUR**

## Definitions of Acronyms and Abbreviations

BOLO: Be on the Look Out

CAD: Computer Aided Dispatch. The dispatch system employed by State Police.

DTT: Duty to Transport

FTML: Failure to Maintain Lane

IAIB: Internal Affairs Investigation Bureau

IA-Pro: Internal Affairs Professional. The database used by OPS.

Independent Monitors: The monitoring team put in place by the Department of Justice.

MAPPS: Management Awareness & Personnel Performance System. The database used to monitor all trooper activity. It is fed from CAD, RMS, and IA-Pro

MDT: Mobile data terminal. The computer inside State Police vehicles.

MVSR: Motor vehicle stop report

O.I.: Operations Instructions

OLEPS: Office of Law Enforcement Professional Standards. Formerly OSPA

OPS: Office of Professional Standards. The office handles the disciplinary process for the State Police.

OSPA: Office of State Police Affairs. Became OLEPS.

PC: Probable Cause

RAS: Reasonable articulable suspicion

RMS: Records Management system

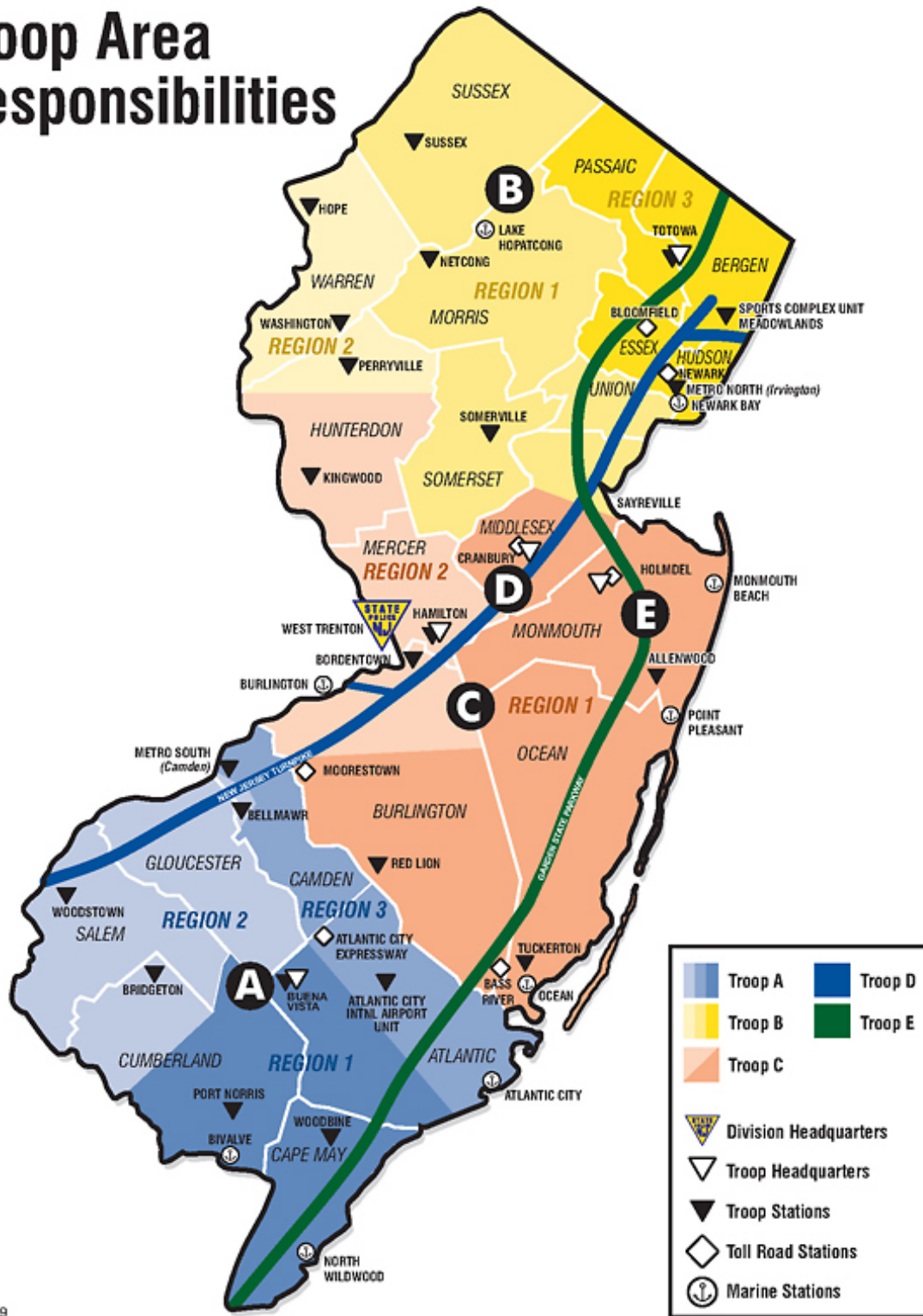
SOP: Standard Operating Procedure. Policies and procedures that govern all activity and behavior of the State Police.

The Act: Law Enforcement and Professional Standards Act (2009)

The Decree: The Consent Decree. The State Police entered into The Decree in 1999 to promote law enforcement integrity.

### APPENDIX FIVE New Jersey State Police Troop Area Responsibilities

# Troop Area Responsibilities



Appendix Five

Rev. 12/09