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Division of New Jersey State Police

and the

Office of Law Enforcement Professional Standards

REPORT ON LAW ENFORCEMENT PROFESSIONAL STANDARDS

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Introduction

The disparate treatment of citizens during routine motorist stops or other law enforcement activity based on race has been an issue of national concern over the last two decades. The perception of unequal treatment creates distrust and tension between law enforcement offices and the community, undermining the goals of the criminal justice system and affecting the safety and security of all residents. In New Jersey, events that occurred in the 1990s led the State to enter into a Consent Decree with the United States Department of Justice and led to a transformation of State Police policies and procedures, aimed at eliminating discrimination and bias from law enforcement practices on our highways.

This report is the first in a series of statutorily required reviews of the State Police and the Office of Law Enforcement Professional Standards by the Office of the State Comptroller. The purpose of these reviews is to determine if the New Jersey State Police is continuing its commitment to non-discrimination, professionalism and accountability while fulfilling its mission to serve and protect New Jersey's residents. For this initial review, the Office of the State Comptroller conducted an assessment of the practices and procedures of the State Police's Training Bureau and evaluated the State's transition from the dissolution of the Consent Decree during a seven-month period, from October 2009 to April 2010.

Background

Under the Law Enforcement Professional Standards Act of 2009, N.J.S.A 52:17B-221 et seq. (the Act), the Office of the State Comptroller (OSC) is directed to: (1) review the performance of the New Jersey State Police (NJSP or State Police) concerning non-discrimination in its policies, practices and procedures; and (2) review the Office of Law Enforcement Professional Standards' monitoring of the NJSP's law enforcement activities. This statute was enacted to ensure NJSP's continued compliance with the reforms that were initiated under the Consent Decree entered into on December 30, 1999. That Consent Decree ended a lawsuit brought by the United States Department of Justice against the State of New Jersey. The lawsuit alleged racial profiling in the practices and policies of the NJSP. The Consent Decree mandated a number of reforms designed to achieve non-discrimination in the operating procedures and performance of members of the NJSP during and after motor vehicle stops.

To promote compliance with the terms of the Consent Decree, the U.S. District Court appointed an independent monitoring team. The responsibilities of the monitoring team included the collection and evaluation of data on vehicle stops, post-stop enforcement activities, misconduct investigations, internal discipline and training, among other compliance measures.

The independent monitoring team filed 16 reports from October 2000 through August 2007, which measured compliance by the NJSP against criteria mandated in the Consent Decree. In their 16th report, the independent monitors declared the NJSP had achieved compliance with the Consent Decree. The report noted that the State Police had become "self-monitoring" in its capacity to identify, analyze and remediate problematic law enforcement procedures. A 17th report, issued in April 2009, was prepared by the Attorney General's Office of State Police Affairs under the guidance and final approval of the independent monitors. This report concluded that the NJSP had continued to achieve compliance with all requirements established by the Consent Decree.

In 2006, then-Governor Jon S. Corzine appointed an Advisory Committee on Police Standards which made recommendations concerning the continued monitoring of the NJSP. The State Legislature thereafter passed the Act, which codified many of the recommendations of the Advisory Committee. Specifically, the Act mandates the creation of the Office of Law Enforcement Professional Standards (OLEPS) within the Department of Law and Public Safety to perform, among other things, those functions previously performed by the Office of State Police Affairs. In August 2009, the parties to the Consent Decree filed a joint application to dissolve the decree. On September 21, 2009, the United States District Court granted the application and entered an Order dissolving the Consent Decree.

The Act further directs OLEPS to assume the duties and functions previously performed by the independent monitoring team, including preparing and issuing biannual reports on NJSP conduct and semi-annual reports of aggregate statistics on NJSP traffic enforcement activities and procedures. In May 2010, OLEPS issued its first report evaluating the NJSP's continued compliance with the Consent Decree during the period from January 1, 2008, to December 31, 2008. OLEPS' first aggregate data report was released in June 2010, covering the period May 1, 2009 through June 30, 2009.

The Act also requires OSC to perform risk-based audits and performance reviews of the NJSP and of OLEPS' oversight of the NJSP. Reports of OSC's findings and recommendations are required to be made to the Legislature, the Governor and the public. This is the first such report.

Scope of Review

The Act directs OSC to conduct “risk-based audits and performance reviews” of the State Police and OLEPS, which may include examination of the following areas: “stops, post-stop enforcement activities, internal affairs and discipline, decisions not to refer a trooper to internal affairs notwithstanding the existence of a complaint, and training.” N.J.S.A 52:17B-236. For this initial performance review, OSC focused on two areas: 1) the State’s transition following the Consent Decree, specifically how OLEPS and the State Police are responding to their new roles; and 2) matters related to the NJSP Training Bureau.

OSC determined to include the Training Bureau in this initial review due to the critical role the Training Bureau plays in the NJSP’s efforts to continue compliance with the mandates of the Consent Decree. The Training Bureau’s recruit and annual in-service training programs directly influence and shape the daily actions and discretionary choices of the members of the State Police. Specifically, OSC evaluated the Training Bureau’s capacity for maintaining and enhancing instruction for NJSP troopers and supervisory staff during the post-Consent Decree period.

OSC conducted its assessments of the Training Bureau and OLEPS’ transition from the Office of State Police Affairs during the months from October 2009 to April 2010. To study the Training Bureau’s continued commitment to Consent Decree reforms and OLEPS’ capacity to audit the NJSP, the OSC review team utilized a number of methodologies, including but not limited to the following:

- Development of a risk-analysis matrix through examination of the independent monitors’ reports. The Consent Decree prescribed 99 tasks to be performed by the NJSP, 14 of which were directly related to its training program. OSC staff identified potential risks utilizing the history of compliance with these tasks.
- Observation and evaluation of the annual in-service training program at the NJSP Training Academy in Sea Girt.

- Interviews of leadership and staff of OLEPS, the Training Bureau and the Office of Professional Standards (OPS). OPS, which reports directly to the Superintendent of the NJSP, replaced the NJSP's Internal Affairs Bureau. OPS conducts investigations and administers disciplinary action concerning members of the NJSP.
- Observation of the NJSP Risk Analysis Core Group meeting, which is a quarterly meeting in which high-level commanders of the NJSP examine data collected through their internal performance measurement system to ensure that standards of integrity and professionalism are being met.
- Review of the Management Awareness and Personnel Performance System (MAPPS). MAPPS is the computerized performance measurement system that collects data on individual troopers' performance, including traffic stops, professional accomplishments, misconduct investigations and other matters. MAPPS enables NJSP supervisors to identify proficiency and achievement, as well as substandard or unprofessional behavior, and, in theory, to prevent inappropriate practices from recurring.
- Review of the Training Bureau's annual strategic plans and a sample of curriculum development documents and final lesson plans from 2006 through 2009. We also reviewed OLEPS' related evaluative and aggregate data reports, which were issued as the field work for our review was nearing completion.

In accordance with OSC standard practice, a draft of this report was provided to OLEPS and the NJSP for review and comment. Following our review of those comments, OSC has made changes in this final report where appropriate.

Review of the Transition of the Office of Law Enforcement Professional Standards from the Consent Decree Period

The Act directs OLEPS to assume the role that previously had been performed by the independent monitors. For our review, we looked to the following statutory functions of OLEPS as criteria in determining OLEPS' performance as it has transitioned to its new role:

- OLEPS is authorized to conduct audits and analyses of data to identify any potential problems with NJSP activities and to make recommendations to remedy any identified problems.
- OLEPS is authorized to approve training curricula and review training procedures and materials in areas such as ethics, use of force, and search and seizure.
- OLEPS is required to produce public reports that evaluate the NJSP, comparable to the independent monitoring team's reports. As noted previously, OLEPS' initial report was issued in May 2010, and additional reports are to be issued every 6 months.
- OLEPS is authorized to assist and provide guidance to local and other law enforcement agencies statewide, and carry out other duties and functions as may be assigned by the Attorney General.

Our review found that OLEPS staff continues to effectively perform the duties that they conducted as the Office of State Police Affairs under the Consent Decree. In addition, OLEPS' May 2010 report shows its capacity to recreate the thorough and rigorous analysis that had been performed by the independent monitors. However, a clear and complete transition to OLEPS' new oversight role has been slow to fully materialize. The following issues are of concern:

Transition to greater independence: The Act makes clear that OLEPS is to assume the role of independent monitor, which necessitates a high level of

autonomy in conducting audits and overseeing investigative and administrative activities of the NJSP. OLEPS personnel continue to assist the NJSP in certain non-monitoring matters such as some internal affairs investigations. This could place OLEPS personnel in the difficult dual role of both impartial monitor and investigative partner of the NJSP at various times. Additionally, the on-site assignment of three NJSP troopers to OLEPS to assist in the collection and review of necessary documents and videotapes could impact the perception of OLEPS' objectiveness. Policies regarding firewalls or reassignment of duties should be evaluated in light of OLEPS' new independent role.

Lack of consistent leadership at OLEPS: The Consent Decree was dissolved in September 2009, shortly before the State's November gubernatorial election. During this period, there was understandable reluctance by OLEPS personnel to commit to a long-term plan of action to comply with their new monitoring role. The election of a new Governor, the subsequent lame duck period, and the ensuing appointment of a new Attorney General and senior staff resulted in further delays regarding the implementation of necessary policies and procedures to support OLEPS' changed mission. This situation was compounded by the temporary status of the former Acting Director of OLEPS, who held the position for approximately three years. After his departure in late 2009, another interim director was named and the position was advertised. The recent naming of a permanent director should facilitate OLEPS' assumption of its new role in a fully effective manner. OLEPS' issuance of the two reports previously referenced also signifies forward movement in this regard.

Staffing and Resources: As of June 2010, OLEPS consisted of an Acting Director, four investigators, three Deputy Attorneys General, one analyst and two support staff members (three additional positions were vacant). In addition, as previously mentioned, three individuals from the State Police are assigned to OLEPS. OLEPS should determine if additional staffing will be required to handle the increased workload that is expected in its new role. While the current budget situation could make it difficult to hire additional personnel, OLEPS' ability to fully perform all of the functions set forth in the Act at current staffing levels

may be difficult, particularly in view of a recent court decision that appears to be intensifying the workload for both NJSP and OLEPS personnel. Specifically, the New Jersey Supreme Court's decision in State v. Pena-Flores, 198 N.J. 6 (2009), requires a police officer to obtain a warrant to search a vehicle unless the officer has probable cause to believe that the vehicle contains evidence of a crime and there are exigent circumstances that justify dispensing with the warrant requirement. According to NJSP and OLEPS, this decision has caused an increase in "consent" searches, as highlighted in OLEPS' recent data report. Under the Consent Decree's application, consent searches were deemed "critical incidents." Consequently, the NJSP adopted standard operating procedures requiring consent searches to be fully reviewed by supervisors. As a result of Pena-Flores, the number of these reviews by NJSP and OLEPS staff has increased substantially. For example, such consent searches (in which troopers are granted permission by civilians to conduct a search) rose to 231 for the two-month period from May 1 to June 30, 2009, compared to 164 in the previous six months.

Review of the New Jersey State Police Training Bureau

Located at the State Police Academy in Sea Girt, the NJSP Training Bureau conducts pre-service training for state trooper candidates and provides annual in-service training to all NJSP personnel. The Training Bureau is responsible for developing curricula and providing instruction in numerous areas of law enforcement, including firearms, self-defense, leadership, homeland security and public safety. Specialized training is also provided for federal, state, county and municipal police agencies. As of Spring 2010, 58 sworn and 7 civilian personnel were assigned to the Training Bureau.

Our review found that the Training Bureau continues to apply the directives of the Consent Decree in its efforts to design and deliver training to State Police members. OSC observed high-quality instruction and training practices that were initiated as a result of the Consent Decree and have become standard at NJSP, including long-term planning, cross-division partnerships, self-assessment and maintaining appropriate documentation. Each of these is discussed in turn in the paragraphs that follow.

A comprehensive planning process ensures that curricula and lesson plans comply with the Consent Decree and offer troopers and supervisors expert training. The Training Bureau staff continues to use a seven-step process initiated under the Consent Decree to create timely, relevant and valuable curricula. This process includes: 1) a needs assessment to document any training deficiencies; 2) curriculum development by the agency; 3) delivery of the program; 4) evaluation of the program; 5) revision of the curriculum; 6) measurement of the effectiveness of the program; and 7) documentation of training by the agency.

Collaboration occurs among NJSP bureaus and units to identify and communicate training issues in the development of a needs assessment. The NJSP has instituted a Training Committee, comprised of representatives from a number of divisions throughout the agency, to meet quarterly and provide input to

members of the Training Bureau concerning training needs and assessments of instruction provided.

Since entering into the Consent Decree, the NJSP has made noteworthy progress in the area of self-evaluation, including measuring and documenting individuals' performance. In response to a Consent Decree directive, the NJSP instituted the MAPPS system referenced earlier, which is designed to maintain and retrieve information necessary for the supervision and management of the State Police. Data on motor vehicle stops, searches and other enforcement actions are recorded in MAPPS. The Training Bureau and NJSP supervisory staff use data results from MAPPS to compare performance of troopers and determine training needs. The Training Bureau also uses a software program called Metrics That Matter (MTM) to collect feedback and test scores from instruction recipients, and uses the collected data to evaluate whether the courses delivered are meeting predetermined goals and objectives. Use of MTM has become a standard practice in the training process. The ability to test troopers' comprehension at the end of each one-day class allows instructors to adjust or revise the course immediately, which is vital to the success of the multi-week in-service training.

Thorough documentation concerning the development of curricula, feedback and test scores is maintained at the Training Bureau, which has become the central repository for all training materials used throughout the NJSP, including lesson plans and assessments of third-party training. The Academy Computerized Training System (ACTS) is the database in which test scores, certifications and other data are collected. The ACTS database interacts with the MAPPS database, allowing supervisors to review individuals' training records and performance in the field.

Our evaluation of the NJSP's 2009 annual in-service training revealed that instructors exhibited appropriate mastery of the subject matter and used strong teaching techniques, such as role-playing, use of mixed media and pre-tests and post-tests. The Training Bureau used those electronic pre-tests and post-tests to immediately evaluate comprehension and solicit feedback from participants.

Moreover, instructors created a credible, appropriately stressful environment for role playing exercises such as the active shooter exercise, concurrently delivering leadership and ethics training throughout the course of the role playing.

In sum, OSC's review determined that the NJSP has established a transparent and needs-based process to produce curricula and training exercises in compliance with the terms of the Consent Decree. NJSP's delivery of training exhibited appropriate knowledge of the subject matter and strong training techniques. The following issues should continue to be monitored to prevent backsliding and maintain the level of performance the Training Bureau has achieved:

Staffing and Resources: With no new recruit class scheduled to begin this fiscal year and training therefore focused on current troopers, the Training Academy at Sea Girt currently is adequately staffed. However, we concur with the prior recommendation of the independent monitors regarding the need for a civilian analyst within the Training Bureau to enhance data collection efforts. (This position perhaps could be shared with the MAPPS unit). While current staff are knowledgeable about the collection of and need for data relevant to training outcomes, the Training Bureau would benefit from an analyst well-versed in statistics and quantitative analysis who could use the data collected to enhance the development of curricula. In addition, the frequent rotation of personnel in the Bureau Chief position at the Training Bureau should be reconsidered. In recent years, the Bureau Chief (also known as the Commandant) generally has served in that capacity for approximately one year and then been promoted to other NJSP positions. However, the Bureau Chief may need more than 12 months to conceptualize and implement process improvement plans and substantially more time to measure outcomes. Finally, maintenance and repair of facilities and training equipment should be attended to before major issues arise. Facilities and equipment are aging and, in some cases, deteriorating.

Lack of faith in the hiring process: During our interviews, several Academy instructors expressed their belief that the current trooper hiring process is

somewhat arbitrary and may fail to identify the best candidates. It is important that the NJSP organization, including the Training staff, believe in the integrity and validity of the recruitment and hiring system. The process that currently is in place is the result of a separate consent decree entered into approximately a decade ago that resolved allegations of discrimination in the NJSP recruitment process. In light of the opinions about the current process that were expressed by Academy instructors, the NJSP should explore opportunities to discuss with Academy instructors and, as appropriate, other troopers, the current recruitment process as well as the reasons for which it was adopted. Ultimately, the NJSP must continue its efforts to attract the best candidates and ensure a strong and diverse work force. As the selection of recruits does not fall directly under the Training Bureau's administration, this issue will be examined in future OSC performance reviews.

New responsibilities in working with OLEPS: With the end of the Consent Decree and the recent establishment of OLEPS, the Training Bureau's relationship with OLEPS still is evolving. Training Bureau staff expressed concern to us as to what criteria or standards OLEPS would apply in its future reviews now that the Consent Decree has ended. Currently, OLEPS continues to review and approve all training curricula related to Consent Decree issues. Going forward, the Training Bureau and OLEPS should consider implementing a self-approval review process for the Training Bureau, including appropriate legal review, which would allow for greater efficiency in the review of training and lesson plans. Any changes that are made to the curriculum review process should be reflected in a revised Standard Operating Procedure C25, which documents all State Police policies and procedures that pertain to training. Additionally, OLEPS should identify what performance measures or standards will be used in their future audits. Similarly, the Training Bureau staff should seek to identify activities that would enhance the bureau's operations and effectiveness and, with the endorsement of OLEPS, seek to reduce paperwork and/or bureaucracy that do not add value.

CALEA accreditation for the Training Bureau may be unnecessary

and/or redundant: In its 2010 Strategic Plan, the Training Bureau cited obtaining accreditation from the Commission on Accreditation for Law Enforcement Agencies (CALEA) as an objective, under the goal of “increas[ing] the professional reputation of the Training Bureau and services offered to the Division and law enforcement community.” CALEA is an independent body of public safety practitioners that has created a nationally recognized set of standards for law enforcement entities. Accreditation with CALEA recognizes that an entity has achieved professional excellence in the law enforcement field. Achieving such accreditation is a time consuming and burdensome process. The NJSP as an entire organization obtained its accreditation with CALEA in 2007 and renewed its CALEA accreditation in 2010. To pursue a CALEA accreditation solely for the Training Bureau would be redundant and costly in terms of time and personnel. Another 2010 objective for the Training Bureau, accreditation with the American Council on Education (ACE), appears to offer greater potential return on investment. ACE is a national organization that reviews adult learning programs given outside the traditional university classroom, including courses taught through businesses, government and the military. If an adult learning program such as the one administered by the Training Bureau is accredited by ACE, academic credit can be given for certain courses, which would be advantageous to members of the State Police.

Conclusions and Recommendations

Since the end of the Consent Decree, the State Police has achieved compliance with anti-discrimination policies and practices within its Training Bureau. The transition from the Consent Decree and independent monitor oversight has not yet been fully engaged, although staff members at both OLEPS and the Training Bureau continue to perform the tasks and carry out the reforms that were set in place by the independent monitors. The State Police and OLEPS are required to continue these efforts to ensure that the high levels of accountability and professionalism achieved during the Consent Decree continue to be met.

This report recommends the following to ensure continued compliance:

- OLEPS should be provided with the leadership, resources and guidance necessary to transition itself successfully to its post-Consent Decree role.
- OLEPS should take steps to transition itself to an independent auditor entity.
- OLEPS should establish any new performance measures and criteria concerning training that may replace the tasks mandated in the Consent Decree and communicate those criteria to Training Bureau staff.
- The Training Bureau and OLEPS should consider implementing a self-approval process for training curricula.
- NJSP should consider reassigning or hiring a civilian analyst to perform quantitative analysis on data collected at the Training Bureau.