OLEPS

OFFICE OF LAW ENFORCEMENT PROFESSIONAL STANDARDS

Third Monitoring Report June 2012

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Executive Summary

The Third Monitoring Report prepared by the Office of Law Enforcement Professional Standards documents the continuing compliance of the New Jersey State Police (NJSP) with the requirements of the 1999 Consent Decree (the Decree). This reporting period covers July 1, 2009 to December 31, 2009, which includes the transition out of the Decree and into the requirements codified by the Law Enforcement Professional Standards Act of 2009 (N.J.S.A. 52:17B-222, et. Seq.) (The Act).

The NJSP has made great progress in it's ability to self-assess and serve as its own regulator. Notably, the NJSP had been in compliance with all tasks of the Decree for several reporting periods. However, as discussed in more detail in this report, the NJSP is out of compliance for two tasks this period and on warning for a third task.

OLEPS is aware of the impact of legal decisions on daily NJSP activity. Notably, State v. Peña-Flores, 198 N.J. 6 (2009), altered the requirements for consent searches in relation to an automobile stop. Subsequently, the NJSP experienced a surge in the number of Probable Cause (PC) based consent requests, changing the overall appearance of NJSP activity.

OLEPS reviewed 95 motor vehicle stops and analyzed these stop data to determine whether NJSP activity was consistent with the tasks laid out by the Decree and the Act. OLEPS also reviewed data on management activities of the NJSP, contained in the Management Awareness Personnel Performance System (MAPPS). Audits of the NJSP internal affairs procedures were also assessed for compliance. Training activities conducted during this reporting period were assessed in the Second OLEPS Monitoring Report.

The motor vehicle stops reviewed were those identified by OLEPS and the NJSP as involving Reasonable Articulable Suspicion (RAS) based consent requests.

Findings of this report are as follows:

- OLEPS did not find evidence that the NJSP was engaging in any race/ethnicity based decision making processes in this reporting period. Differences in enforcement activities are generally the result of chance rather than purposeful behavior.

- The NJSP is out of compliance on Tasks 27 and 36. These tasks relate to supervisory review processes in the NJSP. In the Second Monitoring Report, OLEPS noted that the NJSP had exceeded the allowable error rate for these tasks. Consequently, exceeding those rates in this reporting period placed the NJSP out of compliance with these tasks.

    - The error rate is calculated by dividing the number of stops with errors not noted by supervisory review by the total number of stops covered by that particular task. Thus, the error rate is a reflection of how closely supervisors review motor vehicle stops and associated reports.

    - A number of these errors relate to procedural errors; errors which require forms and reports to be completed properly and completely and communication center call ins rather than violations of individual rights. Such errors are easily remedied through detailed supervisory review of a motor vehicle stops and associated documentation.

- More troubling, at least half of the errors overlooked by supervisory reviews relate to issues that may violate rights of motorists. Specifically, there were several errors relating to the failure of supervisors to note the absence of the appropriate level of Reasonable Articulable Suspicion.

- OLEPS is aware of the dramatic increase in the number of required reviews that began in the wake of Peña-Flores, which may explain the rise in the number of errors missed by supervisory review. However, a number of these errors are straightforward and easily corrected.

- As noted in the previous reporting periods, there has also been a continuing decline in supervisory presence in the field. OLEPS cautions the NJSP on this matter; effective supervision may be compromised without adequate field supervision.

- Recommendations that stem from this include the increased emphasis on the need for supervisors to complete detail focused reviews and more supervisor presence in the field. Ideally, these reviews should be conducted by first line supervisors, rather than dedicated troop level reviewers.

- As with the previous reporting period, OLEPS again noted issues with recording equipment. These issues may be due to the increasing age of equipment. OLEPS anticipates fewer issues and improvement with the installation of digital recording equipment.

- Per the Decree and the Act, the NJSP are required to adhere to several tasks, some of which do require special training/skills of staff members. OLEPS has concerns that current staffing levels may make it difficult to adhere to the standards to which the NJSP are held, especially those relating to the reporting requirements of MAPPS.

- Reviews of misconduct investigations for troopers with 3 misconducts in 2 years again revealed issues in this process. To date, a formal policy for these reviews has not been sent to OLEPS. OLEPS found evidence that these reviews were being conducted in all but 4 instances. However, the evidence varied; for some formal interventions were noted, others contained a journal entry, and others contained a note regarding a formal review of the 3 in 2 review. OLEPS continues to recommend that the NJSP formally record a policy regarding these reviews and the reporting of these reviews.

- OLEPS review of internal affairs activities for this reporting period noted only one issue that should have been referred to the NJSP Office of Professional Standards that was not referred.

Overall, the NJSP demonstrate compliance with the requirements of the Decree and the Act except for those tasks referring to supervisory review and oversight. The NJSP are out of compliance for two tasks and on warning for a third task. One of OLEPS' goals is to assist the NJSP in self-assessment. A finding of non-compliance does not mean the NJSP is necessarily engaging in inappropriate behavior. Rather, as an organization, the NJSP has not met the criteria for compliance with a specific task during the reporting period. OLEPS anticipates increased detailed focus on supervisory reviews in coming reporting periods.

THIRD MONITORING REPORT OF THE NEW JERSEY STATE POLICE
OFFICE OF LAW ENFORCEMENT PROFESSIONAL STANDARDS
JULY 1, 2009 TO DECEMBER 31, 2009

Introduction

Pursuant to the Law Enforcement Professional Standards Act of 2009 (N.J.S.A. 52:17B-222, et. Seq.) (the Act), the Office of Law Enforcement Professional Standards (OLEPS) is required to publish biannual reports assessing the New Jersey State Police's (NJSP) compliance with the relevant performance standards and procedures set forth in the Act. This report is substantively similar to the reports published by the independent monitors under the federal Consent Decree which was dissolved in September 2009. This document is the third time OLEPS has assessed compliance without the direct oversight of the independent monitors. For a more detailed history concerning the Consent Decree, see the Second Monitoring Report (www.nj.gov/oag/oleps).

The Second Monitoring Report, published in August 2011 on stops from the first half of 2009, concluded that the NJSP were, overall, in compliance with the requirements of the Consent Decree. Exceptions to this compliance were for Tasks 27, 29a, and 36 which resulted in the NJSP being placed on warning. Recommendations were made regarding these tasks. However, because the 2nd report was published two years after the stops were made, evidence of immediate impact of the recommendations is not expected.

This report reviews activities undertaken by the NJSP between July 1, 2009, and December 31, 2009. The NJSP remained subject to the requirements of the Decree during three and a half months of this reporting period. Prior to the transition out of the Decree, the independent monitors reviewed policy changes and offered technical advice to the State.

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

PART I
MONITORING METHODOLOGY & PROCESS

Part I provides the methodology for assessing compliance with the Decree and the Act. The methodology applies to all tasks within this report (supplemental methodologies may be listed for each task too). The bulk of the data utilized in this report pertain to field operations and activities during motor vehicle stops.

In preparing their reports, the independent monitors developed and employed specific methods and practices to determine compliance with the Consent Decree. Because the Consent Decree remains in effect for at least part of the current reporting period, OLEPS again adhered to the methods and practices previously implemented by the independent monitors to assess compliance.

All determinations of status for the NJSP are data and policy review based, and were formed by a review of records and documents prepared in the normal course of business. No special reports prepared by the NJSP were accepted as evidence of compliance with a specific task. Instead, OLEPS reviewed records created during the delivery or performance of that task.

Definition of Compliance

The independent monitors established two components involved in determining 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 NJSP. Specific policies may include the provision of training, supervision, audit, inspection, and discipline to achieve implementation as designed.

OLEPS recognizes that the NJSP has been in both Phase I and Phase II compliance with all tasks since July 2005. Beginning with the First OLEPS Monitoring Report, Phase I compliance was assumed and will not routinely be commented upon in this or subsequent reports. OLEPS continues to monitor whether NJSP policies and procedures adhere to the Consent Decree. Any changes to policies and procedures related to the Consent Decree must be approved by the Attorney General. Compliance status reflects the evidence that polices are being followed in the day-to-day operations of the NJSP, formerly designated as Phase II compliance. Compliance levels for this monitoring process are reported both through a narrative description and tabular summary. 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 NJSP is necessarily engaging in inappropriate behavior. It simply means the NJSP, as an organization, has not met the criteria for compliance with a specific task during the reporting period.

Standards for Compliance

OLEPS continues to use the standards agreed to by the parties of the Consent Decree. 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% compliance is used. This means that 94% of the MVSRs reviewed must adhere to the requirements of the Decree. For tasks not directly related to constitutional issues, e.g., video recording of specific motor vehicle stop events, a 90% standard is used. Any issues pertaining to Miranda violations are assessed at the constitutional level despite the fact that Miranda involves both procedural (i.e., of or relating to a procedure) and constitutional issues.

Compliance involves both the development and implementation of policies and procedures as outlined in the Consent Decree. Implementation, measured quantitatively, is the percent of events (in this case, motor vehicle stops) that are conducted in accordance with specific tasks. For tasks that do not create quantitatively measurable events (i.e., those relating to the publication of reports), implementation is measured by the existence of the task requirements.

Data

The NJSP provided data to OLEPS, pursuant to specific data requests. During previous reporting periods, all data collected were one of two types. They were either collected by:

- Selection of a random or stratified random sample
- Selection of all available records of a specific type

Under no circumstances were the data selected by OLEPS based on provision of records of preference by personnel from the NJSP. In every instance of the selection of random samples, NJSP personnel were provided lists requesting specific data, or the samples were drawn directly by members of OLEPS. For this OLEPS monitoring period, only those stops identified as true criticals were reviewed. The reason for this change is discussed below.

Field Operations: Tasks 26-39

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

Historically, the independent monitors selected two types of samples of motor vehicle stop incidents for review. First, all incidents deemed critical to the Consent Decree were reviewed. These incidents included all motor vehicle stops involving uses of force, canine deployments and requests for consent to search a vehicle (without a warrant) based on RAS. Second, a sample of stops was also chosen from those that also had other post-stop actions relevant to the Consent Decree. Unlike critical incidents, the second sample was drawn on a rotating basis from two troops each reporting

period. Within those troops, the selection process varied according to the type of activity the independent monitors felt important to review. Stops with minority occupants were often over-sampled to permit assessment of the interaction of the NJSP with non-White motorists. Once the parameters for the second sample were set, incidents were randomly chosen for review. The final size of the second sample had roughly the same number of incidents as the first sample.

All critical incidents were subject not only to a paper review of reports relevant to the incident (Type I review), but also to video review (Type II). Incidents in the second sample all received a Type I review, but only a randomly selected subset were subjected to Type II review. A Type II review would also be conducted if a Type I review revealed an issue that the independent monitors felt best understood by reviewing the video.

Sample Selection

In the Second Monitoring Report, OLEPS reviewed critical incidents, eliminating the selection of the second random sample of other motor vehicle stops. The decision to do so was in response to the large number of requests for consent to search a vehicle (407 incidents) requiring review, following the New Jersey Supreme Court decision State v. Peña-Flores, 198 N.J. 6 (2009).[1] A few incidents were found not to be critical after review, but were retained in the analysis because they had other important post-stop activities.

For this Third OLEPS Monitoring Report, the Peña-Flores decision again affected decisions about sampling. OLEPS is also cognizant of the time elapsed since the motor vehicle stop incidents occurred (at least two years), rendering impossible the ability of the NJSP to respond to any issues uncovered prior to subsequent review. To expedite the review, OLEPS focused its review of consent requests on only those based on reasonable articulable suspicion (RAS). All uses of force and canine deployments associated with motor vehicle stops were reviewed. The resulting sample is a sub-sample of the types of incidents reviewed for the previous report. OLEPS will more fully address consent requests based on probable cause in subsequent reports. All critical incidents receive Type II reviews, to the extent that in-vehicle recordings are available.

Data Requests

Prior to beginning reviews, OLEPS requested data regarding NJSP operations. These data requests included the following data for the second half of 2009:

- Data for all motor vehicle stop activity selected relating to an incident in which personnel engaged in one of the true critical post-stop law enforcement procedures of interest to the Decree.

- Data for all trooper-initiated motor vehicle stop communications center call-ins for the stops selected, including time of completion of the stop and results of the stop.

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

- OLEPS also requested copies of documentation created for all consent search requests, canine deployments, and incidents involving use of force that took place in conjunction with a motor vehicle stop.

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

Types of Reviews

Type I

A Type I review consisted of examining all available hard-copy and electronic documentation of an event. For example, a review could consist of reviewing the MVSR, associated records in the patrol log, a supporting consent to search form, and associated summonses or arrest records. Each post-stop event consisting of law enforcement procedures of interest to the Decree[2] was subjected to a structured analysis using a form the independent monitors developed. Problems with the motor vehicle stop were noted and tallied using this form. These data were shared with the NJSP. Clarifications were requested and received in instances in which there was doubt about the status of an event or supporting documentation. All 95 events were subject to Type I reviews in this period.

Type II

A Type II review consisted of examining the associated video of a given motor vehicle stop. OLEPS compared the actions noted on the tape with the elements reported in the official documents related to the event. These data were collected using a form the independent monitors developed. These data were shared with the NJSP. Clarifications were requested and received in instances in which there was doubt about the status of an event or supporting documentation. A total of 93 Type II reviews were conducted this period. Members of OLEPS reviewed available video recordings and associated documentation (stop reports, patrol charts, citations, arrest reports, DUI reports, etc.) for *all* of the following NJSP activities in the monitoring period:

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

Management Awareness & Personnel Performance System: Tasks 40-53

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

[2] i.e., request for permission to search; conduct of a search; ordering occupants out of a vehicle; frisks of vehicle occupants; canine deployment; seizure of contraband; arrest of the occupants of the vehicle; or use of deadly, physical, mechanical or chemical force

OPS & Investigations: Tasks 57-92

OPS was released from the Consent Decree requirements relating to internal investigations in July 2004. As such, only tasks 87 and 90 are assessed here. Evidence for compliance with these tasks is obtained from investigative records.

Training: Tasks 93-109

Information pertaining to the training of the NJSP was provided to OLEPS upon request. Assessment of training included review of training modules, related documentation, MAPPS, ACTS, staff interviews, and site visits. Training modules were reviewed and OLEPS directly observed training during site visits. As discussed and reviewed in the Second Monitoring Report, the independent monitors and OLEPS utilized a seven step process to evaluate the training function within the Division of State Police. That process included the following components:

- needs assessment
- curriculum development
- delivery of the program
- evaluation of the program
- revision of the curriculum
- effectiveness of the program
- documentation of training

OLEPS also reviews four levels of evaluation[3] used by the Training Support Unit to determine the effectiveness of training. These levels are:

- *Level I:* Assesses the participants' reaction to the materials presented and how the information was received. This measurement will be done through post event surveys captured by the analytical database known as Metric That Meters (MTM).

- *Level II:* Assesses how much was learned by the participant through pre/post testing. Assessment of any scenario-based training is gathered from instructors' score cards.

- *Level III:* Assesses the transfer of knowledge by determining if what was learned is being applied by the participants in the course of their duties. This measurement is gathered through follow-up surveys captured by MTM.

- *Level IV:* Assesses training by measuring specific objective data comparisons.

Given that many of the activities at the Academy are protracted (e.g., pre-service training, in-service training, development of courses/lesson plans, measurement of training effectiveness) the reporting period was extended from six months to 12 months to allow for continuity in OLEPS' review and the identification of emerging trends. Therefore, all training activities for the period under review in this Third report were discussed and covered in the Second Monitoring Report, August 2011, 2.33–2.47 pgs. 99-128, with the exception of the Level IV Assessment of the 2008 In-Service Training, as this information was not previously available, it will be discussed in a future report.

[3] Also known as Kirkpatrick's four levels of evaluation.

Oversight and Public Information: Tasks 110-114, 120, 122, 123

Tasks listed in this section dealt with the creation of policies, reports, or offices. Thus, compliance with such tasks is assumed based on the existence of said policies, reports, or offices.

Independent Monitors' Requirements: Tasks 115, 118, 124

The tasks in this section refer to requirements between the independent monitors and the NJSP. These tasks are included in this report since the NJSP remained under the Decree for a portion of this review period.

PART II
ASSESSMENT OF COMPLIANCE

Part II of this monitoring report assesses compliance with the tasks outlined in the Consent Decree. Tasks are broken out according to the following subgroups:

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

Tasks 26 through 39 assess the creation and implementation of field operations reforms that prohibit the use of race/ethnicity in decision making. Compliance with these tasks ensures transparency of a trooper's road performance through the collection of data and timely and corrective (when needed) supervisory review of road activity. The implementation of the Management Awareness Personnel Performance System (MAPPS) is assessed in Tasks 40-54. It 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 and were assessed for all of 2009 in the OLEPS Second Monitoring Report. Tasks 110 through 124 relate to oversight and public information.

Chapter 1: Field Operations

The tasks in this section refer to the day-to-day operations and procedures to which the NJSP is to adhere. The text of each task is presented below followed by a description of the research conducted to verify compliance or non-compliance.

Methodology

OLEPS assessed the NJSP's compliance using practices agreed upon between the parties and the independent monitors. The methodology discussed here covers all the tasks in this chapter. However, each task may also have additional methodology noted.

The following sections contain a detailed assessment of the degree to which the NJSP 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 July 1, 2009, and December 31, 2009. This reporting period encompasses the transition out of the Consent Decree in September, 2009.

For this reporting period, OLEPS conducted reviews of the operations of all NJSP road stations for all troops. These reviews were conducted of motor vehicle stop activities reported during the dates July 1, 2009, through December 31, 2009, inclusive.

As part of this review, the team reviewed 95 motor vehicle stop incidents involving law enforcement procedures as set forth in the Act. Mobile video recordings (MVRs and DIVRs) recorded from cameras mounted in patrol cars and microphones attached to troopers on scene were reviewed. Supporting documentation was also reviewed for each of the motor vehicle stops assessed. The following paragraphs describe OLEPS' 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 39.

Sample

Based on the data provided by the NJSP, OLEPS selected specific law enforcement activities for further assessment and analysis. The overall sample of 95 drivers is comprised of those drivers who were subject to a post-stop interaction (i.e., a consent search request, canine deployment, or use of force).

Data reviewed for this monitoring period included the types of incidents noted in Table One.

The data indicated that 78 events resulted in a consent search request. Seventeen (17) requests for consent to search were declined by drivers during this reporting period. The selected incidents involving consent search requests were assessed by reviewing NJSP reports documenting the consent, the execution of the search, and by reviewing the available video records for those consent requests. All consent searches recorded were subject to both a documentation and video recording review by OLEPS. The number of consent searches is substantially less than the previous reporting period covering the first half of 2009. This decline is likely because the sample in this reporting period primarily involves RAS based consent searches; no additional stops were reviewed. The number of probable cause (PC) searches of vehicles reviewed, six, is much less than the number reviewed in the previous reporting period.

Table One: Incidents Reviewed
3rd OLEPS Reporting Period

Type of Activity	Report Reviews	Tape Reviews[4]
Total MVS Selected	95	93
MVS Involving Consent Search Requests (PC & RAS)	78	76
MVS Involving Canine Deployment	16	16
MVS Involving Use of Force	17	17
Probable Cause Searches of Vehicles	6	6

There were 16 stops involving canine deployments during the reporting period. In all instances, an MVR was reviewed. All 16 instances of canine deployment also involved requests for consent to search, though seven of these requests for consent were denied. The number of incidents with the deployment of a canine (16 stops) is less than the 2nd OLEPS Reporting period.

During the period of review, there were 17 uses of force, all of which were subject to video recording reviews.

Table Two indicates the troops and stations from which stops in this sample are drawn. All troops are represented, with a concentration of incidents from Troop A and Troop B (29.5% and 30.5%, respectively, in Table Two). The critical incidents from the Totowa Substation (Troop B) contributed the highest single total of any station to the monitoring sample.

[4] Tape and report reviews total more than 95 due to the fact that *all* tapes and *most* reports reviewed included more than a single category of law enforcement activity.

Table Two: Distribution of Events by Station
3rd OLEPS Reporting Period

Station	Type I Reviews	Type II Reviews
A040 Bridgeton	9	8
A050 Woodbine	1	1
A090 Buena Vista	3	3
A100 Port Norris	2	2
A140 Woodstown	9	9
A160 Atlantic City Expressway	2	2
A310 Bellmawr	2	2
B010 Metro North	2	2
B020 Hope	4	4
B060 Totowa-Sub	11	11
B080 Netcong	6	6
B110 Perryville	1	1
B130 Somerville	4	4
B150 Washington	1	1
C020 Bordentown	7	7
C060 Hamilton-Sub	2	1
C080 Red Lion	1	1
C120 Tuckerton	3	3
D010 Cranbury	7	7
D020 Moorestown	2	2
D030 Newark	5	5
E030 Bass River	4	4
E040 Bloomfield	1	1
E050 Holmdel	3	3
Other	3	3
Total	**95**	**93**

Assessment

Changes to New Jersey law (State v. Eckel, 185 N.J. 523 (2006) and Peña-Flores), have made consent searches the predominant form of automobile searches, with stricter standards in place to identify exigent circumstances. Data show that as a result, there has been an increase in the number of consent requests to search vehicles for contraband. Because of the numbers of such searches, no sampling was done of incidents that may have had only a probable cause search of a vehicle.

Table Three: Number of RAS Consent Requests for OLEPS Reporting Periods

Reporting Period	Dates	Consent Requests	% Increase / (Decrease)
OLEPS 1st a	January 1- June 30, 2008	79	
OLEPS 1st b	July 1- December 31, 2008	51	(35.4)
OLEPS 2nd RAS	January 1- June 30, 2009	72	41.2
OLEPS 3rd RAS	July 1- December 31, 2009	68	(5.5)

Table Three, depicts RAS consent request activity for the last three reporting periods. Figure One depicts these data graphically. The 1st OLEPS reporting period was divided into two six-month groupings to present the same length time period as more recent periods. The number of requests based on RAS for the 3rd reporting period are fairly consistent with the previous reporting periods. The 68 consent requests based on RAS are higher than those in the second six months of the 1st OLEPS reporting period, but are slightly smaller than the 79 consent requests in the first half of that period. The number of RAS consent requests is similar to that for the 2nd OLEPS report, which used data from the first half of 2009.

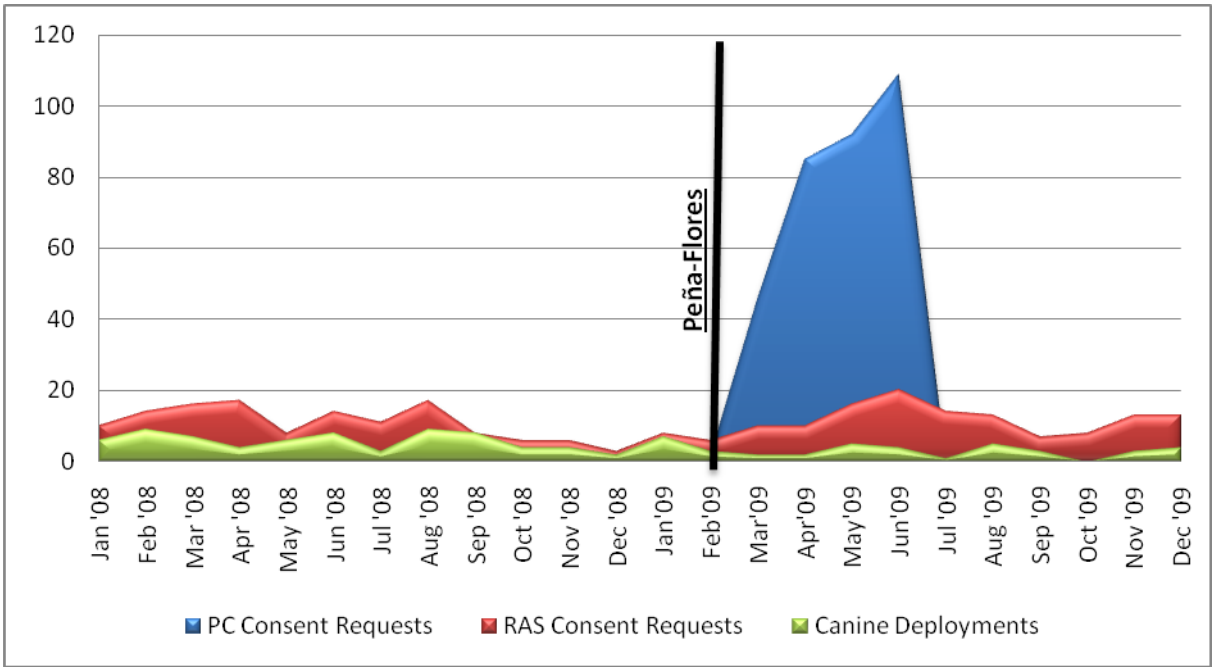
Only RAS consent request numbers are presented here; PC consent requests are not included due to changes in sampling. For a full discussion of the changes in the number of consent requests, see previous monitoring reports.

Figure One depicts the number of consent request activities and canine deployments reviewed by OLEPS, by month, for the first OLEPS reporting period through the current period. Events with RAS based consent requests are displayed separately from PC based consent requests.

There was a sharp increase in the number of PC consent requests following Peña-Flores. Despite this increase, the independent monitors and OLEPS agreed that all consent requests, regardless of legal basis, are deemed critical events for monitoring purposes.

The sample selected for this reporting period was based on RAS consent requests and so very few PC consent requests were examined. In total, only 10 PC consent requests were reviewed by OLEPS in this reporting period, hence the dramatic drop in Figure One.

Figure One[5]: Consent Requests and Canine Deployments by Month
January 2008 through December 2009



Only consent requests (n=78) were conducted frequently enough for statistical analysis to assess indications of race or ethnicity based decision making. Canine deployments (n=16), which were assessed statistically in previous reporting periods, are presented with their statistical results for comparison purposes only. However, the number of deployments in this reporting period is too small for many meaningful statistics. Results for canine deployments are presented here, but should be taken with extreme caution. Canine deployments remain at low volumes for the current reporting period. In the previous period there were 23 canine deployments while there were only 16 for this period.

Overall, Figure One suggests that the number of RAS based consent searches has remained fairly consistent.

[5] Formerly Figure Three in the 2nd Monitoring Report

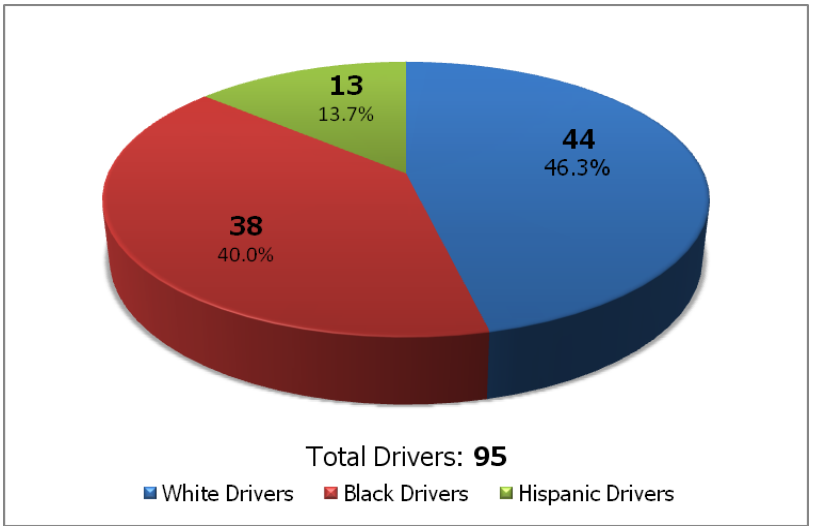
Task 26: Prohibition from Using Race/Ethnicity in Decision Making

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.

Motor Vehicle Stops

All 95 drivers in this sample were subjected to some form of a critical post-stop interaction (e.g., a consent search request, canine deployment, or use of force), but not all drivers received all post-stop activities.

Figure Two: Race/Ethnicity of Drivers[6]
3rd OLEPS Reporting Period



As shown in Figure Two, there were more White drivers involved in the sampled stops for this reporting period. There were 44 (46.3%) drivers in this sample who were White, 38 (40%) who were identified as Black, and 13 (13.7%) who were identified as Hispanic. While these numbers are

[6] All Tables and Figures in this report present data for the racial/ethnic groups stopped by NJSP. In the past, Asian Indians and Other were groups represented in the data. However, there were no drivers of these groups who were drivers in the stops reviewed.

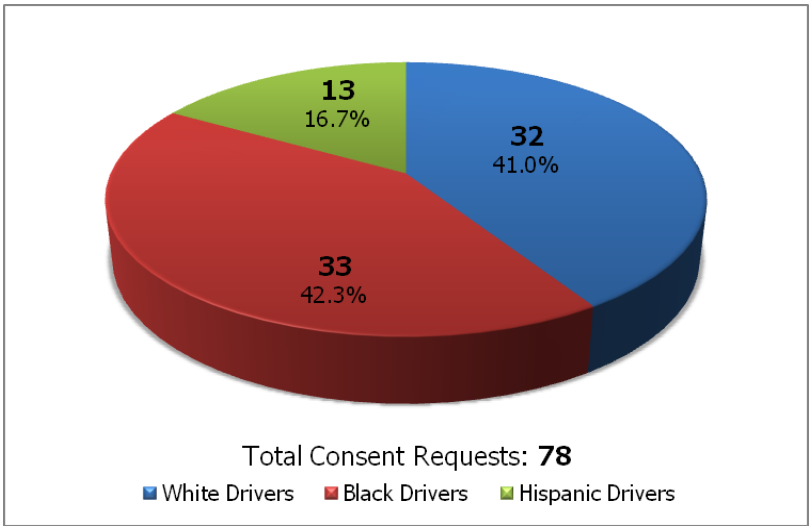
much smaller than those found in the previous reporting period, the percentages are comparable. These numbers do not reflect the racial and ethnic distribution of all drivers stopped by the NJSP, rather they merely reflect the racial and ethnic distribution of all drivers who received a critical post-stop interaction.

These numbers are reviewed in connection to a number of potential post-stop interactions. The analyses by race and ethnicity are not exactly comparable to previous reports. This is because this sample consists almost exclusively of critical incidents, and because no attempt was made to randomly select additional stops with non-White drivers. These data should be interpreted with caution; the base numbers for each racial and ethnic group are small. For example, if only two drivers were stopped and one was arrested, the percentage arrested would be 50%.

Consent Requests

Figure Three: Consent Requests by Race/Ethnicity of Driver

3rd OLEPS Reporting Period



RAS 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 Figure Three depicts the total number of drivers, by race, who were asked for consent to search in the overall sample of 95. There were 32 consent requests for White drivers and 33 for Black drivers. Thus, 42.3% of the total 78 drivers who were *asked* for permission to search their vehicles were Black. A similar percentage was found in the 2nd reporting period. Also, of the 78 drivers asked for consent, 17 refused consent[7]. The data in Figure Three show that the highest proportion of consent requests were for Black drivers. This proportion is similar to the levels for the 2nd reporting period and only differs from Whites' proportion by 1.3%. Black drivers comprised a higher percentage of consent requests in the 1st reporting periods than compared to the sixteenth period, when they were 39.6% of consent requests.

[7] The majority of stops with denied consent requests still resulted in some other form of post-stop interaction. Of the 17 denials, there were 11 arrests. Of the remaining incidents, three had canine deployments without an arrest. Only three stops with a denied consent had no other form of post-stop interaction.

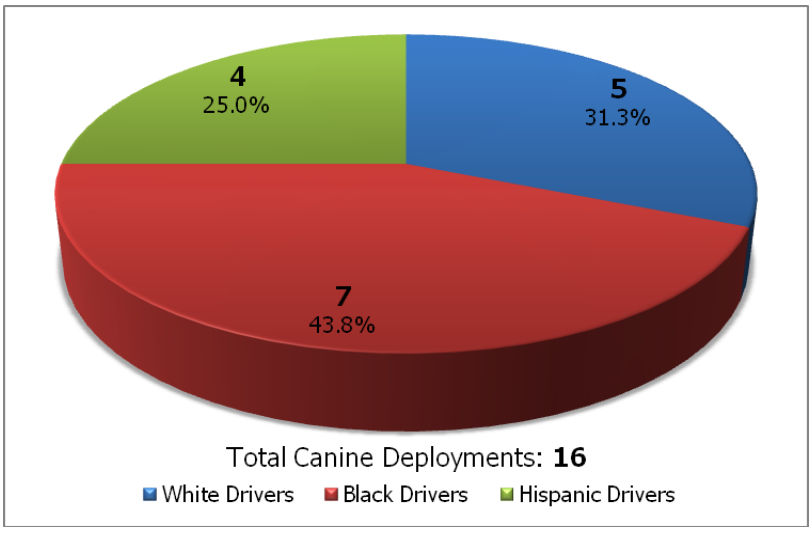
Chi-Square analysis (Appendix Three, Table One) of the data yielded a *Chi-Square* with a *p*-value of .027. Unlike the last reporting period, the distribution is significant at the .05 level, meaning that there less than a 5% probability that these results are due to chance. This *Chi-Square* was tested based on White versus non-White drivers, as the separation of Hispanic drivers and Black drivers led to several cells with expected frequencies less than 5, rendering the results invalid. Thus, the higher number of consent requests for non-White drivers is not reflective of chance encounters. However, as further examined in additional analyses (beginning on page 18), this significant difference does not necessarily provide evidence of discrimination.

Additionally, a statistically significant result does not *prove* that the differences observed in post-stop law enforcement actions are attributable to race or ethnicity. The results simply indicate that the outcomes observed in this reporting period relating to consent requests have a five-percent (or less) probability that they are due to chance. OLEPS also applied all statistical analyses (available upon request) on consent requests for this reporting period separately to RAS based consent requests and to PC based consent requests; none of these analyses yielded any difference with the significance of *Chi-Square* statistics as presented here and are thus not reported.

Canine Deployments

Black drivers comprised the highest proportion of drivers in events involving canine deployments, followed closely by White drivers (Figure Four). A canine deployment occurred for seven Black drivers, or for 43.8% of the total of 16 drivers who had a canine unit deployed during their motor vehicle stop. Canine deployments in stops with white drivers comprised 31.3% of all deployments while those with Hispanic drivers made up 25%.

Figure Four: Canine Deployments by Race/Ethnicity of Driver
3rd OLEPS Reporting Period

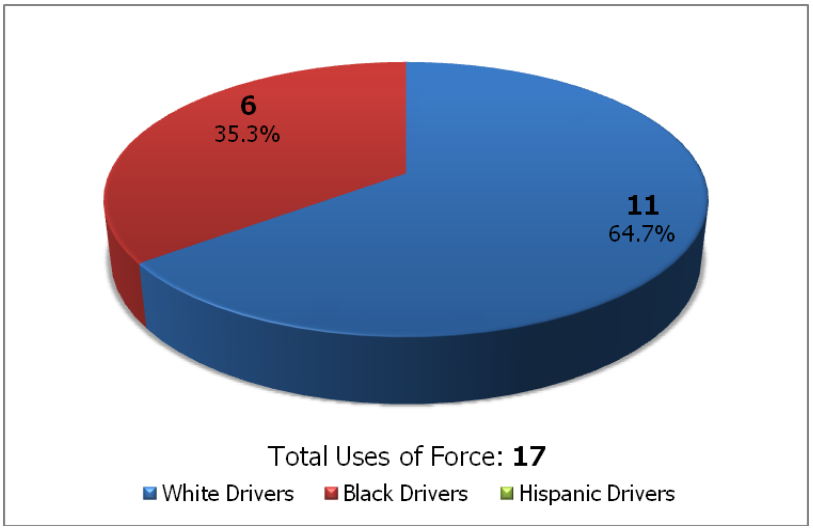


As was the case in the 2nd OLEPS report, these data are *not* statistically significant at the 0.05 level, indicating that the differences may be attributable to chance. *Chi-Square* analysis (Appendix Two, Table Two) indicates that there is no significant difference between canine deployment levels for White versus non-White drivers. The results were generated for White versus non-Whites because separate analyses for Hispanics and Blacks generated several cells with expected frequencies of less than 5, invalidating the results. Thus, the difference in canine deployments for Whites and non-Whites may still be the result of chance. Considering the small number of deployments, chance is the likely explanation.

Uses of Force

Figure Five depicts the number and percent of uses of force by drivers' race and ethnicity. The data show that the greatest number of uses of force (11) occurred in incidents with White drivers, while six uses occurred with Black drivers (or their occupants). The number of use of force incidents for White drivers continued to be the highest percentage, 64.7%. Black drivers were involved in uses of force in 35.3% of force incidents.

Figure Five: Uses of Force by Race/Ethnicity of Driver
3rd OLEPS Reporting Period



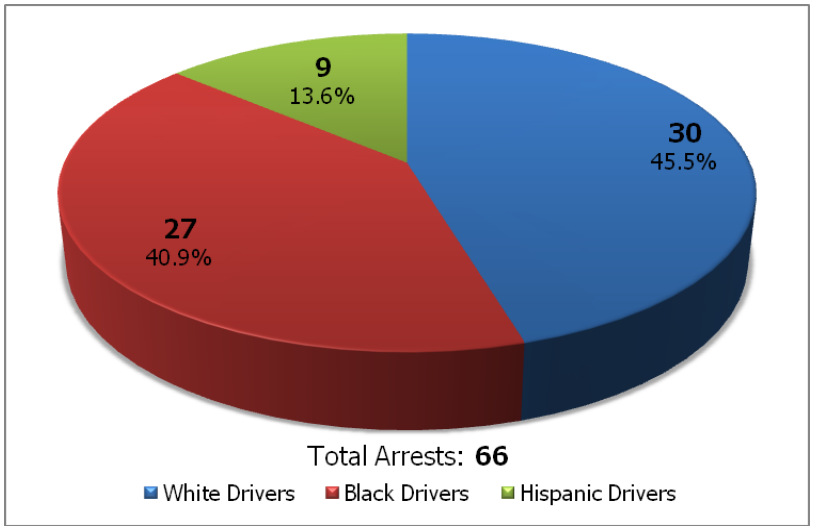
Chi-Square analysis (Appendix Two, Table Three) indicates that there is no significant difference between uses of force for White versus non-White drivers. The results were generated for White versus non-Whites because separate analyses for Hispanics and Blacks generated several cells with expected frequencies of less than 5, invalidating the results. Thus, the difference in uses of force for Whites and non-Whites may still be the result of chance. Considering the small number of uses, chance is the likely explanation.

Arrests

Figure Six depicts arrest data by race and ethnicity for the current period. A total of 66 arrests were made in the stops selected for review. Of these 66 arrests, 45.5% were White drivers, 40.9% were Black drivers and 13.6% were Hispanic drivers. Thus, it appears that of the drivers stopped for each race and ethnicity, White drivers comprise the highest proportion of those arrested.

The *Chi-Square* analyses reveal that these differences are **not** statistically different (Appendix Three, Table Four). *Chi*-Square analysis of arrest versus no arrest for White versus non-White drivers yielded a *p* value of 0.635. However, two cells in this analysis had expected frequencies of less than 5, meaning that these results are not valid.

Figure Six: Arrest Data by Race/Ethnicity of Driver
3rd OLEPS Reporting Period



Overall, these results suggest that a similar proportion of each racial and ethnic group were arrested in stops made by NJSP. Any variation in the numbers or percentages of arrests are possibly due to chance.

Additional Analyses

In order to provide evidence of discrimination, the specifics of stops need to be explored. For example, why are drivers being pulled over? Are troopers making more consent requests on stops generated from reasons associated with high or low levels of discretion? The key to identifying evidence of discrimination lies in the examination of how troopers use discretion.

To determine whether consent requests and canine deployments are related to driver race/ethnicity or are attributable to other factors requires additional analyses. Analyses have been added to more

fully explore discretionary decision points that may have been affected by Peña-Flores or changes in NJSP procedures that resulted from the decision.

Disparity in consent requests may result from either differential treatment or circumstantial differences. A number of aspects that may affect the outcome of a stop, such as consent requests are explored in the next section to further understand the possible causes of the observed disparity.

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

The Role of Discretion

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

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

Identify routine police tasks subject to potential abuse.
(e.g., arrest, search and seizure, and use of force.)

These activities are the outcome variables. To the extent that individual drivers are treated differently, any disparity in treatment will come within or among these variables. For example, if White drivers were treated more leniently, we would see lower levels of some outcomes like arrests.

Table Four: Violations at each Level of Discretion[8]

High Discretion	Median Discretion	Low Discretion
Equipment Violation	Aggressive Driving	Be on the Look Out
Expired Registration	Failure to Maintain Lane	Confidential Informant
Failure to Signal Lane Change	Motorist Aid	Criminal Activity
Following too Closely	Speeding 10-14	Directed Stop
Failure to Keep Right	Unsafe Lane Change	Fictitious Plates
Improper U turn		Motor Vehicle Accident
MDT Suspended Registration		Reckless Driving
Obstructed View		Speeding >14
Rest Area Overstay		Suspected DUI
Seatbelt		Warrants
Speeding <10		

[8] The same list appeared as Annex One in the sixteenth and seventeenth IMT reports, and as Appendix Three in the 1st & 2nd OLEPS Reports. This categorization represents collaboration between the independent monitors and the NJSP. Differences in opinion may remain, but this represents the best available framework. Further work in the area may require revisions of these categorizations.

Identify and define the levels of discretion associated with each of the critical police 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 the reason for the stop. These events are considered input variables. 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. Low discretion activities are those that will almost always result in a law enforcement response if they are observed by the police. Median discretion activities are those that will usually result in a law enforcement response if they are observed by the police. High discretion violations **will less often** result in a law enforcement response if they are observed by the police. Table Four presents a categorical list of reasons for law enforcement stops.

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

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

Define abuse of discretion.

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

Test for abuse of discretion.

If there is no abuse of discretion, there would be no 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 after controlling for intervening variables (lack of identification, proof of ownership, etc.)

Discretionary differences among critical incidents are presented in the tables that follow. Each table presents the number of drivers of each race and ethnicity that received the outcome of interest and the level of discretion that was used. The mean column indicates the arithmetic average of the stops for each racial/ethnic group. Since low discretion is assigned a value of three, higher scores actually indicate the use of less discretion. High discretion stops are assigned a value of one. A mean closer to one indicates that on average, more stops are due to highly discretionary violations for that racial/ethnic group. When this mean is used in conjunction with the *Chi-Square* statistics, which shows whether the differences are due to chance, the existence and direction of potential bias can be determined.

Racial and ethnic differences in levels of discretion for all motor vehicle stops are examined in Table Five. As can be seen, more stops fall under the category of High Discretion (38) than Median discretion (33) and Low Discretion (24). Examining the means for each group, Hispanics have the highest mean value, 2.15 and Black drivers have the lowest, 1.63. This suggests that Hispanics are stopped for violations that more often fall under Median Discretion than High or Low Discretion while Blacks drivers appear to have more High Discretion stops. The mean for White drivers is 1.95, very

close to the value of 2 which indicates Median Discretion. Overall then, these numbers would suggest that Black drivers are the recipients of more discretionary stops than Whites and Hispanics.

Table Five: All Stops by Race/Ethnicity of Driver and Level of Discretion
3rd OLEPS Reporting Period

Race/Ethnicity	High Discretion (1)	Median Discretion (2)	Low Discretion (3)	Mean
White	13	20	11	1.95
Black	22	8	8	1.63
Hispanic	3	5	5	2.15
Total	38	33	24	1.85

Examining the *Chi-Square* (Appendix Three, Table Five) results for White and non-White drivers indicates that the value is not significant at the .05 level. The group differences observed, then, do not necessarily result from trooper behavior, but may result from chance. This does not mean that officers are abusing their discretion, but may simply reflect the fact that violations categorized as low discretion occur less frequently than those identified as high discretion. For example, of all drivers on the highway, a higher number are likely to be driving less than 10 M.P.H. (high discretion) over the speed limit than those driving 14 or more M.P.H. above the speed limit (low discretion).

Delving further into racial and ethnic differences, OLEPS analyzed disparity in consent searches and canine deployments. First, exploring consent requests, Table Six depicts the racial and ethnic differences of consent search requests based on levels of discretion. Looking at the totals for each level of discretion, more stops are made for highly discretionary violations (33) than for low discretion violations (17).

Table Six: Consent Request by Race/Ethnicity of Driver and Level of Discretion
3rd OLEPS Reporting Period

Race/Ethnicity	High Discretion Stops (1)	Median Discretion Stops (2)	Low Discretion Stops (3)	Mean
White	10	16	6	1.88
Black	20	7	6	1.58
Hispanic	3	5	5	2.15
Total	33	28	17	1.79

In the 1st OLEPS reporting period, there was a shift toward lower discretionary reasons for stops as indicated by an increase in the mean for the sample (from 2.09 in the 17th to 2.22 in the 1st), and at least a small increase in the mean for each race/ethnicity group of drivers. The overall mean is lower for this reporting period (1.79) as compared to the previous (2.08). This indicates an overall trend of consent requests resulting from violations with higher discretion for this period. For Black and White

drivers, the mean has decreased since the last period (from 2.10 to 1.58 and 2.07 to 1.88, respectively), moving closer to high discretion. However, Hispanic drivers' mean increased this period, closer to median discretion (from 1.98 to 2.15).

The results of the *Chi-Square* analysis are not significant (Appendix Three, Table Six). The test statistic is not significant at the 0.05 level. The results depicted in Table Six have more than a 5% likelihood of being due to chance. Even if the mean value indicates that the average stop for one group is more likely to be high discretion, this could be the result of chance encounters. Table Six then, indicates that there are no significant differences in consent requests based on level of discretion and race/ethnicity.

Table Seven: Canine Deployments by Race/Ethnicity of Driver and Level of Discretion[9]

3rd OLEPS Reporting Period

Race/Ethnicity	High Discretion Stops (1)	Median Discretion Stops (2)	Low Discretion Stops (3)	Mean
White	3	1	1	1.60
Black	5	1	1	1.43
Hispanic	1	1	2	2.25
Total	9	3	4	1.69

Whether discretion played a role in racial and ethnic group differences in canine deployments was also explored. These results are presented in Table Seven. The drivers in the table include all drivers who were stopped and had a canine deployed during their stops. These results are presented for consistency with the previous reporting period only; the number of canine deployments is very low for statistical analyses to be meaningful.

The overall mean of 1.69 indicates that canine deployments fall between high discretion and median discretion stops. Looking at the totals for each level of discretion, canine deployments occur most often in stops with high levels of discretion. Among those with canine deployments during highly discretionary stops, Blacks have the largest number of deployments (five), followed by Whites (three), and then Hispanics (one). Looking at the mean values for each group, Hispanics have the highest mean value overall, which is 2.25. The mean for Black drivers was 1.43, lower than the mean for Whites which was 1.60. The lower mean for Black drivers suggests that canines are used in stops with more discretion.

However, the *Chi-Square* (Appendix Three, Table Seven) statistics, assessed for White and non-White drivers, indicate that this difference is **not** statistically significant because the results are not valid. What this really indicates is that there are not enough canine deployments in this period to

[9] OLEPS included this table since the NJSP remained under the Consent Decree for at least a portion of this reporting period. However, in OLEPS opinion, this table may be misleading. The reasons a trooper might choose to deploy a canine are not generally related to the reason the vehicle was stopped. Rather, a canine deployment results from interaction between the trooper and driver/passengers during the stop.

statistically assess group differences. Thus, no inferences about racial and ethnic differences in canine deployments should be drawn from Table Seven. The distribution is, however, similar to the distribution for the previous reporting period. The main difference is that Black drivers have canines deployed in more discretionary stops than the previous period (mean value of 1.43 here versus 1.8 in the previous period). This finding is a return to the patterns observed in earlier reporting periods (i.e., OLEPS 1st reporting period).

The results for Tables Five through Seven indicate how discretion has impacted racial and ethnic differences in stops, consent requests, and canine deployments. Differences for use of force were not examined because of the historic relative infrequency with which force is employed. Overall, these tables indicate that generally, Hispanic drivers are stopped, searched, and receive canine deployments in conjunction with violations involving low discretion while Blacks and Whites receive such outcomes based on more Median and slightly High discretion.

Reasons for Arrests

There are instances where troopers have little discretion in arrests. For example, troopers are required to arrest when motorists have outstanding warrants. Other incidents may be rooted in probable cause, which involves more discretion than a warrant, but is still limited in the use of trooper discretion. The racial/ethnic distribution of arrests across these limited discretion reasons is presented below. As will be shown, the majority of arrests involve little discretion on the part of the trooper.

Table Eight: Reason for Arrest by Race/Ethnicity of Driver
3rd OLEPS Reporting Period

Race/ Ethnicity	Arrests	Warrant Arrests (% of arrests)	Probable Cause Arrests (% of arrests)	Warrant & Probable Cause (% of arrests)	No Charges Filed (% of arrests)
White	30	1 (3.3)	22 (73.3)	7 (23.3)	3 (10.0)
Black	27	12 (44.4)	9 (33.3)	6 (22.2)	2 (7.4)
Hispanic	9	3 (33.3)	6 (66.7)	0 (0.0)	1 (11.1)
Total	66	16 (24.2)	37 (56.1)	13 (19.7)	6 (9.0)

Even if there were significant racial and ethnic differences in the levels of arrests made, not all arrests reflect trooper discretion. There are a number of reasons for which a trooper is required to arrest an individual. Table Eight indicates the reasons for arrests made. As can be seen, for Whites, the reasons for the majority of arrests were based on probable cause. That is, 73.3% of all arrests made in stops with White drivers were due to the trooper having probable cause. Additionally, seven incidents were due to the presence of both probable cause and the presence of a warrant. There was only one instance where an arrest was made because a White driver or their passenger had an

outstanding warrant. For arrests made in stops with Black drivers, the most common reason for arrests were based on warrants. For Black drivers, 44.4% of all arrests were due to outstanding warrants. These situations require troopers to arrest; there is no room for discretion. Probable cause arrests made up 33.3% of arrests and instances in which a trooper had probable cause in addition to warrant made up 22.2% of arrests. Finally, for arrests made in stops with Hispanic drivers, probable cause based arrests comprised 66.7% of all arrests and 33.3% of arrests were due to outstanding warrants. It appears then, that arrests of Black drivers are rooted in the presence of a warrant.

In incidents where a vehicle search was conducted and probable cause dissipated, no charges were lodged, and the vehicle occupants were able to leave the scene. Instances in which no charges were filed are those where an individual was unarrested either at the scene of the stop or at the station. These incidents comprise 9% of all arrests. White drivers had the highest number of instances in which no charges were filed. There were 3 stops where an unarrest occurred in stops with a White driver, two for stops with a Black driver, and one for stops with a Hispanic driver. The difference between unarrests of White and non-White drivers was not statistically significant (due to the small number)[10]. These data suggest that in the second half of 2009, sampled White drivers were more likely to be arrested on probable cause, not on warrants, and if arrested on probable cause to have charges filed. However, these differences could result from chance encounters.

Taking these results into consideration, the question becomes "How did NJSP troopers make decisions in the *discretionary aspects* of their interactions with drivers?"

Probable Cause Arrests

Prior to Peña-Flores, NJSP could search a vehicle prior to arrest if probable cause was present. The change in NJSP procedures following Peña-Flores required immediate arrest with probable cause. The trooper then needed to obtain a search warrant or ask for consent to search the vehicle. In no incidents during this period were search warrants applied for.

Further examining incidents of probable cause arrest can indicate whether the potential for disparity exists. There were 13 arrests made on the basis of probable cause and at least one outstanding warrant. Compared to the previous reporting period, this number is obviously smaller but does reflect a larger proportion of arrests (19.6% in this period versus 13.4% in the previous period.) These instances mean that although probable cause was a reason for the arrest, the overarching reason was an outstanding warrant, which drastically limits a trooper's discretion. Of incidents with PC and a Warrant, seven drivers were White and six were Black.

Again, there are no statistically significant differences by race and ethnicity in terms of arrest. However, the number of warrant only arrests comprise about a quarter of all arrests, consistent with the 1st OLEPS reporting period. In the 2nd reporting period, the number of warrant based arrests was less than 3% of all arrests. This difference from the previous period may be the result of a higher proportion of arrests that were based on both PC and warrants. Statistically different arrest patterns by race and ethnicity are not found. While arrest rates *are* different, it appears that they are different based on the *nature* of the interaction and the criminal offenses committed in the troopers' presence, not based on *race.* Nonetheless, arrests of Whites do appear to be more likely to occur in

[10] Due to the small number of unarrests, these *Chi-Square* analysis are not presented in Appendix Three, as they are not valid.

situations where a trooper has more discretion (i.e., probable cause) while arrests of Blacks are more likely to occur in situations with less discretion (i.e., warrants). However, any observed differences are not likely a result of disparate treatment, rather they result from chance. Due to the small number of Hispanics in the overall sample, the results regarding their treatment are not necessarily indicative of Hispanic drivers in New Jersey.

Variation among Reasonable Articulable Suspicion

Since RAS is a less strict standard than probable cause, differences in RAS consent requests are examined. The less stringent standard of RAS may allow for disparate treatment of different groups simply because the standard is more subjective.

To further explore racial and ethnic differences in consent requests, the reasons for the requests, when based on RAS were examined. These reasons are classified as intangible, tangible, and probative. Intangible reasons are observations such as nervousness, failure to make eye contact, uncertainty in 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 most incidents, there were multiple types of reasons for requesting consent; however, probative reasons are recorded if given, regardless of other reasons stated. If the table lists an intangible reason, those are instances in which only intangible reasons were given. If a stop had tangible reasons articulated and probative reasons, these are recorded as probative. Thus, the higher numbers for probative reasons do not reflect that *only* probative reasons were given but rather that all incidents with tangible reasons articulated also had probative reasons given and are displayed in the probative column only.

Table Nine: Reason for RAS Consent Requests by Race/Ethnicity if Driver
3rd OLEPS Reporting Period

Race/Ethnicity	Intangible (1)	Tangible (2)	Probative (3)	Mean
White	2	1	26	2.83
Black	2	0	27	2.12
Hispanic	0	0	10	3.00
Total	4	1	63	2.87

Consistent with previous reporting periods, the most common reason for RAS consent requests are probative reasons. In 63 instances of RAS requests, there was at least one probative reason cited. Less likely, are requests based on tangible (one) and intangible (four) reasons. This pattern mirrors that of the previous reporting period. Examining the mean values shows that any sort of bias favors Hispanic drivers, as they have the highest mean (3.00) while Black drivers have the lowest mean (2.12).

The *Chi-Square* (Appendix Three, Table Eight) analysis determines whether the racial and ethnic differences (White versus non-White) in reasons for RAS requests are statistically significant. The

results indicate that any observed differences are not significant and not valid. There is not a large amount of variation among the reasons. Overwhelmingly, probative reasons are cited. The instances where only intangible or tangible reasons are cited are so few, that there are not discernable differences among reasons based on race and ethnicity.

Appropriateness

Consent requests, based in either RAS or PC, may be deemed appropriate or inappropriate. Appropriate requests met all requirements of the Consent Decree while inappropriate requests do *not* meet Consent Decree requirements. It is possible that racial and ethnic disparities may arise in the examination of which requests were deemed appropriate or not. A significant racial or ethnic difference in the inappropriateness of consent requests could be evidence of disparity or potential discrimination.

Table Ten depicts analyses of the *outcome* of consent requests, by race and ethnicity. However, examining the Table indicates that there is very little variation among outcomes and among groups. Over 96% of consent requests were appropriate; only three requests were inappropriate. As such, the mean values for each group are nearly identical (1.97 for White and Black drivers and 1.92 for Hispanic drivers). The *Chi-Square* analysis did not yield a significant statistic (Appendix Three, Table Nine). This means that any group differences (White versus non-White) observed are likely due to chance.

Table Ten: Appropriateness of Consent Request by Race/Ethnicity of Driver
3rd OLEPS Reporting Period

Race/Ethnicity	Inappropriate (1)	Appropriate (2)	Mean
White	1	31	1.97
Black	1	32	1.97
Hispanic	1	12	1.92
Total	3	75	1.96

Day versus Night Stops

As a final check on the varying levels of discretion exercised by NJSP personnel, a review of day versus night stop data for consent requests would be appropriate. If troopers are abusing their discretion by singling out non-White drivers, one would expect a higher level of discretionary activity during daylight hours, when troopers could more easily determine the race or ethnicity of drivers *prior* to executing the stop.

There were a total of 44 stops made during the day and a total of 51 stops made at night. Of these day stops, 39 resulted in a consent request (Table Eleven). Of the evening stops, 39 resulted in a consent request. Examining the totals, it appears that for both day and night stops, there are more high discretion violations that result in a consent search (16 and 17) than there are median or low

discretion violations. The mean values suggest slightly more discretionary enforcement resulting in consent searches that occur at night than in the day (1.74 compared to 1.85).

Looking at the racial and ethnic differences, the mean values for day indicate a bias in favor of Hispanics (2.50) and against Black drivers (1.47). White drivers have a mean value of 2.00. Thus, the data in this table suggest that Black drivers receive consent searches for highly discretionary reasons during the day more than the other racial and ethnic groups. However, the *Chi-Square* analysis indicates that this difference is not statistically significant (Appendix Three, Table Ten). These results then, have more than a 5% likelihood that they are due to chance. This means that this disparity cannot be taken as evidence of any sort of misuse of discretion or as evidence of discrimination.

Table Eleven:
Day v. Night Consent Requests by Reason for the Stop,
3rd OLEPS Reporting Period

Part 1: Day Stops

Race/Ethnicity	High Discretion (1)	Median Discretion (2)	Low Discretion (3)	Mean
White	3	6	3	2.00
Black	10	4	4	1.47
Hispanic	3	3	3	2.50
Total	16	13	10	1.85

Part 2: Night Stops

Race/Ethnicity	High Discretion (1)	Median Discretion (2)	Low Discretion (3)	Mean
White	7	10	3	1.80
Black	10	3	2	1.47
Hispanic	0	2	2	2.50
Total	17	15	7	1.74

During Night stops, a slightly different pattern is revealed. Notably, the mean for White drivers has decreased. This suggests that Night stops resulting in a consent search for White drivers are more discretionary than day stops. Again though, Black drivers have the lowest mean value and Hispanic drivers have the highest (1.47 and 2.50, respectively). Again, the *Chi-Square* analysis for these group differences indicates non-significant results (Appendix Three, Table Ten). These patterns may likely be due to chance.

While it does appear that Black drivers are subject to consent searches as the result of more discretionary violations during both the day and night, this finding is **not** significant. What Table Eleven ultimately reveals is that there is not a statistically significant difference among the number of consent searches by race and ethnicity for day or night. Evidence of discrimination might have been found had there been a significant and disproportionate number of highly discretionary day consent searches for minority drivers.

Summary of Task 26

The data examined to assess the compliance of the NJSP with Task 26, ultimately reveal no consistent evidence of race and ethnicity playing a role in motor vehicle stop related police activities. Significant group differences were found for the number of consent requests between White drivers and non-White drivers. This means that the fact that White drivers were asked for consent to search 32 times is statistically different than the 46 instances where non-White drivers were asked.

OLEPS cannot conclude that this significant difference constitutes discrimination for several reasons. First, the sample size used in this reporting period is much smaller than is typical. While significance may be difficult to establish in small samples, the possibility remains that the sample utilized may not be completely representative of *all* stops, especially in terms of race and ethnicity. Further, this is only a sample of stops in which a consent search was based on RAS. It is possible that a full sample of consent searches based on probable cause might reveal a different pattern. To more fully assess whether disparate treatment is at work in this sample, which is primarily RAS consent requests, these results need to be compared to differences among racial and ethnic groups for PC based searches. If there is no difference for PC based searches, then perhaps the results here are indicative of the use of race and ethnicity in terms of consent searches. Future monitoring reports, unlike this one, will examine racial and ethnic differences for all consent searches (both PC and RAS). This will help explain whether the findings of a significant difference in consent searches are due to sample selection or whether they represent a potential larger issue.

Second, significant group differences in the effect of discretion were not observed. Troopers are not using their power of discretion to request searches of minority drivers more than White drivers. Third, the statistical tests employed here do not determine causality. *Chi-Square* analysis can only determine whether a difference is likely due to chance. The test cannot definitively conclude that discriminatory practices caused the differences observed.

The previous reporting period did not find statistical differences among racial and ethnic groups in terms of consent requests while earlier reports did. This third report, then, represents a return to the findings of earlier periods. Overall though, this sample should not be compared with previous periods as this sample primarily represents stops with RAS based consent searches.

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

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.

Assessment

Video reviews of motor vehicle stops resulting in law enforcement procedures were conducted in 93 of 95 motor vehicle stops selected by OLEPS this period. The two tapes not reviewed were those unavailable.

The supervisory review rate for this period is 97.8%. NJSP 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. By policy, initial reviews of critical incidents are conducted by dedicated troop-level reviewers. A total of 78 initial supervisory reviews, or about 82%, were conducted by troop-level sources in the current reporting period. This represents a continued increase in the number of troop-level reviews.

The current period is comprised only of critical incidents, and so reflects compliance with policy stating troop-level reviews are required for critical incidents. Of the troop-level reviews, 55 also received a second troop-level review. Most errors caught by supervisory video review in this reporting period were caught by management review and not by the trooper's first-line supervisor. No reviews in this period were attributed to the enlisted personnel assigned to OLEPS; however, they continue to provide guidance and assistance in the review process.

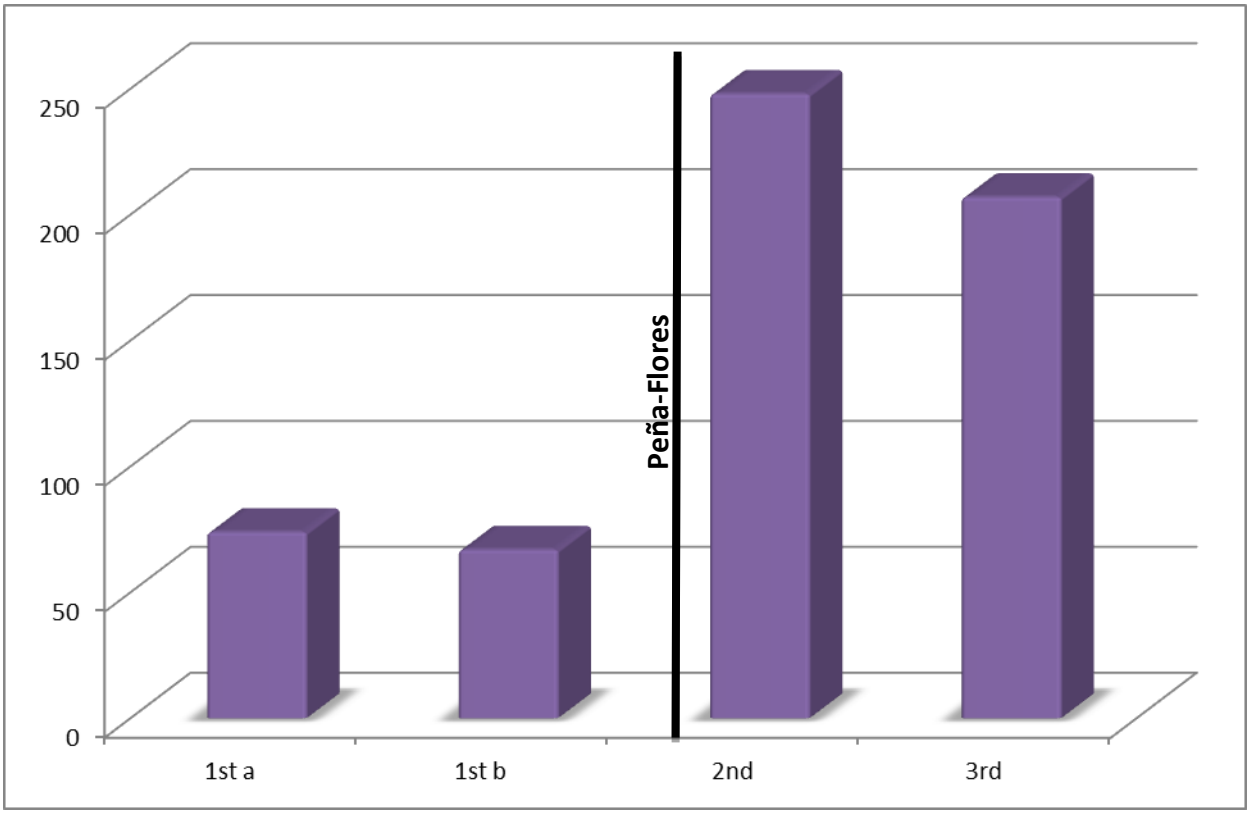
The supervisory review rate yielded 185 events in 58 stops where NJSP personnel committed errors. OLEPS found no errors in the videos that did not receive supervisory review. OLEPS found an additional 16 errors in 11 stops that were not caught by supervisory review of tapes. These 16 errors involved:

- Failure to note MVS and investigation report entry errors (5)
- Failure to note trooper did not properly notify consenter of rights (2)
- Failure to note the absence of RAS in obtaining consent (3)
- Failure to note an issue with consent form (1)
- Failure of supervisor to recognize inappropriate questioning after arrest without a Miranda warning (1)
- Failure to note a lack of RAS for a frisk of a person (1)
- Failure to note a lack of probable cause to search a person (2)
- Failure to notify communication prior to a search (1)

The total number of errors in this reporting period is 203, lower than the previous reporting period. In all, only 11.5% or 11 stops contained errors not caught by supervisory review. Of these 11 stops, 10 are true criticals. Figure Seven depicts the error rates for the last three reporting periods and the current reporting period. In the previous report, OLEPS reviewed a much higher number of tapes than this reporting period. While the current period contains a much smaller sample of tapes, the number of errors remains high.

Figure Seven: Procedural or Constitutional Errors, by Reporting Period[11]

1st through 3rd OLEPS Reporting Periods



Since the sample for this reporting period is comprised solely of events with RAS consent searches, canine deployments, or uses of force, it is possible that the high number of errors is related to the policy changes resulting from Peña-Flores. All 11 stops where OLEPS caught errors included a consent request. These errors were not all made in connection with a consent request, but other aspects of the stop. Thus, about 14.7% of RAS searches had an error caught by OLEPS. Examining errors caught by supervisory review, a much higher percentage of RAS searches had errors caught. Nearly 63.2% of RAS based consent searches (43 of 68) had errors caught by supervisors. Eight out of the 10 PC based searches contained errors caught by NJSP.

[11] The high number of errors noted in the 2nd reporting period are generally procedural in nature and stem from changes pursuant to Peña-Flores.

In examining RAS based consent requests, it was noted that there were six instances where the facts of a situation did not meet the standard of RAS. Only three of these six instances were caught by supervisory review.

Summary of Task 27

Eleven of the 95 stops reviewed contained errors that were not caught and remedied by supervisors prior to the selection of cases for this review period. This results in an error rate of 11.5%, outside of the allowable margin of error. Compliance for Task 27 is defined as greater than 94% by the Decree. The NJSP was placed on warning for this task during the previous monitoring period, and as such are now out of compliance with this task.

A number of the errors not caught by supervisory review were related to report filing by the NJSP rather than affronts to rights of citizens during motor vehicle stops. These errors are easily remedied and caught. Supervisors should strive to review all stop related information more carefully. Checking to ensure that troopers properly fill out reports is a straightforward task. It is obviously understandable that supervisors have more than enough tasks to accomplish, but more attention needs to be paid to ensure that reports are filed correctly. As a result, the overall error rate would drastically improve. Half of all errors not caught related to filing of reports and ensuring that troopers maintained proper communication and recording of stops.

While OLEPS recognizes that the data reflect motor vehicle stops conducted nearly three years ago, the necessity of supervisory reviews has remained an important part of NJSP self-assessment. We expect to see improvements as OLEPS analyzes more recent stop data.

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

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).

Assessment

As noted earlier, there were a total of 78 consent search requests during this reporting period, 68 of which were based on RAS. Only the RAS based consent searches are relevant to this task. Table Twelve presents the racial and ethnic breakdown of RAS consent requests.

Table Twelve: Consent Request Activity by Race/Ethnicity of Drivers
3rd OLEPS Reporting Period

Race/ Ethnicity	RAS Consent Requests	PC Consent Requests	Total
White	29 (65.9)	3 (6.8)	32 (72.7)
Black	29 (76.3)	4 (13.7)	33 (90.1)
Hispanic	10 (76.9)	3 (23.1)	13 (100.0)
Total	68 (71.6)	10 (10.5)	78 (82.1)

RAS consent searches accounted for 82.10% of activity in the sampled stops during this reporting period. This percentage is slightly lower than the previous reporting period, where consent searches comprised 94.4% of all incidents selected for review. Examining the racial disparity of consent search requests, there were 33 requests of Black drivers and 32 of White drivers. Hispanic drivers comprised the smallest portion of requests, with only 13 requests. In terms of RAS based search requests, White and Black drivers have the same number of requests, but the percentage of Black drivers subject to

RAS based consent requests is higher (76.32 compared to 65.91) because there are fewer Black drivers in the selected sample.

Errors in RAS Consent Requests

There were a total of 78 law enforcement actions involving consent requests (both PC & RAS) during the current reporting period. Seventeen of these consent requests were denied.

In order to assess compliance with Task 28, the 68 RAS based consent search requests are reviewed. Specifically, the errors made in regard to these searches are reviewed. The Task lays out the requirements and conditions for consent searches requested and troopers must adhere to all of these guidelines.

In all, five stops involving a consent request contained errors that were not caught by supervisory review. First, the absence of RAS in requesting consent was a relatively rare error. In all, only six stops were subject to this error, three of which were caught by supervisory review. Thus, only 4.4% of RAS consent requests were incorrectly identified as meeting the standard of RAS.

Per the Act, troopers are required to properly and completely fill out a consent request form when they make a request to search. Errors pertaining to the completion of a consent form were not a common issue in this reporting period. Of the 68 consent searches based on RAS, only two contained issues of incomplete or missing consent forms. Only one of these errors was not caught by a supervisory review.

There were three stops in which errors were noted regarding notification of the right to be present; two of these errors were caught.

Thus, there are a total of five errors in five stops that were not caught by a supervisory review. This results in an error rate of 7.3%, failing to meet the 94% compliance threshold. The NJSP are placed on warning for this task and should continue to carefully review all consent requests to ensure that troopers are appropriately applying the standard of RAS and adhering to all requirements.

Duration of Stops

In the Fifteenth Report, published by the independent monitors, concern was expressed regarding the length of motor vehicle stops. The independent monitors noted issues where troopers were extending stops in order to gather enough evidence/suspicion to ask for consent to search. The independent monitors then began examining the length of all motor vehicle stops, expecting to see longer stops in those where an RAS based consent search was conducted. The appropriate way to assess this would be to examine the duration of the stop prior to requesting consent. Due to data limitations, the results examined here are presented as they were in previous reports, by examining the total length of the stop.

As seen in Table Thirteen, the average length of all stops for this reporting period was about 81 minutes. The longest stop, at 370 minutes, involved a multiple car accident and the use of physical force. The average length of stops for RAS based consent requests was 84.6 minutes while the average length of stop for PC based consent requests was only 80.1 minutes. These averages are

much higher than those for the previous reporting period where PC searches had an average of 49.1 minutes and RAS searches had an average of 83.5 minutes. However, these averages are still lower than those found in the 1st OLEPS reporting period.

Table Thirteen: Average Length (minutes) of Motor Vehicle Stops
3rd OLEPS Reporting Period

	Average Stop Length
All Stops	81.1
All stops with Consent Requests	77.8
RAS Consent Requests	84.6
PC Consent Requests	80.1
Consent Granted	85.9
Consent Denied	77.2
Consent Requests & Canine Deployments	107.8
Consent Granted & Canine Deployed	111.4
Consent Denied & Canine Deployed	103.1

In the previous report, there were no statistically significant differences in the average length of stops based on whether consent was denied, granted, or whether a canine was deployed. In the current reporting period, there are not enough instances of each type of action to determine whether any differences in length of stop are statistically significant. Therefore, *Chi-Square* statistics will not be used here. While there is a difference between the length of stops when consent was granted (85.92 minutes) and when it was denied (77.24 minutes), it can only be said that there is a difference; we cannot conclude that this difference is or is not statistically due to chance.

In all 16 instances of a canine deployment, a consent request was also made. Canine stops with consent requests were much longer than consent requests that did not involve a canine deployment (107.81 minutes compared to 77.89 minutes, respectively). Of the canine deployments, seven occurred in the 17 instances where consent requests were denied by the driver. In these seven instances, the average length of the stop was shorter than in the 10 instances where consent was granted (103.14 compared to 111.49 minutes). This finding is different than the previous reporting period where canine deployments after denied consent requests resulted in longer stops than when consent was granted. The longer stop for a granted request and a canine deployment likely reflects the time it takes to execute a consent search and a canine search.

In the Fifteenth Monitors' Report, longer stop durations were found to be related to issues with identification and ownership. In the current reporting period, identification questions were raised in many more stops with consent requests than reported in the last report (24.3% here and 4.5% in the previous report). Ownership questions were also much higher in this period with 26.92% of consent search stops resulting in this, while only 6.3% of these stops had such questions in the previous period.

OLEPS received anecdotal information that prosecutors or Criminal Investigations Office (CIO) officers often told troopers to ask for consent again after it was denied, rather than to pursue search warrants for instances with probable cause. Requesting a second consent after starting the process of

applying for a warrant, could potentially lead to longer stops. OLEPS found documentation for assistant prosecutors approving second consent requests in only one incident. However, there were only three consent searches conducted at the station following a denial of consent at the scene of the stop. This reflects 17.6% of the 17 incidents in which consent was originally denied. One of these occurred because an occupant offered consent at the station after denying it on the road.

Overall, the length of stops involving consent requests are as expected. Those stops with consent requests are longer than those without. Stops with granted consent requests are longer than those with denied consent requests. The use of canines in conjunction with consent requests increases the length of the stop; granted consent requests with a canine deployment are longer than denied requests with canines.

Duration & Discretion

The Fifteenth Monitors' Report related the length of the stop to the discretion in the initial reason for the stop (moving versus non-moving). In general, as in the previous report, the level of discretion in the initial reason for the stop does not appear related to the length of the stops for events involving consent requests. As seen in Table Fourteen, the mean values do differ; high discretion stops with consent requests have a mean length of 86 minutes, median discretion stops with consent requests have a mean of 81.82, and low discretion stops with consent requests have a mean of 83.82. As expected, it appears that stops with more discretion are longer than those with less discretion. However, we cannot determine statistical differences due to the small number of incidents.

Table Fourteen: Average Length (minutes) of Motor Vehicle Stops
3rd OLEPS Reporting Period

Reason for Stop	All Stops	Consent Requests
High Discretion	79.13	86.00
Median Discretion	72.97	81.82
Low Discretion	95.42	83.82
All Stops	81.11	84.02

Summary of Task 28

The NJSP is placed on warning for Task 28. While supervisory review caught a number of errors relating to RAS based searches, supervisors missed several errors relating to the standard of RAS and reporting requirements for consent requests. NJSP should place greater emphasis on the review of RAS consent searches.

Additionally, the length of stops with RAS based consent requests appears appropriate and in line with the length for all stops. While the average stop length increased for this reporting period compared to the last, this is likely the result of the sample. Again, this sample is comprised primarily of RAS based consent requests. The longer duration for these stops is the result of policy changes pursuant to Peña-Flores.

Task 29a: Recording Requirements for Motor Vehicle Stops

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;
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.

Assessment

Effective policies and forms requiring compliance with the reporting requirements of this task have been written, disseminated and implemented into the NJSP training process. Use of the MVSR was monitored for 95 incidents involving a post-stop law enforcement activity of interest to the Decree. All required information, as stipulated by the task above was present. Use of force, deployment of canines and non-consensual searches received special attention from OLEPS.

Canine Deployments

The NJSP deployed canine units 16 times during the reporting period or in 16.84% of the sampled incidents. This percentage is much higher than the percentage for the previous reporting period (5.4%) but is due to the fewer number of stops in the entire sample. The actual number of stops with a canine deployment is roughly the same, 16 here and 17 in the previous reporting period.

The racial/ethnic breakdown of canine deployments were presented in Task 26 (Figure Four) and revealed that non-White drivers are those subject to canine deployments most frequently.

The canine deployments were all recorded and conducted appropriately. As such, the NJSP is in compliance for this task.

Use of Force

NJSP personnel reported using force 17 times during this period, similar to the number of uses in the previous period. This number translates into a use of force in 17.8% of sampled incidents. There were six uses of physical force, two uses of chemical force, one incident of mechanical and chemical force, one instance in which mechanical and physical force were used, four incidents in which both chemical force and physical force were used, and three incidents in which mechanical, chemical and physical force were used.

Table Fifteen: Uses of Force by Type of Force
3rd OLEPS Reporting Period

Type of Force	Number of Stops
Physical	6
Chemical	2
Mechanical & Chemical	1
Mechanical & Physical	1
Chemical & Physical	4
Mechanical, Chemical, & Physical	3
Total	**17**

The racial/ethnic breakdown of uses of force were presented in Task 26 (Table 7) and revealed that White drivers are those subject to force most frequently.

OLEPS reviewed the reports for use of force by personnel from the NJSP and found no errors with the reporting process.[12] When confirmed by tape review, the use of force in all instances was deemed appropriate and appropriately reported.

In the previous reporting period, the NJSP were placed on warning for the use of force portion of this task. The lack of errors found relating to the use of force place the NJSP back into compliance.

[12] 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.

However, the NJSP should still exercise caution in their handling of use of force incidents. A single error could place the NJSP out of compliance because there are so few instances of force in a given reporting period.

Non-Consensual Searches: Vehicles

Non-consensual search was the term used by the independent monitors. The actions included are: vehicle frisks, plain view seizures, searches for ownership, and weapons frisk. OLEPS is aware that the events included in this category are not technically searches, but use this terminology to remain consistent with previous reports.

Table Sixteen: Reasons for Non-Consensual Searches of Vehicles by Race/Ethnicity of Driver[13]
3rd OLEPS Reporting Period

Race/ Ethnicity	Number of Drivers (%)	Total Non-Consensual Vehicle Searches (% of Drivers)	Probable Cause (% of Total)	Proof of Ownership (% of Total)
White	44 (46.3)	2 (4.54)	1 (50.0)	1 (50.0)
Black	38 (40.0)	4 (10.53)	3 (75.0)	1 (25.0)
Hispanic	13 (13.7)	0 (0)	0 (0)	0 (0)
Total	95 (100.0)	6 (6.32)	4 (66.67)	2 (33.33)

Since non-consensual searches have yet to be discussed, Table Fifteen depicts the numbers of and reasons for non-consensual searches of vehicles. There were only six non-consensual vehicle searches conducted during this reporting period. Of these, four were conducted in incidents with Black drivers and two were conducted in instances with White drivers. This racial/ethnic distribution does not match expectations, as there are more stops with White drivers. The reasons for these searches need to be examined before concluding any sort of disparate treatment. Table Fifteen shows that while there may be a disproportionate number of non-consensual searches involving Black drivers, they are predominantly based in probable cause. According to OLEPS' review, these searches then, are based in proper standards.

There were several errors made in the reasoning for non-consensual searches. Four non-consensual vehicle searches were indicated to be based on probable cause, two were searches for proof of

[13] In the previous report, columns for Plain view and Other Reasons for non-consensual vehicle searches were included. There were no searches in this reporting period that fit these categories, and so they are not included in Table Sixteen.

ownership. Of the four non-consensual searches conducted on Black drivers, 3 were listed as resulting from probable cause. However, review of the stop indicates that only 2 were actually based on probable cause; one was erroneously listed as probable cause. This error was caught by supervisory review. All of these searches were recorded properly and those that required the trooper to notify communication did so (i.e., not searches for proof of ownership). The NJSP is in compliance with this task.

Non-Consensual Searches: Persons

This reporting period contained no non-consensual searches of persons.

Summary of Task 29a

The NJSP is in compliance for this task. Supervisory review should continue to ensure that troopers are properly recording motor vehicle stops and related activity.

Task 29b: Expeditious Implementation of Motor Vehicle Stop Criteria

> *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.*

Assessment

The review of NJSP policies, forms, training, records systems, data entry systems, and CAD processes indicates that the NJSP is 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 MVSRs, associated documentation, and systems to facilitate that review, have been completed.

The records reviewed by OLEPS included the following:

- names of drivers subjected to post-stop law enforcement procedures of interest to the Decree (searches, vehicle exits, frisks, canine deployments, seizures of contraband, arrests, and uses of force)
- race of the individual subjected to a post-stop law enforcement procedure of interest to the Decree
- CAD incident number
- date of the stop, time of the stop, time the stop cleared

- reason for the stop when the incident began as a stop
- gender and race of the driver
- whether a summons or warning was issued (and the category of the violation)

The data analyzed for this reporting period indicated that the procedures outlined in this task are in place and have been since the NJSP was deemed in compliance with this task in the Second Monitoring period (September 2000).

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

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.

Assessment

Forms to support execution of Tasks 31-33 have been developed and disseminated. The NJSP have 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 substantially improved the level of reporting and compliance with procedures. This reporting period is the second full period since the implementation of a new CAD system, which eliminated the need for manual patrol logs.

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

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.

Assessment

During this reporting period, OLEPS (as OSPA) reviewed and approved all protocols and forms provided by the NJSP, and were notified in advance of planned changes to those protocols and forms.

No issues were noted relevant to this task for this reporting period. Protocols for changing search procedures following the Peña-Flores decision were reviewed by OLEPS.

Task 30: Communications Center Call-Ins

30. Communication Center Call-Ins 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.

Assessment

Compliance with Tasks 30-30d 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%.

NJSP Standing Operating Procedures (SOP) relating to the call-in of motor vehicle stops meet the requirements of the Consent Decree. In addition, training regarding motor vehicle stops supports the requirements of the SOP. Revisions to NJSP SOPs, implemented several reporting periods ago, have formed the basis for supervisory review and control of these processes.

Compliance with this task was assessed using both video, and paper documentation. All data required by paragraphs 29a, are recorded within the CAD records for vehicle stops, or within associated MVSRs.

Of the 95 incidents reviewed by OLEPS, 36 stops included an error in call-ins or documentation of a motor vehicle stop. Supervisors caught all stops with errors relating to call-ins but missed 5 stops (6 errors) relating to documentation of the stop (i.e., MVSRs or Investigation reports). An error rate of 5 incidents out of 95 is 5.2%. The NJSP is in compliance for this task since the error rate is within the revised parameter of greater than 90%.

Task 30a: Notice of Call-Ins at Beginning of Stop

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.

Assessment

The error rate discussed above includes any errors in call-ins at the beginning of a stop. Supervisory review caught 63 errors in 14 incidents where call-ins were not conducted for the initiation of a stop, identification of the number of occupants, race of occupants, and reason for the stop and reason for the stop[14]. Since, there were no uncaught errors, the NJSP is in compliance with this task.

[14] The reason for stop is noted as "moving" or "non-moving," different from the reason for stop categories discussed in Task 26 (The Role of Discretion) 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 last 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 NJSP to address these discrepancies.

Task 30b: Notice Prior to Search

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.

Assessment

This section applies only to non-consensual probable cause and consent searches. All non-consensual vehicle searches were called into the NJSP communication center prior to the initiation of the search. Of all the consent searches, three were not called in to the NJSP communication center prior to the initiation of the search. Supervisors noted and corrected two of these omissions. A compliance rate of 99.0% is within the >90% established as the criterion for this task.

Task 30c: Call-Ins Upon Completion of Stop

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 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.

Assessment

NJSP SOPs relating to the call-in of motor vehicle stops meet the requirements of the 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 95 stops reviewed, two stops did not notify communication of the completion of the stop. Supervisors caught and corrected these errors prior to OLEPS' review. The NJSP is in compliance with this task.

Task 30d: CAD Incident Number Notification

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.

Assessment

NJSP SOPs 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.

All stops reviewed were assigned an appropriate CAD incident number. The new CAD System, implemented during the 1st OLEPS reporting period automatically assigns CAD incident numbers to motor vehicle stops. Thus, all 95 stops reviewed had the required CAD number. A sample of CAD records was reviewed electronically, and all were found to have CAD Incident Numbers.

Task 31: Reporting Consent to Search Requests

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.

Assessment

NJSP SOP F31, which describes the procedures for a consent search meets the requirements of the Consent Decree. The SOP requires completion of the consent form and includes examples of the form, which is available in both English and Spanish. Review of motor vehicles stops indicates that a consent form was filled out in all 78 searches. However, in four stops the consent form was not completed properly. Only one of these events was overlooked by a supervisory review and one not subject to supervisory review as it occurred at the station. This resulted in an error rate of 1.28%, which is within the acceptable margin of 90%. The NJSP is in compliance with this task.

Task 31a-c: Recording Consent to Search Requests

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.

Assessment

OLEPS reviewed 78 consent request activities recorded during motor vehicle stops. Six requests were not recorded and six searches were not recorded. Supervisory review corrected all of these errors. Thus, the NJSP is within the allowable margin of 90% for this task.

Task 32: Recording and Reporting of Non-Consensual Searches

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;
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.

Assessment

NJSP SOPs reasonably address the processes of making and recording non-consensual searches. Training provided to road personnel reasonably prepares them to complete these processes in conformance to the requirements of this task.

All non-consensual searches were recorded and reported according to the requirements set forth by NJSP SOPs and this task. The NJSP is in compliance with this task.

Task 33: Recording and Reporting of Deployment of Drug Detection Canines

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.

Assessment

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

Members of OLEPS examined 16 canine deployments by the NJSP, all were conducted appropriately and recorded in accordance with this task. The NJSP is in compliance with this task.

Task 34a: Use of Mobile Video Recording Equipment

34. 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.

Assessment

OLEPS found evidence of video tape recordings, or documentation of in-field mechanical problems, for all 95 events selected for review this period. The NJSP remain in compliance with this task.

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

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.

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. OLEPS could not review a video recording for two stops; one tape was not activated and one could not be located by NJSP. These reviews were based on paper reviews only.

The NJSP have made strides in ensuring that stops are properly recorded, most notably reducing issues where the equipment was out of tape. However, various MVR malfunctions were noted in a number of incidents reviewed by OLEPS. 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. Four stops contained a video malfunction, seven contained an audio recording malfunction, 11 stops had video difficulty, and 30 had audio difficulties. These incidents likely reflect the advanced age of the video technology and difficulties in maintaining the equipment, rather than trooper error. However, the high number of incidents with audio difficulty may suggest the need for vigilance in keeping equipment up to date and in working order. The NJSP's implementation of new digital video systems will likely reduce these numbers.

OLEPS noted 13 events 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. There were also 21 instances where audio and/or video were not available for the entirety of the stop. Though these errors were caught by supervisory review, it remains that roughly 22% of the tapes reviewed had some sort of malfunction in the recording equipment.

Since all recording errors were caught by supervisory review, the NJSP have a 100.0% compliance rate for this task.

Task 35: Supervisory Review of Trooper Reports

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.

Assessment

A review of all available electronic records of motor vehicle stops, completed during the reporting period indicated that all selected events had their supporting MVSRs reviewed by supervisory personnel. Of the 95 stops reviewed by OLEPS for this reporting period, all received initial supervisory review within 14 days. Similar to the last reporting period, only about 85% of all stop reports were approved within 14 days.

OLEPS reviewed all completed MVSRs for the 95 selected stops reviewed this period for evidence of reporting or procedural errors. Prior to OLEPS' review, supervisory personnel also reviewed all but two tapes. The supervisory review found 29 errors within 24 stops relating to reporting errors. OLEPS' review noted 4 stops (5 errors) that were not caught by supervisory review. These errors pertained to incomplete/erroneous MVSRs and investigation reports.

A total of 4 events with uncaught errors constitutes an error rate of 4.2%, within the 90% standard for this task.

Task 36: Supervisory Review of MVR Tapes

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.

Assessment

Members of OLEPS reviewed 95 supervisors' MVR review reports and 93 of the tapes reflected in these reviews. Of these 93 stops, only 14 were reviewed by front line supervisors at the station, one by station management (i.e., Lieutenants), and 78 by troop level personnel. Thus, many supervisory corrections noted in this reporting period occurred at the troop level, rather than at the station level. A total of 16 errors were not caught by supervisors among the 95 incidents with MVR reviews. All of these errors were found in stops that were initially reviewed at the Troop level rather than at the station level. The overall error rate for supervisory video review of 16 errors in 11 stops in 95 reviews is 11.5%. This indicates an error rate that is outside of the acceptable range of >90%. This is the second period in which the NJSP have been out of compliance for this task.

The NJSP was placed on warning during the last reporting period and are now deemed out of compliance for this task. OLEPS recommends that the NJSP implement more detail focused reviews of motor vehicle stops and associated reports.

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

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.

Assessment

OLEPS has reviewed course-of-business records of referrals to OPS based on actions or omissions by road personnel. Such referrals have become rarer in recent reporting periods. This is likely due to the levels of routine supervision, which have reduced errors on the part of road personnel. OLEPS noted one incident that should have been referred to OPS during the period, but was not. The NJSP remain in compliance with this task.

Task 38: Periodic Reviews of Referral Decisions

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.

Assessment

Referrals have been made to OPS. Personnel from OLEPS (within the OAG) are aware of the requirement for periodic audits, and have conducted audits of NJSP activities during the last reporting period. OLEPS has an extensive audit process in place, designed to identify and remedy problematic supervisory processes, including problematic referral decisions. Staff from OLEPS routinely audit field supervisory personnel's review of field practice, the actions taken to remedy inappropriate action, and decisions to (or not to) refer trooper behavior to OPS.

OLEPS noted one incident that should have been referred to OPS during the period, but was not. The NJSP remains in compliance with this task.

Task 39: Regular Supervisory Activity in the Field

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.

Assessment

OLEPS reviewed 21 motor vehicle stops where a NJSP supervisor was present. This constitutes field activity in 22.1% of all 95 stops selected this period. This rate is lower than the rate in the previous period (39.2%) and represents a trend of declining rates of supervisory presence. Supervisory presence was at 39.6% in the seventeenth reporting period, 49.4% in the sixteenth reporting period, and at 61.0% in the fifteenth report.

Breaking down supervisory presence by type of critical stop, supervisors were present in 20.5% of all consent requests, 50% of all canine deployments, or 29.4% of all use of force incidents during this reporting period.

The percent of incidents with supervisory presence appears much lower than in the previous period. The NJSP should seek to increase the number of stops in which a supervisor is present. Supervisors on the scene can immediately prevent and correct errors made by troopers, which may lower the overall error rate for motor vehicle stops. Supervisors were not present at seven stops with uncaught errors. These errors are generally not related to report filing, rather, they refer to a lack of RAS and a Miranda error.

The wording of this task suggests that supervisory presence is only required for patrol squads who predominantly patrol limited access highways. Generally, this would indicate squads within Troops D

& E[15]. In this reporting period, 22 stops made by Troops D & E were reviewed. A supervisor was only present in four of these stops.

Additionally, per SOP B8, patrol supervisors are required to provide on-scene supervision and back-up at "significant events." Considering the scrutiny placed on consent searches, uses of force, and canine deployments, these events could be classified as "significant."

OLEPS is aware of the dramatic increase in the number of stops the NJSP are now required to review pursuant to Peña-Flores. The increase in reviews may account for the decline of supervisory presence in the field. OLEPS recognizes that in order to complete the number of required reviews, supervisors may have less time to spend in the field. Nonetheless, supervisory presence remains an important tool in the prevention of potential issues.

[15] In 2012, Troops D and E were combined into one troop, Troop D. During this reporting period, Troops D and E remained separate entities.

Chapter 2: MAPPS

The Management Awareness Personnel Performance System (MAPPS) went into effect January 1, 2004, during the tenth reporting period. Full compliance with all MAPPS tasks (40 through 53 [6])[16] was reached in the Twelfth Monitors' Report (July 2005), when NJSP demonstrated their ability to analyze aggregate stop data and trends (see Appendix One). This reporting period is the second since the issuance of the MAPPS SOP C-11 on December 31, 2008. C-11 codified MAPPS policies that previously existed in annual Operations Instructions and were refined since system implementation in 2004. The independent monitors approved C-11.

Responsibility for the data in the MAPPS system is spread across multiple units within the NJSP. MAPPS is maintained primarily by an outside vendor that implements upgrades and enhancements to the system. The vendor is responsive to needs of the MAPPS Unit (within the Office of the Chief of Staff and under the Strategic Initiatives Officer). The information contained in MAPPS is pulled from other information systems in the Division. Stop data stored 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.

Methodology

This reporting period, OLEPS assessed MAPPS to ensure that MAPPS is being used appropriately as a personnel management tool. MAPPS is accessed remotely by OLEPS and reviewed for compliance. MAPPS tasks require a review that includes assessment of whether appropriate data are available in a timely manner and stored in a secure way (Tasks 41-6). Additionally, whether the system is used as a management tool to inform supervisory and management decision making (Tasks 47-53) is assessed.

The reviews of MAPPS data are the responsibility of multiple organizational entities. Many reviews themselves are entered into MAPPS, creating additional available performance data about troopers. All supervisors, regardless of their unit assignment, are required to review MAPPS data and are required by MAPPS policy to note certain reviews in MAPPS (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

[16] 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.

indicate training issues. Patterns of individual misconduct are primarily reviewed by the Office of Professional Standards (OPS), which is responsible for Task 53.

In all, OLEPS noted MAPPS functionalities for the 95 incidents under review and with several independent tests. These tests included assessing available MAPPS information for all 15 troopers subject to meaningful reviews in the second half of 2009 and follow up on the 29 troopers subject to these reviews in early 2009 as noted in the previous report (see Task 53). On an on-going basis, OLEPS monitors MAPPS issues and reviews and approves policy changes. In addition, members of OLEPS attended and observed all quarterly Risk Management Advisory Panel meetings, at which MAPPS data and other information are presented to assess existing and potential risks to the NJSP 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 40-53.

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

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 "Manage-ment Awareness Program" or "MAP").

Assessment

MAPPS has been implemented as an operational system and has all of the individual system capabilities required by the Decree. The data in MAPPS meet the expectations of the Decree. The application of benchmarking criteria and the ability to conduct long-term analyses continue to be observed for the ninth consecutive reporting period. The challenge for the NJSP is to maintain MAPPS integration with all systems and units across the Division.

Central to the development and maintenance of the MAPPS system is the issue of appropriate staffing to work on the system. While earlier reporting periods (17th) praised the number and quality of personnel resources in the MAPPS unit, times have unfortunately changed. The Unit is burdened by the small number of staff able to handle the workload of its tasks. The previous two reports noted the Division's attempt to receive a waiver of the State hiring freeze in order to hire a skilled civilian replacement; the waiver application was denied. A sufficient core civilian staff that would not be subject to transfer is necessary to fulfill the Division's growing analytic needs and is, therefore, a priority. In the continuing opinion of OLEPS, the addition of a senior analyst with strong technical report-writing skills would be an excellent addition to the civilian staff. Concern does exist regarding the ability of the MAPPS Unit to continue compliance with tasks with limited personnel. Support for analytic capabilities within the NJSP must remain a high priority so that sufficient and appropriately trained civilian and enlisted personnel are able to maintain routine functions at this level. MAPPS personnel need to perform an increasing array of new analytic tasks in an organization with escalating data needs to inform its decisions.

Task 41: Data Included in the MAPPS System

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.

Assessment

The independent monitors identified 25 specific sets of data required by paragraph 41. Each of the 20 required primary elements are found in the MAPPS system. Five non-primary requirements are identified as narrative elements and stored outside of MAPPS. These elements are available through other systems. OLEPS continues to find the system to be capable of processing the required data. The system continues to be reasonably user-friendly and usable.

All items required by subparagraphs *b* and *c* of paragraph 41 are included in MAPPS. In the previous reporting period an issue pertaining to the continual update of MAPPS with other systems was noted. OLEPS concluded that it was the responsibility of the source database management to notify the MAPPS Unit when changes might affect data access.

Task 42: Annual Access to Troopers' Personal MAPPS Data

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.

Assessment

During the previous reporting period, MAPPS system and policy protocols changed. The new policy gave troopers routine and direct access to most of their own MAPPS data, going beyond the requirement for this task. Prior policies gave troopers access to MAPPS data by meeting with

supervisors. Training in MAPPS system navigation was provided for troopers without any previous MAPPS experience.

Task 43: Production of "Counts" and Percentages for Stop Data

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.

Assessment

The primary data elements identified in paragraph 29(a) (1-19) can be displayed by count and percentage. As required by this paragraph, the data are also reportable by different time periods. Through MAPPS and other automated systems, the items identified in paragraph 29(a) (5a, 8a, 12a, 13a, 14a, 15a, and 17a) can be accessed. Aggregations of motor vehicle stop data now include counts and percentages according to more detailed reasons for stops. CAD details now include the statutes for which traffic enforcement was taken, as well as counts of summonses. These new data elements were added to reflect enhanced collection of information on motor vehicle stops possible with the new CAD system. MAPPS has the capacity to retrieve and report information regarding misconduct investigations/allegations, civilian compliments/complaints, 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.

Task 44: Common Control Numbers

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.

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.

As noted in previous reports, there are issues identifying the association of specific interventions, Performance Notices, or commendations in MAPPS with CAD numbers. It is not always clear as to what specific event an intervention or commendation was meant to apply, nor, whether interventions have been taken to address specific misconduct or performance issues. Obviously, not all interventions noted will stem from a specific incident, but those that do should report which incident. The NJSP should strive to record all appropriate CAD numbers for each intervention recorded in MAPPS. Not only does this increase reporting, but it can also make potential issues more noticeable.

OLEPS noted no further issues with linking unique CAD incident numbers that resulted during the implementation of the new CAD system in the 1st reporting period.

Task 45: Timely Access to MAPPS Data

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.

Assessment

Operational plans for inclusion of MAPPS information have been articulated in NJSP in SOP C-11 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. During the previous reporting period, an issue was noted regarding the availability of on-duty firearms qualification results for 2009. This issue was resolved and no major issues occurred during this reporting period.

Task 46: Development of a MAPPS Plan

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.

Assessment

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

Task 47: Supervisory and Management Reviews

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.

Assessment

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

For the past nine reporting periods, both the independent monitors and OLEPS have been reviewing the supervisory review processes. Specifically, reviews have focused on instances in which supervisors have noted that a problem needed “No Further Action” rather than an intervention. Since no intervention was recorded, the issues leading to the problem are not easily identifiable. This may lead to a misdiagnosis in which the need for formal remediation is not noticed. In instances where interventions are recorded, it is easier to determine what issues are leading to problems. OLEPS recommends that interventions be recorded formally, to aid in identifying potential issues needing training or remediation.

The independent monitors discussed this issue in detail with the State and reviewed MAPPS training documents regarding this process. MAPPS developed and implemented the trooper centric data system to deal with this issue. However, the issues noted in narratives are not clearly addressed.

As noted previously, misconduct cases are listed based on the date of the incident rather than the date of the OPS case. This is not optimal for checking the 3 in 2 review policy (Task 53). This also affects the ability to conduct required historical reviews of members for misconduct. Supervisors could easily miss the fact that a member has active misconduct cases that originate from outside the historical review period, or even those relevant to a specific quarterly appraisal or evaluation period. We recommend displaying two counts of OPS cases: by date of OPS case and by date of incident.

OLEPS 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. Out of all the stops reviewed, only one trooper had more than three stops, neither of which contained errors.

Task 48: Quarterly Reviews of MAPPS Data

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.

Assessment

Operational plans for use of MAPPS information by supervisory and management personnel have been articulated in NJSP operations instructions and supporting documentation. Implementation of these procedures has been executed. OLEPS has 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. OLEPS found evidence of the quarterly MAPPS reviews required of this task. As required, evidence of historical reviews of troopers when transferred to new supervisors was found.

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 generally follow the requirements of MAPPS policies. Of the 15 badge numbers checked specifically for these evaluations, the required quarterly appraisals and annual reviews were present for all but six troopers. Of these 6 with missing information two were inactive and so no information would be present. Additionally two troopers had partial evaluations, and two only had PNs. Thus, all active troopers reviewed had some form of assessment or evaluation.

Task 49: Reporting Capabilities of MAPPS

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 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 73), discipline, intervention, and uses of force associated with motor vehicle stops.

Assessment

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

Task 50: Comparisons Using Benchmarks

50. To the extent reflected in 43, 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 54-55); 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.

Assessment

During the twelfth site visit, MAPPS personnel presented detailed documentation regarding benchmarking and trend analysis. The activities related to Task 50 were organized into two separate functions. First, results from detailed data analysis using external and internal benchmarking processes were presented. Second, high-level analysis and decision making regarding issues identified in analysis by the Risk Management Core Group (RACG) within the MAPPS Unit were

presented. In this meeting, command staff reviewed and discussed MAPPS data reports and also made key decisions to move the organization forward regarding motor vehicle stop (and other) critical issues. This review and discussion occur at quarterly (or more frequent) Risk Management Advisory Panel meetings.

In the previous reporting period, the MAPPS Unit developed a written procedure to address on-going issues with data aggregations in the MAPPS Printed Reports module, which had been the core source for producing the reports to satisfy Task 50. Since then, a more flexible analytic process has been implemented so that the RACG can use data directly from MAPPS' source databases.

During the current reporting period, the Unit maintained its required quarterly MVSR schedule (Task 50) and meetings of the Risk Analysis Advisory Panel to address issues the reports might have raised (Task 51).

Task 51: Analysis of Trends

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.

Assessment

A central point of the Consent Decree was for the NJSP to identify, analyze, and respond to issues related to field operations. During the course of the fifteenth reporting period, the NJSP 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. The organization showed a strong response to identifying the issues generated by the training, analyzing the reasons such issues surfaced, and organizing a supervisory and managerial response to resolve those issues.

Trends are analyzed by the RACG for each troop and unit within each troop on a quarterly basis. This information is presented to OLEPS staff and command staff within the troop and Division. The examination of trends allows the RACG to identify potential issues in field operations and to suggest new themes for training purposes.

Task 52: Supervisors to Implement Necessary Changes

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.

Assessment

During the current reporting period, members of OLEPS found evidence of supervisory personnel issuing performance notices, interventions, and commendations, in addition to noting issues in the narrative of the MVR review (see Task 47). OLEPS did note 16 errors in 11 stops where supervisors failed to take corrective action (Task 27). In addition, OLEPS continued to note the high proportion of corrective action taken by troop level rather than station level 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.

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

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.

Assessment

The NJSP has developed a system of notifications when a third misconduct investigation occurs in a two-year period (3 in 2 reviews). Development of protocols for implementation of this provision has been a primary focus for several reporting periods. During the tenth reporting period, the State had assigned responsibility for this task to OPS. Data continue to indicate that these reviews are being conducted by OPS as required by the Decree. Evidence available in MAPPS indicates that supervisory personnel are meeting with troopers who meet the criteria of this task and, when necessary, discussing any applicable patterns of complaints.

Protocols for these reviews were redrawn as a result of issues raised in the 17th Report (See the Monitors' Seventeenth Report for details of these issues). OPS is required to document meaningful reviews in the Intervention Module in MAPPS. Supervisors are required to note the review with the member by documenting it in the Journal Module (if no further formal intervention is required). In addition, consistent with Task 45, the MAPPS Unit undertook an examination of all data published in

MAPPS from the IA-Pro system and set up new protocols for routine auditing of the IA-Pro data, implemented during the previous reporting period.

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

MAPPS contained interventions for 10 of the 15 troopers indicated for review in the second half of 2009. Seven included a journal entry documenting a supervisor's meeting with the trooper. Again in this time period, OPS reviews are geared toward determining if there are any training issues identified by the three (or sometimes more) cases reviewed.

Four meaningful review cases contained no information indicating that they were ever conducted, completed or reviewed with a trooper. During the reporting period, OPS was undergoing policy changes that may explain missing follow-ups for these meaningful reviews. As noted in the last report, OLEPS recommends that the NJSP formally document their procedures concerning meaningful reviews. To date, OLEPS has not received a formal written policy.

The reviews required by this task were completed according to existing NJSP policy, so the NJSP remain in compliance with this task.

Task 54: Drivers Survey of the New Jersey Turnpike

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.

Assessment

The State completed the required traffic survey, and released the document to the public in the first year under the Consent Decree. However, an updated survey is needed as the results are now 12 years old.

Chapter 3: Office of Professional Standards & Investigations

Based on more than two years of documented compliance, the Department of Justice released the Office of Professional Standards (OPS) from the requirements of the Consent Decree relating to internal investigations. The Court granted this motion, effective in July 2004. With the exception of Tasks 87 and 90, the independent monitors discontinued monitoring OPS for compliance. OLEPS continues to take specific actions designed to evaluate the receipt, investigation, and resolution of misconduct complaints filed against members of the NJSP.

Methodology

Currently, OLEPS monitors the activities of OPS in two ways. First, OLEPS is responsible for reviewing each substantiated disciplinary investigation completed by OPS. The purpose of each legal review is to determine whether there is sufficient evidence to move forward with disciplinary action. This is accomplished by examining the investigative activities undertaken by OPS and assessing the quality and admissibility of the evidence. A review of the proposed penalty 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. This information is evaluated in conjunction with the evidence developed by the investigation before disciplinary charges are filed and a penalty recommended. Disciplinary matters cannot move forward unless OLEPS has performed a legal sufficiency and penalty review.

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

Tasks 87 & 90: Office of Professional Standards Requirements

87. The State Police shall continue to attempt to complete misconduct investigations within forty-five (45) days after assignment to an investigator.

90. In deciding the appropriate discipline or intervention for each state trooper who is the subject of a "substantiated" adjudication or disposition in a misconduct investigation and each trooper who is to be disciplined pursuant to ¶89, the State shall consider the nature and scope of the misconduct and the information in the MAP. In all instances where the State substantiates a misconduct allegation regarding matters identified in ¶88 or disciplines a trooper pursuant to ¶89, it shall also require that intervention be instituted (except where the discipline is termination). Where a misconduct allegation is not substantiated, the State shall consider the information in the investigation file and in the MAP to determine whether intervention should be instituted.

Task 87 requires the State, based on the agreement of the parties and the monitors, to attempt to complete investigations of citizens' complaints within a timely manner 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 MAPPS with respect to each trooper before imposing discipline.

Assessment

OLEPS reviewed 99 closed investigations conducted by OPS. Of that total, 57 investigations consisted of complaints involving racial profiling, disparate treatment, excessive force, illegal or improper searches and domestic violence. An additional 42 cases were selected for review from all other misconduct investigations. A review of the written files for all 99 closed investigations was conducted. An additional review of audio and video evidence was conducted for five cases. Any discrepancies were discussed with OPS and they remain in compliance for Task 87 and Task 90.

During the previous reporting period and documented in the First OLEPS Report OPS implemented its "Incident Reduction Initiative." The initiative is not a requirement imposed on OPS by the Consent Decree. The aim of the initiative is to reduce the number of complaints through an aggressive program of data collection and analysis. This will allow OPS to proactively address troopers who are unwilling, unable, or unfit to perform their duties.

Data are collected on complaints of trooper misconduct and other performance related issues. Analysis is completed to determine whether any patterns can be gleaned that would identify potential issues. Each quarter, the OPS database is reviewed for an eighteen-month period. Troopers with the highest volume of complaints (and for complaints of specific types) are identified and the data presented to relevant commanders. The program promotes the value placed on early intervention as a tool to correct unwanted behavior and promote professionalism.

Chapter 4: Oversight & Public Information

The tasks in this chapter refer to OLEPS. The tasks set for the requirements of the office and the procedures that govern how the NJSP will assist the office.

Task 110: Creation of the Office of State Police Affairs

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.

Assessment

The State of New Jersey and OLEPS have assumed 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. This report summarizes the activities OLEPS has undertaken to review and assess the efforts of the NJSP to maintain compliance with the Consent Decree during the second half of 2009. Distribution of this report will communicate the results of these efforts to interested parties including the Attorney General, the Superintendent of the NJSP, appropriate elected and appointed government officials, and the citizens of the State of New Jersey.

Task 111: Audits of Motorists Subjected to Motor Vehicle Stops

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.

Assessment

Historically, surveys of motorists subject to motor vehicle stops were conducted twice during the calendar year by OLEPS. The surveys allowed the office to determine whether the motor vehicle stops or other enforcement actions were conducted in a manner consistent with State Police rules, regulations, procedures, and requirements of the Consent Decree. The surveys were sent by U.S. mail to randomly selected motorists who returned their responses in postage paid envelopes. The responses were reviewed by the office and arrangements were made to interview those motorists who indicated a negative interaction with the NJSP. Information of note from the reviews and the interviews was made available to the NJSP.

In the beginning of this reporting period, July 2009, the NJSP had offered an automated system to select motorists for this survey. However, issues arose in regard to complete contact information via the system described by the NJSP. As such, when no survey had been conducted by October 2009, OLEPS began work on conducting the survey on its own.

A sample consisting of 189 drivers stopped in September 2009 by either Netcong or Cranbury stations was selected. Of the 189 surveys mailed, only 38 surveys were completed. Those who completed the survey were, overall, satisfied with their treatment by the NJSP. Thirty two respondents indicated that they received favorable treatment and six indicated that they did not receive favorable treatment. However, because so few motorists responded to the survey (38), the six who were dissatisfied amount to about 15.7% of drivers.

The dissatisfied individuals were contacted to obtain more information and one complaint form was sent to a motorist at his request.

Task 112: Internal Audits of Citizen Complaint Processes

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.

Assessment

OLEPS audits the complaint hotline as part of its semi-annual audits of the OPS.

For the second half of 2009, the audit revealed 101 calls were received on the hotline. Ten calls (about 10%) were chosen for review. The review revealed that the calls were correctly classified and that case files were opened for each call. The NJSP remain in compliance with this task.

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

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.

Assessment

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

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

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.

Assessment

The Office of State Police Affairs (now OLEPS) filed aggregate data reports with the United States District Court for New Jersey in April 2010 and December 2010 for the reporting period governed by this report (May 1, 2009- June 30, 2009 and July 1, 2009- December 31, 2009, respectively). Errata were published to update these reports in December 2010. The reports are available at http://www.nj.gov/oag/oleps/aggregate-data.html

Task 115: Appointment of Independent Monitor

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.

Assessment

The State continued to retain the services of Public Management Resources, Inc. and Lite, DePalma, Greenberg and Rivas as independent monitors during a portion of this reporting period. Their services terminated when the Consent Decree was dissolved in September 2009.

Task 118: Full and Unrestricted Access for Monitors

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.

Assessment

The independent monitors were accorded full and unrestricted access to personnel from the NJSP and the Office of State Police Affairs (for the independent monitors' oversight of the seventeenth reporting period) during this reporting period.

All documents requested were provided in a timely and well-organized manner. There was no data analysis by the independent monitors during the reporting period requiring the production of data.

Task 122: State to File Routine Progress Reports

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.

Assessment

No status reports were produced in the reporting period. With the assumption of monitoring duties by OLEPS, status reports are redundant with the production of monitoring reports.

Task 123: State to Maintain all Necessary Records

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 trooper's 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.

Assessment

All documents requested from the NJSP during the second half of 2009 were provided in a timely and well-organized manner (seventeenth monitoring period). There were delays in receiving the automated data for this reporting period likely resulting from implementation of the new CAD system revisions to the MVSR, and a lack of appropriate staffing resources in OLEPS and at the NJSP. All data reviewed have been kept in a fashion that allows retention, retrieval and assessment. In addition, the NJSP continue to observe the retention schedules set forth in this task.

Task 124: Unrestricted Access for the Department of Justice

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.

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.

Chapter 5: Summary

Overview

This report assess whether the NJSP remains in compliance with the tasks set forth by the Consent Decree. The NJSP remains in compliance with all tasks, except for two.

In OLEPS Second Monitoring report, the NJSP was placed on warning for Tasks 27, 29a, and 36. Two of these tasks concern the number of allowable errors in regard to field operations. These warnings and the current lack of compliance, result from a lack of detail in supervisory review of stops, recordings, and associated reports. While supervisors did catch a number of errors in supervisory review, the error rate is outside the allowable limits. As noted below, the NJSP are also on warning for Task 28, which also concerns the number of allowable errors. The NJSP needs to place a higher level of importance on supervisory review of all trooper activities. One of OLEPS' goals is to help the NJSP self-assess, hence the importance placed on supervisory oversight. Also as noted in Task 39, there has been a dramatic decline of supervisory presence at the scene of a stop. This can lead to unrecognized errors, which may lead to additional problems.

In terms of the racial/ethnic distributions of post-stop interactions, some concern exists in regard to the distribution of consent search requests. While differences were not significant in the previous reporting period, they are in this period; there are more consent requests for non-White than White drivers. OLEPS cannot fully assess **why** troopers request consent for some drivers and not others. In no way can OLEPS suggest or prove that these differences result from any sort of race based decision making or discriminatory practice. OLEPS analyses, which included assessments relating to discretion, did not clearly indicate that troopers were definitively stopping minority drivers in connection with highly discretionary reasons as compared to White drivers (Black and Hispanic drivers did have means closer to high discretion, but these differences were not statistically significant). OLEPS will continue to monitor racial/ethnic disparities.

Warnings

The NJSP is placed on warning for Task 28 in this reporting period. The NJSP supervisory reviews failed to catch a number of errors relating to RAS consent requests. The majority of these uncaught errors relate to the presence of RAS in requesting consent. Additional errors were made in regarding notification of the consenter's rights and missing or incomplete consent forms.

Recommendations

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

- Increase supervisory presence in the field.
- Implement detail focused supervisory reviews.
- Supervisory reviews should be conducted by first line supervisors rather than troop level managerial staff.

- Provide appropriate personnel, support, and funding to all units within the NJSP, especially those who handle a large portion of tasks related to the Consent Decree.
- Continue to upgrade or repair aging audio and video equipment to reduce the potential for errors pertaining to the activation of recording and the continuation of recording throughout a motor vehicle stop.
- Clearly and formally detail the process for conducting 3 in 2, or meaningful, reviews.

APPENDIX ONE

Semiannual Monitoring Reports

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

Report ("Short Name")	Publication Date	Covering Activity from - through
Monitors' Twelfth Report: Long-term Compliance Audit Civil Number 99-5970(MLC) ("Twelfth Monitors' Report")	July 12, 2005	October 1, 2004- March 31, 2005
Monitors' Thirteenth Report: Long-term Compliance Audit Civil Number 99-5970(MLC) ("Tenth Monitors' Report")	December 2005	April 1, 2005- September 30, 2005
Monitors' Fourteenth Report: Long-term Compliance Audit Civil Number 99-5970(MLC) ("Fourteenth Monitors' Report")	June 2006	October 1, 2005- March 31, 2006
Monitors' Fifteenth Report: Long-term Compliance Audit Civil Number 99-5970(MLC) ("Fifteenth Monitors' Report")	January 2007	April 1, 2006- September 30, 2006
Monitors' Sixteenth Report: Long-term Compliance Audit Civil Number 99-5970(MLC) ("Sixteenth Monitors' Report")	August 2007	October 1, 2006- March 31, 2007
Monitors' Seventeenth Report: Long-term Compliance Audit Civil Number 99-5970(MLC) ("Seventeenth Monitors' Report")[17]	April 16, 2009	January 1, 2007- December 31, 2007
First Monitoring Report Prepared by Office of Law Enforcement Professional Standards ("First Monitoring Report"/1st Reporting Period)	April 29, 2010	January 1, 2008- December 31, 2008
Second Monitoring Report Prepared by Office of Law Enforcement Professional Standards ("Second Monitoring Report"/ 2nd Reporting Period)	August 2011	January 1, 2009- June 30, 2009
Third Monitoring Report Prepared by Office of Law Enforcement Professional Standards ("Third Monitoring Report"/ 3rd Reporting Period)		July 1, 2009- December 31, 2009

[17] First report written by the Office of State Police Affairs (OSPA), which became the Office of Law Enforcement Professional Standards (OLEPS).

APPENDIX TWO

Summary of Achievement of Phase II Compliance

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

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

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

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

APPENDIX THREE

Chi-Square Results

Table One: Consent Requests by Race/Ethnicity of Driver

3rd OLEPS Reporting Period

	White	Non-White	Total
No Consent Request	12	5	17
Consent Request	32	46	78
Total	44	51	95[1]

X^2=4.906, df= 1[2]

p= 0.027[3]

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

Table Two: Canine Deployments by Race/Ethnicity of Driver

3rd OLEPS Reporting Period

	White	Non-White	Total
No Canine Deployment	39	40	79
Canine Deployment	5	11	16
Total	44	51	95

X^2=1.756, df= 1

p= 0.185

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

[1] The "Total" does not equal 429 because twelve drivers were in the other categories of race or ethnicity.

[2] "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.

[3] 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.

Table Three: Uses of Force by Race/Ethnicity of Driver

3rd OLEPS Reporting Period

	White	Non-White	Total
No Force	33	45	79
Use of Force	11	6	16
Total	44	51	95

X^2=2.816, df= 1
p= 0.093
This test statistic is *not significant* at the 0.05 level.

Table Four: Arrest Data by Race/Ethnicity of Driver

3rd OLEPS Reporting Period

	White	Non-White	Total
No Arrest	14	15	29
Arrest	30	36	66
Total	44	51	95

X^2= .961, df= 2
p= 0.635
This test statistic is *not significant* at the 0.05 level.
This test statistic is *not valid* as two cells (33.3%) have expected counts of less than five.

Table Five: Sampled Vehicle Stop Rates by Reason for Stop

3rd OLEPS Reporting Period

	White	Black	Hispanic	Total
High Discretion (1)	13	22	3	38
Median Discretion (2)	20	8	5	33
Low Direction (3)	11	8	5	24
Total	44	38	13	95

X^2=9.895, df= 4

p= 0.042

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

This test statistic is *not valid* as two cells (22.2%) have expected counts of less than five.

Table Six: Consent Request Stop Rates by Level of Discretion

3rd OLEPS Reporting Period

	White	Non-White	Total
High Discretion (1)	10	23	33
Median Discretion (2)	16	12	28
Low Discretion (3)	6	11	17
Total	32	46	78

X^2=4.805, df= 2

p= 0.090

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

Table Seven: Canine Deployment Rates by Level of Discretion

3rd OLEPS Reporting Period

	White	Non-White	Total
High Discretion (1)	3	6	9
Median Discretion (2)	1	2	3
Low Direction (3)	1	3	4
Total	5	11	16

X^2=0.097 df= 2
p= 0.953
This test statistic is *not valid* as five cells (83.3%) have expected counts of less than five.

Table Eight: Reason for Consent Request by Race and Ethnicity

3rd OLEPS Reporting Period

	White	Non-White	Total
Intangible (1)	2	2	4
Tangible (2)	1	0	1
Probative (3)	26	37	63
Total	29	39	68[4]

X^2=2.753, df= 3
p= 0.431
This test statistic is *not significant* at the 0.05 level.
This test statistic is *not valid* as 4 cells (50%) have expected counts of less than five.

[4] The "Total" does not equal 78 consent requests because the reasons for consent requests tested apply only to the 68 requests based on RAS.

Table Nine: Outcome for Consent Request by Race and Ethnicity

3rd OLEPS Reporting Period

	White	Non-White	Total
Inappropriate (1)	1	2	3
Appropriate (2)	31	44	75
Total	32	46	78

X^2=.076, df= 1
p= 0.782
This test statistic is *not significant* at the 0.05 level.

Table Ten: Day v. Night Consent Requests by Reason for the Stop

3rd OLEPS Reporting Period

	Day Stops [a]			Night Stops [b]		
	White	Non-White	n=	White	Non-White	n=
High Discretion (1)	6	14	20	7	11	18
Median (2)	6	8	14	14	5	19
Low Discretion (3)	3	7	10	8	6	14
Total	15	29	44	29	22	51

[a] X^2=.702, df= 2
p= 0.704
This test statistic is *not significant* at the 0.05 level.
[b] X^2=4.563, df= 2
p= 0.102
This test statistic is *not significant* at the 0.05 level.

APPENDIX FOUR

Definitions of Acronyms and Abbreviations

BOLO: Be on the Look Out

CAD: Computer Aided Dispatch. The dispatch system employed by NJSP.

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

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

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

MDT: Mobile data terminal. The computer inside NJSP vehicles.

OLEPS: Office of Law Enforcement Professional Standards. Formerly OSPA

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

OSPA: Office of State Police Affairs. Became OLEPS.

PC: Probable Cause

RAS: Reasonable articulable suspicion

RMS: Records Management system

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

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

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