



**FIRST MONITORING REPORT PREPARED BY
OFFICE OF LAW ENFORCEMENT PROFESSIONAL STANDARDS**

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EXECUTIVE SUMMARY

The First Monitoring Report prepared by the Office of Law Enforcement Professional Standards (OLEPS) documents the continuing compliance of the New Jersey Division of State Police with the mandates and requirements of the 1999 Consent Decree. Previous reports noted the evolution of the State Police from an organization that had difficulty adapting to change into an organization that had become “self-monitoring” and able to develop or revise policies and procedures in response to developing legal principles and a dynamic criminal justice system. A goal of the decree was to encourage the development of the State Police as an organization that was “self-aware” and could adapt to a changing environment. This report concludes that the State Police continue to achieve that goal for the period January 1, 2008, through December 31, 2008, while the State Police were still subject to the provisions of the Consent Decree.¹

In preparing this report, staff assigned to OLEPS reviewed 383 motor vehicle stops including videotape reviews of 283 of the stops, gathered statistical data from those reviews and conducted an analysis of the data to determine whether the law enforcement activity undertaken by the State Police during motor vehicle stops was consistent with tasks laid out in the Consent Decree. In addition, the staff evaluated the efforts of State Police management to supervise the activities of subordinate troopers through the Management Awareness Personnel Performance System and other mechanisms. Furthermore, the staff performed audits of the internal affairs function and the training function to determine the compliance of those units with the Consent Decree. All these activities were performed in accordance with protocol and procedures previously established by the independent monitors.

Training

The State Police continued to comply with the Consent Decree requirements applicable to the training function in this reporting period. The New Jersey State Police Academy continues to refine and improve its ability to provide effective and meaningful training.

Significant progress has been made with respect to establishing the capability to identify training issues that arise from the day-to-day activities of the Field Operations Section, develop curriculum and programs to address those issues, implement the curriculum and programs through in-service training and measure the effectiveness of the curriculum at the conclusion of in-service training.

¹ The 1999 Consent Decree was terminated on September 21, 2009, after a joint motion filed by the Department of Justice and the State of New Jersey. Legislation codifying the reforms (*N.J.S.A. 52:17B-222 et seq.*) creates OLEPS, which has among its functions the monitoring of the State Police as the independent monitoring team did under the terms of the Consent Decree.

By canvassing the Division, the Academy identified several topics as appropriate for the annual in-service training held during the reporting period, including: 1) motor vehicle pursuit violations; unsafe operation of troop cars; 2) attitude and demeanor complaints; 3) frisk and search techniques; and 4) discretionary traffic enforcement. Curriculum consisting of lecture and scenario-based training was developed to address the issues and the training was delivered during the 2008 in-service training program.

Also during this reporting period, the Academy conducted an evaluation of instruction provided in the 2007 in-service. The evaluation focused on the utility of the training provided during the program. The evaluation included a review of course critiques completed by the instructors and trainees to ascertain the level of knowledge retained following the program, adjustment of the training program to reflect issues raised by the course critiques, measurement of "learning effectiveness" in the field, and, written data collection of the information gleaned from the program. The monitoring team believes that the foregoing steps provide a basis for meaningful and effective training programs that will foster compliance with the principles outlined by the Consent Decree.

The most notable training outcome in the field as evidenced from the 2007 in-service training is related to consent searches. It appears that the training led to a discernible improvement in search and seizure techniques by individual troopers during motor vehicle stops. During this reporting period, the monitoring team noted fewer issues with the reasonable suspicion articulated by troopers in support of requesting consent to search a vehicle, with a substantial increase in probative reasons supporting these requests.

Further progress has been made with respect to the attendance of troopers at training programs conducted by third-party vendors. Previous to this reporting period, troopers had attended a training program conducted by a vendor whose staff consisted of retired state and federal law enforcement officers. The troopers' attendance was not sanctioned by the Academy. In addition, the course curriculum was not reviewed by Academy staff to determine if it was consistent with New Jersey case law and the requirements of the Consent Decree. Thus, the incident raised the potential that individual troopers could have received training that was inappropriate for their assignment (e.g. troopers assigned to general road patrol attended training developed for troopers assigned to commercial carrier enforcement). To prevent a similar incident from occurring in the future, the Academy drafted standard operating procedures which require troopers to seek and receive the approval of the Academy and the State Police ethics officer before they may attend training programs conducted by third-party vendors.

An issue that bears watching is the turnover of executive staff at the Academy. During this reporting period, three different commandants were assigned to the Academy. It must be acknowledged that some of the turnover was beyond the control of the superintendent and that the superintendent has the authority to assign executive staff to the Academy as he sees fit. Nevertheless, rapid turnover poses the danger of degrading the institutional knowledge necessary to ensure the smooth operation and administration of the Academy. In addition, rapid turnover of the executive staff may make it more difficult for the Academy to comply with Consent Decree related requirements in the future.

Supervision

In the past, State Police policy dictated that all incidents in which a law enforcement action was taken following the stop of a motor vehicle would be subject to a video tape review. That policy was modified during the fifteenth reporting period under the Consent Decree to require a mandatory review of all incidents in which there was a request for consent to search a vehicle, a canine deployment or a use of force. All other incidents were not subject to a mandatory review. During this reporting period, 383 incidents were examined for by OLEPS. Of those incidents, the monitoring team noted a supervisory or management video tape review by the State Police in 240 incidents, yielding a rate of review of approximately 63 percent. Those 240 reviews yielded 111 events in which State Police supervisory or management reviews noted errors by the troopers conducting the motor vehicle stop.

Error rates by supervisors and management in this reporting period remained consistent with error rates in previous reporting periods. Of the 383 incidents it reviewed, OLEPS found that the State Police failed to identify and remedy errors in 21 of the incidents. This translates into a compliance rate of >94 percent, which satisfies the benchmark established for this process.

Two supervisory issues that were noted in the last report prepared by the independent monitors require comment again in this report. The first issue concerns supervisory reviews of video tapes as mandated by Task 36. Under the task, supervisors must conduct reviews of video tapes of motor vehicle stops initiated by individual troopers. The independent monitors have previously noted their belief that the initial reviews by first-line supervisors are the most effective form of supervision because it is at this level that instruction, counseling, and correction has its greatest impact. In the opinion of the monitors, shifting the responsibility for these initial reviews away from the first-line supervisors and placing responsibility for these reviews with managerial personnel who are not assigned to the station diminishes the effectiveness of the supervisory review process mandated by Task 36.

In their last report, the independent monitors noted that 45 percent of the initial video reviews were conducted by someone other than the trooper's first-line supervisor. In this reporting period, the trend away from conducting video reviews by first-line supervisors continued with more than 65 percent of the reviews conducted by someone other than the trooper's first-line supervisor. In fact, all of the initial reviews of incidents involving consent requests, canine deployments and uses of force ("critical incidents" for the monitors) were reviewed by troop-level reviewers, outside of the trooper's direct line of command. A second review, typically referred to as a management review, takes place after the initial review and is conducted by managerial personnel, generally one station commander. OLEPS is aware that these reviews in the period often included input from enlisted members assigned then to the Office of State Police Affairs. The continuing decline in reviews conducted by first-line supervisors raises the potential that the effectiveness of the supervisory process could be diminished by the absence of reviews by first-line supervisors. Thus, the State Police should seek to reverse the decline video reviews conducted by supervisors at the station level.

In a similar vein, it was noted during this reporting period that the State Police began to shift responsibility for approving consent requests away from first-line supervisors and placing the responsibility with station commanders. In part, the policy was changed to achieve the goal of more consistency in approval decisions across Division for accepting the reasonable suspicion articulated for pursuing consent requests. Thus, the responsibility for approving consent requests was moved from supervisors closest to the act (motor vehicle stop and consent request) to supervisors one or more levels removed from the act. Again, the independent monitors believed that the most effective form of supervision of motor vehicle stops and related consent requests was supervision performed by first-line supervisors. However, this change in consent request approval policy did not add to the quality of the approvals observed in the period immediately prior to the change.

The second issue concerns field supervision of motor vehicle stops as mandated by Task 39. In their last report, the independent monitors noted that field supervision of critical incidents remained high, but that field supervision of other less critical incidents fell to just 34 percent and continued a trend of decreasing field supervision noted in previous reports. In the opinion of the monitors, lower levels of field supervision could compromise the ability of the State Police to supervise effectively the law enforcement activities of individual troopers during motor vehicle stops. Obviously, anything that detracts from the effective supervision of motor vehicle stops would be contrary to goals of the Consent Decree.

During this reporting period, field supervision of critical incidents remains acceptable with more than 60 percent of these incidents involving the participation of a first-line

supervisor. In addition, there was an increase in field supervision of other, less critical incidents with first-line supervisors participating in 40 percent of these incidents. Nonetheless, the rate of field supervision for less critical incidents remains far below the rates established by the State Police just a few years ago. While the increase in the rate is a positive development, the rate of supervision for both critical and less than critical incidents will be reviewed again in the next reporting period.

A third issue was not highlighted in the last report, but was in previous reports by the independent monitors. It became apparent during the reporting period that the number of malfunctions attributable to the video recorders is increasing. OLEPS conducted 283 tape reviews of motor vehicle stops. In 42 of those stops, some form of audio or video difficulty was noted by OLEPS. Thus, approximately 15 percent of all motor vehicle stops were not fully recorded (either audio or video). Most of the malfunctions were due to the age and condition of the equipment rather than trooper error. Continued reliance on the video recorders raises the possibility that the State Police and OLEPS will be unable to review an increasing number of motor vehicle stops in future reporting periods due to malfunctions, which result from the age and condition of the recorders. The recorders utilize a VHS format which is by any measure an "ancient" technology to record and view video images. As a practical matter, the repair and/or replacement of video recorders has become problematic due to the shortage of spare parts and the inability to purchase new VHS recorders for installation in troop cars. In addition, newer technologies for recording and viewing video images promise to ease the task of conducting supervisory reviews of motor vehicle stops by allowing for the electronic storage and transmission of video images and by increasing the speed with which specific video images can be located and viewed. The monitoring team has been advised that the replacement of the VHS recorders with newer technology has commenced. Every effort should be made to continue and complete the replacement process as soon as possible.

Lastly, as alluded to in the summary of training activities set forth above, the monitoring team noted in its review of motor vehicle stops an appreciable increase in the quality of consent requests made by troopers. More specifically, the team noted a substantial increase in probative reasons leading to reasonable suspicion which supported requests for consent to search a motor vehicle. The fact that the quality of consent requests improved during the reporting supports two conclusions. First, the training function can, through in-service training programs, directly address and help resolve questionable law enforcement practices soon after those practices are identified. Second, the State Police has evolved into an organization that analyzes and corrects problematic law enforcement activities on an ongoing basis.

MAPPS Development

Full compliance continues in this period regarding MAPPS information system capabilities. The system can be used to review trooper and supervisory performance, compare trooper performance to other members of the trooper's workgroup, and to compare performance across work groups. Appropriate benchmark processes have been established for the MAPPS system, and all five of the New Jersey State Police's field operations troops have received written benchmarking and data analytic reports. Supporting S.O.P.s and training for operation of MAPPS have been developed and approved by the monitors, and delivered to the field personnel using the system. MAPPS is being used in performance evaluations and subsequent supervisory actions including to document verbal counseling and to create and be a repository for performance notices and retraining. High-level risk analysis processes, using MAPPS data, were commenced during the thirteenth reporting period.

The evolution of the use of the MAPPS data system into a proactive problem-identification and problem-solving system commenced during the fifteenth reporting period. Initially, MAPPS was used to provide the State Police with information that focused on motor vehicle stops. During the fifteenth reporting period, the State Police moved beyond that narrow focus in its use of MAPPS to focus on systemic organizational issues and to craft solutions to those issues before they negatively impact the organization in any significant way. During this reporting period, work continued on developing a new module for MAPPS capturing use of force incidents for reporting by the Risk Analysis Core Group (RACG). In addition, the work of the RACG with respect to the analyses of motor vehicle stop data led to enhancements in the data collected by the CAD system implemented during the period and in the new protocol for the stop reports implemented in the Division's record management system. MAPPS displays have been changed to display some of these enhancements.

With respect to resources and capabilities, the MAPPS and RACG functions are adequately staffed at this point in time to address the workload presented by the Consent Decree. Both functions possess the technological capacity to generate and analyze data in response to issues posed by the Consent Decree and the organizational demands of the State Police. In addition, both functions have access to the data and information necessary to execute their responsibilities. Thus, both functions remain in compliance with the Consent Decree.

That said, the monitoring team is concerned about future staffing of civilian positions that support the analytic efforts of the State Police. During the reporting period, the State Police attempted to replace a civilian analyst who resigned from employment. Permission to replace the analyst was denied due to budgetary constraints. Sufficient and appropriately trained staff are critical to supporting the continued operation of

MAPPS and the RACG so that those entities can meet the diverse analytic demands of the State Police. The monitoring team also notes that improved integration of the risk identification and the risk analysis functions across the State Police would enhance its ability to effectively address emerging issues as they arise.

Office of Professional Standards (OPS)

Of note during the reporting period was the development and implementation by OPS of its “Incident Reduction Initiative.” The initiative, which is not a requirement imposed by the Consent Decree, aims to reduce the total number of misconduct and performance-related complaints lodged against members of the State Police. The initiative hopes to achieve a reduction in the number of complaints through an aggressive program of data collection and analysis which, it is anticipated, will allow OPS to proactively address troopers who are unwilling, unable or unfit to perform their duties.

The initiative seeks to collect data governing complaints of trooper misconduct and other performance-related issues and analyze the data to determine whether patterns or practices of misconduct or inappropriate behavior can be identified. The initiative also contemplates analyzing the data to determine whether misconduct or other inappropriate behavior on the part of individual troopers can be anticipated or predicted and thus interdicted or prevented.

While the initiative did not generate enough data during this reporting period to examine its effectiveness, the initiative is noteworthy in that it goes well beyond what is mandated by the Consent Decree with respect to the internal affairs function. In addition, the initiative represents a concerted effort by OPS to proactively manage and address employee misconduct and risk management issues, consistent with the spirit of the Consent Decree and its emphasis on early interventions to modify behavior. A greater examination of the initiative will take place in future reporting periods.

Inspections, Audit and Quality Control

Inspections and Audit personnel from Field Operations and OLEPS continue to review motor vehicle stop reports and video tapes elements for conformance to the requirements of the Consent Decree. These quality control procedures indicate a consistency in the application of law enforcement procedures during this reporting period. OLEPS continues to provide the State Police with an additional tier of review for law enforcement activities related to the Consent Decree.

Overall Compliance Status

Compliance in all areas continues to meet the requirements established by the Consent Decree. All functions subject to review under the decree including training, supervision, inspections, audits and MAPPS processes are fully staffed and functioning. In the opinion of the OLEPS, the State Police continue to function as an organization that is able to “analyze and correct” problematic law enforcement procedures on a “real time” basis. This accomplishment is consistent with the goal of the Consent Decree that is to encourage the development of a law enforcement organization that is able to monitor its activities and adapt to the changing dynamics of the criminal justice system. OLEPS expects this level of functioning to continue when it conducts reviews of the New Jersey State Police in post-Consent Decree periods.

Office of Law Enforcement Professional Standards
First Monitoring Report of the New Jersey State Police
Period Ending December 31, 2008

1 Introduction

This document represents the second report prepared by the State of New Jersey (the State) assessing the levels of compliance of the Division of State Police (State Police) with the requirements of a Consent Decree (Decree) entered into between the State and the United States Department of Justice in December 1999. In addition, this document marks the first time the State has assessed compliance without the direct oversight of the independent monitoring team (IMT).

Between the entry of the Decree in December 1999 and December 2007, the IMT issued sixteen reports assessing the efforts of the State Police to comply with the provisions of the Decree. Following the release of the Sixteenth Monitors' Report, discussions were held between the independent monitors, the Department of Justice, the State of New Jersey and the Office of State Police Affairs (OSPA) as to the preparation of the seventeenth report. From those discussions, it was agreed that OSPA would begin to assume the duties previously performed by the independent monitors including the assessment of compliance by the State Police with the provisions of the Decree. In addition, it was agreed that OSPA would prepare a draft of the seventeenth report for the review and signature of the independent monitors.

The seventeenth report, which was issued in April of 2009, marked the first time the State had assessed compliance by the State Police with the terms of the Decree. In preparing the report, OSPA performed all of the activities previously performed by the independent monitors in assessing compliance with the Decree. A draft of the report prepared by OSPA was forwarded to the independent monitors for review. Approval to issue the report was granted by the independent monitors in April 2009.

The seventeenth report concluded that the State Police had achieved compliance with the requirements of the Consent Decree for several reporting periods.² More specifically, the report concluded that all functions of the State Police subject to review under the Decree were found to be fully staffed and functioning. In addition, the report concluded that the State Police had become an organization which was self-regulating and was thereby able to "analyze and correct" problematic law enforcement procedures shortly after the problematic procedures were identified.

² The State Police first became complaint with all the requirements of the Consent Decree in the Twelfth Monitors' Report (July 2005).

Based on the conclusions set forth in the seventeenth report, discussions were held between the State of New Jersey and the Department of Justice concerning the termination of the Decree. The State elected to pursue the discussions after the Advisory Committee on Police Standards determined that it would be in the best interests of the State to terminate the Decree provided the State took steps to ensure that the reforms implemented by the Decree were carried forward.³ Among the steps recommended by the committee was the assumption by the State of the responsibility for assessing compliance with the Decree by the State Police.

The committee report not only encouraged the State to pursue discussion concerning the termination of the Decree, it also helped trigger the enactment of legislation by the State which codified many of the reforms implemented by the Decree.⁴ The legislation also created the Office of Law Enforcement Professional Standards (OLEPS) as a successor to the OSPA. In the legislation, OLEPS is directed to perform "such administrative, investigative, policy and training oversight, and monitoring functions" necessary to ensure the integrity of the State Police.

Based on the findings of the seventeenth report and the enactment of legislation codifying the reforms implemented by the Decree, the State and the Department of Justice agreed in August 2009 to file a joint motion to terminate the Decree with the United States District Court. The motion was granted and an order terminating the Decree was entered by the Court on September 21, 2009.

OSPA was succeeded by OLEPS in October 2009. While this report marks the second time the State has assessed the levels of compliance with the Decree by the State Police, it marks the first report prepared by OLEPS. The report reviews activities undertaken by the State Police between January 1, 2008, and December 31, 2008. The reader should note that the State Police remained subject to the requirements of the Decree during the entire reporting period. Furthermore, the independent monitors continued to review policy changes and offer technical advice to the State during the reporting period. However, the monitors did not participate in the preparation of this report nor did they assert editorial control over the conclusions expressed in this report.

³ In August of 2006, Governor Corzine established by executive order the Advisory Committee on Police Standards. The committee was asked to perform several functions including making recommendations to the governor concerning whether the State should join the Department of Justice in moving to terminate the Consent Decree. The committee was also asked to identify those measures that would ensure that the New Jersey State Police maintain the reforms implemented under the Consent Decree.

⁴ See, *N.J.S.A. 52:17B-222 et seq.*

The report is organized into three sections, identified below:

- Introduction;
- Compliance Assessment; and
- Summary.

The methodology employed by OLEPS in developing the report, definitions used by monitoring team, key dates for the monitoring process, and operational definitions of “compliance” are described in Section One of the report. Section Two of the report, “Compliance Assessment,” includes the findings of the monitoring process implemented by the Office of State Police Affairs and specific examples of compliance and non-compliance observed during the monitoring process. Section Three of the report, “Summary,” provides an overall assessment of the State’s performance for this reporting period.

1.1 Overall Status Assessment

Two specific dates accrue to deliverables for the Decree: the date of entry of the Decree (December 30, 1999), which times deliverables of the State, and the date of appointments of the independent monitors (March 30, 2000), which times deliverables for the compliance monitoring process.

1.2 Format for Compliance Assessment

The IMT reports were organized to be congruent with the structure of the Consent Decree. They reported on the State’s compliance using the individual requirements of the Decree. For example, the first section, the compliance assessment, deals with the requirements, in paragraph 26 of the Decree, relating to a specific prohibition against using “to any degree the race or national or ethnic origin of civilian drivers or passengers in deciding which vehicles to subject to any motor vehicle stop” (Decree at paragraph 26 and comprising Task 26 for reporting purposes here). The remaining components of the Decree are treated similarly. With a few changes noted below, OLEPS continues this format. Compliance was originally classified in the IMT reports as “Phase I,” and “Phase II;” Section 1.4, below specifies the original definitions of these phases and notes the focus on Phase II compliance in this report.

1.3 Compliance Assessment Processes

1.3.1 Structure of the Task Assessment Process

Members of the monitoring team have been provided data, pursuant to specific requests, by the New Jersey State Police. All data collected were of one of two types. They were either collected by:

- Selection of a random or stratified random sample;
- Selection of all available records of that type.

Under no circumstances were the data selected by the monitoring team based on provision of records of preference by personnel from the New Jersey State Police. In every instance of the selection of random samples, State Police personnel were provided lists requesting specific data, or the samples were drawn directly by members of the monitoring team.

The monitoring team assessed the performance of the New Jersey State Police on each task outlined in the Consent Decree for the calendar year ending December 31, 2008.⁵ The Seventeenth Monitors' Report was submitted to the court in April of 2009, covering the calendar year ending December 31, 2007.

All determinations of status for the New Jersey State Police are data based, and were formed by a review of the following types of documents:

- Official New Jersey State Police documents prepared in the normal course of business;⁶ and/or
- Electronic documents prepared by the State Police or components of state government during the normal course of business.

⁵ Motor vehicle stop activity was assessed through December 31, 2008, the last available date for complete electronic records for motor vehicle stops in order for the monitoring team to begin reviews in April 2009.

⁶ For example, members of the monitoring team would not accept for review as documentation of compliance "special reports" prepared by state personnel describing their activities relating to a specific task. Instead, the monitoring team would review records created during the delivery or performance of that task.

1.3.2 Operational Definition of Compliance

For the purposes of the monitoring process in previous reports, "compliance" consisted of two components: Phase I compliance and Phase II compliance. Phase I compliance was viewed as the administrative piece of compliance. It entailed the creation of policy, procedure, rule, regulation, directive or command to "comply" as required by the text of the Decree. Phase II compliance dealt with the implementation of a specific policy and required that the policy must, by matter of evidence, be followed in day-to-day operations of the New Jersey State Police. It may have entailed the provision of training, supervision, audit, inspection, and discipline to achieve the implementation of a specific policy as designed. In commenting on the State's progress (or lack thereof) in achieving Phase II compliance for a specific task, the federal independent monitors may have commented upon the efficacy of training, supervision, audit, inspection and discipline as applicable to that task.

With the termination of the Consent Decree in September 2009, the monitoring team recognizes that the State Police have been in both Phase I and Phase II compliance with all tasks since July 2005. Beginning with this report, Phase I compliance will be assumed and will not routinely be commented upon.⁷ Rather, compliance status reported in this and future reports will reflect the evidence that polices are being followed in the day-to-day operations of the State Police, formerly designated as Phase II compliance. Compliance levels for this monitoring process are reported both through a narrative description and summary (Appendix One). The narrative describes the nature of the task requirement being assessed, a description of the methodology used to assess the task, and a statement of compliance status. It is critical to note, however, that a finding of non-compliance does not mean the State Police are engaging in inappropriate behavior. It simply means the State Police as an organization has not met the criteria for compliance with a specific task during the reporting period.

1.3.3 Standards for "Compliance"

The monitoring team continues the standards to which the parties to the Consent Decree agreed. A quantitative standard for "compliance" is used for assessing compliance for all critical, constitutionally relevant tasks stipulated by the Decree that can be quantified. On tasks for which quantitative data can be collected, e.g., the number of Motor Vehicle Stop Reports (MVSRs) that conform to the requirements of the Decree, a standard of greater than 94 percent compliance is used. This means that at

⁷ Any changes to policy and procedures related to the Consent Decree must be approved by the Attorney General. The Office of Law Enforcement Professional Standards thus will continue to monitor that State Police policy and procedures adhere to the Consent Decree and will report any issues that arise.

least 95 percent of the reports reviewed conformed to the requirements of the Decree. For tasks not directly related to constitutional issues, e.g., recording of specific motor vehicle stop events, there is a 90 percent standard.

1.4 Flow of the Monitoring Process

Compliance audits and monitoring processes typically consist of two phases. The first phase focuses on issues of "policy compliance:" the development of policies, rules, regulations and directives to comply. The second phase focuses on issues of operational compliance and institutionalizing change into the day-to-day operations of the agency -- the focal point of on-going monitoring.

In preparing previous reports, the independent monitors developed and employed specific methods and practices to determine compliance with the Consent Decree, which were applied in the seventeenth report prepared by the Office of State Police Affairs and approved by the independent monitors. Because the Consent Decree remains in effect for the current reporting period, the OLEPS monitoring team again closely adhered to the methods and practices previously implemented by the independent monitors to assess motor vehicle stops including critical incidents (Tasks 26 through 39), Management Awareness and Personnel Performance System (Tasks 40 through 54) and training (Tasks 97 through 109). The following is a brief outline of the methods and practices implemented by the independent monitors in previous reports and utilized by the monitoring team.

Motor Vehicle Stops

The Consent Decree mandates that all incidents defined as critical by the State and the independent monitors be reviewed for compliance with the Decree.⁸ Each review of a critical incident consists of two phases. In the first phase, an examination is conducted of all of the reports prepared as a result of the incident (stop report, arrest report, etc.). In the second phase, the tape produced by the motor vehicle recorder during the stop is examined. The review serves two purposes. First, each review determines whether the actions of the State Police were consistent with federal and State constitutional law. Second, each review determines whether the actions of the State Police were consistent with the provisions of the Consent Decree and specific rules and regulations adopted by the State Police.

⁸ As agreed between the State and the independent monitors during the period under the Consent Decree, the following law enforcement activities constitute critical incidents in the context of a motor vehicle stop: a) a consent to search request is made subsequent to a supervisor's approval; b) physical, mechanical, chemical, or deadly force is used; or c) a canine deployment occurs.

OLEPS continued the practices outlined above. A total of 179 reviews of critical incidents were conducted during the preparation of this report. The number of critical reviews is five fewer than reviewed in the independent monitors' 17th report, but remains higher than the number of critical incidents reviewed by the independent monitors in previous reports. The higher number of critical incidents for this report is attributable to the fact that this reporting period again encompasses entire calendar year rather than the more typical six-month reporting period. Some critical incidents included more than one law enforcement activity (e.g., consent request, canine deployment, etc.).

In addition to the incidents outlined above, the independent monitors also examined a sizable number of incidents that were drawn from a larger number of motor vehicle stops in which other significant law enforcement activity took place.⁹ A review of all reports associated with these stops would be conducted by the independent monitors. In addition, a review of the tapes produced by the motor vehicle recorders during these stops would be conducted for a selected number of stops. For this report, 206 of these more routine motor vehicle stops with other post-stop procedures were chosen for review by the Office of Law Enforcement Professional Standards. The reviews undertaken by OLEPS staff utilized the same practices and statistical analyses implemented by the independent monitors in previous reports.

Management Awareness and Personnel Performance System

The independent monitors would access MAPPS at various times during the review period to ensure that all relevant information was entered into the system. The monitors also examined whether the State Police undertook appropriate risk management activities based on the information contained in MAPPS. The OLEPS monitoring team did the same in the preparation of this report.

Training

The independent monitors utilized a seven step process to evaluate the training function within the Division of State Police. That process included the following components: a) needs assessment; b) curriculum development; c) delivery of the program; d) evaluation of the program; e) revision of the curriculum; f) effectiveness of the program; and g) documentation of training. In conducting its review of the training function, OLEPS utilized the same seven step process.

⁹ The significant law enforcement activities specified by the decree include probable cause arrests, probable cause searches, frisks of the person or vehicle, and the seizure of contraband.

2 Assessment of Compliance

2.1 Methodology

The monitors assessed the State's compliance using practices agreed upon between the parties and the monitors.

The following sections contain a detailed assessment of the degree to which the State Police continues to comply with the tasks to which it agreed on December 30, 1999. The reporting period for this report deals with actions of the State to comply with the Decree between January 1, 2008, and December 31, 2008, and is thus prior to the dissolution of the Consent Decree in September, 2009.

First, Tasks 26 through 39 assess the creation and implementation of the reforms in field operations that address the prohibition from using race-ethnicity in decision making. Compliance with these tasks insures transparency of a trooper's road performance through the collection of data and supervisory review of road activity that is timely and corrective, when needed. The implementation of the Management Awareness Personnel Performance System is then assessed next in Tasks 40-54 and includes not only the maintenance of data on trooper performance, but also requirements for routine individual and aggregate analysis of the data over time. Tasks 57 through 92 of the Decree dealt with internal investigations and the complaint process; only Tasks 87 and 90 remain under review. Tasks 93 through 109 assess training and its implementation. Finally, Tasks 110 through 124 provide for Decree oversight and public information.

2.2 **Compliance with Task 26: Prohibition from Using Race-Ethnicity in Decision Making**

Task 26 stipulates that:

26. Except in the "suspect-specific" ("be on the lookout" or "BOLO") situation described below, state troopers shall continue to be prohibited from considering in any fashion and to any degree the race or national or ethnic origin of civilian drivers or passengers 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.

Compliance Status: **In Compliance**

Implementation Summary

Field Operations came into full compliance with Consent Decree Tasks 26 through 39 in the eleventh reporting period as noted in the IMT Report of December 20, 2004. The last tasks to reach "Phase II" compliance (Tasks 35 and 36) were those relating to supervisory reviews of reports and video tapes that result in identifying errors in the field and allowing corrective actions to be taken.¹⁰

Methodology

For this reporting period, members of the Office of Law Enforcement Professional Standards (OLEPS) monitoring team conducted structured reviews of the operations of sampled New Jersey State Police Road Stations for all troops, with the exception of Troop A. These reviews were conducted of motor vehicle stop activities reported during the dates January 1, 2008 through December 31, 2008, inclusive (the last month for which electronic data were available prior to beginning review).¹¹ As part of this review, members of the monitoring team collected and/or reviewed course-of-business data on 384 New Jersey State Police motor vehicle stop incidents. In addition, the team reviewed 283 motor vehicle stop incidents involving law enforcement procedures stipulated in the Decree through mobile video recordings (MVRs), available from cameras mounted in patrol cars and microphones attached to troopers on scene. Supporting documentation was reviewed for each of the motor vehicle stops assessed by the monitoring team. The following paragraphs describe the monitoring team's methodology for data collection and analysis. These descriptions apply to the assessment of compliance of various tasks required by the Decree, and are critically important in the assessment of tasks 26 through 36.

¹⁰ Appendix One gives the reporting period that each task attained "Phase II" compliance according to the federal monitors, indicating successful implementation in day-to-day operations.

¹¹ The seventeenth IMT reporting period is the only period in which a full year of data was analyzed by the federal monitors, a fact that led to higher numbers of reported post-stop activities. This first OLEPS reporting period again includes a full year of data.

Data Requests

Prior to beginning reviews in April 2009, the monitoring team requested of the New Jersey State Police electronic and hard copy (non-electronic) data regarding State Police operations. These data requests included the following electronic-format data:

- Electronic data for all motor vehicle stop activity for the troops selected relating to an incident in which personnel engaged in one of the eight articulated post-stop law enforcement procedures of interest to the Decree, i.e., request for permission to search; conduct of a consensual or non-consensual search of a person or vehicle; ordering occupants out of a vehicle; frisks of vehicle occupants; deployment of a drug-detection canine; seizure of contraband; arrest of the occupants of the vehicle; or use of deadly, physical, mechanical or chemical force.
- Electronic data for all trooper-initiated motor vehicle stop “communications center call-ins” for the stations selected, including time of completion of the stop and results of the stop.
- The monitoring team also requested copies of documentation created for all consent search requests, canine deployments, and incidents involving use or force by New Jersey State Police personnel statewide, where such events took place in conjunction with a motor vehicle stop, as defined by the Decree. The request covered all these events in 2008.

Based on these data requests, the monitoring team was provided with all motor vehicle stop (MVS) records for Troops B, C, D and E (taken from the State’s motor vehicle stop report entry system) referred to by the New Jersey State Police as motor vehicle stop “event” records. Computer Assisted Dispatch (CAD) System records were also requested by the monitors for all motor vehicle stop activity for the selected stations from January 1, 2008, through December 31, 2008. This selection process was similar to the 17th reporting period, but differed from previous reporting periods.¹²

Data reviewed for the first OLEPS monitoring period included the types of incidents noted in Table One, below.

¹² Past monitoring reports drew sample events for the same time period as for the incidents involving consent requests, canine deployments and uses of force, and, from only two troops on a rotating basis. Because only one monitoring report is being produced for calendar year 2008, all four troops that would have comprised the universe for events in two monitoring periods were sampled. In the 17th reporting period, these events were chosen from the latter half of 2007 to insure review of the most recent data possible and to expedite retrieval of motor vehicle recordings. In this reporting period, two different troops were sampled from each six-month period in 2008: Troops B and D were sampled for the first six months and Troops C and E for the second six months.

Table One: Incidents Reviewed For First OLEPS Monitoring Period
(January 1, 2008 through December 31, 2008)

Type of Activity	Report Reviews	Tape Reviews ¹³
Selected MVS Incidents	384	283
MVS Involving Consent Search Requests	130	127
MVS Involving Canine Deployment	70	68
MVS Involving Use of Force	34	31
Probable Cause Searches of Vehicles	169	130
Probable Cause Searches of Persons	40	36

Motor Vehicle Stops

Based on the data provided by the New Jersey State Police, the OLEPS monitoring team selected specific law enforcement activities for further assessment and analysis. The methodology for selecting these law enforcement activities consisted of identifying all post-stop law enforcement procedures of interest to the Decree, i.e., request for permission to search; conduct of a consensual or non-consensual search of person or vehicle; ordering occupants out of a vehicle; frisks of vehicle occupants; deployment of a drug-detection canine; seizure of contraband; arrest of the occupants of the vehicle; or use of deadly, physical, mechanical or chemical force, for each road station assessed. These events were identified using the CAD records provided by the New Jersey State Police.

The overall *sample* of 384 drivers includes all 179 drivers who were subjected to a critical post-stop interaction, i.e., a consent search request, canine deployment or use of force. In addition, the monitors selected 205 other drivers as part of the driver sample.¹⁴ These drivers were selected from Troops B, C, D, and E based on their status as having had a non-critical post-stop interaction performed during their traffic stop, e.g., exit from a vehicle, frisk, probable cause search of a person, probable cause search of a vehicle, or arrest. In effect, then, 46.6 percent of the report's drivers sample was selected in response to a given New Jersey State Police action and produced a statewide sample, and 53.3 percent was selected by the monitors, and produced a Troops B, C, D, and E sample.

¹³ Tape and report reviews total more than 384 due to the fact that *all* tapes and *most* reports reviewed included more than a single category of law enforcement activity.

¹⁴ The driver sample also includes drivers in three stops originally identified as critical incidents (see footnote 7 above), but for which the critical action did not happen during the period the vehicle was on the side of road. These incidents had other, non-critical post-stop interaction.

These records indicated 90 events that resulted in consent search requests were from the stations selected for review this reporting period, and 40 such events were from other units (stations in Troop A or other, non-road station units), for a total of 130 consent search requests.¹⁵ All incidents involving consent search requests were assessed by reviewing New Jersey State Police reports documenting the consent and execution of the search, and by reviewing the available video tape records for those consent requests. All but three consent search requests were subjected to both documentation and video recording review by the monitoring team.¹⁶ Similarly, the New Jersey State Police deployed drug detection canine units 70 times during the reporting period, a 27.3 percent increase over the previous (and annual) period. The monitoring team reviewed reports from 70 of these events, and the monitoring team also reviewed videos from 68 of those events. All but 16 of the events with a canine deployment also involved consent search requests, including 28 of the 35 consent search requests that were denied. New Jersey State Police personnel reportedly used force in 34 motor vehicle stop incidents during the reporting period, and the monitoring team reviewed all reports from those incidents and tapes for 31 incidents.¹⁷

Selected motor vehicle stop incidents and procedures were subjected to one (or more) of three types of reviews performed by the monitoring team. The types of reviews used by the monitoring team are described below, and a summation of the types of review performed by station, are depicted in Table Two, below.

Type I Event Reviews

A Type I event review consisted of reviewing all available hard-copy and electronic documentation of an event. For example, an event review could consist of reviewing the motor vehicle stop report, associated records in the patrol log, a supporting consent to search report, and associated summonses or arrest records. Each post-stop event consisting of law enforcement procedure of interest to the Decree, i.e., request for permission to search; conduct of a consensual or non-consensual search; ordering occupants out of a vehicle; frisks of vehicle occupants; deployment of a drug-detection canine; seizure of contraband; arrest of the occupants of the vehicle; or use of deadly, physical, mechanical or chemical force was subjected to a structured analysis using a form developed by the monitoring team. Problems with the reporting process were noted and tallied using this form. These data were shared with the New Jersey State

¹⁵ Drivers declined 35 consent requests during the reporting period.

¹⁶ Three consent requests were not recorded due to a malfunction of the video recorder. Two of these events also included canine deployments.

¹⁷ One use-of-force event was not recorded due to a malfunction of the video recorder. In two other incidents, the recorder was not activated. These errors will be discussed below.

Police, and clarifications were requested and received in instances in which there was doubt about the status of an event or supporting documentation. All events for a total of 384 were subject to Type I reviews this period.

Type II Event Review

A Type II event review consisted of reviewing the associated video tape for a given motor vehicle stop event, and comparing the actions noted on the tape with the elements reported in the official documents related to the event. These data were collected using a form developed by the monitoring team. These data were shared with the New Jersey State Police, and clarifications were requested and received in instances in which there was doubt about the status of an event or supporting documentation. A total of 283 Type II reviews was conducted this period. (Table One above indicates by type of event whether the event review included a video review, making it a Type II review.) The reader should note that members of the monitoring team reviewed all available video tapes, as well as Motor Vehicle Stop Reports and associated documentation (patrol charts, citations, arrest reports, DUI reports, etc.) for *all* of the following New Jersey State Police activities:

- All known consent search requests;
- All known uses of force; and
- All known deployments of canine units.

Table Two: Distribution of Monitoring Events by Station

Station	Type I Reviews	Type II Reviews	Type III Reviews
B010 Metro North	4	3	0
B020 Hope	12	10	0
B050 Sussex	6	5	0
B060 Totowa	28	20	0
B080 Netcong	15	12	0
B110 Perryville	10	6	0
B130 Somerville	8	6	0
B150 Washington	3	2	0
C020 Bordentown	23	20	0
C030 Allenwood	1	1	0
C040 Kingwood	3	1	0
C060 Hamilton	25	14	0
C080 Red Lion	15	7	0
C120 Tuckerton	4	2	0
D010 Cranbury	32	26	0
D020 Moorestown	32	23	0
D030 Newark	28	21	0
E030 Bass River	23	17	0
E040 Bloomfield	13	5	0
E050 Sayreville	22	18	0
Other	77	64	0
Total	384	283	0

Type III Event Review

In order to provide a probability that the monitors would note any events, which should have been reported, based on the requirements of the Decree, but were not reported as required, the monitoring team in the past had developed a protocol that sampled events after a selected event at a road station. For example, if a motor vehicle stop incident, which occurred at 3 a.m., was selected for review, seven events recorded occurring immediately after that were also eligible for review. All events selected for a Type III (video-based) review in the past, had been subjected to a structured review using a form developed by the monitoring team. Based on eleven consecutive periods in which no unreported events were discovered, the federal independent monitors ceased

identifying events as Type III events for review. No Type III reviews were conducted this reporting period.¹⁸

Assessment

The OLEPS monitoring team continues to review State Police activity for processes that indicate that relatively minor infractions serve as the only precursory violation resulting in requests for consent searches, requests to exit the vehicle, frisks, or other law enforcement procedures. In most of the federal monitors' reports, the vast majority of all sampled searches of persons and vehicles conducted by members of the State Police were "non-discretionary," e.g., searches incidental to arrest. Based on revised New Jersey case law,¹⁹ effective the fifteenth reporting period, the search of a vehicle can no longer be conducted as incidental to arrest, leading to a substantial change in the nature of searches of vehicles. "Consent request" became the number one reason for a search of a vehicle in the fifteenth report, and continued to be the most frequent type of vehicle search sampled in the sixteenth and seventeenth reports. In this reporting period, somewhat fewer or 47.6 percent of all sampled searches of vehicles were based on a request for consent to search.²⁰ [This rate is calculated as 130 consent requests divided by 225 vehicle searches---an event calculation; some events had more than one type of vehicle search.] Of the 265 searches of persons reviewed this reporting period, 225 were "non-discretionary" searches incidental to arrest.

As with the previous three reporting periods, two activities this period were conducted frequently enough to lend themselves to statistical analysis for indications of race- or ethnicity-based decision making on the part of the New Jersey State Police: consent requests (n=130) and canine deployments (n=70). Table Three, below, depicts consent request activity for the last ten reporting periods. Figure One depicts these data graphically. The current reporting period, as was the seventeenth reporting period, is divided into two six-month groupings to adjust for the full-year reporting period examined for consent requests, making each group equivalent to the length of the 16th reporting period. The data for the seventeenth reporting period showed a decrease in the number of consent requests across the two, six-month, half periods, compared with the peak in consent requests in the sixteenth reporting period. However, while the total number of consent requests is less in this reporting period, the trend for decreasing consent requests is not carried forward into the current reporting

¹⁸ The federal monitors suggested that several of their initial review procedures that were stopped because of multiple periods of complete compliance be re-implemented periodically. OLEPS plans to do so in some future monitoring period.

¹⁹ State v. Eckel, 185 N.J. 523 (2006).

²⁰ The reader should note that case law will again affect the distribution of types of searches in the next monitoring period based State v. Peña-Flores, 198 N.J. 6 (2009).

period. Each half-year period mirrors the number of consent requests for the respective half-year period in the seventeenth reporting period, albeit with five fewer requests in each period. This pattern would suggest some sort of seasonal pattern to the requests (reflected in a higher number of consent requests between January and June and a lower one for the second six months) that may have been masked in earlier reports because reporting periods did not follow calendar semi-annual periods. That said, given the case law governing the searches of motor vehicles without warrants,²¹ it is unlikely that the pattern of consent requests seen for the last two reporting periods will be repeated.

Table Three: Consent Requests for Past Ten Reporting Periods

Reporting Period	Consent Requests	% Increase/ (Decrease)
IMT 9 th	9	--
IMT 10 th	7	(22.2)
IMT 11 th	12	71.4
IMT 12 th	34	64.7
IMT 13 th	23	(26.5)
IMT 14 th	30	30.4
IMT 15 th	94	213.3 ²²
IMT 16 th	134	42.5
IMT 17 th a ²³	85	(36.6)
IMT 17 th b	57	(32.9)
OLEPS 1 st a ²⁴	79	38.6
OLEPS 1 st b	51	(35.4)

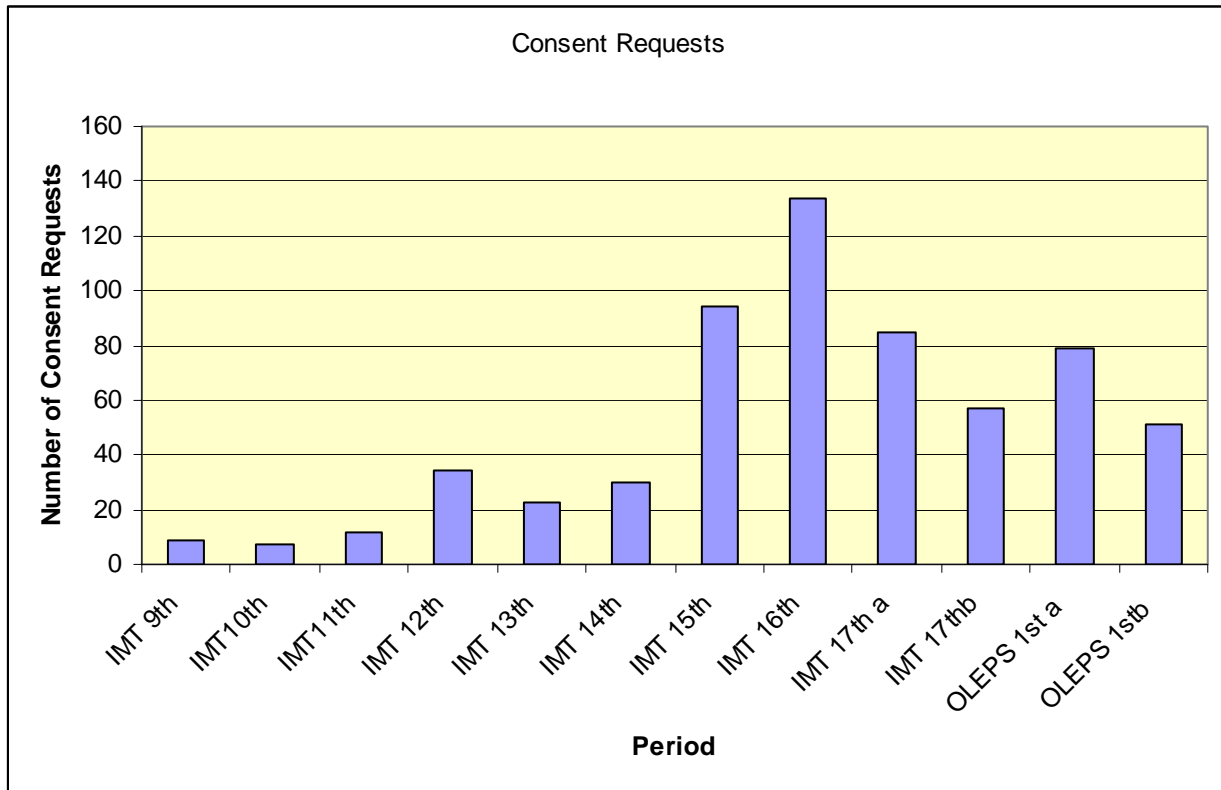
²¹ Cf. State v. Peña-Flores, 198 N.J. 6 (2009).

²² During the fifteenth reporting period, the decision in State v. Eckel, 185 N.J. 523 (2006), removed “search incidental to arrest” as a legal justification for search of vehicle.

²³ The 17th reporting period is divided into two, six-month periods.

²⁴ The 1st OLEPS reporting period is divided into two, six-month periods.

Figure One: Consent Search Requests by Reporting Period²⁵



Consent requests are highly discretionary activities and further analysis thus focuses on attempting to establish whether they are associated with any race-based decision making. Data in Table Four depict the total number of drivers by race, who were and were not asked for consent to search in the overall sample of 384, and the percentage of drivers by race (in parentheses) for each group. For example, Table Four depicts a sample of drivers *not asked* for a consent to search for this period of 254, with 69, or 27.2 percent being white. Similarly, Table Four depicts consent search requests for 72 black drivers, or 55.5 percent of the total of 130 drivers who were *asked* for permission to search their vehicles, an increase of almost five percentage points over the previous period.²⁶ The data in Table Four thus show that the highest proportion of consent requests were of black drivers, (by a factor of more than two times that of white or of Hispanic drivers). Black drivers comprised a higher percentage of consent requests in the last two periods compared to the sixteenth period, when they were 39.6 percent of consent requests. The proportion of consent requests made of Hispanic drivers decreased from the previous period when it was more similar to that for black drivers.

²⁵ The 17th IMT reporting period is divided into two, six-month periods, as is the 1st OLEPS period.

²⁶ A total of 35 drivers refused consent.

As in the last two monitoring reports, these data are statistically significant at the 0.05 level, indicating that the differences are not attributable to chance.²⁷ A statistically significant result does not “prove” that the differences observed in post-stop law enforcement actions were attributable to race or ethnicity. The result simply indicates that the outcomes observed this reporting period relating to consent requests have a five-percent (or less) probability that they were due to chance.

Table Four: Consent Requests by Race-Ethnicity of Driver
1st OLEPS Reporting Period

Race/Ethnicity	No Consent Request (%)	Consent Request (%)
White	69 (27.2)	23 (17.7)
Black	90 (35.4)	72 (55.4)
Hispanic	94 (37.0)	33 (25.4)
Asian Indian	1 (0.4)	0 (0.0)
Other	0 (0.0)	2 (1.5)
Total	254 (100.0)	130 (100.0)

Similarly, as shown in Table Five, black drivers also comprised the highest proportion of drivers in events involving canine deployments, (by a factor of almost two). Table Five shows that a canine deployment occurred for 38 black drivers, or for 54.3 percent of the total of 70 drivers who had a canine unit deployed for *drug detection* purposes during their motor vehicle stop. The same table depicts a total sample of drivers in events *without* a canine deployment for this period of 314, with 124 drivers, or 39.5 percent, being black. Thus, black drivers predominate among those events with and without a canine deployment, but are proportionately more prevalent among those whose vehicles were subject to a canine deployment. Unlike the distribution in the sixteenth report, these data, as in the seventeenth report, are *not* statistically significant at the 0.05 level, indicating that the differences may be attributable to chance.²⁸

²⁷ *Chi-Square* analysis of consent request data yielded a *Chi-Square* of 14.892 with two degrees of freedom, and a *p*-value 0.001. The distribution was statistically significant at the 0.05 level. See Appendix Two for a brief description of degrees of freedom and *p*-values. The *Chi-Square* test was run on **white versus black and Hispanic drivers only**, as inclusion of other categories generated at least one expected frequency less than “5.”

²⁸ *Chi-Square* analysis of these data yielded a *Chi-Square* of 5.950 with two degrees of freedom, and a *p*-value of 0.051. The distribution was not statistically significant at the 0.05 level, but would be at any less stringent measure of statistical significance. See Appendix B for a brief description of degrees of freedom and *p*-values. The *Chi-Square* test was run on **white versus black and Hispanic drivers only, as inclusion of other categories generated at least one expected frequency less than “5.”** See Appendix Two, for the data table reporting these data.

Table Five: Canine Deployments by Race-Ethnicity of Driver, 1st OLEPS Reporting Period

Race/Ethnicity	No Canine Deployment (%)	Canine Deployment (%)
White	81 (25.8)	11 (15.7)
Black	124 (39.5)	38 (54.3)
Hispanic	107 (34.1)	20 (28.6)
Asian Indian	1 (0.3)	0 (0.0)
Other	1 (0.3)	1 (1.4)
Total	314 (100.0)	70 (100.0)

The reader should note that Tables Four and Five compare drivers who are subjected to consent requests and canine deployments to the sampled drivers who *were not* subjected to such post-stop activities, by race and ethnicity and the *Chi-square* analysis assessed whether or not the comparison was strong enough to be statistically significant. As noted previously, the overall sample of 384 drivers includes all 179 drivers who were subjected to a critical post-stop interaction, e.g., a consent search request, canine deployment or use of force. In addition, the monitors selected 205 other drivers as part of the driver sample, based on their status as having had a non-critical post-stop interaction performed during their traffic stop, e.g., exit from a vehicle, frisk, probable cause search of a person, probable cause search of a vehicle, or arrest.

To examine further whether or not these consent request and canine deployment data are related to race or ethnicity—or are attributable to other factors directly related to the specific characteristics of the stops—requires a *qualitative* analysis of the interactions between New Jersey State Police troopers and drivers based on the race and ethnicity of drivers subjected to these specific post-stop interactions. The qualitative analyses related to Task 26 are reported in Section 2.2.1. These analyses reflect new processes, conducted and reported for the first time in the Sixteenth Monitors’ Report. Prior reports did not have statistically significant test statistics related to post-stop interactions by race warranting further examination.

2.2.1 Qualitative Analysis of Stop and Interaction Data

Background

The fact that individuals stopped by the New Jersey State Police are treated differently is not *prima facie* evidence of race- or ethnicity-based decision making in policing the state of New Jersey. The operative question is *why* individuals are treated differently.

For example, in the sample for the first OLEPS reporting period, New Jersey State Police personnel arrested proportionately more white drivers than black or Hispanic drivers. Table Six depicts arrest data by race and ethnicity. The distribution of arrest by race and ethnicity is not statistically significant, i.e., is possibly attributable to chance. (See Appendix Two for statistical data tables.) In reviewing these data, we find that 75 percent of white drivers stopped by New Jersey State Police personnel in this sample were arrested, compared with 64.8 percent of black drivers and 61.4 percent of Hispanics drivers. An analysis of the qualitative differences in the arrests—or more specifically the *reason* for the arrests—partially illustrates *why* these differences in arrest rates were observed, even if they are not different statistically.²⁹

Table Six depicts the results of the *qualitative* analysis of arrest data, and indicates the execution of non-discretionary arrests 21.7 percent of the time with white drivers' vehicles because they (or a passenger) had outstanding warrants, non-discretionary arrests 31.4 percent of the time with black drivers' vehicles because they (or a passenger) had outstanding warrants, and non-discretionary arrests of 20.5 percent of Hispanic drivers' vehicles because they (or a passenger) had outstanding warrants. On this measure, stops with white or Hispanic drivers are similar, while stops with black drivers more often lead to arrests. Taking that fact into consideration, the operative question then becomes "How did New Jersey State Police troopers make decisions in the *discretionary aspects* of their interactions with drivers?"

It is in *this area* that drivers seem the most vulnerable to the exercise of discretion. Is there a *qualitative difference in the way troopers exercise discretion* when dealing with drivers of differing races and ethnicities? The qualitative review reveals that white and Hispanic drivers are arrested less frequently for warrant violations than black drivers, but *more frequently* for probable cause, often for drunk driving.

²⁹ The monitoring team notes that the arrest rate in stops with black drivers is not that different from the rate in stops with Hispanic drivers and contributes to the lack of statistical significance. It is the difference between these two rates and that for arrests in stops with white drivers that is more notable.

Table Six: Arrest Data by Race-Ethnicity of Driver,
1st OLEPS Reporting Period³⁰

Race/ Ethnicity	a. All Drivers Sampled (% of Total)	b. No Arrest (% of a)	c. Arrest (% of a)	d. Warrant -Based Arrests (% of c)	e. Probable Cause- Based Arrests (% of c)
White	92 (24.0)	23 (25.0)	69 (75.0)	15 (21.7)	54 (78.3)
Black	162 (42.2)	57 (35.2)	105 (64.8)	33 (31.4)	72 (68.6)
Hispanic	127 (33.1)	49 (38.6)	78 (61.4)	16 (20.5)	62 (79.5)
As. Indian	1 (0.3)	0	1 (100.0)	0	1 (100.0)
Other	2 (0.5)	1 (50.0)	1 (50.0)	0	1 (100.0)
Total	384 (100.0)	130 (33.9)	254 (66.1)	64 (25.2)	190 (74.8)

The majority of arrests made by New Jersey State Police troopers in the data sampled by the monitors this period were non-discretionary. One-quarter of the arrests (25.2 percent) were arrests only for outstanding warrants. Of the probable cause arrests, 91 of the 190 were drunk driving arrests and the remainder were for possession of contraband or overt criminal activity in view of the arresting trooper. Thus, while arrest rates *are* different, by race, 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*.

Because rates for consent requests are statistically significant, based on race and ethnicity, a similar qualitative analysis is necessary for these post-stop interactions to determine if race and ethnicity is the operative factor leading to these differences, or if there are other factors contributing to the differences. Unlike for the sixteenth reporting period, there is again, as in the seventeenth reporting period, no statistically significant relationship between canine deployments and race and ethnicity. Nonetheless, the same analyses are repeated for the current reporting period in regard to canine deployments to assess factors possibly suppressing the effects of race or ethnicity.

³⁰ *Chi-Square* analysis of the arrest versus no arrest data yielded a *Chi-Square* of 4.617 with two degrees of freedom, and a *p* value of 0.099. The distribution was not statistically significant at the 0.05 level. See Appendix Two for a brief description of degrees of freedom and *p*-values. *The Chi-Square test was run on white versus black and Hispanic drivers only, as inclusion of other categories generated at least one expected frequency less than "5."* See Appendix Two, for the data table reporting these data.

2.2.2 Theoretical Bases for Analysis of Post-Stop

In the sixteenth monitors' report, the details of the theoretical bases for the analysis of post-stop activity were laid out and are only summarized here. The key component of determining whether race- and ethnicity-based decision making is being employed in a police agency revolves around: reviewing the highly discretionary tasks and determining if similarly situated individuals are being similarly treated.

2.2.2.1 A Discretionary Model of Policing

Constructing the model of discretionary policing is straightforward:

- Identify routine police tasks subject to potential abuse, e.g., powers of stop, warning, citation, detention, release, frisk, arrest, search, use of force, and seizure;

The model considers these activities outcome variables, i.e., to the extent that individual drivers are treated differently, any disparity in treatment will come within or among these variables.

- Identify and define the levels of discretion associated with each of these critical tasks and their respective sub-elements;

*The universe of variables leading to execution of outcome variables (stop, detention, arrest, etc.) are the events commonly referred to as "reason for the stop." These events are considered "input variables," in that they are the events that give rise to the use of law enforcement powers and can be classified into three groups, depending on the amount of discretion associated with them. Theoretically, some activities **will almost always** result in a law enforcement response if they are observed by the police (low discretion); other activities **usually will** result in a law enforcement response if they are observed by the police (median discretion); and, a third class of violations **will less often** result in a law enforcement response if they are observed by the police (high discretion). Appendix Three contains a categorical list of reasons for law enforcement stops.³¹*

³¹ The same list appeared as Annex One in the previous two reports. The federal independent monitors discussed with New Jersey State Police personnel the nature of the "reason for stop" offenses. While there remain some differences in opinion regarding high versus low discretion incidents, the framework presented above is the best available framework obtainable, in the federal monitors' opinion, to assess the exercise of discretion in studied traffic stops. Further work in this area *may require* revision of the reason for stop continuum. For example, motorist aids are non-discretionary, and are often dispatched

- Identify the critical decision point associated with each level of discretion;

The critical decision point is the decision point in deciding to take enforcement action on 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; and

Law enforcement discretion is abused when it is used differently in relation to protected classes such as race and ethnicity. If both input and outcome 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 difference in stop rates of drivers sampled this reporting period (by race or ethnicity), 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.³²

Table Seven, below, depicts the results of the analysis for sampled drivers stopped by the New Jersey State Police this reporting period and eventually asked for consent to search the vehicle by the *reason* for the traffic stop. The results of the *Chi* -Square analysis are ***not significant***, yielding a test statistic of 2.872 with two degrees of freedom. The test statistic is not significant at the 0.05 level.

rather than being “on-site” events. Activities at rest stop (rest stop overstay, etc.) are often called in by the rest stop managers, not initiated by troopers.

³² After controlling for intervening variables such as lack of identification, proof of ownership, etc.

Table Seven:
 Consent Request by Race-Ethnicity of Driver and
 Reason for Stop (Level of Discretion)
 1st OLEPS Reporting Period³³

Race/Ethnicity	High Discretion Stops (1)	Median Discretion Stops (2)	Low Discretion Stops (3)	Mean
White	4	7	12	2.35
Black	24	10	38	2.19
Hispanic	9	9	15	2.18
Asian Indian	---	---	---	--
Other	1	0	1	--
Total	38	26	66	2.22

Higher scores for each driver group (white, black and Hispanic) indicate less use of discretion, i.e., higher scores demonstrate less of a tendency to stop drivers for highly discretionary violations and then request consent to search. The intragroup mean (arithmetical average) is a statistic that allows the inference of the *direction* of any potential bias, as the *Chi-Square* statistic does not impute the direction of any group differences. While the mean is not dispositive of bias, it *does allow* the reader to impute the *direction* of any potential bias. In effect, the *Chi-Square* and the mean, taken together, can be used to help determine whether any potential bias was observed (based on race and/or ethnicity) and the *direction* of that potential bias.

In the previous two reporting periods, the *direction* of any potential bias demonstrated by the data in Table Seven actually favored black drivers, i.e., black drivers stopped and eventually asked for consent to search, were stopped for *less* discretionary reasons than white and Hispanic drivers. For the current reporting period, there is an overall shift toward lower discretionary reasons for stops as indicated by an increase in the mean for the sample (from 2.09 to 2.22), and at least a small increase in the mean for each race/ethnicity group of drivers. However, for the smaller number of white drivers subject to a consent request in this reporting period, the initial reasons for the stops were substantially less discretionary (mean for the 17th reporting period was 1.88, compared to 2.35 here), while the level of discretion in stops for black drivers remained virtually unchanged (from 2.18 to 2.19) and that in stops for Hispanic drivers showed a

³³ A *Chi-Square* analysis was run on **white versus non-white drivers**, since the data for white, black and Hispanic drivers yielded cell sizes too small to produce a valid test statistic---even here one cell has an expected value less than five. The statistic of 2.872, with two degrees of freedom is not significant at the 0.05 level. See Appendix Two for a brief description of degrees of freedom and p-values, and for statistical data tables.

modest increase (from 2.09 to 2.18). Thus, as in the last several reports, these data do not suggest that troopers were stopping minority drivers for more discretionary reasons. The “drivers sampled” for this test statistic consisted of all drivers stopped by the New Jersey State Police this reporting period who were asked for consent to search and for whom a reason for the traffic stop was known.

Table Eight, below, depicts the results of the *Chi-Square* analysis for canine deployment stops by reason for the stop for the current reporting period. The drivers sampled for this table included *all* drivers stopped who eventually had a drug-detection canine deployed during their stops. The *Chi-Square* analysis for this table was ***not significant*** at the 0.05 level, given a test statistic of 1.274 with two degrees of freedom. The result indicates that the differences observed in the data were likely attributable to chance.

Table Eight:
Canine Deployments by Reason for Stop (Level of Discretion)
1st OLEPS Reporting Period³⁴

Race/Ethnicity	High Discretion Stops (1)	Median Discretion Stops (2)	Low Discretion Stops (3)	Mean
White	2	3	6	2.36
Black	12	5	21	2.24
Hispanic	6	4	10	2.20
Asian Indian	--	--	--	--
Other	--	--	1	--
Total	20	12	38	2.26

Again, the *Chi-Square* and the mean, taken together, can be used to determine whether any potential bias was observed (based on race and/or ethnicity) and the *direction* of that potential bias. The *direction* of any potential bias in this reporting period favors white drivers as in the sixteenth reporting period, with black and Hispanic drivers stopped and subject to canine deployments stopped for *more* discretionary reasons than white drivers. Seventeen black drivers had canines deployed in conjunction with a denied consent request, as did six white drivers and four Hispanic drivers. In the previous two reporting periods, the differences in stop reason discretion across driver groups were also not statistically significant, but the means indicated bias favoring Hispanic drivers in the seventeenth report and white drivers in the sixteenth

³⁴ A *Chi-Square* analysis was run on ***white versus non-white drivers***, since the data for white, black and Hispanic drivers were too small to produce a valid test statistic. A *Chi-Square* statistic of 1.274, with two degrees of freedom is not significant at the 0.05 level. Two cells (33.3%) have expected values less than five. See Appendix Two for a brief description of degrees of freedom and p-values, and for statistical data tables.

report. The findings for black drivers are consistent across the periods, indicating somewhat more discretionary reasons for stops among black drivers whose vehicles were later subject to canine deployments than for white drivers.

Table Nine, below, depicts the results of the *Chi-Square* analysis for all motor vehicle stops by reason for the stop. The analysis, as in the last two reporting periods, is ***not significant*** at the 0.05 level, indicating that any differences in scores among races and ethnicities are attributable to chance. The results of the *Chi-Square* analysis yield a test statistic of 7.962 with four degrees of freedom. There is no statistically significant support for the hypothesis that troopers represented in this sample of stopped drivers are stopping vehicles at a higher rate, or engaging in articulated post-stop activities, based on the race or ethnicity of the drivers. The *direction* of the analysis favors white drivers, as did the analysis in the previous reporting period, i.e., white drivers stopped were stopped for *less* discretionary reasons than black and Hispanic drivers. Any suggestion that troopers were stopping minority drivers for more discretionary reasons, i.e., abusing their discretion is again *not* supported by the statistical analysis.

Table Nine:
Sampled Vehicle Stop Rates by Reason for Stop (Level of Discretion)
1st OLEPS Reporting Period^{35,36}

Race/Ethnicity	High Discretion (1)	Median Discretion (2)	Low Discretion (3)	Mean
White	20	17	38	2.38
Black	45	34	60	2.23
Hispanic	27	40	42	2.26
Asian Indian	0	0	1	--
Other	1	0	1	--
Total	93	91	142	2.28

Table Ten, below, depicts the results of the *Chi-Square* analysis for the *reason* for consent request. As with the reason for the stop, reason for consent request was classified into three groups: intangible, tangible, and probative. Intangible reasons included observations such as nervousness, failure to make eye contact, uncertainty in

³⁵ A *Chi-Square* statistic of 7.962, with four degrees of freedom is not significant at the 0.05 level. See Appendix Two for a brief description of degrees of freedom and p-values, and for statistical data tables.

³⁶ ***Other race and ethnicity classifications were deleted from the Chi-Square table as they generate expected frequencies below "5".***

answers, and conflicting statements. Tangible reasons included the existence of air fresheners, modifications to vehicle interiors, “boost” cell phones, etc. Probative reasons included artifacts of gang membership (such as tattoos, admitted membership), odor of burnt or raw marijuana in the vehicle, admissions against self-interest, criminal histories related to a tangible crime. In the seventeenth reporting period, the results of the *Chi*-Square analysis yielded a test statistic of 3.368 with two degrees of freedom, which was ***not significant*** at the 0.05 level; this result indicated **no** statistical difference in reason for consent request by race and/or ethnicity. The statistical outcome was different in the sixteenth reporting period, when the differences in reasons for consent requests by race and ethnicity yielded a statistically significant *Chi*-Square test. For the current period, a reliable *Chi*-square analysis could not be performed.

Table Ten:
Reason for Consent Request by Race and Ethnicity
1st OLEPS Reporting Period³⁷

Race/Ethnicity	Intangible (1)	Tangible (2)	Probative (3)	Mean
White	1	0	22	2.91
Black	1	2	68	2.94
Hispanic	1	1	31	2.91
Asian Indian	---	---	---	--
Other	1	0	1	--
Total	4	3	122	2.91

As with the scores for discretion in the reason for stop, *higher* scores above for any driver group (white, black and Hispanic) indicate less use of discretion. Here, higher scores demonstrate a tendency to request consent for more probative reasons. The intragroup mean (arithmetical average) is a statistic that allows the inference of the *direction* of any potential racial or ethnic bias, as the *Chi*-Square statistic does not impute the direction of any group differences. While the mean is not dispositive of bias, it *does allow* the reader to impute the *direction* of any potential bias. In this reporting period, the means of all driver groups are very similar; the *direction* of any potential bias slightly favors black drivers, i.e., black drivers stopped and eventually asked for consent to search were asked for *less* discretionary reasons than other drivers. In the previous two reporting periods, Hispanic drivers periods were least likely to have consent requested for probative reasons; the mean for Hispanic drivers is now the same as for white drivers. Viewed another way, the proportion of drivers for whom a consent was requested for at least one probative reason rose from 73.2 percent in the

³⁷ The total does not equal 130 consent requests because recording issues with one consent request incident precluded assessment. The data did not yield a valid *Chi*-square statistic, as 50 percent of the cells it produced had an expected frequency of less than five.

seventeenth reporting period to 94.5 percent in this reporting period, with increases for each driver group, making little variation for the *Chi-square* statistic to measure. And, the increase in probative reasons leading to consent requests to search vehicles with Hispanic drivers increased the most---from 54.5 percent in the seventeenth reporting period (18 of 33 consent requests) to 93.9 percent in the current period (31 of 33 consent requests in Table Ten). The increase in probative reasons for consent requests may be an indicator of the successful in-service training on consent searches in late 2007. The details of this training will be discussed in Task 101.

Table Eleven, below, depicts the result of the analysis of the *outcome* of consent requests, by race and ethnicity. Consent requests were characterized as either appropriate (meeting all requirements of the Consent Decree) or inappropriate (*not* meeting Consent Decree requirements). The *Chi-Square* analysis did not yield a reliable statistic and is not reported. Intragroup means indicate that *white* drivers' consent requests tended to be classified as "appropriate" more often than non-white drivers; black drivers' and Hispanic drivers' consent requests tended to be classified as "inappropriate" more often than those of white drivers.

As with the reason for the consent request, the distribution of consent request outcomes is more skewed toward one outcome than in previous reports, with 95.3 percent (123 of 129 consent requests that could be coded) deemed appropriate after review by the monitoring team. The reader should note that *all but two* inappropriate consent request errors were caught by New Jersey State Police and corrected by supervisory and management processes prior to the time that the monitors selected their traffic stops for review this reporting period.

Table Eleven:
Outcome for Consent Request by Race and Ethnicity
1st OLEPS Reporting Period^{38,39}

Race/Ethnicity	Inappropriate (1)	Appropriate (2)	Mean
White	0	23	2.00
Black	3	68	1.96
Hispanic	3	30	1.91
Asian Indian	---	---	--
Other	0	2	--
Total	6	123	1.95

Higher intragroup mean scores for any driver group (white, black and Hispanic) here indicate fewer procedural or Constitutional problems, i.e., higher scores demonstrate less of a tendency to improperly use the consent request process available to enforcement personnel. While the mean is not dispositive of bias, it *does allow* the reader to impute the *direction* of any potential bias. The *direction* of any potential bias actually favors white drivers, i.e., white drivers stopped and eventually asked for consent to search, were subjected to fewer procedural or Constitutional problems than black and Hispanic drivers. In the sixteenth reporting period, black drivers' consent requests were more likely to be classified as "appropriate," and, those of Hispanic drivers were also least likely to be so classified. The averages reported in the previous reporting period were more similar than in the sixteenth period, indicating less difference between driver groups. That trend continues in the current period, with higher mean scores overall.

As a final quality control check on the varying levels of discretion exercised by New Jersey State Police personnel, a review of daytime v. nighttime stop data would be appropriate. If troopers are abusing their discretion by singling out non-white drivers, one would expect a higher level discretionary activity during daylight hours, when troopers could readily determine the race or ethnicity of the drivers *prior* to executing the stop.

Table Twelve, below, depicts the daytime and nighttime distributions of consent requests (69 daytime and 61 nighttime requests) during the current reporting period,

³⁸ The total does not equal 130 consent requests because recording issues with one incident precluded assessment.

³⁹ A *Chi-Square* analysis was attempted on **white versus non-white drivers**, since the data for white, black and Hispanic yielded cell sizes too small to produce a valid test statistic, but this analysis also produced expected frequencies of under five for 50 percent of the cells.

according to the discretion in the initial reason for the stop. If troopers effecting the stops covered in this table were abusing their discretion, one would expect the daytime consent requests to show a tendency to follow stops for more discretionary infractions (high discretion stops) with non-white drivers than nighttime consent requests, yielding a *lower mean* for these drivers than for white drivers as displayed in Table Twelve. Conversely, the nighttime stops would be expected to show *no difference* in stop rates vis-à-vis levels of discretion. In fact, Table Twelve indicates that the daytime stops showed lower discretion in the reason for stops leading to consent requests of white drivers, which is consistent with findings in the sixteenth report and with non-white drivers subject to higher discretion stops during the day. Nighttime stops of Hispanic drivers asked for consent to search were stopped initially for lower discretion stops. In the seventeenth report, the *direction* of discretion in reasons for daytime stops that led to a consent request indicated more discretionary stops of whites than minorities (i.e., minorities have a higher mean stop score, indicating fewer stops of minorities for high discretionary events than for whites), and the *direction* of the means for nighttime stops tended to indicate the same pattern.

Table Twelve:
Daytime v. Nighttime Consent Requests by Reason for the Stop,
1st OLEPS Reporting Period⁴⁰

Race/Ethnicity	Daytime Stops				Nighttime Stops			
	High Discretion (1)	Median (2)	Low Discretion (3)	Mean	High Discretion (1)	Median (2)	Low Discretion (3)	Mean
White	0	3	8	2.73	4	4	4	2.00
Black	13	3	20	2.19	11	7	18	2.19
Hispanic	7	4	9	2.10	2	5	6	2.31
Asian Indian	--	--	---	--	---	--	--	--
Other	1	0	1	--	---	--	---	--
Total	21	10	38	2.25	17	16	28	2.18

After the qualitative assessment of the input and outcome variables regarding traffic stops this reporting period, the monitors could find *no statistical support suggesting* consistent bias in the way various groups of drivers were treated during post-stop law enforcement activities. As in the last two reports, a statistically significant difference was found in the rate of consent requests in the monitoring team’s sample by race and ethnicity. While the number of consent requests has been declining since their peak in

⁴⁰ The data did not yield a valid *Chi-square* statistic, as the cells produced at least 30 percent of expected frequencies that were less than five, for white versus nonwhite in each time block.

the sixteenth reporting period, the decline was not marked in this period and there remained sufficient numbers of requests in the year-long sample to produce a valid statistical result and then to pursue further, qualitative analyses to assess if race or ethnicity could lead to bias in trooper decision-making. (The statistically significant difference by race and ethnicity for canine requests found in the sixteenth report was not repeated in the two most recent reporting periods.) And, in the sixteenth report, there was also a statistically significant difference in the reasons for the consent requests by race and ethnicity, which has not been found subsequently. In the previous two reports, arrest rates were significantly different by race and ethnicity: the arrests rates were *not* significantly different in the current period. Further examination here again showed little discretion in the arrests of blacks as many were made because of outstanding warrants and that the probable cause leading to the arrests for all groups often came from evidence of drunk driving. For the full monitors' sample there was no significant difference by race and ethnicity in the level of discretion exercised in the decision to make the stop.

When the discretion in the reason for stop was examined in stops leading to consent requests, there also were no statistically significant differences by race and ethnicity. That said, the direction of discretion at various decision points did vary, sometimes showing somewhat more highly discretionary reasons for minorities. What is striking in the current data, however, is the increase in probative reasons leading to consent requests and the fact that the proportion of consent requests deemed appropriate by the monitoring team increased.

The qualitative analysis did not reveal the use of race or ethnicity in any consistent manner by New Jersey State troopers in regard to motor vehicle stops or post-stop activity. The New Jersey State Police is judged to remain in compliance with this task.

2.3 Compliance with Task 27: Monitor and Evaluate Implementation of the Motor Vehicle Stop Criteria

Task 27 stipulates that:

27. The State Police has adopted a protocol captioned "F-55 (Motor Vehicle Stops)," dated December 14, 1999, which establishes criteria to be followed by state troopers in selecting which vehicles to stop for violation of state motor vehicle laws. This protocol includes the nondiscrimination requirements set forth in ¶ 26 and has been approved by the United States in so far as the protocol identifies practices and procedures required by the Decree. The

State shall implement this protocol as soon as practicable. The State shall monitor and evaluate the implementation of the motor vehicle stop criteria and shall revise the criteria as may be necessary or appropriate to ensure compliance with §§ 26 and 129. Prior to the implementation of any revised criteria, the State shall obtain approval from the United States and the Independent Monitor.

Compliance Status: In Compliance

Methodology

Compliance with this task was assessed using the Motor Vehicle Stop Report and video review outlined in Section 2.2 above. Video reviews of motor vehicle stops resulting in law enforcement procedures were conducted by State Police supervisors in 240 of 384 motor vehicle stops selected by the monitors this period, constituting a supervisory review rate of 62.5 percent, a decrease of 17.3 percentage points from the review rate reported in the seventeenth reporting period. New Jersey State Police policy for video reviews includes provisions for an initial, standard review, geared to a supervisor in the trooper's chain of command, and for management reviews of the supervisor's assessment. The majority of the initial supervisory reviews conducted in the ninth reporting period were conducted by secondary supervisory sources—quality assurance reviews, reviews by enlisted personnel assigned to OSPA or by other non-station sources. Station-level supervisors conducted the majority of initial reviews conducted during the tenth through sixteenth reporting periods, although a much larger than usual number of problematic stops *were caught and corrected* at the troop-review level and the OSPA-review level in the sixteenth reporting period than during prior reporting periods. A total of 159 initial supervisory reviews, or about 66 percent, were conducted by non-station sources in the current reporting period, which represents an increase of over 20 percentage points over the rate reported in the seventeenth report.⁴¹ Thus, most errors caught by supervisory video review in this reporting period were caught by outside sources, and not by the trooper's first-line supervisor.⁴² No reviews in this period were attributed to the enlisted personnel assigned to OSPA; however, they continue to provide guidance and assistance in the review process. See Section 2.2 above for a detailed description of the data collection and analysis processes used to determine compliance levels for this task.

⁴¹ The majority of critical events received both an initial supervisory review and a management review. Management reviews are conducted by station commanders (or assistant station commanders).

⁴² The monitoring team also noted that only 15 percent of the 240 events received an initial supervisory video review from the same supervisors reviewing the initial draft of the Motor Vehicle Stop Report.

Assessment

Members of the monitoring team noted that field supervisors were present in 39.6 percent of monitored activity this reporting period. This percentage halted a decline in the level of in-field supervision noted in the last two reporting periods, which followed the highest level of in-field supervision since the inception of the Consent Decree (in the fifteenth reporting period) of 60.9 percent.

As noted above, supervisors reviewed video tapes in 62.5 percent of all incidents reviewed by the monitors this period.⁴³ This supervisory review rate yielded 111 events in which New Jersey State Police personnel committed errors related to procedure or the Consent Decree. Supervisors counseled, retrained or otherwise responded to all violations, prior to being notified by the monitoring team of the motor vehicle stops that would be reviewed this period. In reviewing the *same* documents and video tapes, the monitors noted 125 errors in procedure related to the Consent Decree. New Jersey State Police supervisory personnel noted *all but fourteen* of these violations. The errors remaining in these fourteen events⁴⁴ involved:

1. Failure to note lack of reasonable articulable suspicion to warrant consent requests (two events);
2. Failure to note that a search was not video taped (one event);
3. Failure to note that a search was not called in (seven events);
4. Failure to note that force used was unnecessary and to report incident (one event);
5. Failure of supervisor to recognize scope of consent or appropriateness of occupant exit, inappropriately issuing counseling notices to troopers (two events); and,
6. Failure to note frisk of a person not based on reasonable suspicion (one event).

As a result of its revised supervisory process, the New Jersey State Police noted and corrected all Decree-related errors in 111 events before the monitoring team called them to the attention of the State Police. The monitoring team found an additional

⁴³ These reviews are now conducted routinely, although the State moved to a more focused and less universal method of stop review in the sixteenth period. All reviews conducted were conducted *before* the monitors notified New Jersey State Police of which MVS incidents would be selected by the monitors.

⁴⁴ Some events had multiple errors, including ones that were caught by supervisory review.

sixteen events with errors that were not subject to prior supervisory video review, for a total of 141 events with errors. Nine of the sixteen additional events had all errors caught by troopers on scene (e.g., failure to have MVR running at the beginning of the stop was noted on the radio transmission and corrected at some point during the stop). The supervisory system, did, however, fail to note and correct errors in seven events that should have been caught by supervisory review, for a total of 21 uncaught errors in the reporting period.⁴⁵ The errors in the seven⁴⁶ events not subject to prior supervisory video review were:

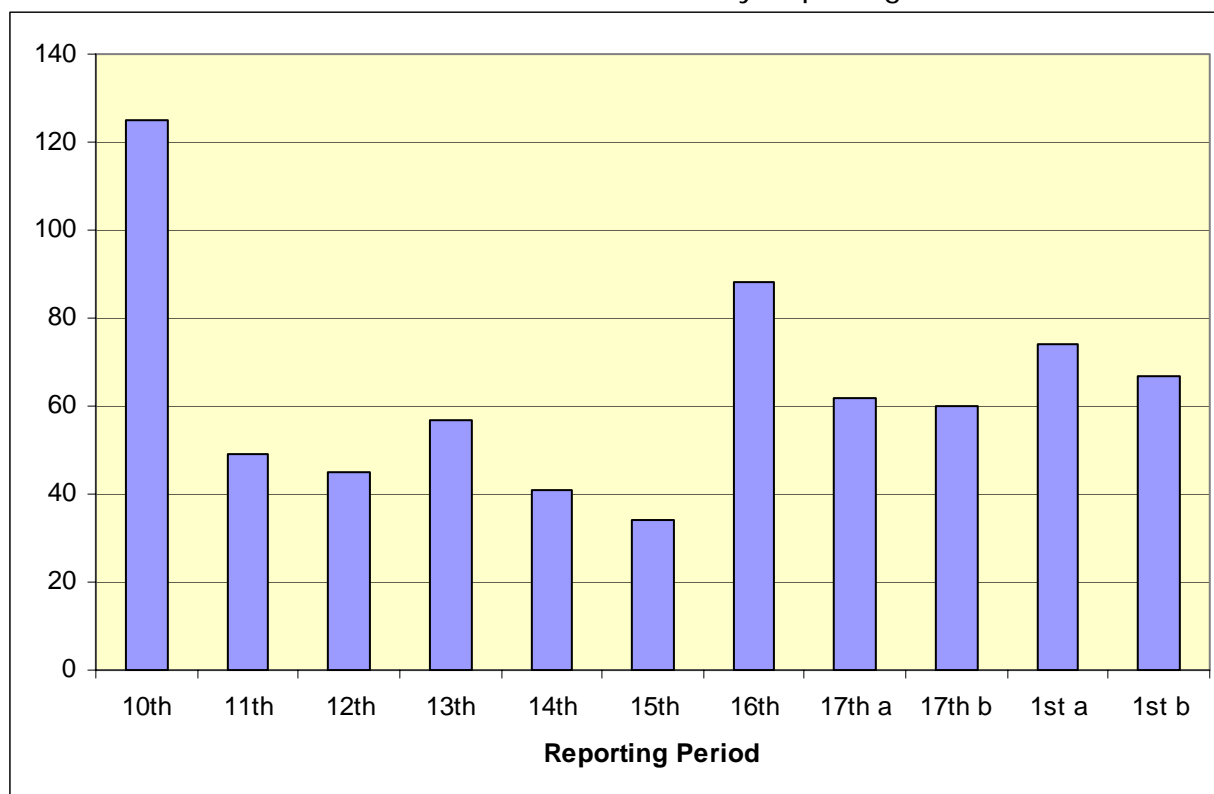
1. Failure to note that a search was not called in (five events); and,
2. Failure to note stop taping error (three events).

The total number of errors this reporting period, at 141, is higher than in any previous period, and included errors in all troops, with only Troop D supervisors catching all errors found in its events. The 122 errors in last (seventeenth) report were the highest since the tenth, when 125 procedural or Constitutional errors were noted by the monitoring team. However, the seventeenth reporting period was *twice* the length of any previous periods, as is the current period. Figure Two depicts the error rates for the last nine reporting periods, with 74 errors in the current reporting period reported for January through June 2008 ("1st a") and with 67 errors for July through December 2008 ("1st b"). Viewed this way, the number of errors shows a more modest increase over the previous period, with most of the increase attributable to errors in the first six months. Critical events (i.e., consent requests, canine deployments and uses of force) account for 104 errors, with 37 errors in all other events.

⁴⁵ That is, seven of these events were reviewed only by the monitoring team and not by supervisory personnel under the revised policy implemented in the sixteenth reporting period that allows less than 100-percent review of all motor vehicle stops with post-stop interactions.

⁴⁶ One event had two errors.

Figure Two:
Procedural or Constitutional Errors, by Reporting Period⁴⁷



Many of the problems encountered in the previous three reporting periods, remained, in the monitors' opinion, attributable to the early 2006 training described in detail in the fifteenth monitors' report: the "drug interdiction" training offered to New Jersey State Police personnel in early 2006 by the Department of Homeland Security (DHS) and the Department of Transportation (DOT).⁴⁸ The spike in errors in the 16th reporting period was related to problematic consent requests that appeared to reflect issues with this training. Figure Three, below, depicts the number of consent request activities and drug detection canine deployments, by month, for seventeenth IMT reporting period and the current period. Preliminary data through April 2007 were presented in the sixteenth report to show the impact of remedial measures to correct the "message" delivered by this training since 2006.⁴⁹ Such efforts take time, and the New Jersey

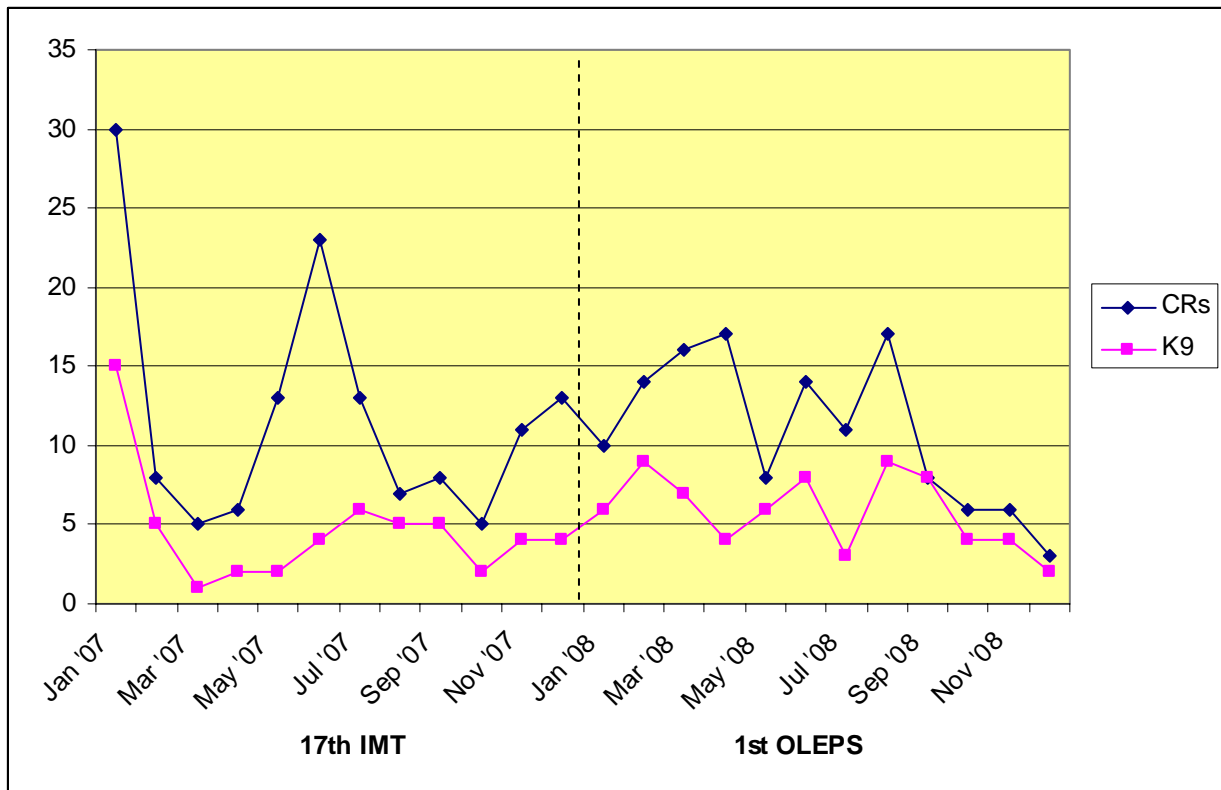
⁴⁷ The 17th IMT and 1st OLEPS reporting periods are divided into two, six-month periods.

⁴⁸ The reader is referred to the Fifteenth Independent Monitors' Report, section 2.4 for a complete treatment of the issues related to DHS and DOT drug interdiction training. They are summarized below in Task 28 where further actions taken by the New Jersey State Pole to address this training are discussed.

⁴⁹ The reader is referred to the Sixteenth Independent Monitors' Report, section 2.3 for a complete timeline of the remedial measures undertaken by the New Jersey State Police.

State Police continued these measures in its 2007 in-service training, which took place in the fall of 2007. As noted in Task 26 above, this training appears to have had a positive effect trooper behavior in the field.

Figure Three:
Consent Request and Drug Detection Canine
Deployments by Month,
January 2007 through December 2008⁵⁰



The sixteenth report depicted a *projected* relationship between management responses to the consent request problems noted in the fifteenth monitors' report and consent requests and drug interdiction canine deployments from November, 2005 through April, 2007.⁵¹ Thus, Figure 3 here picks up the trend and extends it through 2008. January

⁵⁰ In the sixteenth report, Figure Three included Consent Requests for November 2005 through January 2006 that were interpolated from average numbers for the reporting period, data from the sixteenth reporting period, as well as preliminary numbers for January through April 2007. The January through April 2007 data here link the figures in this report to the sixteenth reporting period.

⁵¹ The data available for the sixteenth monitors' report ended in December; however, the monitors' reviewed the *number* of consent requests for January through April, 2007 to determine the *direction* of the volume of consent requests by New Jersey State Police troopers.

was the month of the highest volume for both consent requests and canine deployments in 2007, which continued the high volume noted in the previous report for the end of 2006. With the exception of a one-month spike, it was noted in the previous report that the data for the full year of 2007 confirmed what the monitors noted in the sixteenth report: that the *frequency* of consent requests had returned to normal rates, consistent with those observed prior to the external drug interdiction training.

The 2008 data do not consistently extend the leveling off in the monthly number of consent requests noted for 2007, although no month in 2008 reaches the midyear spike of 2007 and the number of requests tapers off in the last quarter of the year. Canine deployments by month over the two year period evidenced an increase in frequency, although they were decreasing in parallel with consent requests in the last quarter of 2008.

In the seventeenth report, the monitoring team also commented on the *quality* of the post-December 2006 consent search requests, and here, too, improvement was seen through 2007. In this reporting period, while the total number of consent requests did not consistently decrease, we see further the effects of the training on developing reasonable suspicion that was incorporated into the annual in-service lesson plan delivered in the last quarter of 2007. (See comments under Tasks 100 and 101 below.) The monitors noted only five incidents with problematic reasonable articulable suspicion for the whole calendar year of 2008, and all of these occurred before May 2008. The two uncaught errors in this regard occurred in February and March. Thus, for seven consecutive months of 2008 there were no errors in the articulation of reasonable suspicion noted by the monitoring team.

A review of the policies developed, the training provided to date and the implemented MAPPS process indicates that the agency is compliance with the requirements of this task. The New Jersey State Police continues to review, independently of the monitors, Motor Vehicle Stop Reports (MVSRS) submitted by Division personnel, and continues to correct deficiencies in field. Retraining to address the deficiencies caused by outside training has been delivered. The central point of the Consent Decree is for the New Jersey State Police to identify, analyze and respond to issues related to in-field enforcement. The organization's continuing response to the issues raised in the last several reports shows the organization is capable of correcting issues that arise from unauthorized training. Twenty-one incidents, from among the 384 reviewed, included errors not caught and remedied by field supervisors prior to the monitoring team selecting cases for review this reporting period. The resulting error rate of 21 of 384 motor vehicle stop incidents, or 5.5 percent, is within the allowable margin of error. Compliance for this task is defined as "greater than 94 percent."

2.4 Compliance with Task 28: Request for Consent to Search only upon Reasonable Suspicion

Task 28 stipulates:

28. In order to help ensure that state troopers use their authority to conduct consensual motor vehicle searches in a nondiscriminatory manner, the State Police shall continue to require: that state troopers may request consent to search a motor vehicle only where troopers can articulate a reasonable suspicion that a search would reveal evidence of a crime; that every consent search of a vehicle be based on written consent of the driver or other person authorized to give consent which precedes the search; that the scope of a consent search be limited to the scope of the consent that is given by the driver or other person authorized to give consent; that the driver or other person authorized to give consent has the right to be present during a consent search at a location consistent with the safety of both the State trooper and the motor vehicle occupants, which right can only be waived after the driver or other person authorized to give consent is advised of such right; that the driver or other person authorized to give consent who has granted written consent may orally withdraw that consent at any time during the search without giving a reason; and that state troopers immediately must stop a consent search of a vehicle if and when consent is withdrawn (except that a search may continue if permitted on some non-consensual basis).

Compliance Status: **In Compliance**

Methodology

See Section 2.2 above for a detailed description of the data collection and analysis processes used to determine compliance levels for this task.

Assessment

The monitoring team reviewed a total of 130 law enforcement actions involving consent requests conducted during the current monitoring period. Thirty-five of these involved consent search requests that were declined. A description of consent request events, by race of driver, is presented in Table Thirteen below.

Tables Thirteen through Seventeen depict data from the 384 incidents reviewed this reporting period by the monitoring team. "Number of Drivers" depicts the number of drivers, by race, in the 384 incidents. The number in parentheses in this column depicts the *percentage* of drivers in the total sample, by race. Thus, for Tables Thirteen through Seventeen, there were 92 white drivers of the total of 384 drivers involved in motor vehicle stops reviewed by the monitoring team this period, constituting 23.9 percent of all drivers in the sample. The next column, "Number" depicts the number of law enforcement procedures observed in the motor vehicle stops reviewed. For example, Table Thirteen depicts 23 consent requests of white drivers, 72 requests of black drivers, 33 requests of Hispanic drivers, and three requests of drivers in other categories of race/ethnicity. The last column, "Percent" depicts the percent of drivers of a given race or ethnicity, who were subjected to a given law enforcement procedures. This column will not total to 100 percent. The reviews depicted in this table constituted documentation and/or video tape reviews.

The reader should note that the New Jersey State Police has increased substantially the number of consent search requests, with an all-time high of 134 in the six-month, sixteenth reporting period. (See Table Three and Figure 1 above.) Along with 142 requests for the previous, year-long reporting period, the 130 consent requests reported in Table Thirteen remain statistically significant when reported vis-à-vis race and ethnicity for all drivers sampled v. drivers from whom consent to search was requested.

All but 28 of the 130 consent requests were completed in conformance with the requirements of this task.⁵² Absence of reasonable articulable suspicion accounted for errors in five of the problematic consent requests---a substantial decrease from the 19 of 142 incidents reported with problematic reasonable suspicion in the seventeenth reporting period. All but two of these were caught and corrected by supervisory personnel. In addition, 23 incidents exhibited problems with notification to the person authorizing consent of the right to refuse consent and to be present during the search, with limiting the scope of the search to area for which consent was given, or with whether the consent request or the consent search was taped. Eleven events displayed one of these errors and eleven displayed two or more of the errors. These 22 errors were all caught by supervisors prior to the monitoring team's review. The 23rd error

⁵² Thirty-five drivers refused consent requests.

involved an event in which a troop-level MVR reviewer issued a counseling performance notice, finding that the trooper searching the vehicle had gone beyond the scope of the consent. However, the monitoring team noted that the reviewer was incorrect and that the trooper’s actions conformed to the scope of the consent granted by the driver. The management reviewer did not question the initial reviewer’s finding.

An error rate of three of 130 consent searches is 2.3 percent, so that compliance falls within the >94 percent compliance rate agreed to by the parties as the standard for critical tasks outlined by the Consent Decree.

Table Thirteen—Consent Request Activity by Race and Ethnicity
1st OLEPS Reporting Period

Race/Ethnicity	a. Number of Drivers (% of Total)	b. Number of Requests for Search ⁵³	c. Percent Consent Request by Race/Ethnicity (b as % of a)
White	92 (23.9)	23	25.1
Black	162 (42.2)	72	44.4
Hispanic	127 (33.1)	33	26.0
Asian Indian	1 (0.3)	0	0.0
Other	2 (0.5)	2	100.0
Total	384 (100.0)	130	33.9

The data in Table Thirteen indicate that consent requests constitute 33.9 percent of the incidents in the monitoring team’s sample. The highest rate of consent requests was again observed for blacks in this reporting period, as in the previous period. The data in the sixteenth reporting period showed higher consent request rates for *both* blacks and Hispanics (by a factor of as much as 2.2). The consent request rates for whites and Hispanics are much more similar in this reporting period, with the rate of consent requests of white drivers the lowest of all sampled drivers and representing a ten percentage-point decrease in the rate of consent requests for white drivers compared to the previous period.⁵⁴ These data, as reported in Table Four, in Task 26 above, are statistically significant at the 0.05 level, indicating that the differences are not

⁵³ Thirty-five consent search requests were refused.

⁵⁴ The reader should note that the consent request rates reported do not reflect the consent request rates for all stopped drivers, but rather the rates for sampled events. Some variation in the rates from reporting period to reporting period no doubt reflects the fact that the monitors always review all consent requests (as well all canine requests and uses of force), but vary the composition (e.g., by troop) of the other sampled events with post-stop interactions each period against which the rates are calculated.

attributable to chance.⁵⁵ Further analysis, triggered because of the statistically significant *Chi-Square* result, indicates that the results of the consent request processes again in this reporting period were likely attributable to the qualitative differences in stop characteristics rather than a racial bias on the part of New Jersey State Police personnel (see Section 2.2, pp. 8-27). There were no statistically significant differences by race or ethnicity in the reasons for stops of vehicles, or the levels of discretion used in making stops and deploying drug detection canines. In the previous reporting period, there **was no** statistically significant difference by race and ethnicity in the reason for consent requests, in contrast to the significant difference reported in the sixteenth report. In this reporting period, a reliable Chi-square statistic could not be calculated, in part because of the skewed distribution toward non-white drivers. See Tables Nine through Twelve, pages 26-30.

The monitoring team continues to note several significant changes in the consent request processes of the New Jersey State Police this reporting period. The *number and tenor* of consent requests continued to be of concern in the previous period, but the rate of consent requests fell again somewhat during this reporting period, after jumping more than 42 percent in sixteenth reporting period. The 42-percent rise followed a rise of more than *200 percent* in fifteenth reporting period (see Table Three, page 15).⁵⁶ As noted previously, six consent requests were deemed inappropriate this reporting period. Each of these included *some* problems related to reasonable articulable suspicion. All but two of these problematic consent requests were noted and corrected by supervisory review *prior* to the monitors noting problems with the stops. The problematic consent requests were not distributed equally among drivers' race and ethnicity. None of the white drivers' consent requests were problematic, while three black drivers' consent requests were of concern (4.2 percent of all consent requests of blacks for which appropriateness could be determined). Three vehicles with Hispanic drivers had problematic requests (9.1 percent of all consent requests of Hispanic drivers or their vehicle's occupants). (See Table Eleven, p. 29).

As concluded in Section 2.3, above, the New Jersey State Police has now substantially addressed the issues giving rise to problematic consent requests, starting in the fifteenth monitoring period. To recap, the monitoring team saw continued progress in

⁵⁵ *Chi-Square* analysis of these data yielded a *Chi-Square* of 14.892 with two degrees of freedom, $p < 0.05$. The distribution was statistically significant for white versus black and Hispanic drivers only. The other categories of race and ethnicity were omitted as they produced expected frequencies less than "5." See Appendix Two for a brief description of degrees of freedom and p-values, and for statistical data tables.

⁵⁶ The rise in consent requests was at least partially attributable to the loss of the ability to conduct a search of a motor vehicle as a "search incidental to arrest." See *State v. Eckel*, 185 N.J. 523 (2006), which eliminated these searches for all New Jersey law enforcement officers.

this reporting period in improved on-scene procedures and supervisory review of consent requests. The progress reflects specific actions taken by the New Jersey State Police to address five issues that surfaced in Fifteenth IMT Report (pp.21 ff), which the monitors traced to training provided to Field Operations personnel by unapproved vendors. The concerns raised in the Fifteenth IMT Report were:

1. Reappearance of boilerplate language in stop report narratives;
2. Apparent increase in length of stops with consent requests;
3. Reappearance of aggressive and protracted questioning of drivers;
4. Reliance on intangible indicators to support consent requests; and,
5. Protracted questioning of drivers stopped for reasons other than moving violations.

Even in the Fifteenth Report, the monitors noted action taken by the New Jersey State Police prior to all the above issues being raised by the 15th site visit. The monitors recognized that correction of the issues would take time and the subsequent monitoring reports have noted the progress made by the New Jersey State Police in addressing problematic consent requests. The first actions included an immediate discussion of "best practices" with troopers who attended the training to mitigate further spread of the problematic issues the training raised, and, a checklist for managing consent requests in the field. Several other early actions addressed consent request review policies and were detailed in the Sixteenth Monitors' Report (in Task 27). In addition, there were several other actions taken to address problematic consent requests, many of which have been institutionalized as mechanisms to identify and address any new issues not only with consent requests, but other patrol practices. These actions included:

- a. In-depth analysis of 2006 consent requests by the MAPPS Unit's Risk Analysis Core Group (RACG) in recognition of significantly increased volume (beginning in August 2006 -- prior to 15th site visit);
- b. Creation of a Patrol Practices and Procedures committee as a clearinghouse for best practices on law enforcement and patrol practices (beginning in March 2007, implementing a recommendation from January 2007 Field Operations Management Accountability Conference discussion of RACG analysis of consent requests; codified in Standard Operating Procedures, i.e., S.O.P., March 2008);
- c. Creation of a consent request (and canine) database in MAPPS, including length of stop information (Developed Division-wide during 2007, implementing recommendation of the March 2007 Risk Management Advisory Panel meeting following presentation of a Troop D consent request tracking database);
- d. In-service training addressing issues in articulation of reasonable suspicion (Fall 2007); and,

- e. A change in the supervisory approval process prior to trooper being able to request consent of a motorist, which now requires station commander approval (August 2008 Division-wide, following project in Troop B).

The federal independent monitors, in the Fifteenth Monitors' Report, noted concern over an increase in "boilerplate" language as an indicator of potential imprecision in the application of law enforcement procedures, especially when coupled with the increased length of stops with consent requests. Over the past two reporting periods, the OLEPS monitoring team has observed that stop reports continue to use similar language in describing different stop events in which reasonable suspicion is articulated to support a consent request. However, the language generally seems appropriate to the facts of the specific incidents, rather than representing rote repetition in incident narratives. And, as noted previously, there is a significant shift in the current reporting period to probative questioning in support of articulating reasonable suspicion, no doubt related to the in-service training conducted just prior to the current monitoring period. Thus, with regard to issues #1 and #4 above, the New Jersey State Police has improved appreciably since the fifteenth monitoring period.

The other three issues raised in the Fifteenth Monitors' Report all relate, at least in part, to the length of stops in which reasonable suspicion is built and articulated---and, in which the consent request is made and when granted, the search carried out. The Fifteenth Monitors' Report noted that the average length of time of a stop involving a consent request was more than 101 minutes. Many of the efforts of the State Police have been geared toward examining elongated stops. For the current reporting period, the average length of consent request incidents⁵⁷ shows a *decrease* of over eight minutes from that in the fifteenth period to 92.7 minutes. This average (arithmetic mean) appears only minimally affected by a few long stops as fully half of the 130 consent-request events lasted longer than 90.5 minutes (i.e., half were longer than the median time of 90.5 minutes for consent requests).

As in the fifteenth reporting period, the longest stop included the search of a tractor trailer. For this reporting period, the longest stop lasted 217 minutes (3.6 hours) and included the search of a tractor trailer that alone took one hour. The stop involved two vehicles and two consent requests, and evolved at a rest stop with little discretion in the need to pursue law enforcement procedures. Here, the length of the stop seems justifiable to the monitoring team.

The stop with the second longest length in the sample included a canine deployment after a denied consent request, with an hour and a half needed for the canine to reach

⁵⁷ As a point of reference, the average length of stops in the current period that did not involve a consent request was 38.6 minutes.

the vehicle. (The initial reason for the stop was of low discretion.) State Police reviewers of this stop did issue a counseling performance notice to the trooper and admonished both the trooper and the supervisor approving the canine deployment in the MVR review narrative that the questioning was not related to the stop and that consideration needed to be given to the logistics and resulting time involved when pursuing a canine deployment in such events.

In fact, what factors generally did make marked differences in the length of stops involving consent requests were present in the stop just described: whether the consent request was denied (taking 110.1 minutes on average) or granted (taking 86.3 minutes on average),⁵⁸ and, whether or not a canine was deployed during the stop (with average lengths of stops at 113.9 minutes and 77.7 minutes, respectively).⁵⁹ Canine deployments in the reporting period followed 28 of the 35 consent requests that were denied by the driver, resulting in a longer average time of 117.8 minutes than for the 26 canines deployed in events where a consent request was granted, which took an average of 109.7 minutes---also substantially longer than for all granted consent requests, but shorter on average than if the canine followed a denied request.

The monitoring team noted no pattern of excessively long waits for canines to deploy that could account for the longer length of stops, however, with the exception noted above for the stop with second longest length that was addressed by supervisors. The monitoring team re-examined all 35 events reviewed in which consent requests were denied to assess factors that could help explain the longer times in these events. If a consent request was denied, requesting a canine could indicate pursuit of a "fishing expedition" on the part of the trooper and unnecessarily detain motorists for longer periods of time, especially with highly discretionary initial reasons for stops. But, the second review of these incidents by the monitoring team uncovered no pattern of concern in the execution of supervisory review of these events. In attempting to account for factors other than those related to developing reasonable suspicion that could lengthen stops, average stop times were calculated for stops with and without arrests: Events with both an arrest and a consent request did not result in a notable

⁵⁸ The difference between the average (arithmetic mean) stop times for consent requests that were declined versus those that were granted is statistically significant ($p < .001$), based on "t-test" with a value of -3.670 and 128 degrees of freedom. See Appendix Two for a description of degrees of freedom and significance levels that are analogous for the t statistic reported here, used for data such as minutes on which means can be calculated and that assesses the likelihood that two groups are statistically different.

⁵⁹ The difference between the mean stop times for consent requests with versus without canine deployments is statistically significant ($p < .001$), based on "t-test" with a value of 6.939 and 128 degrees of freedom. See Appendix Two for a description of degrees of freedom and significance levels that are analogous for the t statistic reported here. (N.B.: For the 16 canine deployments occurring in events that did not involve consent requests, the average length of stop fell between these two times: 111.4 minutes.)

difference in the length of the stop when contrasted to events with a consent request and no arrest.

The Fifteenth Monitors' Report related the length of the stop to the discretion in the initial reason for the stop (as moving versus non-moving). However, the two longest stops in this reporting period, noted above, involved events that were initiated for low discretion reasons. That said, there were three other stops that took about twice as long (or longer) than the average length of stops with a consent request, all of which began with a reason for stop that was of high discretion, involved a consent that was denied, and the deployment of canine. In general, however, the level of discretion in the initial reason for the stop was not related to the length of the stops for events involving consent requests for the current monitoring period, with the median stop length for each of the three levels of discretion varying by just two minutes from low to high discretion (90.0, 91.0, and 92.0 minutes).

The protracted time for questioning noted in the Fifteenth Monitors' Report focused on issues with identification and ownership. In the current reporting period, identification questions were raised in 56 stops with consent requests (43.1 percent), while ownership questions were noted in 74 stops (56.9 percent).⁶⁰ Pursuit of either of these questions was related to longer stops on average than if they were not. If the consent was denied or if a canine was requested the added length was small, on average, if either of these questions were pursued.

More notable was the increase in average lengths of stops when consent was granted or when there was no canine deployment (i.e., stops with generally lower average lengths) and these questions were pursued. Here, pursuit of these questions is associated with at least 10 additional minutes in average stop lengths. Among granted consent requests, if identification questions were raised, the average stop length was 92.7 minutes (41 stops), versus 81.6 minutes when such questioning did not occur (53 stops). Among consent requests *without* canine deployments, stops in which identification questions were asked had an average length of 84.3 minutes (33 stops), while in the absence of such questions the average length of stops was 72.6 minutes (42 stops). Similar distinctions in lengths of stops were found when ownership questions arose: 91.4 minutes (56 stops) on average when consent was granted and 83.8 minutes (43 stops) on average for consent requests without a canine deployment versus 79.2 minutes (38 stops) and 69.7 minutes (32 stops), respectively, when ownership questions were not pursued.

⁶⁰ There was one event for which the monitoring team could not determine if such questioning occurred because of video tape malfunction and for which no documentation included mention of the questions.

The monitoring team, while taking note of some of the factors that still extend the length of events with consent requests, does see improvement in the supervisory ability to note and respond to the issues raised in the fifteenth period. In this regard, the monitoring team observed that the final action (i.e., that listed as letter "e" above) taken by the New Jersey State Police, coming after so many other improvements in the review process may not have led to any additional improvement in consent request procedures. The new policy shifted the responsibility for approving consent requests and canine deployments from sergeants to the station commanders. The Troop B commander initially implemented the policy to address specific issues in the supervisory approval of consent requests within the troop and found the policy addressed his issues.

The Superintendent approved the policy to be implemented in all troops on August 21, 2008. But, as noted above, there were no problematic incidents in the monitoring period regarding articulating reasonable suspicion after April 2008, so that there were almost four full months before the policy change Division-wide with no issues of supervisory approvals of consent requests. It is thus unclear to the monitoring team that taking this approval responsibility away from sergeants was necessary Division-wide, at least for verifying reasonable suspicion. What is clear, is, that after the policy was changed, the length of the 25 stops with consent requests was *longer* on average at 99.0 minutes---wiping out much of the overall decrease noted from the average in the fifteenth monitoring period, and, in contrast to 91.2 minutes on average for stops with consent requests prior to the policy change during the current reporting period. The difference between the average time before and that after the policy change was not statistically significant, but the monitoring team remains concerned about the direction of the difference.

The monitoring team looked at whether the ability to contact a station commander (or assistant station commander) at night might contribute to longer length in the stops after the policy changed in August 2008. However, average stop length for consent requests that occur during the day is *longer* than for those occurring at night, regardless of whether the consent request was approved prior to the change or after the change in policy. The proportion of approved consent requests that were daytime events after the policy change is greater than that of approved consent requests prior to the change, resulting in proportionately more events with longer times.⁶¹ Because there were only 25 consent requests approved after the policy change, it may be that the real effect of requiring station commander approval is in limiting the number of consent requests, especially at night. The nature of the reasonable suspicion presented by troopers that were not approved for a consent request cannot be assessed by the

⁶¹ The difference in the distribution of day and night approved consent requests before and after the policy change, however, was not statistically significant.

monitoring team,⁶² nor can whether there were more rejected by station commanders than would have been by sergeants prior to the change in approval policy.

Despite some remaining concerns about the length of stops when consent requests are involved, the quality of these events has markedly improved since issues were raised in the Fifteenth Monitors' Report. The monitoring team points in particular to the tangible success of the 2007 in-service training for helping troopers in the field to articulate probative reasons for pursuing consent requests, and for helping their supervisors to recognize issues related on consent request procedures in need of correction. The continuing decrease, albeit small, in the *number* of total consent requests in this reporting period is viewed as positive by the monitors. The monitoring team does, however, note that the decrease in consent requests is reflected almost exclusively in a decrease in the requests of white drivers and that the six requests deemed inappropriate were all of non-white drivers, with supervisors noting the issues in four of these incidents prior to the monitoring team's review.

2.5 Compliance with Task 29a: Recording Requirements for Motor Vehicle Stops

Task 29a stipulates that:

29. Motor Vehicle Stop Data

a. The State has adopted protocols (captioned F-55 (Motor Vehicle Stops) dated 12/14/99; C-22 (Activity Reporting System), F-3 (Patrol Procedures), F-7 (Radio Procedures), F-19 (MVR equipment), F-31 (Consent Searches), and a Motor Vehicle Stop Search Report dated 12/21/99; and a Property Report (S.P. 131 (Rev. 1/91)) that require state troopers utilizing vehicles, both marked and unmarked, for patrols on roadways to accurately record in written reports, logs, radio communications, radio recordings and/or video recordings, the following information concerning all motor vehicle stops:

- 1. name and identification number of trooper(s) who initiated the stop;**
- 2. name and identification number of trooper(s) who actively participated in the stop;**
- 3. date, time, and location of the stop;**

⁶² The monitoring team routinely assesses only consent requests approved by supervisors.

4. time at which the stop commenced and at which it ended;
5. license number/state of stopped vehicle;
- 5A. description of stopped vehicle;
6. the gender and race/ethnicity of the driver, and the driver's date of birth if known;
7. the gender and race/ethnicity of any passenger who was requested to exit the vehicle, frisked, searched, requested to consent to a vehicle search, or arrested;
8. whether the driver was issued a summons or warning and the category of violation (i.e., moving violation or non-moving violation);
- 8A. specific violations cited or warned;
9. the reason for the stop (i.e., moving violation or non-moving violation, other [probable cause/BOLO]);
10. whether the vehicle occupant(s) were requested to exit the vehicle;
11. whether the vehicle occupant(s) were frisked;
12. whether consent to search the vehicle was requested and whether consent was granted;
- 12A. the basis for requesting consent to search the vehicle;
13. whether a drug-detection canine was deployed and whether an alert occurred;
- 13A. a description of the circumstances that prompted the deployment of a drug-detection canine;
14. whether a non-consensual search of the vehicle was conducted;
- 14A. the circumstances that prompted a non-consensual search of the vehicle;
15. whether any contraband or other property was seized;
- 15A. a description of the type and quantity of any contraband or other property seized;
16. whether the vehicle occupant(s) were arrested, and if so, the specific charges;
17. whether the vehicle occupant(s) were subjected to deadly, physical, mechanical or chemical force;

- 17A. a description of the circumstances that prompted the use of force; and a description of any injuries to state troopers and vehicle occupants as a result of the use of force;**
- 18. the trooper's race and gender; and**
- 19. the trooper's specific assignment at the time of the stop (on duty only) including squad.**

Compliance Status: **In Compliance**

Methodology

See Section 2.2 above for a description of the methodology used to assess the New Jersey State Police's compliance with this task.

Assessment

Effective policies and forms requiring compliance with the reporting requirements of the task have been written, disseminated and implemented into the State Police training process. Use of the Motor Vehicle Stop Report was monitored for 384 incidents involving a post-stop law enforcement activity of interest to the Decree. Use of force, deployment of canines and non-consensual searches received special attention from the monitoring team. The results of these reviews are depicted in Tables Fourteen through Seventeen, below.

Use of Force

New Jersey State Police personnel reported using force 34 times during the reporting period. This number reflects four more uses of force than in the previous year-long reporting period; the number reported in the seventeenth report was substantially higher than the single incident reported in the sixteenth, albeit six-month, reporting period. The 34 uses of force in this period translate into a use of force in nine percent of the sampled incidents. There were 20 uses of physical force, eight uses of chemical force, four incidents in which both chemical force and physical force were used, and one incident each in which mechanical and chemical or mechanical and physical force were used.

The monitoring team reviewed the reports for use of force by personnel from the New Jersey State Police and found *no* problems with the reporting process.⁶³ When

⁶³ Members of the monitoring team assessed use of force reports and incidents for reasonable application of force and compliance with elements 17 and 17a of this requirement of the decree.

confirmed by tape review, the use of force in all but one instance was found to be appropriate and appropriately reported.

Table Fourteen depicts the data for the 384 incidents reviewed this reporting period by the monitoring team and presents the number and percent of uses of force for each category of drivers' race and ethnicity. The data show that the greatest number of uses of force (15) occurred in incidents with black drivers, followed closely by the 14 incidents in which white drivers (or their occupants) were subjected to a use of force and four incidents with Hispanic drivers. The number of use-of-force incidents with white drivers continued to be the highest percentage of incidents for any group (with more than one driver) involving a use of force: 15.2 percent, and reflected an increase of 3.9 percentage points over the previous reporting period. In contrast, uses of force occurred in 9.3 percent of sampled incidents with black drivers and in 3.1 percent of the incidents with Hispanic drivers.

Table Fourteen: Uses of Force
1st OLEPS Reporting Period

Race/Ethnicity	a. Number of Drivers (% of Total)	b. Incidents of Use of Force	c. Percent Use of Force by Race/Ethnicity (b as % of a)
White	92 (23.9)	14	15.2
Black	162 (42.2)	15	9.3
Hispanic	127 (33.1)	4	3.1
Asian Indian	1 (0.3)	1	100.0
Other	2 (0.5)	0	--
Total	384 (100.0)	34	8.9

The event in which the monitoring team determined that excess force was used involved physical force with a white driver. The incident was subject to both an initial MVR review by member of the troop review team and a management review at the station. After reviewing the incident with the State Police, OLEPS referred it to the county prosecutor for possible criminal charges. It was determined that the incident did not warrant criminal prosecution, so the case was referred to OPS. Nevertheless, the seriousness of this missed error mars an otherwise strong review process that evolved over the course of the consent decree. The troop-level reviewer was responsible for a total of 13 initial MVR reviews included in the sample and caught all errors in three other events for which the monitoring team also noted errors. Nonetheless, one uncaught error out of 34 events constitutes a 2.9 percent error rate, so that this task

falls within the >94 percent compliance rate that is the standard for critical tasks outlined by the Consent Decree.

Canine Deployments

The New Jersey State Police deployed drug detection canine units 70 times during the reporting period, or in 18.2 percent of the sampled incidents, which is almost a four percentage-point increase over the previous period. Members of the monitoring team reviewed all available documentation for each canine deployment, and reviewed video tapes of all but two canine deployments.⁶⁴

The data in Table Fifteen indicate somewhat higher canine “deployment rates” in events with black and Hispanic drivers than for those with white drivers. The rate for white drivers in this reporting period is higher than in the previous period, continuing a trend over the last several reporting periods. The rate for black drivers also increased over the previous reporting period, but the previous rate represented a decrease from the sixteenth reporting period. However, the current rate of canine deployments for black drivers remains below that reported in sixteenth report. Canine deployments in events with Hispanic drivers continued to decline as they did in the previous report. Unlike the distribution for these deployments by race in the sixteenth reporting period, these data are not statistically significant at the 0.05 level, (See Table Five, p.18).⁶⁵ All but one deployment (in an event with a black driver) of the 70 canine deployments were based on reasonable articulable suspicion. New Jersey State Police supervisors caught and corrected this error prior to the monitors’ review. A qualitative review of these stops shows no statistically significant test statistics for levels of discretion in the reason for stop related to canine deployments. See Tables Nine through Twelve, pages 25-29, above.

⁶⁴ Two video tapes were not able to be reviewed because of video recorder malfunctions; both incidents also included a consent request. See footnote 14 above.

⁶⁵ *Chi-Square* analysis of these data yielded a *Chi-Square* of 5.950 with two degrees of freedom, $p > 0.05$. The distribution was not statistically significant.

Table Fifteen: Canine Deployments
1st OLEPS Reporting Period

Race/Ethnicity	a. Number of Drivers (% of Total)	b. Canine Deployments	c. Percent Canine Deployment by Race/Ethnicity (b as % of a)
White	92 (23.9)	11	12.0
Black	162 (42.2)	38	23.5
Hispanic	127 (33.1)	4	3.1
Asian Indian	1 (0.3)	1	100.0
Other	2 (0.5)	0	---
Total	384 (100.0)	70	18.2

With no errors that were not caught by supervisors, the New Jersey State Police remains within the >94 percent compliance rate agreed to as the standard for critical tasks outlined by the Consent Decree.

Non-Consensual Searches

Table Sixteen depicts the results, by race/ethnicity and type of non-consensual vehicle search for the sample of 384 incidents reviewed by the monitoring team this reporting period. The table depicts the types of non-consensual searches, by race/ethnicity of the 179 incidents involving a non-consensual vehicle search. For example, 58 white drivers' vehicles were subjected to non-consensual searches during this reporting period, with 55 subjected to probable cause searches, etc. Numbers in parentheses reflect the percentage of type of search, by race. For example, the 55 probable cause searches constitute 94.8 percent of all searches of white drivers' vehicles. The reviews depicted in this table constituted video tape and/or documentation reviews.

Of the 179 MVSRs reviewed that entailed non-consensual searches of vehicles, members of the monitoring team found no problems that were not first caught and remedied by New Jersey State Police supervisory personnel, falling within the >94 percent compliance rate agreed to as the standard for critical tasks.

Table Sixteen: Reasons for Non-Consensual Searches of Vehicles, by Race/Ethnicity of Driver
1st OLEPS Reporting Period

Race/ Ethnicity	a. Number of Drivers (% of Total)	b. Non- Consensual Vehicle Search (% of a)	c. Probable Cause (% of b)	d. Plain View (% of b)	e. Proof of Ownership (% of b)	f. Other Reason (% of b)
White	92 (23.9)	58 (63.0)	55 (94.8)	0	3 (5.2)	---
Black	162 (42.2)	58 (35.8)	53 (91.4)	1 (1.7)	4 (6.9)	---
Hispanic	127 (33.1)	60 (47.2)	59 (98.3)	0	1 (1.7)	---
Asian Indian	1 (0.3)	1 (100.0)	1 (100.0)	0	0	---
Other	2 (0.5)	1 (50.0)	0	0	0	---
Total	384 (100.0)	179 (46.4)	169 (94.9)	1 (0.6)	8 (4.5)	---

Table Seventeen depicts non-consensual search-of-person activity by race, specifically for probable cause searches. Forty searches of a person, not incidental to arrest, were conducted in this reporting period out of the 384 incidents reviewed or in 10.4 percent of all sampled incidents, representing a decline of 5.8 percentage points from the rate reported in the previous reporting period. Five of the 40 searches of a person were conducted by a trooper in the absence of the necessary probable cause. Members of the monitoring team found no problem that was not first caught and remedied by New Jersey State Police supervisory personnel, again within the >94 percent compliance rate agreed to as the standard for the critical tasks of the Consent Decree.

Table Seventeen: Probable Cause Searches of Persons,
by Race/Ethnicity of Driver
1st OLEPS Reporting Period

Race/Ethnicity	a. Number of Drivers (% of Total)	b. Probable Cause Searches	c. Percent by Race/Ethnicity (b as % of a)
White	92 (23.9)	12	13.0
Black	162 (42.2)	21	13.0
Hispanic	127 (33.1)	7	5.5
Asian Indian	1 (0.3)	0	--
Other	2 (0.5)	0	--
Total	384 (100.0)	40	10.4

In all, members of the monitoring team noted 141 separate incidents in which constitutional, procedural, reporting, or review issues were evident (see section 2.3, Task 27 above, for a complete listing of the errors in these motor vehicle stop incidents). A total of 120 of these problematic incidents were noted and corrected by retraining or other form of intervention prior to the monitor's noting the behavior. The monitors *noted* a shift in the locus of these self-corrections in the sixteenth reporting period, away from on-scene and station-level review to management (Troop) and OSPA-assigned enlisted personnel review. This shift continued in the seventeenth reporting period and again here, but without any corrections by enlisted personnel then assigned to OSPA. The New Jersey State Police continues in compliance with this task.

2.5.1 Compliance with Task 29b: Expeditious Implementation of Motor Vehicle Stop Criteria

Task 29b stipulates that:

b. The protocols listed in ¶29(a) include, inter alia, the procedures set forth in ¶¶ 30, 31, 32, and 33 and have been approved by the United States insofar as the protocols identify practices and procedures required by this Decree. The State shall implement these protocols as soon as practicable.

Compliance Status: **In Compliance**

Methodology

See Section 2.2 above for a discussion of the methodology for assessing compliance with this task.

Assessment

The review of State Police policies, forms, training, records systems, data entry systems, and CAD processes indicates that the New Jersey State Police are in compliance with the requirements of Task 29b. Effective policies and forms requiring compliance with the reporting requirements of the task have been written, disseminated and implemented into the training process. The development of training for supervisors in the process of scrutinizing motor vehicle stop reports and associated documentation, and systems to facilitate that review, have been completed.

The records reviewed by the monitors all included the names of drivers subjected to post-stop law enforcement procedures of interest to the Decree, i.e., request for permission to search; conduct of a consensual or non-consensual search; ordering occupants out of a vehicle; frisks of vehicle occupants; deployment of a drug-detection canine; seizure of contraband; arrest of the occupants of the vehicle; or use of deadly, physical, mechanical or chemical force. All of these records included the race of the individual subjected to a post-stop law enforcement procedure of interest to the Decree. All of the records included a CAD incident number. In addition, all had the date of the stop, time of the stop, time the stop cleared, and reason for the stop when the incident began as a stop. All records included the gender and race of the driver, whether a summons or warning was issued (and the category of the violation), and the reason for the motor vehicle stop.

The data analyzed for this reporting period included only those data generated by the electronic reporting process, but including hard-copy output. Accuracy rates for these data, overall, are within the acceptable margin for error for this task. The earliest available electronic data in the New Jersey State Police's database, provided to the monitors, was September 2, 2000, and Phase II compliance for this task was achieved in the second reporting period. (See Appendix One.) This qualifies as "expeditious" implementation.

2.5.2 Compliance with Task 29c: Forms to Support Execution of Tasks 31, 32 and 33

Task 29c stipulates that:

c. The State shall prepare or revise such forms, reports, and logs as may be required to implement this paragraph and ¶¶ 31, 32, and 33 (and any related forms, reports, and logs, including arrest reports) to eliminate duplication and reduce paperwork.

Compliance Status: **In Compliance**

Methodology

The New Jersey State Police continues to revise forms and policies related to this task, and to provide multiple levels of review and quality control practices related to tasks 31-33.

Assessment

Forms to support execution of tasks 31-33 have been developed and disseminated. The New Jersey State Police has finalized automated data entry at road stations. Conformance to the policies supporting these forms remains at a high level. The forms have been developed and disseminated and are being used by agency personnel, and appear to have improved substantially the level of reporting and compliance with stipulated procedures. The implementation of a new CAD system in the first half of this reporting period resulted in the automation of patrol logs, eliminating the need for troopers to keep manual logs while on patrol.

2.5.3 Compliance with Task 29e: Approval of Revisions to Protocols, Forms, Reports and Logs

Task 29e stipulates that:

e. 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 the United States and the Independent Monitor. The United States and the

Independent Monitor shall be deemed to have provided such approval 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.

Compliance Status: **In Compliance**

Methodology

During this reporting period, members of the federal independent monitoring team reviewed and approved all protocols and forms provided by the New Jersey State Police, and were notified in advance of planned changes to those protocols and forms. All changes to protocols and forms have also been approved by the United States.

Assessment

Implementation of revisions to protocols and/or forms has been held by the New Jersey State Police, pending the approval of the monitors and the United States. No issues were noted relevant to this task for this reporting period. Protocols for the new CAD system, in beta test during the previous reporting period, were reviewed by the monitors.

2.6 Compliance with Task 30: Communications Center Call-Ins

Task 30 stipulates that:

30. Communication Center Call-In's for Motor Vehicle Stops. The primary purpose of the communications center is to monitor officer safety. State troopers utilizing vehicles, both marked and unmarked, for patrols on roadways shall continue to document all motor vehicle stops, inter alia, by calling in or otherwise notifying the communications center of each motor vehicle stop. All motor vehicle stop information enumerated in ¶ 29(a) that is transmitted to the communications center by state troopers pursuant to protocols listed in ¶29(a), and as revised pursuant to ¶29(d) and (e), shall be recorded by the center by means of the center's

Computer Aided Dispatch system or other appropriate means.

Compliance Status: **In Compliance**

Methodology

See Section 2.2 above for a detailed description of the data collection and analysis processes used to determine compliance levels for this task. Compliance with these tasks has been measured under a revised standard, beginning with the tenth reporting period, based on an agreement of the parties to the Consent Decree. The compliance standard for data reporting and recording of traffic stop processes was established at 90 percent.

Assessment

New Jersey State Police Standard Operating Procedures (S.O.P.s) relating to the call-in of motor vehicle stops meet the requirements of the Consent Decree. In addition, training regarding motor vehicle stops is reasonably designed to affect the necessary behavior on the part of troopers conducting traffic stops. Revisions to New Jersey State Police S.O.P.s, implemented several reporting periods ago, have formed the basis for supervisory review and control of these processes.

Since the first reporting period, the New Jersey State Police has been in compliance with this requirement, based on the monitors' review of electronic CAD data. In addition, 283⁶⁶ video recordings and documentation from 384 vehicle stops were reviewed this period, as were supporting documents, such as CAD abstracts, etc. Compliance with this task was assessed using both the electronic, video, and paper documentation. All data required by paragraphs 29 a, are recorded within the CAD records for vehicle stops, or within associated MVSRs.

Of the 384 incidents reviewed by the monitors, 12 included an error in call-in or documentation of a motor vehicle stop. An error rate of 12 incidents of 384 constitutes 3.1 percent, for a compliance rate of 96.9 percent, well within the revised parameter of >90 percent.

⁶⁶ Some video taped incidents included more than one post-stop activity of interest to the decree. For example, 54 of the 130 consent requests also included a canine deployment.

2.6.1 Compliance with Task 30a: Notice of Call-In at Beginning of Stop

Task 30a stipulates that:

a. The initial call shall be made at the beginning of the stop before the trooper approaches the stopped vehicle, unless the circumstances make prior notice unsafe or impractical, in which event the State trooper shall notify the communications center as soon as practicable. The State Police shall continue to require that, in calling in or otherwise notifying the communications center of a motor vehicle stop, state troopers shall provide the communications center with a description of the stopped vehicle and its occupants (including the number of occupants, their apparent race/ethnicity, and their apparent gender). Troopers also shall inform the communications center of the reason for the stop, namely, moving violation, non-moving violation, or other.

Compliance Status: **In Compliance**

Methodology

See Section 2.2 above for a detailed description of the data collection and analysis processes used to determine compliance levels for this task.

Assessment

Members of the monitoring team also reviewed 283 video tapes of motor vehicle stops to assess the time of the call in. Data indicate that 100 percent of all stops were assigned an incident number and 100 percent list the driver's race and gender; the few incidents with call-in errors regarding initiation of a stop, reason for the stop⁶⁷ and for completing the stop were all caught by supervisors prior to the monitoring team's reviews. The New Jersey State Police is in compliance with this task.

⁶⁷ The reason for stop is noted as "moving" or "non-moving," different from the reason for stop categories discussed in Task 26, Section 2.2, above, where the discretion in the specific reason for stop was analyzed. With the implementation of the new CAD system completed in the first half of the reporting period, the reason for stop is now documented in more detail within CAD, including the specific observed violation. The monitoring team is aware of the data discrepancies between the broad reason for stop (moving or non-moving violation) and the actual traffic violation recorded; it is also aware of efforts by the State Police to address these discrepancies.

2.6.2 Compliance with Task 30b: Notice Prior to Search

Task 30b stipulates that:

b. state troopers shall notify the communications center prior to conducting a consent search or nonconsensual search of a motor vehicle, unless the circumstances make prior notice unsafe or impractical.

Compliance Status: **In Compliance**

Methodology

See Section 2.2 above for a description of the methodology used to assess compliance with this task.

Assessment

This section (regarding notice prior to search of a vehicle) applies only to probable cause and consent searches.⁶⁸ Of the 169 probable cause search events and 130 consent searches reported in 263 incidents (with 221 of the 263 events reviewed by video tape), twenty-three were not called in to New Jersey State Police communications prior to the initiation of the search. Supervisory personnel noted and corrected 11 of these omissions. The lack of notice prior to search was not caught in 12 of the 263 incidents, which constitutes an error rate of 4.6 percent, or a compliance rate of 95.4 percent that is within the >94 percent established as the criterion for this task.

2.6.3 Compliance with Task 30c: Call-Ins Upon Completion of Stop

Task 30c stipulates that:

c. At the conclusion of the stop, before the trooper leaves the scene, the trooper shall notify the communications center that the stop has been concluded, notify the center whether any summons or written warning was issued or custodial arrest

⁶⁸ New Jersey case law (*State v. Eckel*, 185 N.J. 523 (2006)) has changed the requirements and practices of "search incidental to arrest" of a motor vehicle. New Jersey State Police policy now precludes searches of vehicles incidental to arrest.

was made, communicate any information that is required to be provided by the protocols listed in paragraph 29(a) that was not previously provided, and correct any information previously provided that was inaccurate. If circumstances make it unsafe or impractical to notify the communications center of this information immediately at the conclusion of the stop, the information shall be provided to the communications center as soon as practicable.

Compliance Status: **In Compliance**

Methodology

See Section 2.2 above for a detailed description of the data collection and analysis processes used to determine compliance levels for this task.

Assessment

New Jersey State Police S.O.P.s relating to the call-in of motor vehicle stops meet the requirements of the Consent Decree. In addition, training regarding motor vehicle stops is reasonably designed to affect the necessary behavior on the part of troopers conducting traffic stops. Of the 283 stops reviewed by video tape, all but four complete tapes without audio difficulty were found to have clearance codes. Of the 384 stops reviewed by document review, all but four of these call-ins were present in the CAD abstract, indicating that they had been made by the trooper and contemporaneously recorded. Supervisors caught and corrected these errors prior to the monitoring team's review. The New Jersey State Police is in compliance with this task.

2.6.4 Compliance with Task 30d: CADS Incident Number Notification

Task 30d stipulates that:

d. The communications center shall inform the trooper of an incident number assigned to each motor vehicle stop that involved a motor vehicle procedure (i.e., occupant requested to exit vehicle, occupant frisked, request for consent search, search, drug dog deployed, seizure, arrest or use of force), and troopers shall utilize that incident number to cross reference other documents prepared regarding that stop. Likewise, all motor vehicle stop

information recorded by the communication center about a particular motor vehicle stop shall be identified by the unique incident number assigned to that motor vehicle stop.

Compliance Status: **In Compliance**

Methodology

See Section 2.2 above for a detailed description of the data collection and analysis processes used to determine compliance levels for this task.

Assessment

New Jersey State Police S.O.P.s relating to the call-in of motor vehicle stops meet the requirements of the Consent Decree. In addition, training regarding motor vehicle stops is reasonably designed to affect the necessary behavior on the part of troopers conducting traffic stops.

Computer Assisted Dispatch (CAD) records were also requested by the monitoring team for all motor vehicle stop activity for the selected stations. A sample of CAD records was reviewed electronically, and all were found to have "CAD Incident Numbers." Of the 384 stops reviewed by the monitoring team this reporting period, CAD numbers were present in documentation for all video tapes reviewed, and in 100 percent of all hard copy documents reviewed by the monitoring team that required a CAD number. The monitoring team did note, however, some difficulties with maintaining unique CAD numbers during the implementation of the new CAD system and with the assignment of numbers to the appropriate unit code. None of these issues appeared after the full implementation of the new system.

2.7 Compliance with Task 31: Reporting Consent to Search Requests

Task 31 stipulates that:

31. Consent Searches of Motor Vehicles. The State Police shall continue to require that whenever a state trooper wishes to conduct or conducts a consensual search of a motor vehicle in connection with a motor vehicle stop, the trooper must complete a "consent to search" form and report. The "consent to search" form shall contain information, which must be presented to the driver, or other person authorized to

give consent before a consent search may be commenced. This form shall be prepared in English and Spanish. The "consent to search" report shall contain additional information, which must be documented for State Police records.

Compliance Status: **In Compliance**

Methodology

See Section 2.2 above for a detailed description of the data collection and analysis processes used to determine compliance levels for this task.

Assessment

A MVSR form was completed in all 130 motor vehicle stop reports that included a consent search request this reporting period. Thirty-five of the incidents involved consent requests that were denied. A "consent to search form" was utilized in all 130 events with a consent request. The information required to be presented (both written and orally) to the driver was so presented correctly in all but seven cases. Supervisors caught and corrected all seven errors.

2.7.1 Compliance with Tasks 31a-c: Recording Consent to Search Requests

Tasks 31a-c stipulate that:

- a. The State Police shall require that all "consent to search" forms include the following information:**
 - 1. the date and location of the stop;**
 - 2. the name and identification number of the trooper making the request for consent to search;**
 - 3. the names and identification numbers of any additional troopers who actively participate in the discussion with the driver or passenger(s) concerning the request for consent to search;**
 - 4. a statement informing the driver or other person authorized to give consent of the right to refuse to grant consent to search, and that if the driver or other person authorized to give consent grants consent, the driver or other person authorized to give consent at any time for any reason may withdraw consent to search;**

5. a statement informing the driver or other person authorized to give consent of the right to be present during the search at a location consistent with the safety of both the State trooper and the motor vehicle occupant(s) which right may be knowingly waived;
 6. check-off boxes to indicate whether consent has been granted, and if consent is granted, the driver or other person authorized to give consent shall check the appropriate box and sign and date the form; and
 7. if the driver or other person authorized to give consent refuses consent, the trooper or the driver or other person authorized to give consent shall so note on the form and the driver or other person authorized to give consent shall not be required to sign the form.
- b. A state trooper who requests permission to conduct a consent search shall document in a written report the following information regardless of whether the request for permission to conduct a search was granted or denied:
1. the name of the driver or other person authorized to give consent to whom the request for consent is directed, and that person's gender, race/ethnicity, and, if known, date of birth;
 2. the names and identification numbers of all troopers who actively participate in the search;
 3. the circumstances which constituted the reasonable suspicion giving rise to the request for consent;
 4. if consent initially is granted and then is withdrawn, the fact that this occurred, and whether the search continued based on probable cause or other non-consensual ground, or was terminated as a result of the withdrawal of consent;
 5. a description of the type and quantity of any contraband or other property seized; and,
 6. whether the discussion concerning the request for consent to search and/or any ensuing consent search were recorded using MVR equipment.
- c. The trooper shall sign and date the form and the report after each is fully completed.

Compliance Status: **In Compliance**

Methodology

Members of the monitoring team reviewed report information for 130 consent requests and 95 consent searches,⁶⁹ and reviewed video tape recordings of all but three⁷⁰ motor vehicle stops involving consent requests. Supporting documentation for all consent search requests was reviewed, and the events depicted on 127 video tapes reviewed were assessed in light of the reports generated by the trooper concerning the event. See Section 2.2 above for a detailed description of the data collection and analysis processes used to determine compliance levels for this task.

Assessment

The monitoring team reviewed 130 consent request activities required by this section of the Consent Decree. Of the 130 consent requests, two incidents had had errors corrected by supervisory personnel with regard to recording of information.

2.8 Compliance with Task 32: Recording and Reporting of Non-Consensual Searches

Task 32 stipulates that:

32. Non-consensual Searches of Motor Vehicles (Excluding Vehicle Searches Begun as a Consent Search). A state trooper shall complete a report whenever, during any motor vehicle stop, the trooper conducts a non-consensual search of a motor vehicle (excluding vehicle searches begun as a consent search). The report shall include the following information:

- 1. the date and location of the stop;**
- 2. the names and identification numbers of all troopers who actively participated in the incident;**
- 3. the driver's name, gender, race/ethnicity, and, if known, date of birth;**

⁶⁹ Thirty-five consent requests were refused.

⁷⁰ The tapes for three consent request incidents were not reviewed due to malfunction of equipment. See footnote 14.

4. a description of the circumstances which provided probable cause to conduct the search, or otherwise justified the search;
5. a description of the type and quantity of any contraband or other property seized; and
6. whether the incident was recorded using MVR equipment.

Compliance Status: **In Compliance**

Methodology

See Section 2.2 above for a detailed description of the data collection and analysis processes used to determine compliance levels for this task.

Assessment

New Jersey State Police S.O.P.s reasonably address the processes of making and recording non-consensual searches, and training provided to road personnel reasonably prepares them to complete these processes in conformance to the requirements of this task.

Of the 169 MVSRs reviewed which entailed probable cause searches of vehicles,⁷¹ members of the monitoring team found problems with 18 incidents in which the troopers failed to call in the search prior to conducting it. This error was noted and corrected by supervisory personnel prior to the monitoring team's review in six of these events. The monitoring team found issues with probable cause in one event and this was addressed prior to the selection of the events for review. The monitors also noted one incident in which the search was not taped. The event was not subject to video review prior to that of the monitoring team. An error rate of 13 in 169 events is 7.7 percent, above the 2.5 percent error rate in the previous report, but translating into a compliance rate that remains within the >90 percent compliance levels for this task. The New Jersey State Police remains in compliance with this task.

⁷¹ Five plain view searches, two ownership searches and seven other non-consensual searches were also conducted this reporting period.

2.9 Compliance with Task 33: Recording and Reporting Deployment of Drug Detection Canines

Task 33 stipulates that:

- 33. Drug-Detection Canines. A state trooper shall complete a report whenever, during a motor vehicle stop, a drug-detection canine is deployed. The report shall include the following information:**
- 1. the date and location of the stop;**
 - 2. the names and identification numbers of all troopers who participated in the incident;**
 - 3. the driver's name, gender, race/ethnicity, and, if known, date of birth;**
 - 4. a description of the circumstances that prompted the canine to be deployed;**
 - 5. whether an alert occurred;**
 - 6. a description of the type and quantity of any contraband or other property seized; and**
 - 7. whether the incident was recorded using MVR equipment.**

Compliance Status: **In Compliance**

Methodology

See Section 2.2 above for a detailed description of the data collection and analysis processes used to determine compliance levels for this task.

Assessment

The policies, forms, training curricula and training processes relative to the deployment of drug detection canines and reporting of these deployments are reasonably designed to guide behavior responsive to Task 33.

Members of the monitoring team examined, by document review, 70 reported drug detection canine deployments effected by the New Jersey State Police. The monitoring team found four canine deployments to have been deployed or reported in a manner inconsistent with the requirements of procedures and the Decree. Supervisors caught and corrected the one deployment on less than adequate articulable suspicion prior to the monitoring team's review, as well as the two other deployments with taping errors and one event with another procedural error. With no uncaught errors in this reporting

period, the New Jersey State Police remain within the >94 percent compliance level for this task.

2.10 Compliance with Task 34a: Use of Mobile Video Recording Equipment

Task 34a stipulates that:

34. Use of Mobile Video/Audio (MVR) Equipment.

a. The State Police shall continue to operate all patrol vehicles engaged in law enforcement activities on the New Jersey Turnpike and the Atlantic City Expressway with MVR equipment. The State shall continue with its plans to install MVR equipment in all vehicles, both marked and unmarked, used for patrols on all other limited access highways in New Jersey (including interstate highways and the Garden state Parkway), and shall complete this installation within 12 months.

Compliance Status: **In Compliance**

Methodology

Members of the monitoring team requested to view video tapes for 283 events for the current reporting period.

Assessment

Members of the monitoring team found evidence of video tape recordings, or documentation of in-field mechanical problems, for all events selected for review this period. The New Jersey State Police remains in compliance with this task.

2.11 Compliance with Task 34b-c: Training in MVR Operation and Procedures

Task 34b-c stipulates that:

b. The State shall continue to implement procedures that provide that all state troopers operating a vehicle with MVR equipment may operate that vehicle only if they first are trained on the manner in which the MVR equipment shall be tested,

maintained, and used. The State shall ensure that all MVR equipment is regularly inspected, maintained, and repaired.

c. Except when MVR equipment unforeseeably does not function, all motor vehicle stops conducted by State Police vehicles with MVR equipment shall be recorded by these vehicles, using both the video and audio MVR functions. The recording shall begin no later than when a trooper first signals the vehicle to stop or arrives at the scene of an ongoing motor vehicle stop begun by another law enforcement trooper; and the recording shall continue until the motor vehicle stop is completed and the stopped vehicle departs, or until the trooper's participation in the motor vehicle stop ends (the recording shall include requests for consent to search a vehicle, deployments of drug-detection canines, and vehicle searches). If a trooper operating a vehicle with MVR equipment actively participates in a motor vehicle stop and is aware that the motor vehicle stop was not recorded using the MVR equipment, the trooper shall notify the communications center of the reason the stop was not recorded, which the center shall record in a computerized information system.

Compliance Status: **In Compliance**

Methodology

In addition to verifying the existence of a video tape in each patrol vehicle for each incident selected for review this reporting period (see above), members of the monitoring team pulled for review a sample of 384 post-stop law enforcement actions of interest to the Decree. These included 384 events selected from New Jersey State Police databases, and 283 events assessed by reviewing video tapes.⁷²

Assessment

While policies have been implemented requiring video and audio recording of all Decree-related traffic stops, not all stops are recorded in conformance with the Decree.

⁷² All 283 events reviewed by video-tape were included in the 384 MVSRs reviewed.

A review of the 283 video tapes selected by the monitoring team indicates that the agency has effectively resolved problems noted in earlier reports concerning "out of tape" issues and troopers patrolling with inoperative video units (only five of 283 incidents reviewed via video tape resulted in an "out of tape" finding). However, various MVR malfunctions were noted in an additional 28 incidents reviewed by the monitoring team. The agency maintains general compliance with the requirements of the Decree.

A problem, noted for several reporting periods, continues this period. This problem involves technical difficulties with audio recordings during motor vehicle stops. Of the 283 stops reviewed via video tape this period, 42 exhibited some form of audio difficulty (down slightly from the 45 reported in the seventeenth report, which was a substantial increase over the sixteenth reporting period), and 14 of these also exhibited some form of video difficulty (one additional stop exhibited only a video difficulty). These incidents increasingly reflect the advanced age of the video technology and difficulties in maintaining the equipment, rather than trooper-error. The New Jersey State Police's anticipated implementation of new digital video systems will reduce these numbers, as well as facilitating video reviews.

The monitoring team noted 18 events (of 283 reviewed) in which audio or video activation by the trooper was delayed for a reason other than technical difficulties. Supervisors noted and corrected all of these errors. However, there were three additional tapes reviewed by the monitoring team in which supervisors failed to note that the troopers turned off audio or video before the end of the stop. This constitutes an error rate of 0.8 percent, or, a 99.2 compliance rate that is within the established >90 percent requirement for this task. The New Jersey State Police remains in compliance with this task.

2.12 Compliance with Task 35: Supervisory Review of Trooper Reports

Task 35 stipulates that:

35. The reporting trooper's supervisor shall review each report prepared pursuant to ¶¶31-33 within 14 days of the precipitating incident and, as appropriate, in conjunction with that review, may view any associated MVR tape.

Compliance Status: **In Compliance**

Methodology

See Section 2.2 above for a detailed description of the data collection and analysis processes used to determine compliance levels for this task.

Assessment

A review of all electronic records of motor vehicle stops, completed during the reporting period indicated that all selected events had their supporting motor vehicle stop reports reviewed by supervisory personnel. The monitors assessed all electronic records for MVSRs, and determined that greater than 98 percent of all MVSRs received initial supervisory review within 14 days of the event reported in the MVSR. However, only 81 percent of all stop reports are approved within that period, almost a five-percentage point decline in second-level approvals from the seventeenth reporting period.

The monitoring team reviewed all completed MVSRs for the 384 selected stops reviewed this period for evidence of reporting or procedural errors that should have been noted by supervisory personnel. Supervisory personnel, prior to the monitors' review, also reviewed all but 74 tapes reviewed by the monitors. From those events also reviewed by supervisors, the monitors noted none that exhibited any form of substantial reporting problem that should have been noted by supervisory review, but was not.

This constitutes an error rate of zero percent, within the allowable five percent error rate for this task.

2.13 Compliance with Task 36: Supervisory Review of MVR Tapes

Task 36 stipulates that:

36. The State shall adopt a protocol requiring that State Police supervisors review MVR tapes of motor vehicle stops on a random basis. The protocol shall establish the schedule for conducting random reviews and shall specify whether and in what manner the personnel conducting the review shall prepare a written report on each randomized review of an MVR tape. Prior to implementation, the protocol shall be approved by the United States and the Independent Monitor.

Compliance Status: **In Compliance**

Methodology

See Section 2.2 above for a description of the methodology used to assess compliance for this task.

Assessment

S.O.P. F-19 was revised during the seventeenth reporting period, changing the scheduling of MVR reviews and management reviews. During electronic reviews of Supervisors Review of Motor Vehicle Contact Recordings, members of the monitoring team reviewed 240 supervisors' MVR review reports and 209 of the tapes reflected in these reviews. The monitors noted above in Section 2.3 that non-station personnel conducted about 66 percent of the initial video reviews. Management reviews were conducted both by station-level and troop-level personnel. Thus, many supervisory corrections noted in this reporting period occurred at the troop level, rather than at the station level.

Fourteen errors were not caught by supervisors among the 240 incidents with MVR reviews. The monitors noted that five of the fourteen errors were in events initially reviewed by non-station personnel, although three had management reviews conducted by station personnel. The overall error rate for supervisory video review of 14 errors in 240 reviews is 5.8 percent, giving a 94.2 percent compliance rate that is within the acceptable compliance range of >94 percent.

2.14 Compliance with Task 37: Supervisory Referral to PSB of Observed Inappropriate Trooper Conduct

Task 37 stipulates that:

37. After conducting a review pursuant to ¶35, ¶36, or a special MVR review schedule, the personnel conducting the review shall refer for investigation by the Professional Standards Bureau ("PSB") any incident where this review reasonably indicates a possible violation of the provisions of this Decree and the protocols listed in ¶29 concerning search or seizure procedures, nondiscrimination requirements, and MVR use requirements, or the provisions of the Decree concerning civilian complaint procedures. Subsequent investigation shall be conducted by either the PSB or the Office of the Attorney General

("OAG") as determined by the State. Appropriate personnel shall evaluate all incidents reviewed to determine the need to implement any intervention for the involved trooper.

Compliance Status: **In Compliance**

Methodology

See Section 2.2 above for a description of methodologies used to assess compliance for this task.

Assessment

The monitoring team has observed "course-of-business" records of continual referrals to OPS of actions or omissions by road personnel, although such referrals have become more rare in recent reporting periods. This is, in the monitors' opinions, directly due to the levels of routine supervision, which have reduced errors on the part of road personnel. The monitoring team noted one use-of-force incident that should have been referred to OPS during the period, but was not until the monitoring team found the error. The New Jersey State Police is judged to remain in compliance with this task.

2.15 Compliance with Task 38: Periodic Reviews of Referral Decisions

Task 38 stipulates that:

38. The State Police and the OAG shall conduct periodic reviews of referral decisions pursuant to ¶ 37 to ensure appropriate referrals are being made. State Police personnel shall be held accountable for their referral decisions.

Compliance Status: **In Compliance**

Methodology

Personnel at the Office of the Attorney General (through its Office of State Police Affairs during the reporting period) and the New Jersey State Police are aware of the requirement to monitor referral decisions pursuant to paragraph 37 of the Consent Decree. Training for all supervisory personnel included a discussion of the requirement to "copy" to the Office of State Police Affairs any referrals to OPS by supervisory personnel.

Referrals have been made to the Office of Professional Standards. Personnel from the OAG are aware of the requirement for periodic audits, and have conducted audits of New Jersey State Police activities during the last reporting period (see section 2.83, below). OSPA has in place an extensive audit process designed to identify and remedy problematic supervisory processes, including problematic referral decisions. Staff from OSPA routinely audit field supervisory personnel's review of field practice, their associated supervisory actions to remedy inappropriate action on the part of law enforcement personnel, and their decisions to (or not to) refer trooper behavior to OPS.

Assessment

One incident was noted, during the monitoring period that should have been referred to OPS. The New Jersey State Police remains in compliance with this task.

2.16 Compliance with Task 39: Regular Supervisory Activity in the Field

Task 39 stipulates that:

39. 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.

Compliance Status: **In Compliance**

Methodology

See Section 2.2 above for a description of methodologies used to assess compliance for this task.

Assessment

The monitoring team reviewed 152 motor vehicle stops that were events at which a New Jersey State Police sergeant was present, constituting field activity in 39.6 percent of all 384 stops selected this period. This rate was up just one point from rate in the previous period, which was down from 49.4 percent in the sixteenth reporting period and from 61.0 percent in the fifteenth report.⁷³ For events involving a consent request,

⁷³ On May 16, 2007, Field Operations issued a memorandum restricting which personnel can be considered a "supervisor" on scene. Prior to that date, a Trooper I on scene who had completed the First

a canine deployment, or a use of force during this reporting period, there was a supervisory presence in 59.8 percent of these incidents, down over three percentage points from the last reporting period. A supervisor was present in 22.0 percent of all other incidents, representing an increase from the 14.6 percent reported in the seventeenth reporting period. Nonetheless, critical incidents remain subject to routine supervision in the field.

The New Jersey State Police remains in compliance with this task.

2.17 Compliance with Task 40: Development of a Management Awareness and Personnel Performance System

Task 40 stipulates that:

40. The State shall develop and implement computerized systems for maintaining and retrieving information necessary for the supervision and management of the State Police to promote professionalism and civil rights integrity, to identify and modify potentially problematic behavior, and to promote best practices (hereinafter, the "Management Awareness Program" or "MAP").

Compliance Status: **In Compliance**

Implementation Summary

The Management Awareness Personnel Performance System (MAPPS) went on-line January 1, 2004, during the tenth reporting period. Full compliance with all MAPPS tasks (40 through 53 [6])⁷⁴ was reached in the *Monitors' Twelfth Report* (July 2005), when State Police demonstrated to the federal monitors the ability to discuss aggregate stop data and address trends. (See Appendix One)

MAPPS tasks require a review, which includes two types of assessment: are appropriate data available in a timely manner and stored in a secure way (Tasks 41-6), and, is the

Line Supervision course in anticipation of promotion to Sergeant could act in a supervisory capacity. After this date that was no longer true. The change in policy might help explain the further decline in supervisory rates between the 16th and 17th reporting periods.

⁷⁴ 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.

system being used as a management tool, according to policy, to inform supervisory and management decision making (Tasks 47-53). Because use of the system often requires “data” to be entered into MAPPS, the two assessments become interrelated.

Organizationally, responsibility for the data in the MAPPS system as implemented under the Consent Decree is spread across multiple entities within State Police. For the most part, the system is a repository of information from other information systems in Division, but accessible in MAPPS through processing developed primarily by an outside vendor that continues with 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). In its broadest definition, MAPPS as a “system” incorporates its feeder systems as well. Stop data aggregated in MAPPS come from the Computer Aided-Dispatch (CAD) system and the Records Management System (RMS), which are managed by the Information Technology Bureau. Misconduct data and complaints that are handled as performance issues (i.e., 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.

Similarly, the reviews of MAPPS data are the responsibility of multiple organizational entities and many reviews themselves are entered into MAPPS, becoming additional performance data available 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 (Task 48). 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 (cf. Tasks 44ff of the Consent Decree) obviously fall primarily to supervisors in the Field Operations Section. Task 52 further requires 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 (Tasks 50 and 51). 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 the Office of Professional Standards (OPS), which, by current policy, is responsible for Task 53.

Methodology

This reporting period, the monitoring team assessed the MAPPS information system to ensure that MAPPS is being used appropriately as a personnel management tool. In all, the monitors noted MAPPS system functionalities for the 384 incidents comprising the

sample described above in Section 2.2, and with several independent tests. These tests included assessing available MAPPS information for all 28 troopers subject to meaningful reviews in the second half of 2008 (see Task 53), not all of whom were from the Field Operations Section. In addition, members of OSPA attended and observed all risk management meetings, at which MAPPS data and other information are presented to assess existing and potential risks to the State Police that might be mitigated by changes in training, supervision, policy or leadership. The results of these process tests are discussed below, in the analysis of tasks 41-53.

Assessment

MAPPS has been implemented as an operational system, and as implemented, has all of the individual system capabilities required by the Decree. The live data in MAPPS are the full spectrum of system data anticipated for MAPPS. The application of benchmarking criteria and implementation of the capacities for conducting long-term analyses continue to be observed for the seventh consecutive reporting period. As noted in the specific tasks below, the challenge for the New Jersey State Police, post the federal Consent Decree, is to optimize the data tools and policies now at its disposal and ensure their integration within MAPPS, as well as across the various units and subunits with the Division.

2.18 Compliance with Task 41: Data Included in the MAPPS System

Task 41 requires that:

41. The MAP shall consist of the following information:

a. all items of information in connection with all motor vehicle stops that are required to be recorded in a written report, form, or log, or reported to the communications center, pursuant to ¶29 and the protocols listed in ¶29 of this Decree, except that duplicate information need not be entered, and information as to whether the incident was recorded with MVR equipment need not be entered if all patrol cars are equipped with MVR unless a patrol car was equipped with MVR equipment that was not functioning;

b. information on civilian compliments and other indicia of positive performance; information on misconduct investigations; reports on use of force associated with motor vehicle stops; on-duty and off-

duty criminal arrests and criminal charges; civil suits involving alleged misconduct by state troopers while on duty; civil suits in which a trooper is named as a party involving off-duty conduct that alleges racial bias, physical violence or threats of violence; and c. implementation of interventions; and training information including the name of the course, date started, date completed and training location for each member receiving training.

Compliance Status: **In Compliance**

Methodology

See Section 2.17 above for a description of the methodology used to assess the requirements of this paragraph of the Decree.

Assessment

The monitors identified 25 specific sets of data required by paragraph 41. Each of the 20 required primary elements, i.e., those not identified as being "narrative elements" which are allowed to be stored outside of MAPPS proper, continue to be found in the MAPPS system. In addition, the five non-primary requirements, identified as "narrative elements" were reasonably available through other systems. The monitors continue to find the system to be capable of processing the required data in reasonable ways. The system continues to be reasonably user-friendly and usable.

There were two important changes to source databases that increased the details about motor vehicle stops available in the MAPPS system. These changes were in the CAD and RMS databases. The additional stop information now captured in these data sources reflects the input of the RACG, based on its analyses of motor vehicle stops to comply with Task 50, and its desire to utilize additional information to examine more closely the use of police discretion in stops.

A new CAD system was implemented Division-wide by the end of June 2008, following a schedule that sequenced implementation one troop at a time. Call-in procedures were revised to capture more detailed information on the reason for stop (including the recording of the statute of the observed violation) and on traffic outcomes (e.g., the number of summonses and warnings, when only the presence of a summons or warning was previously captured, as well as the specific statute for which a summons was issued). In addition, the new system implemented included enhanced in-car computer capability for capturing some of the data without burdening CAD radio traffic.

The new system automates the recording of CAD incident numbers (Task 44) for incidents with post-stop interaction. MAPPS aggregation protocols required modification to capture motor vehicle stop information from the new CAD. MAPPS displays were changed to provide front-line supervisors with access to the information.

Secondly, enhancements to the Motor Vehicle Stop Report were implemented in January 2008. Troopers are required to capture information in the report about events when specific law enforcement actions are taken in the course of a stop to comply with Task 29. The RMS application through which the Motor Vehicle Stop Report information is entered and maintained electronically was modified to provide for better sequencing of events related to vehicle searches to be recorded, as well as to retain more information on the supervisory approvals for consent searches. Prior to these enhancements, RACG personnel would manually review and code vehicle search information from stop report narratives in order better understand the basis of vehicle searches reported in analyses responding to Task50. (The federal monitors and OSPA approved these changes.)

During the reporting period, there was planning for two additional changes to MAPPS. Planning was put into place to create a Use of Force Module that would maintain the use-of-force reports sent to OPS. The module will extend the availability of use-of-force data beyond that associated with a motor vehicle stop and recorded on a motor vehicle stop reports. With the implementation of the module in MAPPS, the RACG will prepare trend reports on uses of force. In addition, a policy for giving troopers direct access to much of their own MAPPS information was proposed, thereby well exceeding the access mandated by the Consent Decree (Task 42).

All items required by subparagraphs "b" and "c" of paragraph 41 are included in the operational MAPPS. Specifically, the monitoring team noted in this reporting period that training information accessed for troopers appeared timely and demonstrated completion of all training required by the Consent Decree during the reporting period.⁷⁵ Information on the implementation of interventions is entered in MAPPS, but the computerized link of the interventions to video reviews and more commonly, when required for misconduct cases or PIDRs, does not happen in all cases. With regard to taking interventions as a result of a misconduct investigation, it may be that the supervisor or assistant station commander tasked with completing the intervention does not have access to the misconduct module (restricted to those with the ranks of lieutenant and higher), so that the intervention is entered directly into the Intervention Module (or if a Performance Notice was issued, into the Performance Module), which

⁷⁵ However, the Academy was made aware of several database entries that were duplicated. The duplications made it appear that one trooper had attended over 30 courses during the reporting period. Most of these instances appear to be firearm training courses, for which one entry may be for daytime and another for nighttime qualifications. The Academy believes it has addressed this issue.

does not link directly to the misconduct case. Thus, it is not always clear as to what specific event an intervention was meant to address, nor, conversely, whether interventions have been taken to address specific misconduct or performance issues.

The New Jersey State Police remains in compliance with this task.

2.19 Compliance with Task 42: Annual Access to Troopers' Personal MAPPS Data

Task 42 requires that:

42. All information in MAP on substantiated misconduct investigations, civilian compliments, and other indicia of positive performance which can be attributed to a specific trooper shall be made available to that trooper on an annual basis upon written request. Nothing in this paragraph shall be construed as granting that trooper access to confidential documents other than those identified in this paragraph, or to any information which cannot be attributed to the trooper requesting the information.

Compliance Status: **In Compliance**

Methodology

See Section 2.17 above for a description of the methodology used to assess the requirements of this paragraph of the Decree.

Assessment

Policies supporting this requirement have been completed. The federal monitors reviewed these policies, and approved them as written. During the seventeenth reporting period, the monitors reviewed a pending policy change to give troopers routine and direct access to most of their own MAPPS data, thereby going beyond the access required by the Decree. (This policy change was not implemented until the end of the current reporting period.)

2.20 Compliance with Task 43: Production of “Counts” and Percentages for Stop Data

Task 43 requires that:

43. Regarding the motor vehicle stop information identified in ¶29 (a) (1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, and 19) and recorded in accordance with the protocols identified in ¶29(a), the MAP shall have the capability to search and retrieve numerical counts and percentages for any combination of the above-referenced information and to run reports for different time periods (e.g., monthly, quarterly, annually) and for individual troopers, squads, and stations. Regarding the motor vehicle stop information identified in ¶29(a)(5A, 8A, 12A, 13A, 14A, 15A, and 17A) and recorded in accordance with the protocols identified in ¶29(a), it will be sufficient that the MAP shall have the capability to access (through cross-referenced paper documents or other method) this descriptive information entered on specific incidents and matters. Regarding the information identified in ¶41(b and c), to the extent technologically feasible, the MAP shall be developed to have the capability to search and retrieve numerical counts and percentages for any combination of the information and to run reports for different time periods and for individual troopers, squads or stations. To the extent that the MAP shall require textual or narrative descriptions of misconduct allegations or other information identified in ¶41(b and c), it will be sufficient that the MAP only have the capability to retrieve this descriptive information.

Compliance Status: **In Compliance**

Methodology

See Section 2.17 above for a description of the methodology used to assess the requirements of this paragraph of the Decree.

Assessment

The primary data elements identified in paragraph 29 a (1-19) can be displayed by “count” and percentage, and reported by different time periods, as required by this paragraph. MAPPS contains the ability to access (in most cases through other available automated systems) the items identified in paragraph 29a (5a, 8a, 12a, 13a, 14a, 15a, and 17a). MAPPS has the capacity to retrieve and report information regarding misconduct investigations/allegations, civilian compliments, civil suits, uses of force, post-stop interactions, criminal arrests and charges and implementation of interventions. Access to these elements is reasonably effective and efficient, in the opinion of the monitors.

2.21 Compliance with Task 44: Common Control Numbers

Task 44 requires that:

44. Where information about a single incident is included within the MAP from more than one document the State shall use a common control number or other means to link the information from different sources so that the user can cross-reference the information and perform analyses.

Compliance Status: **In Compliance**

Methodology

See Section 2.17 above for a description of the methodology used to assess the requirements of this paragraph of the Decree.

Assessment

The State has identified the “CAD incident number” as the common control number. Use of the CAD incident number has been in effect since early in the Consent Decree process. The CAD incident number is present in MAPPS records as appropriate; however, as noted section 2.16, above, interventions do not always directly link to the review or misconduct case to which they apply. The monitoring team did note (Task 30d above) some issues with linking unique CAD incident numbers that resulted during the implementation of the new CAD system.

2.22 Compliance with Task 45: Timely Access to MAPPS Data

Task 45 requires that:

45. The State shall ensure that information is included within the MAP in an accurate and timely fashion and is maintained in a secure manner.

Compliance Status: **In Compliance**

Methodology

See Section 2.17 above for a description of the methodology used to assess the requirements of this paragraph of the Decree.

Assessment

Operational plans for inclusion of MAPPS information have been articulated in New Jersey State Police operations instructions and supporting documentation for this reporting period. Implementation of these procedures has been accomplished, and the system works as designed relative to the requirements of this task. One issue arose in the seventeenth reporting period in which the lack of timely data in MAPPS threatened compliance with Task 53. In response to this issue, the MAPPS undertook an in-depth audit of all IA Pro data that should be in MAPPS and set up revised procedures for routine auditing. (See details under Task 53.) No major issues occurred during the reporting period with the timely availability of specific data in the MAPPS system.

2.23 Compliance with Task 46: Development of a MAPPS Plan

Task 46 requires that:

46. Within one hundred and eighty (180) days following entry of this Decree, the State shall develop a plan for designing and implementing the MAP including the use of the MAP, a timetable for implementation, and a specification of the information contained in State records pre-dating the implementation of the MAP that can reasonably be incorporated in the MAP. Prior to effectuating the implementation plan, the plan shall be approved by the United States and the Independent Monitor.

Within 180 days following the entry of this Decree, the State shall begin conducting the supervisory and management reviews required by ¶¶48-53.

Compliance Status: **In Compliance**

Methodology

See Section 2.17 above for a description of the methodology used to assess the requirements of this paragraph of the Decree.

Assessment

With implementation of the MAPPS components during the tenth reporting period, the State has effectuated its MAPPS plan.

2.24 Compliance with Task 47: Supervisory and Management Reviews

Task 47 requires that:

47. Consistent with the requirements of ¶¶48-53 infra, the State shall develop a protocol specifying the manner in which supervisory and management reviews of individual state troopers, and State Police units and sub-units (e.g., troops, stations, and squads), shall be conducted, and the frequency of such reviews. Prior to implementation, the protocol shall be approved by the United States and the Independent Monitor.

Compliance Status: **In Compliance**

Methodology

See Section 2.17 above for a description of the methodology used to assess the requirements of this paragraph of the Decree.

Assessment

Operational plans for use of MAPPS information by supervisory and management personnel have been articulated in New Jersey State Police operations instructions and supporting documentation. Implementation of these functions began in January 2004.

For the past seven reporting periods, the monitors have been carefully reviewing the use of supervisory review processes regarding instances in which supervisors have noted a problem with a motor vehicle stop, and created narratives in the MVR reviews contained in MAPPS identifying a problem with trooper actions, noting in MAPPS the action taken regarding the problems as “No Further Action,” as opposed to taking an intervention. The issues raised in narratives are not easily retrievable by subsequent supervisors who may then miss a developing pattern of performance that requires more formal remediation, while lists of interventions for specific troopers permit easy access to issues.

The federal monitors discussed this issue in detail with the State, and reviewed MAPPs training documents regarding this process. MAPPs developed and implemented, during the fourteenth reporting period, a “trooper centric” data query system that deals with this issue. The monitoring team continues to note “No Further Action” for motor vehicle stops where problems are noted in narratives and to look for repeated problems that are not addressed. No repeated errors were found in this reporting period. As noted in Task 27, of 141 errors noted by monitoring team, 94.5 percent were caught by supervisory and management reviewers prior to its review, resulting in an 5.5 percent error rate.

2.25 Compliance with Task 48: Quarterly Reviews of MAPPs Data

Task 48 requires that:

48. At least quarterly, State Police supervisors shall conduct reviews and analyses of data obtained from the MAP and other appropriate sources to ensure that individual troopers and State Police units and sub-units are performing their duties in accord with the provisions of this Decree and associated protocols.

Compliance Status: **In compliance**

Methodology

See Section 2.17 above for a description of the methodology used to assess the requirements of this paragraph of the Decree.

Assessment

Operational plans for use of MAPPS information by supervisory and management personnel have been articulated in New Jersey State Police operations instructions and supporting documentation. Implementation of these procedures has been executed. The monitors have reviewed reports generated in response to this section of the Decree, and find them to be responsive to the requirements of the Decree and to be used effectively as management tools. Shortly after the implementation of MAPPS in 2004, supervisors were given the ability to enter "Performance Notices" (PNs) directly into MAPPS, so that the PNs became part of the Performance Module. Thus, "Quarterly Appraisals" that are documented on PNs became part of MAPPS. Annual Evaluations are not entered directly into MAPPS, but are to be scanned into the Performance Module. When MAPPS was checked for the monitoring period, it is clear that supervisors in Field Operations follow the requirements of MAPPS policies almost 100 percent of the time. However, for the few troopers from other sections included in the sample, supervisors do not routinely follow MAPPS policies in this regard, as many troopers having no or few quarterly appraisals recorded in MAPPS for 2008. MVR reviews for 2008 were not available for several troopers with stops during the year and several other troopers did not have reviews in every quarter.⁷⁶

2.26 Compliance with Task 49: Reporting Capabilities of MAPPS

Task 49 requires that:

49. To the extent reflected in ¶43, reports of MAP data shall regularly be prepared regarding individual troopers, stations and squads, for use in reviews as appropriate. The reports shall include the following information:

a. the number of motor vehicle stops, by race/ethnicity, reason for the stop (i.e., moving violation, non moving violation, other), road, squad, and trooper station; and the number of enforcement actions and procedures taken in connection with or during the course of a motor vehicle stop, by

⁷⁶ The current MVR quarterly review policy is difficult to sample appropriately to ascertain a rate of compliance with it. However, two troopers had no MVR reviews recorded for 2008, each with over 40 stops during the year.

race/ethnicity, reason for the stop (i.e., moving violation, non- moving violation, other), road, squad and trooper station;

b. data (including racial/ethnic data) on complaints, misconduct investigations (for each type of investigation, as delineated in ¶173), discipline, intervention, and uses of force associated with motor vehicle stops.

Compliance Status: **In Compliance**

Methodology

See Section 2.17 above for a description of the methodology used to assess the requirements of this paragraph of the Decree.

Assessment

Operational plans for reporting of MAPPs information within the categories stipulated in this paragraph have been articulated in New Jersey State Police operations instructions and supporting documentation. Implementation of these has been executed. For this reporting period, the monitors reviewed MAPPs reports created in response to this section of the Decree and found them to be effective management tools. The State Police remains in compliance with this requirement of the Decree.

2.27 Compliance with Task 50: Comparisons Using Benchmarks

Task 50 requires that:

50. To the extent reflected in ¶143, analyses of MAP data concerning motor vehicle stops shall include a comparison of racial/ethnic percentages of motor vehicle stops (by reason for the stop (i.e., moving violation, non moving violation, other)) and racial/ethnic percentages of enforcement actions and procedures taken in connection with or during the course of such stops, with a benchmark racial/ethnic percentage if available (see ¶¶154-55); a comparison of racial/ethnic percentages for such stops with the racial/ethnic percentages for enforcement actions taken in connection with or the during the course of

such stops; a comparison of racial/ethnic percentages for consent searches of vehicles, and requests for consent to search vehicles, with "find" rates by race/ethnicity for motor vehicle consent searches; a comparison of racial/ethnic percentages for non-consensual searches of motor vehicles with "find" rates by race/ethnicity for motor vehicle non-consensual searches; evaluations of trends and differences over time; and evaluations of trends and differences between troopers, units, and sub-units.

Compliance Status: **In Compliance**

Methodology

See Section 2.17 above for a description of the methodology used to assess the requirements of this paragraph of the Decree.

Assessment

During the twelfth site visit, MAPPS personnel presented to the monitors detailed documentation regarding benchmarking and trend analysis. The activities related to Task 50 were organized into two separate functions: detailed data analysis using external and internal benchmarking processes, and high-level analysis and decision making regarding issues identified by the analysis by the Risk Management Core Group (RACG), in which key command staff review and discuss MAPPS data reports and make key decisions to move the organization forward regarding motor vehicle stop (and other) critical issues.

In 17th Report, the resources for the MAPPS Unit, workload, staffing, technology, and information access all were found to be fully supported by the Division and functioning at a high level. During this reporting period, the resources remained sufficient. OSPA staff attended all Risk Management Advisory Panel meetings and encouraged more focused motor vehicle stop analysis presentations, as well as the discussion of a broader array of issues (consistent with the proposal for risk management that secured Phase I compliance for Task 51 while under the Consent Decree). The technical capacity of the analysts comprising the RACG within the MAPPS Unit has grown, permitting the basic motor vehicle stop analysis to be completed in less time, leaving more time for additional analysis. However, all additional routine and ad hoc support roles the RACG has for other units within Division are dependent on the availability of analytic capacity for producing reports on data relevant to their operations and on that of supporting programming staff.

While the Unit maintained the required report schedule (Task 50) addressing motor vehicle stops and meetings of the Risk Analysis Advisory Panel to address issues the reports might have raised (Task 51) during the reporting period, the monitoring team remains concerned about the MAPPs Unit's ability to maintain the level of specialized skill needed to fulfill both short-term and long-term analyses of MAPPs data. During the current reporting period, a civilian analyst from the MAPPs Unit resigned to return to school. The monitoring team reviewed in the course of business records documenting the Division's attempt to receive a waiver from the state hiring freeze in order to hire a skilled civilian replacement; the waiver application was denied. Yet, 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 opinion of the monitoring team, the addition of a senior analyst with strong technical report-writing skills would be an excellent addition to the civilian staff.

The State Police remains in full compliance in this area.

2.28 Compliance with Task 51: Analysis of Trends

Task 51 requires that:

51. To the extent reflected in ¶43, analyses of other data generated by the MAP shall include evaluations of trends and differences over time and evaluations of trends and differences between troopers, units, and subunits.

Compliance Status: **In Compliance**

Methodology

See Section 2.17 above for a description of the methodology used to assess the requirements of this paragraph of the Decree.

Assessment

A central point of the Consent Decree was for the New Jersey State Police to identify, analyze and respond to issues related to in-field enforcement. During the course of the fifteenth reporting period, the New Jersey State Police evolved in its use of the MAPPs/RACG process, moving beyond what was *required* by the Decree to more advanced problem-analytic and problem solving processes using MAPPs and portions of the RACG structure. The organization's response to the issues raised in that period

showed a strong response to identifying the issues generated by the training, analyzing the reasons those issues surfaced, and responding with a supervisory and managerial response that, eventually, resolved those issues.

As in the previous reporting period, the MAPPS/RACG process continues to be asked to respond to issues of in-field enforcement and off-duty misconduct. MAPPS now maintains a database on all consent requests from which the RACG compiles a quarterly report. Work also began during the seventeenth reporting period on developing a new module for MAPPS (and its associated policies), capturing use of force for reporting purposes. And, growing out of one of the issues raised in the fifteenth reporting period, the RACG has worked with the Office of Professional Standards to enhance flagging of alleged off-duty misconduct within its database to facilitate further RACG analyses. At the end of the present reporting period (December 30, 2008), the use-of-force policy was modified to incorporate procedures for the new module and the analytic work of the RACG with its data. The MAPPS/RACG process also offers support to that office's complaint reduction initiatives (see Section 2.32 below).

In addition, as a result of the RACG meeting process and Task 50 reporting, the RACG worked with Field Operations to enhance the data collection of post-stop interactions recorded in the Motor Vehicle Stop Report. The changes were implemented in January 2008.

The New Jersey State Police re-attained compliance with this task in the sixteenth reporting period, and continued to issue all required reports and analyses through the last two reporting periods. OSPA reviewed staffing and support for the reporting period and found it to be minimally sufficient to maintain a high level of performance. As noted above, the support for MAPPS/RACG analytic capabilities within the New Jersey 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---as well to perform an increasing array of new analytic tasks in an organization with escalating data needs to inform its decisions.

Issues that have been brought before the Risk Management Advisory Panel, aside from those related directly to the reports prepared to comply with Task 50, tend to be addressed by setting up additional review committees or policies. Certainly, these are appropriate in many instances, and actions taken by them are generally monitored by the RACG. Unfortunately, the issues and actions taken are often not brought **back** before the Risk Management Advisory Panel. Thus, it becomes difficult for the Advisory Panel to fulfill its responsibility to advise the Superintendent on risk management issues as set forth in the planning document securing Phase I compliance with this task under the Consent Decree. Therefore, while the Division is actively engaged in managing performance that may put members of the public or its employees at risk of some

harm, additional effort is needed to fully integrate the risk management function across the Division and its command staff. A fully integrated risk management function will allow the Division to avoid duplication of efforts. It will also prevent broader issues from slipping through the cracks. In sum, the monitoring team believes that to accomplish this goal, the Advisory Panel needs to be more fully informed of the actions and decisions taken with respect to risk issues addressed throughout Division.

2.29 Compliance with Task 52: Supervisors to Implement Necessary Changes

Task 52 stipulates that:

52. Each supervisor shall, consistent with his or her authority, implement any appropriate changes or remedial measures regarding traffic enforcement criteria, training, and enforcement practices for particular units or subunits or implement any appropriate intervention for particular troopers; conduct any necessary additional assessment or investigation regarding particular units or subunits or particular troopers; and/or make any appropriate recommendations.

Compliance Status: **In Compliance**

Methodology

See Section 2.17 above for a description of the methodology used to assess the requirements of this paragraph of the Decree.

Assessment

During the current reporting period, members of the monitoring team noted 104 instances of supervisory personnel issuing “performance notices” or taking other formal interventions for actions that are inconsistent with policy or established practice. Evidence exists to support the fact that supervisory personnel are carefully reviewing trooper activity and issuing performance notices or other “interventions” when inappropriate behavior occurs, in addition to noting issues in the narrative of the MVR review (see Task 47). The monitoring team did note 21 instances, however, where supervisors failed to take corrective action. In addition, the monitors continued to note the high proportion of corrective action taken by non-station personnel. This trend runs counter to the Consent Decree emphasis on providing first-line supervisors with the tools to manage subordinate troopers in “real time” at the station level.

2.30 Compliance with Task 53: Supervisory Review of Troopers with More than Two Misconduct Investigations in Two Years

Task 53 stipulates that:

53. A supervisory review shall be conducted regarding any state trooper who within a period of two years, is the subject of three misconduct investigations of any kind initiated pursuant to ¶ 73. Where appropriate, the review may result in intervention being taken. In the event the supervisory review results in intervention, the supervisor shall document the nature, frequency, and duration of the intervention.

Compliance Status: **In Compliance**

Methodology

See Section 2.17 above for a description of the methodology used to assess the requirements of this paragraph of the Decree.

Assessment

The State Police has developed a system of notifications when a third misconduct investigation occurs in a two-year period. Development of protocols for implementation of this provision has been a primary focus for several reporting periods. During the tenth reporting period, the State had assigned responsibility for this task to the Office of Professional Standards (OPS). Data continue to indicate that these reviews are being meaningfully conducted as required by the Decree by OPS. In the sixteenth reporting period, documentary evidence available in MAPPS indicated that supervisory personnel were meeting with troopers who meet the criteria of this task, and, when necessary, discussing any applicable patterns of complaints.

During the seventeenth reporting period, the protocol for these meetings and their subsequent documentation in MAPPS changed. OSPA's review of the MAPPS system for the seventeenth period uncovered a problem with the interface that should link the OPS reviews to supervisors, and to recording any meetings on these reviews in MAPPS. MAPPS Unit personnel were apprized of the problem. In July 2008, the data for the 2007 OPS meaningful reviews required by this task were entered into the MAPPS system, some for reviews OPS conducted a year earlier; none of the reviews resulted in

supervisors being required to meet with subordinates. The failure to maintain timely OPS data as required by Task 45 threatened compliance with this task. However, because no further supervisory action was required by the OPS reviews, the New Jersey State Police remained in compliance with this task.

Protocols for the procedures for doing these reviews were redrawn as a result of the issue raised in the last report. They now require OPS to document its meaningful reviews in the Intervention Module in MAPPS and supervisors to note the review and interview with the member in the Journal Module (if no further formal intervention is required). In addition, consistent with Task 45, the MAPPS Unit undertook an examination of all data published in MAPPS from the IA- Pro system⁷⁷ and set up new protocols for routine auditing of the IA-Pro data.

Because "three-in-two" reviews for the first half of 2008 were subject to the same issue identified in 17th Report (reflecting a June 2008 monitoring review), specific review for the current reporting period centered on "three-in-two" reviews triggered in the second half of the reporting period (i.e., July through December 2008). Of 28 troopers identified between July and December 2008 as having a third misconduct investigation in two years, just six members had the appropriate intervention documenting the review in MAPPS by the end of 2008, four more were entered in the first quarter of 2009, six were entered in the second quarter of 2009, and one member had resigned from State Police. The remaining 11 troopers flagged for "three-in-two" reviews in the second half of 2008 still had no MAPPS entry to document the reviews by early September 2009.

The monitoring team learned there was also a policy change to the timing of the reviews effectuated with the protocols implemented in response to the 17th Report. This change holds reviews until after all three cases are disposed, which explains the fact that almost 40 percent of troopers reaching the "three-in-two" threshold in the second half of 2008 still had no MAPPS entry in September 2009. Because Task 53 broadly falls under the MAPPS section of the decree, which required implementing an "early warning system" to catch behavior in need of intervention at the earliest point possible, staff met with OPS to get a better understanding of the rationale for the policy change. During this reporting period, OPS undertook a "complaint reduction" initiative (described in Section 2.32). The "three-in-two" reviews are a logical extension of this initiative. OPS is working to incorporate the requirements of Task 53 directly into this initiative, and to be sure that OSPA is current on any policy changes related to this task.

⁷⁷ Results of this examination were not available until 2009 and will be discussed in a future monitoring report.

Because reviews were completed as required by policy, the State Police remain in compliance with this task.

2.31 Compliance with Task 54: Drivers Survey of the New Jersey Turnpike

Task 54 stipulates that:

54. To assist in evaluating data reported from the MAP concerning State Police law enforcement on the New Jersey Turnpike, the State shall develop (for purposes of implementing this Decree) a protocol for conducting a survey of a sample of persons and vehicles traveling on the New Jersey Turnpike to determine the racial/ethnic percentage of drivers on the Turnpike. As appropriate, the survey may identify different benchmark figures for different portions of the Turnpike. Prior to implementation, the protocol shall be approved by the Independent Monitor and the United States. The protocol shall be developed and implemented using a consultant jointly selected by the parties. The survey shall be completed within one hundred fifty (150) days of the entry of this Decree. Both the United States and the State agree that the utility and fairness of the MAP described in this Consent Decree will depend to some degree on the development of accurate and reliable benchmarks that account for all appropriate variables and factors.

Compliance: **In Compliance**

The State completed the required traffic survey, and released the document to the public in the first year under the Consent Decree.

2.32 Office of Professional Standards Requirements

Implementation Summary

Based on more than two years of documented compliance, and with the agreement of the parties and the monitors, the Department of Justice joined with the State in a petition to the Court to release the Office of Professional Standards (OPS) from those requirements of the Consent Decree relating to internal investigations. This motion was

granted by the Court, and, as such, the independent monitors discontinued monitoring for compliance with the Decree effective July 2004 (the tenth reporting period, cf. Appendix One), with the exception of Tasks 87 and 90. OLEPS continues to take specific actions designed to evaluate the receipt, investigation and resolution of misconduct complaints filed against members of the State Police.

Task 87 requires the State, based on the agreement of the parties and the monitors, to complete investigations of citizens' complaints within 120 days of receipt of the complaint. **Task 90** requires the State to consider the nature and scope of misconduct committed by an individual trooper before imposing discipline. The State shall also consider the information contained in with respect to each trooper before imposing discipline.

Compliance Status: **In Compliance**

Methodology

Currently, OLEPS monitors the activities of OPS in two ways. First, is responsible for reviewing each substantiated disciplinary investigation completed by OPS. The purpose of each review is to determine whether there is sufficient evidence to move forward with a disciplinary action. This is accomplished by examining the investigative activities undertaken by OPS and assessing the quality and admissibility of the evidence gathered by OPS. A review of the penalty proposed by the State Police for each substantiated investigation is also performed. In conducting its review, OLEPS has full access to MAPPs information concerning the trooper's prior disciplinary history and that information is evaluated in conjunction with the quantum of evidence developed by the investigation before disciplinary charges are filed and the target of the investigation is notified of the recommended penalty. Disciplinary matters cannot move forward unless OLEPS is satisfied that there is enough evidence to prove the disciplinary infraction and the recommended penalty is appropriate to the infraction.

Second, OLEPS conducts audits of OPS investigations on a semi-annual basis, as OSPA has since OPS was released from the Consent Decree in 2004. The audits encompass a broad range of the complaints including not just substantiated complaints but also unsubstantiated and unfounded complaints to determine if the evidence in the case supports the findings. The audits involve a review of all complaints involving racial profiling, disparate treatment, excessive force, illegal or improper searches and domestic violence. In addition to a review of the foregoing complaints, a random 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. Those reviews lead in some instances to a review of all investigative evidence including the audio and video tapes assembled by OPS.

Assessment

During the reporting period, OLEPS reviewed a total of 292 investigations conducted by OPS. Of that total, 125 investigations consisted of complaints involving racial profiling, disparate treatment, excessive force, illegal or improper searches and domestic violence. The remaining investigations consisted of a random sample of all other complaints investigated by OPS. A review of the written files conducted for all **292** investigations. An additional review of the file (audio and video tapes, etc.) was conducted in 26 investigations. Any discrepancies were discussed with OPS. OPS remains in compliance for Task 87 and Task 90.

Of note during the reporting period was the development and implementation by OPS of its "Incident Reduction Initiative." The initiative is not a requirement imposed on OPS by the Consent Decree. It aims to reduce the total number of misconduct and performance-related complaints lodged against members of the State Police. The initiative hopes to achieve a reduction in the number of complaints through an aggressive program of data collection and analysis that, it is anticipated, will allow OPS to address proactively troopers who are unwilling, unable or unfit to perform their duties.

The initiative seeks to collect data governing complaints of trooper misconduct and other performance-related issues and analyze the data to determine whether patterns or practices of misconduct or inappropriate behavior can be identified. The initiative also contemplates analyzing the data to determine whether misconduct or other inappropriate behavior on the part of individual troopers can be predicted and thus interdicted or prevented. The initiative further contemplates the implementation of an extensive program of staff inspection.

Because implementation of the initiative was in its earliest stages during the reporting period, the monitoring team was unable to evaluate the efficacy of the program. However, the initiative is noteworthy for three reasons. First, the initiative goes well beyond what is mandated by the Consent Decree with respect to the internal affairs function. Second, the initiative represents a concerted effort by OPS to collect and analyze some of the many streams of data available to management of the State Police since the entry of the Decree in order to reduce the number of incidents of misconduct committed by members of the State Police. And finally, the initiative represents an attempt by OPS to proactively manage and address employee misconduct and risk management issues. It has been urged by no less an authority than the Third Circuit Court of Appeals that law enforcement agencies implement measures designed to

proactively address employee misconduct.⁷⁸ This initiative appears designed to address the Court's concerns, and, is in the spirit of the Consent Decree's emphasis on management awareness leading to modification of problematic behavior.

2.33 Training Assessment

Implementation Summary

The New Jersey State Police Academy (hereafter Academy) attained compliance in all performance areas as of the fourteenth reporting period. The Superintendent and the command staff continue to demonstrate a commitment to and interest in the training function provided by the Academy.

The First OLEPS reporting period for Tasks 93 through 109 consists of the period between June 1, 2008, and December 31, 2008. Actions noted during the monitoring team site visit are discussed in some detail in the paragraphs below.

2.34 Compliance with Task 93: Development and Evaluation of Quality of Training Programs

Task 93 stipulates that:

93. The New Jersey State Police shall continue to: oversee and ensure the quality of all training of state troopers; continue to develop and implement the State Police academy curriculum for training State Police recruits, and provide training for academy instructors; select and train state trooper coaches in coordination with and assistance from State Police supervisors; approve and supervise all post-academy training for state troopers, and develop and implement all post-academy training conducted by the State Police; provide training for State Police instructors who provide post-academy training; and establish procedures for evaluating all training (which shall include an evaluation of instructional content, the quality of instruction, and the implementation by state troopers of the practices and procedures being taught).

⁷⁸ See Beck v. City of Pittsburgh, 89 E.3d 966 (3rd. Cir. 1996).

Compliance Status: **In Compliance**

Methodology

The monitoring team reviewed “normal course of business” records for the Academy, and discussed with the Academy staff specific aspects of training development, delivery and documentation processes for the reporting period. The office also reviewed detailed evaluation processes for this requirement of the Decree, and found them to be professionally developed, articulated, and implemented.

Assessment

The mission of the Academy is to “provide the highest quality professional law enforcement training to its members and the law enforcement community of the State of New Jersey.” Presently, this is being accomplished through the efforts of those members assigned to one of the Academy’s six units and guided by the tasks set forth in the training assessment portion of the Consent Decree:

Law Enforcement Science Unit – The Law Enforcement Science Unit is primarily responsible for providing recruit training and assisting Field Operations with remedial training for those troopers having difficulties with job performance. Instructors are routinely sent to advance training courses in order to remain current. They are responsible for modifying lesson plans contemporaneous to changes in case law and ensuring compliance with all Training Bureau Orders. They also are qualified to instruct advanced training schools. At a minimum, an instructor is required to have a Bachelor’s degree from an accredited institution, four years in the New Jersey State Police, successfully completed the Instructor Certification Course, and be S.O.P. C-20 compliant (Physical Fitness).

During this monitoring period, the Law Enforcement Science Unit trained 161 recruits who graduated on June 27, 2008, from the 148th and 149th recruit classes.

The Academy noted the recruit to instructor ratio has significantly increased over several of the last recruit classes.

2006 Recruit Classes	2007 Recruit Classes	2008 Recruit Classes
144 th 62 Rcts. & 28 Instructors	146 th 59 Rcts. & 19 Instructors	148 th 109 Rcts. & 21 Instructors
145 th 61 Rcts. & 28 Instructors	147 th 46 Rcts. & 18 Instructors	149 th 107 Rcts. & 21 Instructors

The Academy anticipates that future size of recruit classes will remain at the 2008 level; therefore, in order to adequately instruct and supervise such a large number of recruits,

it would be incumbent upon management to address this concern and provide the appropriate resources prior to the next recruit class.

In-Service Training Unit – The In-Service Training Unit is responsible for providing all post-academy training for Division members. As mentioned in the Seventeenth Monitors' Report, the lesson plans and training developed by the members of the In-service Unit are based on an organizational needs assessment to include ethics, cultural diversity, leadership, and 4th Amendment issues. The staff also includes training that will effectively reduce organizational risks. The in-service training was conducted from October through December of 2008. A total of 2,981 State Police personnel were trained. Further discussion of the 2008 In-service appears under tasks 100 and 101.

The In-Service Unit is tasked with providing remedial training for those troopers experiencing difficulties in their job functions. All requests for remediation are forwarded to the In-Service Unit, and it is their responsibility to seek out those instructors who are subject matter experts in the area to train the trooper in his or her area of need. This is typically done in conjunction with the Law Enforcement Science Unit. In 2008, eight troopers received remedial training in the following areas:

- Communication Skills
- Report Writing
- Physical Training
- Search and Seizure
- Tactics

Members of the In-Service Unit have the added responsibility of administering the Trooper Coach Training and Evaluation Program, implementing the Recruit Physical Fitness Program, executing the Pre-Employment Preparation Program ("PEPP") and the Physical Qualification Test ("PQT") for prospective trooper applicants, delivering the Trooper Youth Week ("TYW") program, as well as the Top Physical Challenge for middle school and high school students statewide. As such, the In-Service Unit accomplished the following:

- Conducted two Trooper Coach Schools with an approximate total of 82 attendees in May of 2008. A Trooper Coach Refresher Course was conducted in June of 2008 with 133 attendees.
- Administered seven sessions of PEPP training for applicants in 2008 prior to entry into the Academy so that they could familiarize themselves with the physical training and military bearing that will be expected of them once at the Academy.
- Administered the Division's Physical Fitness Program to 2,949 members.

- Held Trooper Youth Week during the months of July and August. A total of 320 youths participated.⁷⁹

Managerial Development Unit – The Managerial Development Unit (formerly the Executive Development Training Unit) is responsible for supervisory training for all troopers who are advancing in rank to “promote police integrity and prevent misconduct.” This unit was specifically created to comply with tasks 105 and 106 of the Consent Decree. The Managerial Development Unit develops and oversees specific leadership and management courses for all members who attain the rank of sergeant through lieutenant colonel. This supervisory training is provided in the First Line Supervision Course (Sergeant), Mid-Level Management (Sergeant First Class), Executive Leadership (Lieutenant) and Executive Leadership Series (Captains and above).

The unit is encouraged to forge a relationship with institutions of higher learning so that emerging trends relating to leadership, supervision, and management can be incorporated into instruction to ensure that “best practices” is the “standard of instruction.” The Managerial Development Unit is currently enlisting the assistance of the New Jersey State Office of Dispute Settlement and an Assistant Professor of Administrative Science for Fairleigh Dickinson University, to deliver portions of the Executive Leadership and Executive Leadership Phase Training.

Over the past two years, the unit has taken over the additional responsibility of providing the advanced training for enlisted members. During this monitoring period, the Managerial Development Unit delivered the following training:

- Instructor Training School (2-week course) - 33 NJSP Participants
- Criminal Investigation School (11-day course) – 25 NJSP Participants;
4 participants from outside agencies
- Spanish for Law Enforcement (4-day course) – 41 NJSP Participants
- Hostage/Crisis Negotiation School (4-day course) – 23 NJSP Participants

Furthermore, the unit has taken over the additional responsibility of providing training for civilians who work for the State Police and coordinating and training for outside agencies.

Between June and December 2008, the Managerial Development Unit delivered training to 49 members in First-Line Supervision, 55 members in Mid-Level Management, 50 in Executive Leadership and 32 in the Executive Leadership Series.

⁷⁹ Trooper Youth Week is a residential program held during the summer months to foster a relationship with teenagers (17 years of age) who are in their junior or senior year of high school.

Firearms & Self-Defense Training Unit – The Firearms & Self-Defense Training Unit is responsible for all pre-service, in-service firearms (use of force), advanced and self-defense training for enlisted personnel as mandated by the Attorney General's guidelines. They also deliver training as to FAA regulations for flying while armed. The unit is responsible for the development of lesson plans and training materials to ensure that enlisted personnel maintain a high level of proficiency. Furthermore, the unit remains current with case law pertaining to firearms and use of force. Any changes in case law is monitored by the unit head supervisors through the Operational Information Center ("OIC") or the Administrative Informational Center ("AIC"), Attorney General Directives, S.O.P. updates and the media.

From June 1 through December 31, 2008, the following firearms related courses were conducted:

- 1- Semi-Annual Qualification - 3,000 Participants
- 4 - Quarterly Rifle Qualifications - 300 Participants
- 7 - Advanced Firearms Courses - 140 Participants
- 26 - Return to Duty Shoots - 47 Participants
- 2 - Force on Force - 58 Participants
- 4 - Police Service Rifle Operator Courses - 125 Participants
- 1 - Israeli Combat & Counter Terror Course - 11 Participants
- 1- Baker Batshield Instructor Course - 12 Participants
- 5 - P229 Transition Course - 56 Participants
- 3 - Firearms Instructor Course - 95 Participants

In December of 2008, the Firearms and Self-Defense Training Unit was successful in securing funding to purchase 1,800 Monadnock Expandable Batons that were issued to personnel in Field Operations. This was done with the intent to eventually replace the PR-24 batons. Transitional training will include particular attention to the Attorney General Guidelines of the Use of Force outline in S.O.P B-2 (Use of Force and Reporting Requirements).

Training Support Unit – The Training Support Unit provides specialized services to support the Academy's training initiatives. Established in 2006, the unit is responsible for training oversight as described in S.O.P. C-25 (Training Oversight Program). The purpose of the oversight program is to "delineate the procedures and clearly establish the duties and responsibilities of all contributors to the training process." As such, the Training Support Unit requires uniformity for all lesson plans submitted and ensures that the seven-step training cycle is established for mandatory Consent Decree training as recommended by the federal monitors.

The unit serves a vital function as it bears the responsibility of obtaining information from various sources throughout the Division in order to prepare needs assessment for the annual In-service training. Once established, the unit oversees the development, delivery, and evaluation of that training. Consequently, this unit can determine if any revisions are necessary to the training in "real time," as well as the ability to determine the long term impact based on measuring field implementation. As such, the Training Support Unit provides a fundamental function, which is essential to the success of any training program. The unit also assists the Academy with record keeping, technical support, budgetary matters, and e-learning courses.

In the Seventeenth Monitors' Report it was noted that members of the Training Support Unit were going to meet with a representative of Metrics That Matters ("MTM") to request an augmentation of the company's software.⁸⁰ An update to the MTM system did occur that included a dashboard, which improved the system's ability to be user friendly; however, additional costs prohibited any enhancement beyond that.

Armorer Unit - The Armorer Unit was reassigned to the Academy in August of 2008. The unit is responsible for the inventory of the Division's weapons. The staff is trained in the maintenance and repairs of those weapons and is also certified as firearms instructors. The Armorer's Unit conducts periodic weapons inspections and maintains a database for all Division owned weapons. All off duty weapons must be inspected and approved by the unit for carry.

In response to a recommendation in the Sixteenth Monitors' Report, the Academy presented the Commandant with a comprehensive Academy Instructor Certification Course during the seventeenth monitoring period. The course was directed toward ensuring instructors have a clear understanding of the tasks and the processes that must be followed to maintain oversight for the quality of all training within the Division because those members currently assigned to the Academy as faculty were not present during the years that the Consent Decree process was being developed and implemented. This course was submitted through the proper channels and was approved during this monitoring period. The course was delivered in September, October and December of 2008, to 53 State Police personnel.

During the past two monitoring periods, the IMT expressed concerns about drug interdiction training. Most recently, in February 2008, a request was received by the Academy from supervisory staff to review a brief course description relating to a week-long Criminal Contraband Detection and Recognition Training Seminar presented by a third party vendor who utilized retired and federal law enforcement officials as instructors. Without the benefit of materials that would detail the course content or its

⁸⁰ MTM is the analytical software program utilized by the Academy staff to evaluate and assess training.

targeted goals, the Academy's Commandant, as well as his supervisor, would not sanction this training. Nevertheless, eight members of the Division attended the seminar. Four troopers assigned to the Commercial Carrier/Safety Inspection Unit attended the course while on-duty; four troopers assigned to Field Operations attended while off-duty.

Those concerns prompted the Academy staff to draft an "Outside Training Protocol" in addition to an "Off-Duty Training Appraisal Report" that was incorporated into S.O.P. C-25 (Training Oversight Program). Revisions and amendments to S.O.P. C-25 have been submitted to the Planning and Logistical Support Bureau for approval. S.O.P. C-25 will now require Division personnel to comply with the Department of Law and Public Safety travel directives, as well as those outlined in S.O.P. C-55 (Travel and Staff Training Requests). Attending a conference or seminar will be subject to review by the Division's ethics liaison if training is predicated on the attendee being a member of law enforcement regardless of the whether the attendee is attending while on duty or on authorized leave, or if the conference/seminar is related to the member's job duties. Although not yet approved, the Academy has taken precautionary measures and is currently operating under the amended S.O.P. C-25 guidelines.

In August of 2008, the Assistant Bureau Chief of the Academy received an email from a Troop Operations Officers regarding the use of State Police personnel to assist a municipal police department with BASS/PATRIOT⁸¹ training. The Operation Officer advised the Assistant Bureau Chief that in return for their assistance, the municipal department would allow five troopers who had not previously been trained to attend.

The Assistant Bureau Chief knew that there had been concerns surrounding this training because he had previously been assigned to the Academy. Therefore, he advised the Operations Officer that he could not support the decision to allow Division members to attend until he researched the issue. Based on the Assistant Bureau Chief's concerns, the Operations Officer stated that he was going to advise his supervisor that State Police should not get involved.

The Assistant Bureau Chief confirmed that there had been an edict released by the Attorney General's Office stating that this training could only be delivered to members of the Special Operations Unit and that no Division personnel could assist with outside training. Furthermore, the Assistant Bureau Chief noted that if the training had been allowed, travel packages would have had to be completed because the training was not State Police sponsored.

⁸¹ Behavior Assessment Screen Systems/ProActive Terrorist Recognition and Interdiction and Operations and Tactics are training modules used to teach law enforcement how to protect infrastructure through proactive threat mitigation strategies.

This scenario presents a positive example of “checks and balances” for the Division. Both the Operations Officer and the Assistant Bureau Chief were astute enough to realize that the request for training required further review. If the Operations Officer allowed for the participation of State Police personnel in the BASS/PATRIOT training without contacting the Academy, or if the Assistant Bureau Chief had failed to research historical documentation relating to this training, the Attorney General’s edict would have been violated and the Division would have been placed on warning.

This raises the question of how the Academy can insure that institutional or historical knowledge of its duties and responsibilities are conveyed from one Commandant to another. In this case, the Assistant Bureau Chief was aware that there had been concerns surrounding this training because of his previous tour of duty at the Academy. However, the Commandant was not. Thus, the Attorney General’s edict, found in correspondence to the Commandant dated April 2007, could have easily “slipped through the cracks” and specific procedures governing the participation of the State Police in the training program mentioned above would not have been implemented.

During this reporting period, we observed a rapid turnover of Commandants assigned to the Academy.⁸² Between April 2007, and the end of the reporting period, the Academy had three different Commandants. While we do not question the Superintendent’s prerogative or his reasons to assign and re-assign his command staff as he see fit, the rapid re-assignment of Commandants at the Academy may impede the transfer of institutional knowledge from one Commandant to another and thus create the potential for a lapse in procedures previously implemented.

2.35 Compliance with Task 97: Encourage Superior Troopers to Apply for Academy

Task 97 stipulates that:

97. The State shall continue to encourage superior troopers to apply for academy, post-academy, and trooper coach training positions.

Compliance Status: **In Compliance**

⁸² The April 2007, correspondence, along with other materials, was provided to the Assistant Bureau Chief to determine if any guidelines had been established regarding the BASS/PATRIOT training based on his recall.

Methodology

See Section 2.34, above for a discussion of the methodology for assessing compliance with this task.

Assessment

Currently, the organizational chart reflects a total of 67 sworn personnel (including six members detached out) and nine civilians assigned to the Academy. Broken down by rank, the 67 represents the following:

Lieutenant	6
Sergeant First Class	6
Sergeant	14
Trooper	41

The number of sworn personnel fluctuated between 54 and 67 during the second half of 2008. Typically, the fluctuation reflects the amount of activity or courses scheduled at the Academy. However, the Academy must remain diligent in maintaining its staffing level. Staffing was a grave concern raised by the Independent Monitors to the command staff earlier in the monitoring process. It was not until the Monitors' Tenth Report (July 2004) that an improvement was noted. The monitors reported that the Academy staff doubled to 56 sworn personnel and 10 civilian personnel with five vacancies. Prior to this report, the Independent Monitors found the Academy to be non-compliant with Task 97 due to "chronic understaffing." Although the Academy continues to be compliant, it must be noted that during the previous monitoring period, the Academy had a total of 65 sworn personnel (with 4 detachments), which did not include the Armorer's Unit currently reflected in the staffing numbers, resulting in a net reduction from the previous monitoring period.

The Academy posts openings for Training Bureau positions Division-wide via the State Police intranet. Individuals selected must submit resumes and undergo interviews conducted by the Academy's staff. Although they do not have to be ITC certified (having successfully completed the Instructors Training Course) to apply, they must successfully complete the ITC course prior to teaching at the Academy. There was a posting for openings in October of 2008. All resumes had to be submitted by January 2009. After the selection process, a list is drawn and will remain current for one year.

2.36 Compliance with Task 98: Formal Eligibility Criteria for Training Personnel

Task 98 stipulates that:

98. The State shall establish formal eligibility and selection criteria for all academy, post-academy, and trooper coach training positions. These criteria shall apply to all incumbent troopers in these training positions and to all candidates for these training positions, and also shall be used to monitor the performance of persons serving in these positions. The criteria shall address, inter alia, knowledge of State Police policies and procedures, interpersonal and communication skills, cultural and community sensitivity, teaching aptitude, performance as a law enforcement trooper, experience as a trainer, post-academy training received, specialized knowledge, and commitment to police integrity.

Compliance Status: **In Compliance**

Methodology

See Section 2.34, above for a discussion of the methodology for assessing compliance with this task.

Assessment

The criteria stipulated by this section of the Consent Decree are being met. The eligibility and selection process for Academy instructors are outlined in the Training Oversight Program, S.O.P. C-25. Certain certifications are recommended based on assignment, such as firearms instructor, physical fitness trainer, etc. The eligibility and selection process for trooper coaches are outlined in the Trooper Coach Training and Evaluation Program, S.O.P. F-12.

As mentioned in the previous report, a web-based computerized system to track trooper coach assignments and the progress of the probationary troopers is currently accessible to the probationary trooper, trooper coaches, Academy's trooper coach coordinator, field training officers, assistant station commanders, station commanders and field operations sergeants. Data are entered and maintained in a central database accessed through the NJSP intranet. The system features an electronic signature system used

both for signing reports and submitting approvals. If any deficiencies by the probationary trooper are noted, "real time" reporting allows for supervisory conferences to be held in an effort to provide remediation in a timely fashion.

This database also captures the information collected throughout the trooper coach's selection process. This includes the meaningful review outcome, S.O.P. C-20 compliance (Physical Fitness Program), and results of the oral board review. Scores resulting from this process were previously captured on a hand-scored sheet.

2.37 Compliance with Task 99: Training for Academy Instructors

Task 99 stipulates that:

99. The State Police shall ensure that all troopers serving as an academy or post-academy instructor, or as a trooper coach, receive adequate training to enable them to carry out their duties, including training in adult learning skills, leadership, teaching, and evaluation. All training instructors and trooper coaches shall be required to maintain, and demonstrate on a regular basis, a high level of competence. The State shall document all training instructors' and trooper coaches' proficiency and provide additional training to maintain proficiency.

Compliance Status: **In Compliance**

Methodology

See Section 2.34, above for a discussion of the methodology for assessing compliance with this task.

Assessment

The Academy continues to provide training that requires certification and re-certification in a myriad of disciplines for instructors and continues to provide trooper coach training.

There were two Trooper Coach Schools conducted in May of 2008. The first was held May 21 through May 23, in which 43 new coaches were trained. The second school was held May 28 through May 30, in which 39 new coaches were trained. Refresher courses were held on June 3 and 4, and again on June 10 through 13, with a total of

133 trooper coaches in attendance. The trooper coach coordinator determines when refresher courses are necessary.

Prior to June of 2008, there were 275 trooper coaches trained; however, they were not activated until the graduation of the 148th and 149th classes. Reserve coaches, who successfully complete a one-day Trooper Coach Familiarization Course, are used when and if it is necessary for the primary trooper coach to take leave. This allows the probationary trooper to receive uninterrupted field training and maintain credit for their training hours.

The trooper coaches are evaluated by the station coordinator. Areas of assessment include:

- Observation of field performance.
- Review of trooper coach's reports.
- Review of probationary trooper's checklist.
- Discussions with probationary trooper.
- Monitoring of assignment due dates.
- Feedback from squad sergeants and station commanders.

Proficiency is determined and documented through critiques provided by the probationary trooper and station commanders.

The Academy continues to track the dates the training is delivered and those members in attendance. Course test scores are maintained in the Academy Computerized Training System ("ACTS") database.

2.38 Compliance with 100: Training in Cultural Diversity

Task 100 stipulates that:

100. The State Police shall continue to train all recruits and troopers in cultural diversity, which shall include training on interactions with persons from different racial, ethnic, and religious groups, persons of the opposite sex, persons having a different sexual orientation, and persons with disabilities; communication skills; and integrity and ethics, including the duties of truthfulness and reporting misconduct by fellow troopers, the importance of avoiding misconduct, professionalism, and the duty to follow civilian complaint procedures and to

cooperate in misconduct investigations. This training shall be reinforced through mandatory annual in-service training covering these topics.

Compliance Status: **In Compliance**

Methodology

See Section 2.34 above for a discussion of the methodology for assessing compliance with this task.

Assessment

Tasks 100 and 101 address training relating to cultural diversity, ethics, leadership, and Fourth Amendment requirements. The Academy combines training in these areas during the annual in-service training program. See comments also under Task 101 (assessment).

The 2008 annual In-service training program was developed through the identification of the Division's organizational needs and areas that expose the Division to the greatest risks. The Training Support Unit drafted a data collection plan and the Academy submitted a report to OLEPS outlining how transfer of knowledge, field implementation and business impact was to be measured. This year's training focused on the following:

- Pursuit violations with emphasis on supervisory responsibility;
- Allegations of unsafe operation of troop car;
- Discretionary decision-making concerning traffic enforcement of all demographics groups;
- Attitude and demeanor complaints;
- Lack of candor complaints;
- Proper application of frisk v. search;⁸³
- Motor Data Terminal ("MDT") use;
- Crime prevention through intelligence-led policing.

The Academy elected to maintain both lecture and scenario-based training for the 2008 program. This method was used to deliver the 2007 in-service and was well received by the membership. This year Field Operations and Special Operations trained together, to the exclusion of the general membership. This was done in response to a

⁸³ During the last monitoring period, the monitoring team conducted video-tape reviews and found four errors relating to frisks performed by troopers that were not caught by their supervisors. There were no errors found during this monitoring period that were not caught in supervisory reviews (see Task 27).

problem measuring in-field impact when conducting the 2007 course evaluations. Since the Academy was unable to segregate the data according to troopers' assignments, it trained according to organizational disciplines so the Academy staff would be able to look at data that would more accurately reflect job impact.

The In-Service Unit conducted the In-service training in October through December of 2008. On November 21, 2008, OLEPS staff attended the training at the State Police Academy in Sea Girt. Prior to OSPA's visit, the Training Support Unit forwarded copies of the MTM reports that contained information regarding demographics of the participants and feedback from those attending the training during the week of November 10.

Overall, the in-service presentation was beneficial and it was evident that a great deal of preparation went into putting this training together. The instructional blocks on Search & Seizure, Human Resources and the Regional Operational Intelligence Center ("ROIC") were informative and it was apparent that the presenters were knowledgeable of the subject matter.

The scenario-based instructional blocks appeared to be well received and made for thought-provoking discussion. The instructors engaged the participants and the after-action critique of the participants by the instructor was conducted in a positive manner. Suggestions, questions and comments from those observing proved to be as valuable as the instruction itself.

Informational blocks of instruction (lectures), on subjects such as the ROIC, do not require audience participation to maximize its success, unlike topics such as Cultural Diversity, Ethics and Leadership. In the latter instances, it was noted that the instructor should have encouraged more discussion to elicit the participants' perspective or what they have encountered during their policing efforts. For example, internal affairs' statistics were discussed, which included differential treatment, and attitude and demeanor complaints. Questions could have been formulated to try to determine whether or not having had these types of complaints lodged against a member changed his/her approach to policing. Some of this dialogue occurred during the scenario-based instruction, but participants were broken up into small groups after the lectures and some may have not have participated in a group that engaged in these types of discussions.

It was also noted that in some presentations (cultural diversity, internal affairs) many statistics were read by the instructor without interpretation. In one instance, an instructor presented statistics and offered conclusions that could not be drawn without further analysis. This was noted with the Academy staff and they were advised that in the future it would be beneficial when the core element of a lecture is based on

statistics, then the instructor should have a background in, or be coupled with a member (or civilian) who is conversant in statistics and/or the social sciences.

Also of interest were the statistics presented regarding Use of Force complaints. The instructor stated that most Use of Force complaints are not substantiated because the act did not occur. Based on case reviews conducted by OLEPS staff, the more accurate statement would be that complaints are not substantiated for a variety of reasons such as because of MVR malfunctions or complainants/witnesses failing to follow-up, not solely because the act did not occur.

As mentioned at the outset, overall, the In-service training was well done and certainly innovative. Any issues regarding those lectures laden with statistics was based on the delivery of the materials rather than the materials themselves.

2.39 Compliance with Task 101: Recruit and Training on Fourth Amendment and Non-Discrimination Requirements

Task 101 stipulates that:

101. The State Police shall continue to provide recruit and annual in-service training on Fourth Amendment requirements. In addition, the State shall provide training on the non-discrimination requirements of this Decree as part of all academy and in-service patrol-related and drug-interdiction-related training, including training on conducting motor vehicle stops and searches and seizures. An attorney designated by the Attorney General's Office shall participate in the development and implementation of this training.

Compliance Status: **In Compliance**

Methodology

See Section 2.34, above for a discussion of the methodology for assessing compliance with this task.

Assessment

Tasks 100 and 101 address training relating to cultural diversity, ethics, leadership and Fourth Amendment requirements. The Academy combines training in these areas during the annual in-service. See comments also under Task 100 (assessment).

The Academy continues to provide recruit and annual in-service training on Fourth Amendment requirements, including motor vehicle stops, and searches and seizures. All search and seizure lesson plans are reviewed by attorneys assigned to OLEPS or the Division of Criminal Justice prior to In-service training.

The 2008 Arrest, Search and Seizure training began with lectures focusing on the application of Terry v. Ohio, the application of Miranda v. Arizona and the investigation of domestic violence cases. The lectures and scenario based training included the following:

- Levels of suspicion.
- Frisk v. search.
- Trooper safety issues.
- Investigative skills as they relate to search and seizure.

The instructors were knowledgeable of the subject matter and were confident in addressing questions from the participants. Specific measurable objectives were identified and the results will be reviewed once available.

On June 24, 2008, OSPA staff met with Training Support Unit staff to review the findings of the 2007 Integrated In-service Training. Particular focus was given to the search and seizure component of In-service. The staff explained how they used the seven-step training cycle in preparation for the training:

Step 1 - Needs assessment was conducted. Based on the monitoring team's review of critical incidents, the following were identified as problematic areas for the Division. The Academy included these areas of concern in their training:

- Understanding the legal definition and scope of probable cause.
- Developing reasonable articulable suspicion ("RAS").
- Recognizing the difference between developing RAS and creating RAS.
- Being cognizant that elongated stops can develop into investigatory detention.
- Knowing when to terminate a stop when there is lack of tangible RAS.

Step 2 - Lesson Plans were developed and contained both level II (knowledge) and level III (implementation) objectives.

Step 3 - Courses were scenario-based and delivered between October through December of 2007. All enlisted personnel were mandated to participate in the training and were evaluated by instructors, who determined whether the participant was able to apply their knowledge of the levels of suspicion (RAS, probable cause) that could result

in a consensual or a probable cause search. In addition, the participants were also evaluated on their ability to collect intelligence during motor vehicle stops. The participants received real-time input from the instructors and had to pass a given scenario before moving on.

Step 4 - At the completion of the course, MTM Report Cards (critiques) were filled out by both the instructors and participants to measure knowledge and skills gained. Ninety days after the course was delivered, the participants were asked to complete another survey/critique to measure job impact and learning effectiveness in order to determine training needs. The target goal is a 35% response rate to the follow-up surveys, which can be completed on-line. It was noted that in this case, the response rate was low (400 at best). At the targeted goal of 35%, the Academy should have received at least 900 responses. The Academy staff suggested that training orders include a directive that follow-up surveys must be completed by all participants in an effort to bolster this percentage.

Step 5 - Analysis of information entered into the MTM database allowed for real-time information to be passed along to the instructors. Consequently, any necessary revisions in training would have been addressed immediately because this course was delivered over the course of several weeks.

Step 6 - An evaluation of the course and a measurement of in-field impact was conducted. In the majority of instances, the benchmark was based on a Division average. Both learning effectiveness (at 4.99) and job impact (at 4.52) were below the predetermined benchmark of 5.0.⁸⁴ Because of a "technological issue" it was not possible to separate the data by "Branch" in order to further refine the measurement. Had this been possible, the staff would have been able to cull data to more accurately reflect job impact by separating or splitting the data based on a trooper's assignment (for example, a trooper assigned to Field Operations as compared to a trooper assigned to Human Resources). In lieu of the ability to analyze data in this manner, consideration is being given to split training according to a trooper's assignment.

During this evaluation process, skills that were determined to have fallen below average were identified. However, anecdotal information (although not quantifiable) gathered through surveys proved to be positive. The comments suggest that the course was well received and found to be more beneficial than lecture based training. It is the intention of the Training Bureau to continue training in such a fashion and to revise those areas of the curriculum that fell short of the pre-determined goals.

⁸⁴ The benchmark is a goal predetermined by MTM software that set parameters for learning effectiveness and job impact gathered from various occupations.

Tangible data from stop reports and consent search requests were to be used by the Training Bureau to measure implementation in the field when the data became available. Since that time, the monitoring team has conducted reviews of stop reports and consent searches performed by Field Operations in 2008 (see Tasks 26-39). The team noted an increase in troopers' ability to articulate reasonable suspicion with increase probative questioning leading to consent requests. These independent data supports the preliminary feedback from Field Operations subsequent to the 2007 In-service. Field Operations noted a marked difference in the troopers' ability to develop and articulate reasonable suspicion, as well as an improvement in the judgment of those first-line supervisors who conduct MVR reviews. Thus, the monitoring team determined that the 2007 In-service had a positive impact in the field.

Step 7 - Training is documented and maintained in ACTS.

The Academy staff is confident that the current process has sustainability because courses are being developed based on a Division-wide needs assessment, evaluated according to Return on Investment ("ROI") and analyzed using the MTM analytical database.⁸⁵

The monitoring team continues to note progress made by the Academy in its ability to measure implementation of training and to sustain compliance with the terms of the Consent Decree. As previously recommended by the monitoring team, the Academy staff submits a written data collection plan that can be reviewed by the Training Support Unit to ensure that the assessment of In-service training programs is consistent from year to year.

Due to budgetary constraints, the Academy is still unable to have personnel, preferably civilian, assigned to the Academy for the express purpose of collecting, analyzing and measuring data that would provide continuity and unit stability. However, recognizing the importance of this task, the Academy is utilizing civilian analysts assigned to the MAPPS unit to assist them in performing this function. Although this may satisfy the Academy's immediate need, over the course of time this "band-aid approach" will place an undue burden on the Division in those areas in need of analytical support, such as the MAPPS Unit where resources may become strained (see Tasks 50 and 51).

⁸⁵ In this context, Return on Investment ("ROI") measures the monetary value of training as it relates to the desired job impact. To calculate the ROI, the Division has to identify the financial benefit it gains from a specific type of training and subtract that from the amount it cost to develop, produce and deliver the program. Such a measure is important to assure that the Division is spending money on training that "works." Departments have to justify their budgets and this measure is used by the Division to achieve justification, as well as to set future training budgets.

2.40 Compliance with Task 102: Training Protocols for the Trooper Coach Process

Task 102 stipulates that:

102. Before the next recruit class graduates from the State Police academy, the State Police shall adopt a protocol regarding its trooper coach program. The protocol shall address the criteria and method for selecting trooper coaches, the training provided to trooper coaches to perform their duties, the length of time that probationary troopers spend in the program, the assignment of probationary troopers to trooper coaches, the substance of the training provided by trooper coaches, and the evaluation of probationary trooper performance by trooper coaches. Prior to implementation, the protocol shall be approved by the Independent Monitor and the United States.

Compliance Status: **In Compliance**

Methodology

See Section 2.34, above for a discussion of the methodology for assessing compliance with this task.

Assessment

The Academy drafted and submitted the revised Trooper Coach Training and Evaluation Program, S.O.P. F-12, for review by the Planning and Logistical Support Bureau. The revised S.O.P. includes changing the current eligibility requirements from four years to three years. The Academy was given verbal approval by the federal monitors to implement this change prior to the graduation of the 148th and 149th State Police classes.

The verbal approval given by the federal monitors was based on the condition that they would be given a copy of S.O.P. F-12 for review after it reflected the change in the eligibility requirements, as required by the Consent Decree. As a matter of protocol, the initial review would have been conducted by then OSPA staff prior to being forwarded to the federal monitors. In this case, S.O.P. F-12 was signed by the Superintendent and posted on the State Police Intranet without review by OSPA and

absent the federal monitors' approval. S.O.P. F-12 was pulled from the intranet at OSPA's direction and forwarded for review. State Police accepted responsibility for what they described as an "oversight" and miscommunication between the Academy and the Planning Bureau.

The revision to the S.O.P. had the intended consequences. The three-year eligibility standard allowed for a full compliment of trooper coaches, permitting an additional 100 troopers to be included in the trooper coach selection process for the most recent class.

2.41 Compliance with 103: Provision of Copies of the Decree to all State Troopers

Task 103 stipulates that:

103. The State Police shall as soon as practicable provide copies and explain the terms of this Decree to all state troopers and employees in order to ensure that they understand the requirements of this Decree and the necessity for strict compliance. After the State has adopted new policies and procedures in compliance with this Decree, the State shall provide in-service training to every state trooper regarding the new policies and procedures and the relevant provisions of this Decree. The State shall incorporate training on these policies and procedures into recruit training at the State Police Academy.

Compliance Status: **In Compliance**

Methodology

See Section 2.34, above for a discussion of the methodology for assessing compliance with this task.

Assessment

The New Jersey State Police achieved compliance for this task in September 2000. OSPA staff has provided recruit classes with an explanation of the terms of the Consent Decree. Any Decree-related information, including the issuance of new orders or recently enacted legislation, continues to be forwarded to its membership through the "Read & Acknowledge Program," an electronic database used to provide notification as well as to receipt acknowledgement from its membership. The administrative officers

at the section level are able to monitor member compliance through this program. A check of the database will reveal non-compliant members. Any change in case law is addressed in the revision of lesson plans.

2.42 Compliance with 104: Systems Improvement Processes for Police Training

Task 104 stipulates that:

104. The State shall establish systems for State Police units, sub-units, and supervisors to provide information and refer particular incidents to the Training Bureau to assist the Training Bureau in evaluating the effectiveness of training and to detect the need for new or further training.

Compliance Status: **In Compliance**

Methodology

See Section 2.34, above for a discussion of the methodology for assessing compliance with this task.

Assessment

The Academy holds quarterly Training Committee meetings with representatives that during this monitoring period include the following Division bureaus/sections:

Training Bureau
Special Operations
Division of Human Resources
Field Operations
Administration
State House Complex Security
Identification and Information Technology
OPS
MAPPS
OSPA (enlisted personnel)

Each representative gives oral reports regarding current activities in their respective sections that impact training. Problems or concerns are also shared to determine what remedial steps can be taken by the Training Bureau. Areas in need of improvement are

identified and placed in a needs assessment report for use by instructors to develop specific training programs. Refer to task 100 which list specific areas of concern that were brought to the Academy's attention and addressed during In-service training.

2.43 Compliance with 105: Provision of Training for Supervisors

Task 105 stipulates that:

105. The State Police shall provide all supervisors with mandatory supervisory and leadership training which (in addition to the subjects addressed in ¶¶100 and 101) shall integrity and prevent misconduct. The State Police shall provide the initial training required by this paragraph within one year from entry of the Decree and thereafter shall provide supervisory training on an annual basis.

Compliance Status: **In Compliance**

Methodology

See Section 2.34, above for a discussion of the methodology for assessing compliance with this task.

Assessment

In addition to the annual in-service, supervisory and leadership training designed to enhance managerial skills that help promote integrity and prevent misconduct throughout the ranks continue to be delivered. Between June and December of 2008, 39 supervisors received MAPPS Supervisory Training. This training is designed to aid the first and second tier supervisors to conduct routine reviews of the job performance of uniformed troopers in an effort to reward good performance or remediate potentially problematic behavior.

An Executive Leadership Series (Captains and above) was held in October 2008. The course addressed labor relations and conflict resolution. There were 32 managers in attendance.

2.44 Compliance with Task 106: Training for Newly Promoted State Troopers

Task 106 stipulates that:

106. The State shall design and implement post-academy training programs for all state troopers who are advancing in rank. The State shall require troopers to successfully complete this training, to the extent practicable, before the start of the promoted trooper's service in his or her new rank, and in no event later than within seven months of the promoted trooper's service in his or her new rank.

Compliance Status: **In Compliance**

Methodology

See Section 2.34, above for a discussion of the methodology for assessing compliance with this task.

Assessment

The Academy continues to provide post-Academy training for those troopers who advance in rank. From June 2008, through December 2008, a total of 186 members were trained in the following:

Course	Dates	Members Trained
First Line Supervision	June 6 –June 20 &	30
	December 8 – December 19	19
Mid–Level Management	August 11 – August 14 &	29
	October 20 – October 23	26
Executive Leadership (Lieutenant)	July 28 – August 1 &	23
	October 27 – October 31	27
Executive Leadership Series (Captains and above)	October 7	32

These courses are typically evaluated immediately after presentation and again approximately 45 days after initial presentation. This allows those staff members evaluating the course to get a better gauge as to the effectiveness of these courses.

The Academy continues to monitor whether or not a member, who has advanced in rank, has received the appropriate training no later than seven months in their new position through querying information found in the Human Resources database as well as information on the individual member found in ACTS.

2.45 Compliance with Task 107: Provision of Specialized Training

Task 107 stipulates that:

107. The State shall design and implement post-academy training programs for all state troopers who are newly assigned to a State Police troop, station, or assignment where specialized training is necessary in order to perform the assigned duties.

Compliance Status: **In Compliance**

Methodology

See Section 2.34, above for a discussion of the methodology for assessing compliance with this task.

Assessment

As per the Sixth Report, Task 107 applies to those troopers who returned to patrol from specialized assignment. As previously reported, training processes for post-Academy training for "newly assigned" troopers were implemented during the seventh reporting period. Evaluation processes related to the impact in the field of this training were implemented during the fourteenth reporting period and approved by the monitoring team.

It is the responsibility of the supervisors in each section to determine if newly assigned personnel require additional training or refresher courses in order to safely and adequately function in their new assignments. Troopers also share in the responsibility of ensuring that all of the certifications they hold are current, if job related. This is especially true of those individuals returning to an assignment in field operations.

No changes were noted in the Academy process related to this task. The State Police remain in compliance.

2.46 Compliance with 108: Inclusion of Training Data in MAPPS Program

Task 108 stipulates that:

108. The State Police shall continue to maintain records documenting all training of state troopers. As part of the MAPPS, the State Police will track all training information, including name of the course, date started, date completed, and training location for each member receiving training. The MAPPS will maintain current and historical training information.

Compliance Status: **In Compliance**

Methodology

See Section 2.34, above for a discussion of the methodology for assessing compliance with this task.

Assessment

The State Police continues to maintain records of all training. During the last monitoring period, discussions were underway to formulate a method by which the data in Geo-Learning could be linked to ACTS and MAPPS. According to Academy staff, the development of linking data from the Geo-Learning application to ACTS and MAPPS is not operational at this time due to programming problems. The MAPPS system maintains access to current and historical training information in ACTS.

2.47 Compliance with Task 109: Establishment of a Central Repository for Training Records

Task 109 stipulates that:

109. The State Police shall maintain, in a central repository, copies of all academy, post-academy and trooper coach training materials, curricula, and lesson plans.

Compliance Status: **In Compliance**

Methodology

See Section 2.34, above for a discussion of the methodology for assessing compliance with this task.

Assessment

The State Police continues to be in compliance with this task. All lesson plans, power points, letters of approval (as they relate to lesson plans), for both Pre-Service and In-service, and any training conducted by the Academy are maintained in a centralized database on the Academy's server.

2.48 Compliance with Task 110: Creation of the Office of State Police Affairs

Task 110 stipulates that:

110. The Attorney General of New Jersey shall create an Office of State Police Affairs ("office"). The office shall have the responsibility to ensure implementation of the terms of this Consent Decree and provide coordination with the Independent Monitor and the United States concerning the State Police and matters related to the implementation of the Consent Decree. An Assistant Attorney General shall head the office. The office's responsibilities shall include auditing the manner in which the State receives, investigates, and adjudicates misconduct allegations; auditing the State Police's use of MAP data; and auditing state trooper performance of the motor vehicle stop requirements discussed in the Consent Decree. The office also shall be responsible for providing technical assistance and training regarding these matters. The office shall have such additional responsibilities as may be assigned by the State Attorney General.

Compliance Status: **In Compliance**

Assessment

This report marks the formal assumption by the State of New Jersey and the Office of Law Enforcement Professional Standards (OLEPS) of the duties previously performed by

the independent monitors. These activities were carried out in the seventeenth reporting period by OLEPS as the Office of State Police Affairs under the supervision of the independent monitors. More specifically, this report memorializes the activities undertaken by OLEPS to review and assess the efforts of the State Police to maintain compliance with the Consent Decree. Distribution of this report will communicate the results of these efforts to interested parties including the Attorney General, the Superintendent of the State Police, the appropriate elected and appointed government officials as well as the citizens of the State of New Jersey.

2.49 Compliance with Task 111: Audits of Motorists Subjected to Motor Vehicle Stops

Task 111 stipulates that:

111. The office shall implement an auditing system for contacting a sample of persons who were the subject of motor vehicle stops and enforcement actions and procedures connected to a motor vehicle stop, to evaluate whether state troopers conducted and documented the incidents in the manner prescribed by State Police rules, regulations, procedures, and directives, and the requirements of this Decree.

Compliance Status: **In Compliance**

Methodology

Twice during the calendar year, the Office of State Police Affairs conducted surveys of motorists who were the subject of motor vehicle stops or other enforcement actions related to a motor vehicle stop. The purpose of the surveys is to determine whether the motor vehicle stops or other enforcement actions were conducted in a manner consistent with State Police rules, regulations and procedures and the requirement of the Consent Decree. The surveys are sent by U.S. mail to randomly selected motorists who return their responses in postage paid return address envelopes. The responses are reviewed by the office and arrangements are made to interview those motorists who indicate a negative interaction with the State Police. Information of note from the reviews and the interviews are made available to the State Police.

Assessment

The monitoring team conducted two motorist surveys during the reporting period. One thousand six hundred and sixty-four surveys were mailed to affected motorists. Three hundred and ninety-three completed surveys were returned to the office for review. From that review, 6 motorists were contacted for additional information and, when appropriate, complaints were forwarded to the Office of Professional Standards for investigation. The State Police remains in compliance with this task.

2.50 Compliance with Task 112: Internal Audits of Citizen Complaint Processes

Task 112 stipulates that:

112. The office's audits of the receipt, investigation, and adjudication of misconduct allegations shall include audits of the tapes of the complaint/comment toll-free telephone hotline established by ¶62; the use of testers to evaluate whether complaint intake procedures are being followed; audits of audio tape and videotape interviews produced during the course of misconduct investigations; and interviews of a sample of persons who file misconduct complaints, after their complaints are finally adjudicated.

Compliance Status: **In Compliance**

Methodology

Data regarding Task 112 indicate that the State Police continues to perform this task in a satisfactory manner. The monitoring team audits the hotline as part of its semi-annual audits of the Office of Professional Standards.

Assessment

For 2008, these audits revealed 142 calls were received on the hotline. Fifteen calls were randomly chosen for review. The review revealed that the calls were correctly classified and that case files were opened for each call. The State Police remains in compliance with this task.

2.51 Compliance with Task 113: Full and Unrestricted Access for the Office of State Police Affairs

Task 113 stipulates that:

113. The office shall have full and unrestricted access to all State Police staff, facilities, and documents (including databases) that the office deems necessary to carry out its functions.

Compliance Status: **In Compliance**

Assessment

The Office of State Police Affairs had full and unrestricted access to all State Police staff, facilities and documents during the reporting period.

2.52 Compliance with Task 114: Publication of Semi-Annual Reports of Aggregate Traffic Stop Statistics

Task 114 stipulates that:

114. The State Police shall prepare semiannual public reports that include aggregate statistics on State Police traffic enforcement activities and procedures broken down by State Police station and the race/ethnicity of the civilians involved. These aggregate statistics shall include the number of motor vehicle stops (by reason for motor vehicle stop), enforcement actions (including summonses, warnings, and arrests) and procedures (including requests for consent to search, consent searches, non-consensual searches, and uses of force) taken in connection with or during the course of such stops. The information regarding misconduct investigations shall include, on a statewide basis, the number of external, internal, and total complaints received and sustained by category of violation. The information contained in the reports shall be consistent with the status of State Police record keeping systems, including the status of the MAP computer systems. Other than expressly provided herein, this paragraph

is not intended, and should not be interpreted, to confer any additional rights to information collected pursuant to this Decree.

Compliance Status: **In Compliance**

Assessment

The Office of State Police Affairs filed aggregate data reports with the United States District Court for New Jersey on July 25, 2008, and January 23, 2009, for the reporting period governed by this report. The reports are available for inspection at www.nj.gov/lps/decreehome.htm.

2.53 Compliance with Task 115: Appointment of Independent Monitor

Task 115 stipulates that:

115. Within ninety (90) days after the entry of this Decree, the State and the United States shall together select an Independent Monitor who shall monitor and report on the State's implementation of this Decree. The Monitor shall be acceptable to both parties. If the parties are unable to agree on an Independent Monitor, each party shall submit two names of persons who have experience as a law enforcement officer, as a law enforcement practices expert or monitor, or as a federal, state, or county prosecutor or judge along with resumes or curricula vitae and cost proposals to the Court, and the Court shall appoint them Monitor from among the names of qualified persons submitted. The State shall bear all costs of the Monitor, subject to approval by the Court.

Compliance Status: **In Compliance**

Assessment

The State continued to retain the services of Public Management Resources, Inc. and Lite, DePalma, Greenberg and Rivas as independent monitors during the reporting period.

2.54 Compliance with Task 118: Full and Unrestricted Access for Monitors

Task 118 stipulates that:

118. The State shall provide the Monitor with full and unrestricted access to all State staff, facilities, and non-privileged documents (including databases) necessary to carry out the duties assigned to the Monitor by this Decree. In the event of an objection, the Court shall make the final determination regarding access. In any instance in which the State objects to access, it must establish that the access sought is not relevant to monitoring the implementation of the Consent Decree, or that the information requested is privileged and the interest underlying the privilege cannot be adequately addressed through the entry of a protective order. In any instance in which the State asserts that a document is privileged, it must provide the United States and the Monitor a log describing the document and the privilege asserted. Notwithstanding any claim of privilege, the documents to which the Monitor shall be provided access include: (1) all State Police documents (or portions thereof) concerning compliance with the provisions of this Decree, other than a request for legal advice; and (2) all documents (or portions thereof) prepared by the Office of the Attorney General which contain factual records, factual compilations, or factual analysis concerning compliance with the provisions of this Decree. Other than as expressly provided herein, with respect to the Independent Monitor, this paragraph is not intended, and should not be interpreted to reflect a waiver of any privilege, including those recognized at common law or created by State statute, rule or regulation, which the State may assert against any person or entity other than the Independent Monitor.

Compliance Status: **In Compliance**

Methodology

The independent monitors were accorded full and unrestricted access while on-site with personnel from the New Jersey State Police and the Office of State Police Affairs (for the independent monitors' oversight of the seventeenth reporting period).

Assessment

All documents requested by the independent monitors were provided in a timely and well-organized manner. All data reviewed by the monitors were kept in a fashion that allows retention, retrieval and assessment.

2.55 Compliance with Task 122: State to File Routine Progress Reports

Task 122 stipulates that:

122. Between ninety (90) and one hundred twenty (120) days following entry of this Consent Decree and every seven months thereafter until this Consent Decree is terminated, the State shall file with the Court and the Monitor, with a copy to the United States, a status report delineating all steps taken during the reporting period to comply with each provision of this Consent Decree.

Compliance Status: **In Compliance**

Assessment

A status report was filed by the State with the United States District Court of New Jersey in May of the reporting period. The report sets forth the steps taken by the State to comply with the provisions of the Consent Decree. A copy of the report is available for inspection at www.nj.gov/lps/decreehome.htm.

2.56 Compliance with Task 123: State to Maintain all Necessary Records

Task 123 stipulates that:

123. During the term of this Consent Decree, the State shall maintain all records documenting its compliance with the terms of this Consent Decree

and all documents required by or developed under this Consent Decree. The State shall maintain all misconduct investigation files for at least ten years from the date of the incident. The State Police shall maintain a troopers' training records and all personally-identifiable information about a trooper included in the MAP, during the trooper's employment with the State Police. Information necessary for aggregate statistical analysis shall be maintained indefinitely in the MAP for statistical purposes. MVR tapes shall be maintained for 90 days after the incidents recorded on a tape, except as follows: any MVR tape that records an incident that is the subject of an pending misconduct investigation or a civil or criminal proceeding shall be maintained at least until the misconduct investigation or the civil or criminal proceeding is finally resolved. Any MVR tape that records an incident that is the subject of a substantiated misconduct investigation, or an incident that gave rise to any finding of criminal or civil liability, shall be maintained during the employment of the troopers whose conduct is recorded on the tape.

Compliance Status: **In Compliance**

Methodology

Members of monitoring team have requested and reviewed in excess of one thousand documents, records and recordings in preparing this report.

Assessment

All documents requested from the New Jersey State Police have been provided in a timely and well-organized manner. All data reviewed have been kept in a fashion that allows retention, retrieval and assessment. In addition, the State Police continue to observe the retention schedules set forth in this task.

2.57 Compliance with Task 124: Unrestricted Access for the Department of Justice

Task 124 stipulates that:

124. During all times while the Court maintains jurisdiction over this action, the United States shall have access to any State staff, facilities and non-privileged documents (including databases) the United States deems necessary to evaluate compliance with this Consent Decree and, within a reasonable time following a request made to the State attorney, shall, unless an objection is raised by the State, be granted such access and receive copies of documents and databases requested by the United States. In the event of an objection, the Court shall make a final determination regarding access. In any instance in which the State objects to access, it must establish that the access sought is not relevant to monitoring the implementation of the Consent Decree, or that the information requested is privileged and the interest underlying the privilege cannot be adequately addressed through the entry of a protective order. In any instance in which the State asserts that a document is privileged, it must provide the United States and the Monitor a log describing the document and the privilege asserted. Notwithstanding any claim of privilege, the documents to which the United States shall be provided access include: (1) all State Police documents (or portions thereof) concerning compliance with the provisions of this Decree, other than a request for legal advice; and (2) all documents (or portions thereof) prepared by the Office of the Attorney General which contain factual records, factual compilations, or factual analysis concerning compliance with the provisions of this Decree. Other than as expressly provided herein with respect to the United States, this paragraph is not intended, and should not be interpreted to reflect a waiver of any privilege, including those recognized at common law or created by State statute, rule or regulation, which

the State may assert against any person or entity other than the United States.

Compliance Status: **In Compliance**

Assessment

The Department of Justice was afforded the opportunity for full and unfettered access to all relevant documents, materials and data during the reporting period.

3.0 Summary

The First Monitoring Report prepared by the Office of Law Enforcement Professional Standards (OLEPS) documents the continuing compliance of the New Jersey Division of State Police with the mandates and requirements of the 1999 Consent Decree. Previous reports noted the evolution of the State Police from an organization that had difficulty adapting to change into an organization that had become “self-monitoring” and able to develop or revise policies and procedures in response to developing legal principles and a dynamic criminal justice system. A goal of the decree was to encourage the development of the State Police as an organization that was “self-aware” and could adapt to a changing environment. This report concludes that the State Police continue to achieve that goal for the period January 1, 2008, through December 31, 2008, while the State Police were still subject to the provisions of the Consent Decree.⁸⁶

In preparing this report, staff assigned to OLEPS reviewed 383 motor vehicle stops including videotape reviews of 283 of the stops, gathered statistical data from those reviews and conducted an analysis of the data to determine whether the law enforcement activity undertaken by the State Police during motor vehicle stops was consistent with tasks laid out in the Consent Decree. In addition, the staff evaluated the efforts of State Police management to supervise the activities of subordinate troopers through the Management Awareness Personnel Performance System and other mechanisms. Furthermore, the staff performed audits of the internal affairs function and the training function to determine the compliance of those units with the Consent Decree. All these activities were performed in accordance with protocol and procedures previously established by the independent monitors.

Training

The State Police continued to comply with the Consent Decree requirements applicable to the training function in this reporting period. The New Jersey State Police Academy continues to refine and improve its ability to provide effective and meaningful training.

Significant progress has been made with respect to establishing the capability to identify training issues that arise from the day-to-day activities of the Field Operations Section, develop curriculum and programs to address those issues, implement the curriculum and programs through in-service training and measure the effectiveness of the curriculum at the conclusion of in-service training.

⁸⁶ The 1999 Consent Decree was terminated on September 21, 2009, after a joint motion filed by the Department of Justice and the State of New Jersey. Legislation codifying the reforms (*N.J.S.A. 52:17B-222 et seq.*) creates OLEPS, which has among its functions the monitoring of the State Police as the independent monitoring team did under the terms of the Consent Decree.

By canvassing the Division, the Academy identified several topics as appropriate for the annual in-service training held during the reporting period, including: 1) motor vehicle pursuit violations; unsafe operation of troop cars; 2) attitude and demeanor complaints; 3) frisk and search techniques; and 4) discretionary traffic enforcement. Curriculum consisting of lecture and scenario-based training was developed to address the issues and the training was delivered during the 2008 in-service training program.

Also during this reporting period, the Academy conducted an evaluation of instruction provided in the 2007 in-service. The evaluation focused on the utility of the training provided during the program. The evaluation included a review of course critiques completed by the instructors and trainees to ascertain the level of knowledge retained following the program, adjustment of the training program to reflect issues raised by the course critiques, measurement of "learning effectiveness" in the field, and, written data collection of the information gleaned from the program. The monitoring team believes that the foregoing steps provide a basis for meaningful and effective training programs that will foster compliance with the principles outlined by the Consent Decree.

The most notable training outcome in the field as evidenced from the 2007 in-service training is related to consent searches. It appears that the training led to a discernible improvement in search and seizure techniques by individual troopers during motor vehicle stops. During this reporting period, the monitoring team noted fewer issues with the reasonable suspicion articulated by troopers in support of requesting consent to search a vehicle, with a substantial increase in probative reasons supporting these requests.

Further progress has been made with respect to the attendance of troopers at training programs conducted by third-party vendors. Previous to this reporting period, troopers had attended a training program conducted by a vendor whose staff consisted of retired state and federal law enforcement officers. The troopers' attendance was not sanctioned by the Academy. In addition, the course curriculum was not reviewed by Academy staff to determine if it was consistent with New Jersey case law and the requirements of the Consent Decree. Thus, the incident raised the potential that individual troopers could have received training that was inappropriate for their assignment (e.g. troopers assigned to general road patrol attended training developed for troopers assigned to commercial carrier enforcement). To prevent a similar incident from occurring in the future, the Academy drafted standard operating procedures which require troopers to seek and receive the approval of the Academy and the State Police ethics officer before they may attend training programs conducted by third-party vendors.

An issue that bears watching is the turnover of executive staff at the Academy. During this reporting period, three different commandants were assigned to the Academy. It must be acknowledged that some of the turnover was beyond the control of the superintendent and that the superintendent has the authority to assign executive staff to the Academy as he sees fit. Nevertheless, rapid turnover poses the danger of degrading the institutional knowledge necessary to ensure the smooth operation and administration of the Academy. In addition, rapid turnover of the executive staff may make it more difficult for the Academy to comply with Consent Decree related requirements in the future.

Supervision

In the past, State Police policy dictated that all incidents in which a law enforcement action was taken following the stop of a motor vehicle would be subject to a video tape review. That policy was modified during the fifteenth reporting period under the Consent Decree to require a mandatory review of all incidents in which there was a request for consent to search a vehicle, a canine deployment or a use of force. All other incidents were not subject to a mandatory review. During this reporting period, 383 incidents were examined for by OLEPS. Of those incidents, the monitoring team noted a supervisory or management video tape review by the State Police in 240 incidents, yielding a rate of review of approximately 63 percent. Those 240 reviews yielded 111 events in which State Police supervisory or management reviews noted errors by the troopers conducting the motor vehicle stop.

Error rates by supervisors and management in this reporting period remained consistent with error rates in previous reporting periods. Of the 383 incidents it reviewed, OLEPS found that the State Police failed to identify and remedy errors in 21 of the incidents. This translates into a compliance rate of >94 percent, which satisfies the benchmark established for this process.

Two supervisory issues that were noted in the last report prepared by the independent monitors require comment again in this report. The first issue concerns supervisory reviews of video tapes as mandated by Task 36. Under the task, supervisors must conduct reviews of video tapes of motor vehicle stops initiated by individual troopers. The independent monitors have previously noted their belief that the initial reviews by first-line supervisors are the most effective form of supervision because it is at this level that instruction, counseling, and correction has its greatest impact. In the opinion of the monitors, shifting the responsibility for these initial reviews away from the first-line supervisors and placing responsibility for these reviews with managerial personnel who are not assigned to the station diminishes the effectiveness of the supervisory review process mandated by Task 36.

In their last report, the independent monitors noted that 45 percent of the initial video reviews were conducted by someone other than the trooper's first-line supervisor. In this reporting period, the trend away from conducting video reviews by first-line supervisors continued with more than 65 percent of the reviews conducted by someone other than the trooper's first-line supervisor. In fact, all of the initial reviews of incidents involving consent requests, canine deployments and uses of force ("critical incidents" for the monitors) were reviewed by troop-level reviewers, outside of the trooper's direct line of command. A second review, typically referred to as a management review, takes place after the initial review and is conducted by managerial personnel, generally one station commander. OLEPS is aware that these reviews in the period often included input from enlisted members assigned then to the Office of State Police Affairs. The continuing decline in reviews conducted by first-line supervisors raises the potential that the effectiveness of the supervisory process could be diminished by the absence of reviews by first-line supervisors. Thus, the State Police should seek to reverse the decline video reviews conducted by supervisors at the station level.

In a similar vein, it was noted during this reporting period that the State Police began to shift responsibility for approving consent requests away from first-line supervisors and placing the responsibility with station commanders. In part, the policy was changed to achieve the goal of more consistency in approval decisions across Division for accepting the reasonable suspicion articulated for pursuing consent requests. Thus, the responsibility for approving consent requests was moved from supervisors closest to the act (motor vehicle stop and consent request) to supervisors one or more levels removed from the act. Again, the independent monitors believed that the most effective form of supervision of motor vehicle stops and related consent requests was supervision performed by first-line supervisors. However, this change in consent request approval policy did not add to the quality of the approvals observed in the period immediately prior to the change.

The second issue concerns field supervision of motor vehicle stops as mandated by Task 39. In their last report, the independent monitors noted that field supervision of critical incidents remained high, but that field supervision of other less critical incidents fell to just 34 percent and continued a trend of decreasing field supervision noted in previous reports. In the opinion of the monitors, lower levels of field supervision could compromise the ability of the State Police to supervise effectively the law enforcement activities of individual troopers during motor vehicle stops. Obviously, anything that detracts from the effective supervision of motor vehicle stops would be contrary to goals of the Consent Decree.

During this reporting period, field supervision of critical incidents remains acceptable with more than 60 percent of these incidents involving the participation of a first-line

supervisor. In addition, there was an increase in field supervision of other, less critical incidents with first-line supervisors participating in 40 percent of these incidents. Nonetheless, the rate of field supervision for less critical incidents remains far below the rates established by the State Police just a few years ago. While the increase in the rate is a positive development, the rate of supervision for both critical and less than critical incidents will be reviewed again in the next reporting period.

A third issue was not highlighted in the last report, but was in previous reports by the independent monitors. It became apparent during the reporting period that the number of malfunctions attributable to the video recorders is increasing. OLEPS conducted 283 tape reviews of motor vehicle stops. In 42 of those stops, some form of audio or video difficulty was noted by OLEPS. Thus, approximately 15 percent of all motor vehicle stops were not fully recorded (either audio or video). Most of the malfunctions were due to the age and condition of the equipment rather than trooper error. Continued reliance on the video recorders raises the possibility that the State Police and OLEPS will be unable to review an increasing number of motor vehicle stops in future reporting periods due to malfunctions, which result from the age and condition of the recorders. The recorders utilize a VHS format which is by any measure an "ancient" technology to record and view video images. As a practical matter, the repair and/or replacement of video recorders has become problematic due to the shortage of spare parts and the inability to purchase new VHS recorders for installation in troop cars. In addition, newer technologies for recording and viewing video images promise to ease the task of conducting supervisory reviews of motor vehicle stops by allowing for the electronic storage and transmission of video images and by increasing the speed with which specific video images can be located and viewed. The monitoring team has been advised that the replacement of the VHS recorders with newer technology has commenced. Every effort should be made to continue and complete the replacement process as soon as possible.

Lastly, as alluded to in the summary of training activities set forth above, the monitoring team noted in its review of motor vehicle stops an appreciable increase in the quality of consent requests made by troopers. More specifically, the team noted a substantial increase in probative reasons leading to reasonable suspicion which supported requests for consent to search a motor vehicle. The fact that the quality of consent requests improved during the reporting supports two conclusions. First, the training function can, through in-service training programs, directly address and help resolve questionable law enforcement practices soon after those practices are identified. Second, the State Police has evolved into an organization that analyzes and corrects problematic law enforcement activities on an ongoing basis.

MAPPS Development

Full compliance continues in this period regarding MAPPS information system capabilities. The system can be used to review trooper and supervisory performance, compare trooper performance to other members of the trooper's workgroup, and to compare performance across work groups. Appropriate benchmark processes have been established for the MAPPS system, and all five of the New Jersey State Police's field operations troops have received written benchmarking and data analytic reports. Supporting S.O.P.s and training for operation of MAPPS have been developed and approved by the monitors, and delivered to the field personnel using the system. MAPPS is being used in performance evaluations and subsequent supervisory actions including to document verbal counseling and to create and be a repository for performance notices and retraining. High-level risk analysis processes, using MAPPS data, were commenced during the thirteenth reporting period.

The evolution of the use of the MAPPS data system into a proactive problem-identification and problem-solving system commenced during the fifteenth reporting period. Initially, MAPPS was used to provide the State Police with information that focused on motor vehicle stops. During the fifteenth reporting period, the State Police moved beyond that narrow focus in its use of MAPPS to focus on systemic organizational issues and to craft solutions to those issues before they negatively impact the organization in any significant way. During this reporting period, work continued on developing a new module for MAPPS capturing use of force incidents for reporting by the Risk Analysis Core Group (RACG). In addition, the work of the RACG with respect to the analyses of motor vehicle stop data led to enhancements in the data collected by the CAD system implemented during the period and in the new protocol for the stop reports implemented in the Division's record management system. MAPPS displays have been changed to display some of these enhancements.

With respect to resources and capabilities, the MAPPS and RACG functions are adequately staffed at this point in time to address the workload presented by the Consent Decree. Both functions possess the technological capacity to generate and analyze data in response to issues posed by the Consent Decree and the organizational demands of the State Police. In addition, both functions have access to the data and information necessary to execute their responsibilities. Thus, both functions remain in compliance with the Consent Decree.

That said, the monitoring team is concerned about future staffing of civilian positions that support the analytic efforts of the State Police. During the reporting period, the State Police attempted to replace a civilian analyst who resigned from employment. Permission to replace the analyst was denied due to budgetary constraints. Sufficient and appropriately trained staff are critical to supporting the continued operation of

MAPPS and the RACG so that those entities can meet the diverse analytic demands of the State Police. The monitoring team also notes that improved integration of the risk identification and the risk analysis functions across the State Police would enhance its ability to effectively address emerging issues as they arise.

Office of Professional Standards (OPS)

Of note during the reporting period was the development and implementation by OPS of its “Incident Reduction Initiative.” The initiative, which is not a requirement imposed by the Consent Decree, aims to reduce the total number of misconduct and performance-related complaints lodged against members of the State Police. The initiative hopes to achieve a reduction in the number of complaints through an aggressive program of data collection and analysis which, it is anticipated, will allow OPS to proactively address troopers who are unwilling, unable or unfit to perform their duties.

The initiative seeks to collect data governing complaints of trooper misconduct and other performance-related issues and analyze the data to determine whether patterns or practices of misconduct or inappropriate behavior can be identified. The initiative also contemplates analyzing the data to determine whether misconduct or other inappropriate behavior on the part of individual troopers can be anticipated or predicted and thus interdicted or prevented.

While the initiative did not generate enough data during this reporting period to examine its effectiveness, the initiative is noteworthy in that it goes well beyond what is mandated by the Consent Decree with respect to the internal affairs function. In addition, the initiative represents a concerted effort by OPS to proactively manage and address employee misconduct and risk management issues, consistent with the spirit of the Consent Decree and its emphasis on early interventions to modify behavior. A greater examination of the initiative will take place in future reporting periods.

Inspections, Audit and Quality Control

Inspections and Audit personnel from Field Operations and OLEPS continue to review motor vehicle stop reports and video tapes elements for conformance to the requirements of the Consent Decree. These quality control procedures indicate a consistency in the application of law enforcement procedures during this reporting period. OLEPS continues to provide the State Police with an additional tier of review for law enforcement activities related to the Consent Decree.

Overall Compliance Status

Compliance in all areas continues to meet the requirements established by the Consent Decree. All functions subject to review under the decree including training, supervision, inspections, audits and MAPPS processes are fully staffed and functioning. In the opinion of the OLEPS, the State Police continue to function as an organization that is able to “analyze and correct” problematic law enforcement procedures on a “real time” basis. This accomplishment is consistent with the goal of the Consent Decree that is to encourage the development of a law enforcement organization that is able to monitor its activities and adapt to the changing dynamics of the criminal justice system. OLEPS expects this level of functioning to continue when it conducts reviews of the New Jersey State Police in post-Consent Decree periods.

Appendix One

Summary of Independent Monitoring Team (IMT) Assessment of Phase II Compliance
For Monitored Consent Decree Tasks

		In Compliance Since (Date of IMT Report):	IMT Report
TASK			
Field Operations	26: Prohibition from Using Race-Ethnicity in Decision Making	1/10/2001	2nd
	27: Monitor & Eval. Implementation of Motor Vehicle Stop (MVS) Criteria	7/19/2004	10th
	28: Request for Consent to Search Upon Reasonable Suspicion	4/12/2001	3rd
	29a: Recording Requirements for MVS	8/21/2003	8th
	29b: Expeditious Implementation of MVS Criteria	1/10/2001	2nd
	29c: Forms to Support Tasks 31, 32, 33	10/6/2000	1st
	29e: Approval of Revisions to Protocols, Forms, Reports, & 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: CAD's 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 Detect. Canines	7/17/2001	4th
	34a: Use of Mobile Video Recording (MVR) Equipment	10/6/2000	1st
	34b-c: Training in MVR Operation and Procedures	7/19/2002	6th
	35: Supervisory Review of Trooper Reports	12/20/2004	11th
	36: Supervisory Review of MVR Tapes	12/20/2004	11th
37: Supervisory Referral To PSB of Obs. Inappr. Trooper Conduct	1/18/2002	5th	
38: Periodic Review of Referral Decisions	1/23/2004	9th	
39: Regular Supervisory Activity in the Field	8/21/2003	8th	
MAPPS...	40: Development of a MAP[P] System (Specified in Tasks 41-51)	7/14/2005	12th
	41: Data: a. cf. #29; b. performance, misconduct; c. interventions & training	7/19/2004	10th
	42: Grant Individual Trooper Access to MAPPS Information	7/19/2004	10th
	43: MVS Data Available In Any Combination, Different Time Periods	7/19/2004	10th

Appendix One
Summary of Independent Monitoring Team (IMT) Assessment of Phase II Compliance
For Monitored Consent Decree Tasks

TASK		In Compliance Since (Date of IMT Report):	IMT Report
MAPPs continued	44: Use of Common Control Number for Incident Information	7/19/2004	10th
	45: Accuracy, Timeliness and Security of MAPPs Data	7/19/2004	10th
	46: MAPPs Implementation Plan; Begin Sup. & Mangmnt. Reviews	1/23/2004	9th
	47: Dev. Review Protocols, Individ., Units, Subunits	7/19/2004	10th
	48: At Least Q'ly Reviews of MAPPs Data; Individ., Units, Subunits	7/19/2004	10th
	49: cf.43;a. Rev., Individ., Squad, Station;#by race;p-stp by reas,race	7/19/2004	10th
	49b:Indiv., Squad, Station;complnts,misc.,discip.,interv.,force	7/19/2004	10th
	50: Analysis of MVS data by race, including benchmark	7/14/2005	12th
	51:Trend Analysis of MAPPs data	7/14/2005	12th
	52:Supervisors to Implement Changes	12/20/2004	11th
	53: Supervisory Review of Troopers w/ >2 Miscond. Invest. w/in 2 yrs.	7/19/2004	10th
	54:Drivers' Survey of New Jersey Turnpike	10/6/2000	1st
	OPS and Investigations...	57:Troopers to Provide Name and Badge Number	1/10/2001
58:State to Inform Civilians re 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:PSB to Receive Citizens' Complaints		1/10/2001	2nd
64:Relocation of the Office of Prof. Standards Offices		1/10/2001	2nd
65: Referral to OAG of Specific Dismissed Charges		4/12/2001	3rd
66:Notice to OSPA 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 PSB		4/12/2001	3rd
72:Execution of Training for OPS Staff	4/12/2001	3rd	

Appendix One

Summary of Independent Monitoring Team (IMT) Assessment of Phase II Compliance
For Monitored Consent Decree Tasks

TASK		In Compliance Since (Date of IMT Report):	IMT Report
OPS and Investigations-continued	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 Stand. For Int. Investigations	1/10/2001	2nd
	82: MVR Tape Review in Internal Investigations	1/10/2001	2nd
	83:State to consider Circumstantial Evidence in Int. 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: State to Attempt to Complete Invest. Within 45 Days	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:Imposition of Appropriate Discipline In Consultation with MAPPS	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:Develop & Evaluate 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-Serv.Training on 4th Amend. &Non-Discrim.Reg.	4/12/2001	3rd
	102:Training Protocols for the Trooper Coach Process	1/18/2002	5th
	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

Appendix One

Summary of Independent Monitoring Team (IMT) Assessment of Phase II Compliance
For Monitored Consent Decree Tasks

	TASK	In Compliance Since (Date of IMT Report):	IMT Report
Training-continued	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 Recs.	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 MVS	4/12/2001	3rd
	112:Internal Audits of Citizen Complaint Processes	7/17/2001	4th
	113:Full and Unrestricted Access for OSPA	10/6/2000	1st
	114: Publication of Semi-Annual Repts. Of Aggregate. MVS 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 Invest. 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 Two
Data Tables for *Chi-Square* Analyses

Table Four: Consent Requests by Race-Ethnicity of Driver, 1st OLEPS Reporting Period

	White	Black	Hispanic	n=
No Consent Request	69	90	94	253
Consent Request	23	72	33	128

Total	92	162	127	381 ⁸⁷
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$\chi^2 = 14.892$, $df = 2$ ⁸⁸

$p = 0.001$ ⁸⁹

This test statistic is *significant* at the 0.05 level.

Table Five: Canine Deployments by Race-Ethnicity of Driver, 1st OLEPS Reporting Period

	White	Black	Hispanic	n=
No Canine Deployment	81	124	107	312
Canine Deployment	11	38	20	69
Total	92	162	127	381 ⁹⁰

$\chi^2 = 5.950$, $df = 2$

$p = 0.051$

This test statistic is *not significant* at the 0.05 level.

⁸⁷ The "Total" does not equal 384 because three drivers were in the other categories of race or ethnicity.

⁸⁸ "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.

⁸⁹ 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. A "p" level of 0.05 was chosen here as the level at which statistical significance will be determined, consistent with most research studies. 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.

⁹⁰ The "Total" does not equal 384 because three drivers were in the other categories of race or ethnicity.

Appendix Two
Data Tables for *Chi-Square* Analyses

Table Six: Arrest Data by Race-Ethnicity of Driver, 1st OLEPS Reporting Period

	White	Black	Hispanic	n=
No Arrest	23	57	49	129
Arrest	69	105	78	252
Total	92	162	127	381 ⁹¹

$\chi^2 = 4.617$, df = 2

p = 0.099

This test statistic is *not significant* at the 0.05 level.

Table Seven: Consent Request Stop Rates by Reason for Stop (Level of Discretion), 1st OLEPS Reporting Period

	White	Non-White	n=
High Discretion (1)	4	34	38
Median Discretion (2)	7	19	26
Low Discretion (3)	12	54	66
Total	23	107	130

$\chi^2 = 2.872$, df = 2

p = 0.238

This test statistic is *not significant* at the 0.05 level.

⁹¹ The "Total" does not equal 384 because three drivers were in the other categories of race or ethnicity.

Appendix Two
Data Tables for *Chi-Square* Analyses

Table Eight: Canine Deployment Rates by Reason for Stop (Level of Discretion), 1st OLEPS Reporting Period

	White	Non-White	n=
High Discretion (1)	2	18	20
Median Discretion (2)	3	9	12
Low Direction (3)	6	32	38
Total	11	59	70

$\chi^2=1.274$, df= 2

p= 0.529

This test statistic is *not significant* at the 0.05 level.

Table Nine:
 Sampled Vehicle Stop Rates by Reason for Stop (Level of Discretion), 1st OLEPS Reporting Period

	White	Black	Hispanic	n=
High Discretion (1)	20	45	27	92
Median Discretion (2)	17	34	40	91
Low Direction (3)	55	83	60	198
Total	92	162	127	381 ⁹²

$\chi^2=7.962$, df= 4

p= 0.093

This test statistic is *not significant* at the 0.05 level.

⁹² The "Total" does not equal 384 because three drivers were in the other categories of race or ethnicity.

Appendix Two
Data Tables for *Chi-Square* Analyses

Table Ten:
 Reason for Consent Request by Race and Ethnicity, 1st OLEPS Reporting Period

	White	Non-White	n=
Intangible (1)	1	4	5
Tangible (2)	1	6	7
Probative (3)	21	96	117
Total	23	106	129 ⁹³

χ^2 statistic for this table is not valid as 3 cells (50%) have expected counts of less than five.

Table Eleven: Outcome for Consent Request by Race and Ethnicity,
 1st OLEPS Reporting Period

	White	Non-White	n=
Inappropriate (1)	0	6	6
Appropriate (2)	23	100	123
Total	23	106	129 ⁹⁴

χ^2 statistic for this table is not valid as 2 cells (50%) have expected counts of less than five.

⁹³ The "Total" does not equal 130 consent requests due to one consent request where recording issues precluded assessment.

⁹⁴ The "Total" does not equal 130 consent requests due to one consent request where recording issues precluded assessment.

Appendix Three

High, Median and Low Discretionary Violations

High Discretion:⁹⁵

- Equipment Violation
- Exp Registration
- Failure to Signal Lane Change
- Following too Closely
- FTKR
- Improper U turn
- MDT Suspended Registration
- Obstructed View
- Rest Area Overstay
- Seatbelt
- Speeding <10

Median Discretion:

- Aggressive Driving
- FTML
- Motorist Aid
- Speeding 10-14
- Unsafe Lane Change

Low Discretion:

- BOLO
- Confidential Informant
- Criminal Activity
- Directed Stop
- Fictitious Plates
- Motor Vehicle Accident
- Reckless Driving
- Speeding >14
- Suspected DUI
- Warrants

⁹⁵ The federal independent monitors engaged in multiple, substantial discussions with New Jersey State Police personnel regarding the nature of the "reason for stop" offenses. While there remain some differences in opinion regarding high versus low discretion incidents, the framework presented above is the best available framework obtainable, in the federal monitors' opinion, to assess the exercise of discretion in studied traffic stops. Further work in this area *may require* revision of the reason for stop continuum. (Appendix Three appeared as Annex One in the previous two reports.)