

Monitors' Ninth Report

Long-term Compliance Audit
Civil Number 99-5970(MLC)

In the
United States District Court,
for the District of New Jersey

United States Department of Justice
Civil Rights Division

State of New Jersey

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Executive Summary

Efforts by the State of New Jersey to comply with the 124 tasks to which it agreed when it signed the consent decree continue to both bear fruit and to meet with some disappointments. The ninth reporting period identifies the salient factors related to compliance in six areas:

- On-Road performance;
- Training;
- Supervision;
- MAPPS development;
- Inspections, audit and quality control; and
- Citizens' complaints.

Each of these is discussed in some detail below.

On-Road Performance

The New Jersey State Police continue to make improvements in the protocols used to ensure on-road performance in processes related to the consent decree. The performance of road troopers continues to be reviewed by five levels of audit and quality control compliance processes: first-line supervision, a field operations supervisory review cadre, review by quality assurance bureau personnel, review by personnel at OSPA, and review by the monitors. These performance review and assessment processes have resulted in dramatic reductions of instances in which the State Police make errors that result in Constitutional infringements, e.g., illegal searches, improper consent requests, improper frisks, etc. During the ninth reporting period, the monitors noted four motor vehicle stops that involved a Constitutional question (two frisks that were improperly conducted or documented and two searches improperly conducted or reported). That number was reduced from ten in the fifth reporting period, 13 in the sixth reporting period and 14 in the seventh reporting period and seven in the eighth period. During the fifth reporting period, **91 percent** of all errors noted by the monitors included potential Constitutional violations. During the sixth reporting period, **65 percent** of all errors involved potential Constitutional violations. During the seventh reporting period, **42 percent** of all errors involved potential Constitutional violations. During the eighth period only **15 percent** involved Constitutional issues. This period, four of the 46 errors noted involved Constitutional issues, the lowest percentage of errors (**8.7 percent**) in five periods.

Troubling, however, is the fact that the monitors found **four problems** with consent search requests this period, although no problems were noted with canine deployments or use of force incidents this period. While the State has not yet reached full compliance with the consent decree in the area of on-road law enforcement procedures, the majority of errors being noted by the monitors are *procedural*, not Constitutional. Overall error rates for on-road law enforcement activities this period rose, from 13 in the eighth period to 19 percent this period.

Training

Marked improvement in the staffing levels of the State Police Training Academy were noted this reporting period. In addition, a new commandant of the Academy has been appointed this reporting period, and the technical reporting arrangements for the Academy have been changed. The State has continued to provide required training (Fourth Amendment, ethics and cultural diversity) to pre-service (recruit) and in-service personnel. The Academy has developed and implemented a new staffing analysis process based on defined workload elements. The Academy has begun the process of development for internal (Academy-based) audit procedures for training delivered to the New Jersey State Police, and the monitors are beginning to observe adherence in most training development process to the five-step development cycle outlined for the State by the monitors in 2001.

Some problems persist, however. The process of managing external providers of training has created some significant hurdles for the training process this reporting period, with training being developed and delivered that does not meet the requirements stipulated by the parties for training development and delivery, and, further, fails to meet the high standards established by the Academy for its own training development processes. Further, the monitoring process has noted some problematic issues with the training delivery *process* in the areas of cultural awareness, ethics and executive development.

Supervision

Supervisory systems continue to be revised and fine tuned within the Division this reporting period. It is apparent that the State is conceptualizing and testing various methods of supervision of road-based troopers in an attempt to identify the method that will best provide quality oversight and mentoring for law enforcement personnel engaged in on-road activities governed by the consent decree. These supervisory processes are also designed to improve compliance with New Jersey State Police SOPs. To date, however, supervision remains the weak link in the compliance process. Supervisory review of in-field performance is finally improved to the point that it can be documented and measured, which,

in and of itself, is a major accomplishment. Unfortunately, these measurements indicate that road-level supervision is only 74 percent effective at this point, allowing reporting, procedural and Constitutional errors to slip through the supervisory review process. Of 120 motor vehicle stop incidents reviewed by supervisory personnel this reporting period, the monitors found supervisory errors (some significant) in 31 of those incidents. Supervisors missed law enforcement personnel failures in areas such as failures to note improperly conducted or documented searches, failing to note improperly reported consent searches, and failing to note procedural failures in on-road activities.

Supervision is the quintessential factor in improving on-the-road performance. Until the State begins to identify effective supervisory processes, to identify supervisors who are failing to perform to standards established by the Division, isolate the reasons for those failures, and take remedial action, compliance in New Jersey State Police field operations will be difficult to attain.

MAPPS Development

The State has finally implemented the MAPPS performance management system, making the system available to supervisory and management personnel at all levels of the organization. The system can be used to review trooper and supervisory performance, compare trooper performance to other members of the trooper's workgroup, and to compare performance across work groups. Work continues on establishing appropriate benchmark integration into the MAPPS system. Supporting SOPs and training for operation of MAPPS have been developed and approved by the monitors. While MAPPS is now truly "operational," it is not yet being used to manage the operations of the New Jersey State Police on a day-to-day basis. These management functions are coming on line incrementally, beginning in January, 2004 through April, 2004. The MAPPS system should allow much more flexible and focused management of compliance issues by the Division.

Inspections, Audit and Quality Control

The State continues an aggressive quality control program for Office of Professional Standards investigations and for Field Operations motor vehicle stop systems. Inspections and Audit personnel from Field Operations and the Office of State Police Affairs continue to review MVSR and MVR elements for conformance to the requirements of the consent decree. Instances of poor performance at the supervisory level do not always result in remedial action (see Supervision).

Citizens' Complaints

Independent Monitors' Ninth Report Period Ending September 30, 2003

1 Introduction

This document represents the ninth "Independent Monitors' Report" (IMR) assessing the levels of compliance of the State of New Jersey (the State) with the requirements of a consent decree (decree) entered into between the State and the United States Department of Justice on December 30, 1999. This document reflects the findings of the monitoring team regarding compliance monitoring for the period April 1, 2002 through September 30, 2003. In order to complete the report in a timely fashion, monitoring activities were accomplished during the period October 6, 2003 through October 15, 2003.

The report is organized into three sections, identified below:

- Introduction;
- Compliance Assessment; and
- Summary.

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

1.1 Overall Status Assessment

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

1.2 Format for Compliance Assessment

The IMR is organized to be congruent with the structure of the consent decree. It reports on the State's compliance using the individual requirements of the decree. For example, the first section, the compliance assessment, deals with the requirements, in paragraph 26 of the decree, relating to a specific prohibition

against using "to any degree the race or national or ethnic origin of civilian drivers or passengers in deciding which vehicles to subject to any motor vehicle stop" (Decree at para 26). The following components of the decree are treated similarly. Compliance is classified as "Phase I," and "Phase II," with the definitions specified in Section 1.4, below.

1.3 Compliance Assessment Processes

1.3.1 Structure of the Task Assessment Process

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

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

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

The performance of the New Jersey State Police on each task outlined in the consent decree was assessed by the monitoring team during the period ending September 30, 2003. The ninth independent monitors' report was submitted to the court during the month of December, 2003.

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

- Official New Jersey State Police documents prepared in the normal course of business¹; and/or
- Electronic documents prepared by the State or components of state government during the normal course of business.

¹ For example, members of the monitoring team would not accept for review as documentation of compliance "special reports" prepared by state personnel describing their activities relating to a specific task. Instead, the monitoring team would review records created during the delivery or performance of that task.

1.3.2 Operational Definition of Compliance

For the purposes of this monitoring process, "compliance" consists of two components: Phase I compliance and Phase II compliance. Phase I compliance is viewed as the administrative piece of compliance. It entails the creation of policy, procedure, rule, regulation, directive or command to "comply" as required by the text of the decree. Phase II compliance deals with the implementation of a specific policy and requires that the policy must, by matter of evidence, be followed in day-to-day operations of the New Jersey State Police. It may entail the provision of training, supervision, audit, inspection, and discipline to achieve the implementation of a specific policy as designed. In commenting on the State's progress (or lack thereof) in achieving Phase II compliance for a specific task, the monitoring team may comment upon the efficacy of training, supervision, audit, inspection and discipline as applicable to that task.

Compliance levels for this monitoring process are reported both through a narrative description and a graphic description. The narrative describes the nature of the task requirement being assessed, a description of the methodology used to assess the task, and a statement of compliance status. It is critical to note, however, that a finding of non-compliance does not mean the State is engaging in inappropriate behavior. It simply means the State has not yet completed its efforts toward compliance. The graphic description depicts compliance status using a standard bar graph to indicate status in each compliance area. Each graphic consists of four segments, depicted below. The first segment depicts each reporting period (four quarterly reports for the first year and two reports for each following year). The second segment depicts the time allowed by the consent decree to complete the particular task. This time period is represented by the solid, dark blue bar . The third and fourth segments represent the time required to complete the task, and to achieve Phase I or Phase II compliance. A vertically patterned light blue bar  indicates that compliance was achieved in the time allotted. A diagonally patterned yellow bar  indicates that compliance was achieved at a later date than originally allocated in the decree, but that the delay, in the opinion of the monitors, does not seriously affect the State's eventual compliance with the decree. A horizontally patterned orange bar  indicates that compliance was achieved at a later date than originally allocated in the decree, and the delay *may* seriously affect the State's eventual compliance with the decree. A solid red bar  indicates expired time which is more than that allowed by the decree, and which, in the judgment of the monitors *does* seriously threaten the State's successful compliance with the decree. A task that was not, or could not be monitored is represented by a hollow bar .

1.3.3 Standards for "Compliance"

The parties have agreed to a quantitative standard for "compliance" to be used for assessing compliance for all critical tasks stipulated by the decree which can be quantified. On tasks for which quantitative data can be collected, e.g., the number of Motor Vehicle Stop Reports (MVSRs) that conform to the requirements of the decree, a standard of greater than 94 percent compliance is used. This means that at least 95 percent of the reports reviewed conformed to the requirements of the decree. This standard is widely used in social science, and is adapted by mutual agreement for this project.

1.3.4 Compliance with a Hypothetical Task

<i>Task nn</i>	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												
												

This graphic is a hypothetical depiction of a task in which the State has been assessed to be in Phase I compliance in the first reporting period, and in which Phase II compliance has not been attained (but which does not affect the State's eventual compliance).

1.4 Flow of the Monitoring Process

Compliance audits and monitoring processes typically consist of two phases. The first phase focuses on issues of "policy compliance:" the development of policies, rules, regulations and directives to comply. In many cases, the processes required of the agency are new enough to preclude an early evaluation of Phase II compliance processes designed to ensure day-to-day implementation of the requirements. The second phase, represented by this report and future reports, focuses on issues of operational compliance— institutionalizing change into the day-to-day operations of the agency.

1.5 Progress toward Compliance

During the last reporting period, the State has continued to make progress toward compliance in several areas, including training; supervision; Development of a MAPPS performance management system; inspections, audit and quality control; and investigation of internal and citizens' complaints. Each of these areas is discussed briefly below.

1.5.1 Training

Marked improvement in the staffing levels of the State Police Training Academy were noted this reporting period. In addition, a new commandant of the Academy has been appointed this reporting period, and the technical reporting arrangements for the Academy have been changed. The State has continued to provide required training (Fourth Amendment, ethics and cultural diversity) to pre-service (recruit) and in-service personnel. The Academy has developed and implemented a new staffing analysis process based on defined workload elements. The Academy has begun the process of development for internal (Academy-based) audit procedures for training delivered to the New Jersey State Police, and the monitors are beginning to observed adherence in most training development to the five-step development cycle outlined for the State by the monitors in 2001.

1.5.2 Supervision

Supervisory systems continue to be revised and fine tuned within the Division this reporting period. It is apparent that the State is conceptualizing and testing various methods of supervision of road-based troopers in an attempt to identify the method that will best provide quality oversight and mentoring for law enforcement personnel engaged in on-road activities governed by the consent decree. These supervisory processes are also designed to improve compliance with New Jersey State Police SOPs.

1.5.3 MAPPS Development

The State has finally implemented the MAPPS performance management system, making the system available to supervisory and management personnel at all levels of the organization. The system can be used to review trooper and supervisory performance, compare trooper performance to other members of the trooper's workgroup, and to compare performance across work groups. Work continues on establishing appropriate benchmark integration into the MAPPS system. Supporting SOPs and training for operation of MAPPS have been developed and approved by the monitors.

1.5.4 Inspections, Audit and Quality Control

The State continues an aggressive quality control program for Office of Professional Standards investigations and for Field Operations motor vehicle stop systems. Inspections and Audit personnel from Field Operations and the Office of State Police Affairs continue to review MVSR and MVR elements for conformance to the requirements of the consent decree.

1.5.5 Citizens' Complaints

The State continues to staff and manage its Office of Professional Standards with an eye toward ensuring quality investigations of internal and citizens' complaints. This includes audits of persons subjected to traffic stops and audits of completed OPS investigations. No new initiatives have been developed in this area; however, performance has been in compliance for several reporting periods.

2 Assessment of Compliance

2.1 Methodology

The monitors assessed the State's compliance using practices agreed upon between the parties and the monitors. "Compliance" was assessed as Phase I or Phase II (see section 1.3.2, above).

The following sections of the Ninth Monitors' Report contain a detailed assessment of the degree to which the State has complied with the 97 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 April 1, 2000 and September 30, 2003.

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

Task 26	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 26 stipulates that:

26. Except in the "suspect-specific" ("be on the lookout" or "BOLO") situation described below, state troopers shall continue to be prohibited from considering in any fashion and to any degree the race or national or ethnic origin of civilian drivers or passengers in deciding which vehicles to subject to any motor vehicle stop and in deciding upon the scope or substance of any enforcement action or procedure in connection with or during the course of a motor vehicle stop. Where state troopers are seeking to detain, apprehend, or otherwise be on the lookout for one or more specific suspects who

have been identified or described in part by race or national or ethnic origin, state troopers may rely in part on race or national or ethnic origin in determining whether reasonable suspicion exists that a given individual is the person being sought.

Methodology

During the ninth site visit, members of the monitoring team conducted structured on-site reviews of the operations of twelve New Jersey State Police Road Stations. These reviews were conducted of operations reported during the dates of April 1, 2003 through September 30, 2003, inclusive (the last month for which electronic data were available). The team conducted these reviews of Troops A and D, including the Troop A stations of Atlantic City, Bellmawr, Bridgeton, Buena Vista, Camden, Port Norris, Tuckerton, Woodbine, and Woodstown. Troop D stations (Moorestown, Cranbury and Newark) were also reviewed. As part of this review, members of the monitoring team collected and or reviewed course-of-business data on 258 New Jersey State Police motor vehicle stop incidents. In addition, the team reviewed video recordings of 244 motor vehicle stop incidents involving law enforcement procedures stipulated in the decree. Supporting documentation was reviewed for each of the motor vehicle stops assessed by the monitoring team. The following paragraphs describe the monitoring team's methodology for data collection and analysis of the structured site visits. These descriptions apply to the assessment of compliance of various tasks required by the decree, and are critically important in the assessment of tasks 26 through 36.

Data Requests

Prior to its site visits in October, 2003, the monitoring team requested of the State electronic and hard-copy data regarding State Police operations. These data requests included the following electronic-format data, in addition to other non-electronic data requests:

- Electronic data for all motor vehicle stop activity for the stations selected relating to an incident in which personnel engaged in one of the eight articulated post-stop law enforcement procedures of interest to the decree, i.e., request for permission to search; conduct of a consensual or non-consensual search; ordering occupants out of a vehicle; frisks of vehicle occupants; deployment of a drug-detection canine; seizure of contraband; arrest of the occupants of the vehicle; or use of deadly, physical, mechanical or chemical force.

- Electronic data for all trooper-initiated motor vehicle stop "communications center call-ins" for the stations selected, including time of completion of the stop and results of the stop.
- The monitoring team also requested copies of documentation created for all consent search requests, canine deployments, and incidents involving use or force by New Jersey State Police personnel statewide, where such events took place in conjunction with a motor vehicle stop, as defined by the decree.

Based on these data requests, the monitoring team was provided with all motor vehicle stop records for Troops A and D (taken from the State's motor vehicle stop report entry system) referred to by the State as motor vehicle stop "event" records. Computer Assisted Dispatch System (CADS) records were also requested by the monitors for all motor vehicle stop activity for the selected stations for the active dates of the ninth site visit.

Data reviewed by the monitoring team for the ninth site visit included the types of incidents noted in Table One, below.

Motor Vehicle Stops

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

Incidents selected for review by the monitoring team were subjected to three types of assessment.

- Events that were reviewed using reported data, i.e., motor vehicle stops which resulted in post-stop activities of interest to the decree, and that were reviewed by comparing the electronic data to data included in motor vehicle stop reports and supporting documents (patrol logs, summonses, consent to search reports, etc.), referred to as Type I data;

Table One: Incidents Reviewed by Monitoring Team
For Ninth Site Visit

Type of Activity	Report Reviews	Tape Reviews
Selected MVS Incidents	258	244
MVS Involving Consent Search	9	8 ²
MVS Involving Canine Deployment	15	15
MVS Involving Use of Force	15	12 ³
Probable Cause Searches of Vehicles	52	48
Probable Cause Searches of Persons	65	54

- Events that were reviewed using both reported data **and** by reviewing recordings of the motor vehicle stop in question, referred to as Type II data; and
- Events that were reviewed simply by viewing video recordings events following a selected motor vehicle stop incident, using a procedure developed to ensure that all events, which should be reported by MVSR, are actually reported, referred to as Type III data.

These records indicated six events that resulted in a consent search request from the stations selected for review this reporting period, and three events from other stations resulting in consent search requests, for a total of nine consent search requests.⁴ All incidents involving consent search requests were assessed by reviewing New Jersey State Police reports documenting the consent and

² One stop event that involved a consent search was not recorded as such by the State, and was not discovered until the monitoring team reviewed the randomly selected MVSR as part of its Type I event review process. No evidence exists to indicate that the failure to report this consent search to the monitoring team was intentional. The State has taken steps to ensure that no future incidents of failure to report critical incidents occur.

³ One stop event that involved a use of force was not reported as such by the State, and was not discovered until the monitoring team reviewed the randomly selected MVSR as part of its Type I event review process.

⁴ Two consent requests were declined by drivers during the reporting period.

execution of the search. The reader should note that one of these nine consent searches was not reported to the monitoring team as a consent search, but was found as part of the monitoring team's Type I review of randomly selected motor vehicle stop incidents. While the monitoring team detected no indication that this omission was intentional, the State has taken steps to ensure that future problems with reporting are avoided.

All six consent searches occurring within selected stations were subjected to both documentation and video recording review by the monitoring team. A total of three consent search request incidents from other Troops were reviewed as well. Similarly, the New Jersey State Police deployed drug detection canine units 15 times during the reporting period. Reports from all 15 of these events were reviewed by the monitoring team, and videos from all 15 of those events were also reviewed by the monitoring team. Force reportedly was used by New Jersey State Police personnel in 13 motor vehicle stop incidents during the reporting period, and reports from each of these incidents were reviewed by the monitoring team. Video tapes of 12 of the use of force events were reviewed by members of the monitoring team during the ninth site visit. The reader should note that one of these uses of force was not reported to the monitoring team as a use of force, but was identified by the monitoring team as a report of its Type I review process. The monitoring team detected no indication that this omission was intentional.

The reader should note that members of the monitoring team reviewed all Motor Vehicle Stop Reports and associated documentation (patrol charts, citations, arrest reports, DUI reports, etc.) for the following New Jersey State Police activities:

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

In addition, obviously, video tapes of *some* these events also were reviewed by members of the monitoring team during their ninth site visit, as noted above. These incidents and procedures were subjected to one (or more) of three types of reviews performed by the monitoring team. The types of reviews used by the monitoring team are described below, and a summation of the types of review performed by station, are depicted in Table two, below.

Type I Event Reviews

A Type I event review consisted of reviewing all available hard-copy and electronic documentation of an event. For example, an event review could

consist of reviewing the motor vehicle stop report, associated records in the patrol log, a supporting consent to search report, and associated summonses or arrest records. Each post-stop event consisting of law enforcement procedure of interest to the decree, i.e., request for permission to search; conduct of a consensual or non-consensual search; ordering occupants out of a vehicle; frisks of vehicle occupants; deployment of a drug-detection canine; seizure of contraband; arrest of the occupants of the vehicle; or use of deadly, physical, mechanical or chemical force was subjected to a structured analysis using a form developed by the monitoring team. Problems with the reporting process were noted and tallied using this form. These data were shared with the New Jersey State Police, and clarifications were requested and received in instances in which there was doubt about the status of an event or supporting documentation. Fourteen Type I reviews were conducted this period.

Type II Event Review

A Type II event review consisted of reviewing the associated video tape for a given motor vehicle stop event, and comparing the actions noted on the tape with the elements reported in the official documents related to the event. These data were collected using a form developed by the monitoring team. These data were shared with the New Jersey State Police, and clarifications were requested and received in instances in which there was doubt about the status of an event or supporting documentation. A total of 244 Type II reviews were conducted this period.

Type III Event Review

In order to provide a probability that the monitors would note any events, which **should** have been reported, based on the requirements of the decree, but were not reported as required, the monitoring team in the past had developed a protocol that sampled events after a selected event at a road station. For example, if a motor vehicle stop incident, which occurred at 3am, were selected for review, six events recorded occurring immediately after that were also eligible for review. All events selected for a Type III (video-based) review in the past, had been subjected to a structured review using a form developed by the monitoring team. A total of 44 Type III reviews were conducted this period.

Table Two: Distribution of Monitoring Events

Station	Type I Reviews	Type II Reviews	Type III Reviews
1 Atlantic City Expressway	25	24	9
2 Bellmawr	28	21	18
3 Bridgeton	33	17	6
4 Buena Vista	15	15	5
5 Camden ⁵	48	45	0
6 Port Norris	13	9	0
7 Tuckerton	8	8	3
8 Woodbine	14	12	3
9 Woodstown	10	9	0
10 Moorestown	10	10	0
11 Cranbury	17	17	0
12 Newark	14	14	0
Other	23	43	0
	258	244	44

Status

The monitoring team's review of New Jersey State Police SOPs indicates that the agency remains in Phase I and Phase II compliance with Task 26. The monitors continue to review State Police activity for processes that indicate that relatively minor infractions serve as the only precursory violation resulting in requests for consent searches, requests to exit the vehicle, frisks, or other law enforcement procedures. The vast majority of all searches of persons and vehicles conducted by members of the State Police are "non-discretionary," e.g., searches incidental to arrest, with a total of 193 of the 255 searches of persons being conducted "incidental to arrest." Of the 215 searches of vehicles reviewed this reporting period, 162 were "non-discretionary" searches incidental to arrest. The monitors commend the State for continuing to improve the quality and tenor of the "average" traffic stop observed by the monitoring team during the past four reporting periods. As with past reporting periods, this period the monitors found

⁵ Events were reviewed from motor vehicle stops made by personnel assigned to the Camden Initiative during this reporting period

no indications, in any of the 258 incidents reviewed, of law enforcement activities reflective of race- or ethnicity-based decision making.

Compliance

Phase I: In Compliance

Phase II: In Compliance

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

Task 27	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 27 stipulates that:

27. The State Police has adopted a protocol captioned "F-55 (Motor Vehicle Stops)," dated December 14, 1999, which establishes criteria to be followed by state troopers in selecting which vehicles to stop for violation of state motor vehicle laws. This protocol includes the nondiscrimination requirements set forth in ¶ 26 and has been approved by the United States in so far as the protocol identifies practices and procedures required by the Decree. The State shall implement this protocol as soon as practicable. The State shall monitor and evaluate the implementation of the motor vehicle stop criteria and shall revise the criteria as may be necessary or appropriate to ensure compliance with ¶¶ 26 and 129. Prior to the implementation of any revised criteria, the State shall obtain approval from the United States and the Independent Monitor.

Methodology

Compliance with this task was assessed using the Motor Vehicle Stop Report and video review outlined in section 2.2 above. The monitors have noted that a new level of supervision has been added to the New Jersey State Police road stations during this site visit. New Jersey State Police Motor Vehicle Stop Reports are now being reviewed by "dedicated" MVSR review personnel, sergeants assigned to road stations who are tasked with reviewing selected MVSRs for quality. The State envisions these additional first-line supervisors as a supplement to, not a supplantation of, existing first-line supervisors. In addition, the State continues

to provide audit and quality control services through the Office of State Police Affairs.

Problems continue to be noted in this new system of supervision, however. Members of the monitoring team have noted that field supervisors were present in 21.7 percent of all monitored activity this reporting period, up from 10.4 percent last period, a substantial increase of 108 percent. While there were some exceptional success stories for supervision this reporting period, supervisory review of video tapes of motor vehicle stops has failed to note some rather significant errors on the part of troopers in the completion of their motor vehicle stop reports.

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

Status

A review of the polices developed, the training provided to date and the pending MAPPS process indicates that the agency is in Phase I compliance with the requirements of this task. The State continues to review, independently of the monitors, Motor Vehicle Stop Reports (MVSRs) submitted by Division personnel, and continues to note deficiencies in operationalization of the training provided. Retraining to address these deficiencies has been delivered. Full compliance with this task cannot be monitored until the MAPPS begins to be used as a routine process for managing the New Jersey State Police.

Of the 258 incidents reviewed by the monitors this reporting period, 120 of these were also reviewed by supervisory personnel from the New Jersey State Police. In its review of those same 120 incidents, the monitoring team noted 78 errors in procedure, reporting or constitutionality of the events observed and/or reported. These 78 errors were noted in 31 separate incidents (an average of 2.5 errors per event). The monitors' reviews and the supervisors' reviews *should* be virtually identical, as both are based on established SOPs, trained throughout the Division.

For example, the following issues were noted with 31 MVSRs (from among the 258 reviewed this reporting period), which were, apparently, not noted by supervisory personnel reviewing the motor vehicle stops. From those 31 events, the monitors found 78 reporting problems that should have been noted by supervisory review. Of those 78 problems, supervisory personnel actually noted only 14 of these, missing 64 reporting problems. These included:

- Two troopers articulated insufficient reason to suspect drivers or passengers were armed in their MVSRs detailing frisks of drivers or passengers of vehicles.
- Nine troopers submitted MVSRs with one or more substantial errors in the reports, which conflicted with events observed on the in-car video tapes reviewed by the monitoring team.
- 53 separate violations of New Jersey State Police reporting or in-field practice procedures (ranging from failure to call-in to the communications center prior to conducting a search (10) failure to activate the in-car MVR as required (8), failure to call-in the motor vehicle stop information as required (36), failure to follow consent request requirements (3), improper requests to exit a vehicle (1) and improper or poorly documented searches of persons and vehicles (2) and supervisors reviewing these reports and MVRs failed to take note of the procedural errors.

These errors were located among 31 motor vehicle stops. This constitutes an error rate of 31 of 120 motor vehicle stops, or 25.8 percent, far outside the allowable five percent error rate for this task. The monitors noted at least one incident this reporting period in which a consent request slipped through State Police reporting requirements at the initial point of review. Additionally, two problematic searches (one of a vehicle and one of a person) went unnoticed by State Police review. Remaining errors (State Police procedural violations, and less problematic consent decree violations—activation times for video and audio recordings, for example) are less troublesome than poor consent search request practices and improper searches. While a continuing problem exists of failure to notify communications prior to conducting a consent search or a non-consensual search of a vehicle, the monitors have found that, for the most part, the searches are being conducted properly, i.e., based on proper probable cause. It is the process of *notification* that is not being followed.⁶

Not all in-field errors were missed by supervisory personnel, however. In fact, the monitoring team has noted an increase in supervisory review processes, and resulting performance notices—both positive and negative—based on those reviews. Several of these reviews indicated to the monitoring team that the New Jersey State Police are beginning to note many procedural errors prior to the monitoring team's noting them. A total of 120 MVS incidents reviewed by the monitoring team were also reviewed by supervisory personnel. Within those 120 events, the monitoring team noted 78 various errors. Supervisory personnel

⁶ The parties have agreed, effective this reporting period, non-consensual searches of motor vehicles that result from searches incidental to arrest will not be included in the "notice to ODU" requirement. The monitors have agreed to this process for their error rate calculations.

reviewing these same incidents noted 25 of these 78 errors. Supervisors noted five improper frisks, four problematic requests for drivers or passengers to exit their vehicles, three issues with consent requests, two issues with vehicle searches, one issue with a search of a person, 43 non-decree issues, eight motor vehicle recorder issues, eight stop call-in errors, and one search call-in error.⁷

Further, it appears that the 258 stop reports receiving a Type I or Type II review contained 155 reporting errors. A total of 25 motor vehicle stops, not reviewed by supervisory personnel, contained 58 reporting errors. In all, the monitors found 46 problematic motor vehicles stops, from among the 258 reviewed, an overall error rate of 17.8 percent. The reader should note that five of the oversights on the part of supervisory personnel were serious, e.g., failing to note that a consent search was made but not reported, failing to note improper frisks, failing to note improper searches. As a result, the State is found to be out of compliance with Task 27 for this reporting period. Problems associated with this task are two-fold: errors continue to be made, and supervisory personnel continue to fail to note substantial numbers of these errors.

Compliance

Phase I: In Compliance
Phase II: Not In Compliance

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

Task 28	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 28 stipulates:

28. In order to help ensure that state troopers use their authority to conduct consensual motor vehicle searches in a nondiscriminatory manner, the State Police shall continue to require: that state troopers may request

⁷ The monitors have advised the parties that, in an effort to encourage proactive supervisory review, if a supervisory review notes and remedies a problematic procedure, prior to the time the monitors notify the State of the stop incidents they will monitor for the site visit, the event will be noted in the monitors' report, but not counted as a "error."

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).

Methodology

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

Status

The monitoring team reviewed a total of nine law enforcement actions involving consent requests conducted during the ninth report's operational dates. None of these nine involved a consent search request that was declined. A description of consent request events, by race of driver, is presented in Table Three below. Tables Three through Five depict data from the 258 incidents reviewed this reporting period by the monitoring team. "Number of Drivers" depicts the number of drivers, by race, in the 258 incidents. The number in parentheses in this column depicts the *percentage* of drivers in the total sample, by race. Thus, for Tables Three through Five, there were 89 white drivers of the total of 258 drivers involved in motor vehicle stops reviewed by the monitoring team this period, constituting 57.8 percent of all drivers in the sample. The next column, "Number" depicts the number of law enforcement procedures observed in the motor vehicle stops reviewed. For example, Table Three depicts four consent requests of white drivers, four requests of black drivers, one request of Hispanic drivers, and no requests of drivers of "other" race/ethnicity. The last column, "Percent" depicts the percent of drivers of a given race or ethnicity, which were,

subjected to a given law enforcement procedures. This column will not total to 100 percent. The reviews depicted in this table constituted documentation and/or video tape reviews.

The reader should note that the State has reduced substantially the number of consent search requests, from a high of 59 the fifth reporting period to only nine this period. As such, the numbers reported in Table Three are not statistically meaningful when reported *viz a viz* race and ethnicity.

Seven of the nine consent searches were completed in conformance with the requirements of the consent decree. Two consent requests were not conducted in conformance with the decree and State Police procedures. One request involved a protracted stop for a cracked windshield. The problems with this consent search were caught and corrected prior to the monitoring team's selection of the incident for review. A second consent search simply was not reported by the trooper requesting the consent. Supervisory review noted this error, but only after the event was selected by the monitors for review. Supervisors were present in four consent searches this reporting period.⁷

An error rate of one of nine consent searches constitutes 11.1 percent, falling outside the >94 percent compliance rate agreed to by the parties as the standard for critical tasks outlined by the consent decree.

Table Three—Consent Request Activity

Race/Ethnicity	Number of Drivers	Number of Requests for Search^{8,9}	Percent Consent Request by Race/Ethnicity
White	82(31.8%)	4	4.7
Black	146(56.6%)	4	2.7
Hispanic	28(10.9%)	1	3.6
Other	2(0.08%)	0	0
Total	258	9	--

Compliance

Phase I: In Compliance

⁸ Two consent search requests were refused.

⁹ One white male and one Hispanic male drivers refused consent.

Phase II: In Compliance

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

Task 29a	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 29a stipulates that:

29. Motor Vehicle Stop Data

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

Methodology

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

Status

The review of State Police policies, forms, training, data entry systems, and CADS processes indicates that the New Jersey State Police are in Phase I compliance with the requirements of Task 29a. Effective policies and forms requiring compliance with the reporting requirements of the task have been written, disseminated and implemented into the State Police training process. Development of training for supervisors in the process of scrutinizing motor vehicle stop reports, and systems to facilitate that review were completed during this reporting period.

Table Five: Canine Deployments¹¹

Race/Ethnicity of Drivers	Number of Drivers	Canine Deployments	Percent by Race/Ethnicity
White	82(31.8%)	4	4.9
Black	146(56.6%)	11	7.5
Hispanic	28(10.9%)	0	0
Other	2(0.08%)	0	na
	258	15	na

Non-Consensual Searches

Members of the New Jersey State Police conducted 218 non-consensual searches of vehicles among the 258 reports reviewed by the monitoring team during the reporting period. White drivers' vehicles constituted 30.3 percent of the "searched population," while black drivers' vehicles constituted 58.3 percent, and Hispanics drivers' vehicles constituted 10.6 percent of the searched vehicle population. Members of the monitoring team reviewed all 190 of these non-consensual searches of vehicles. Only one of these non-consensual searches was problematic.

Table Six depicts the results, by race/ethnicity and type of non-consensual vehicle search for the sample of 258 incidents reviewed by the monitoring team this reporting period. Table Six depicts the types of non-consensual searches, by race/ethnicity of the 218 incidents involving a non-consensual vehicle search. For example, 66 white drivers were subjected to non-consensual searches during this reporting period, with 48 white drivers searched incidental to arrest, 17 subjected to probable cause searches, etc. Numbers in parentheses reflect the percentage of type of search, by race. For example, the 48 searches incidental to arrest constitute 72.7 percent of all searches of white drivers. The reviews depicted in this table constituted documentation and/or video tape reviews.

Table Six: Reasons for Non-Consensual Searches of Drivers' Vehicles, By Race of Driver

¹¹ These numbers are not considered to be statistically significant, due to the small n size.

Reason for Search	White #(%)	Black #(%)	Hispanic #(%)	Other #(%)
Incidental to Arrest	48(72.7)	96(75.6)	17(73.9)	2(100)
Probable Cause	17(25.8)	30(23.6)	5(21.7)	0
Plain View	1(1.5)	0	0	
Proof of Ownership	0	1(0.07)	1(4.3)	0
Total	66(100)	127(100)	23(100)	2(100)

Of the 218 MVSRS reviewed which entailed non-consensual searches of vehicles, members of the monitoring team found problems with one. This search, which was designated as incidental to arrest, was actually conducted *before* the arrest was made. An error rate of one of 218 events equals 0.0045 percent, within the acceptable level of error.

Table Seven depicts probable cause non-consensual search activity by race, for probable cause searches, and Table Eight depicts "incidental to arrest" searches by race.

Table Seven: Probable Cause Searches, by Race/Ethnicity

Race/Ethnicity of Drivers	Number of Drivers	Probable Cause Searches	Percent by Race/Ethnicity
White	82(31.8%)	17	20.7
Black	146(56.6%)	30	20.5
Hispanic	28(10.9%)	5	17.9
Other	2(0.08%)	0	0
	258	52	na

Table Eight: Incidental to Arrest Searches, by Race/Ethnicity

Race/Ethnicity of Drivers	Number of Drivers	Searches Incidental to Arrest	Percent by Race/Ethnicity
White	82(31.8%)	48	58.5
Black	146(56.6%)	96	65.7
Hispanic	28(10.9%)	17	60.7
Other	2(0.08%)	1	50.0
	258	9	

In all, members of the monitoring team noted 24 separate incidents in which procedural, reporting, or review issues were evident (see section 2.3, above, for a complete listing of these motor vehicle stop incidents). A total of two of these 24 errors were noted and corrected by retraining prior to the monitor's noting the behavior. A total of two errors from among 24 yields an error rate of 8.3 percent, outside the allowable margin of error agreed to by the parties. This is the third consecutive quarter in which error rates have exceeded the allowable five percent.

Compliance

Phase I: In Compliance
Phase II: Not In Compliance

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

Task 29b	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 29b stipulates that:

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

Methodology

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

Status

The review of State Police policies, forms, training, records systems, data entry systems, and CADS processes indicates that the New Jersey State Police are in Phase I compliance with the requirements of Task 30. Effective policies and forms requiring compliance with the reporting requirements of the task have been written, disseminated and implemented into the training process. Development of training for supervisors in the process of scrutinizing motor vehicle stop reports and associated documentation, and systems to facilitate that review have been completed.

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

The reader should also note that the data collected in the traffic stop reporting process is among the most robust in the nation. The data analyzed for this reporting period included only those data generated by the electronic reporting process. Accuracy rates for these data, overall, exceeded 99 percent, well within the acceptable margin for error for this task. The earliest available electronic data in the State's database, provided to the monitors, was September 2, 2000. In the opinion of the monitors, this qualifies as "expeditious" implementation. None of the compliance issues identified above are attributable to a delay in implementation.

Compliance

Phase I:	In Compliance
Phase II:	In Compliance

2.5.2 Compliance with 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.

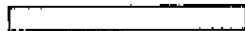
The State continues to revise forms and policies related to this task, and to provide multiple levels of review and quality control practices related to tasks 31-33.

Forms to support execution of tasks 31-33 have been developed and disseminated. The State has finalized automated data entry at road stations. Conformance to the policies supporting these forms is improving. The forms have been developed and disseminated and are being used by agency personnel, and appear to have improved substantially the level of reporting and compliance with stipulated procedures. None of the compliance problems noted above are attributable to forms, reports or logs created in response to this task.

Phase I: In Compliance
Phase II: In Compliance

[illegible]

[illegible]



Task 30 stipulates that:

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

Methodology

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

Status

New Jersey State Police 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. The recent revisions to New Jersey State Police SOPs noted above have formed the backbone for supervisory review and control of these processes, and when fully implemented, should further improve agency performance in these areas.

A sample of 45,993 electronic CAD records reflecting motor vehicle stops conducted by New Jersey State Police personnel, was reviewed by the monitoring team. These records reflected a > 99 percent conformance to requirements for call-ins to the communications center established by the decree. In addition, 244 video recordings and documentation from 258 vehicle stops were reviewed this quarter, as were supporting documents, such as CAD abstracts, etc. Compliance with this task was assessed using both the electronic, video, and paper documentation. All data required by paragraphs 29 a, are recorded within the CADS records for vehicle stops, or within associated MVSRS.

Of the 244 video recordings reviewed by the monitors, four failed to activate recording upon signal to stop, 11 had no call-in prior to approach, 13 failed to provide a description of the vehicle, 15 failed to provide a description of occupants, and 10 failed to provide a reason for the stop. The majority of these errors were registered on motorist aids, motor vehicle accidents and rest-area "walk throughs" that turned into enforcement procedures requiring call-ins. Once these events turned into law enforcement procedures, the required call-ins were not made. The monitors found no pattern that would indicate these were intentional acts on the part of enforcement personnel. These 49 errors occurred in 56 motor vehicle stops. Supervisors noted 10 of these incidents from among the 18 resulting in errors that they reviewed. The remaining 49 incidents of 244 events constitute an error rate of 20.1 percent, outside the allowable margin of error.¹² The monitors have determined that once compliance is reached in a given area, two consecutive periods of non-compliance are required to result in a loss of compliance. The State is placed under warning for this task, and is encouraged to ensure that troopers know that, once a given event turns to an enumerated law enforcement procedure requiring call-in of stop data, such call-ins are made as required by procedures.

Compliance

Phase I: In Compliance

Phase II: In Compliance

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

Task 30a	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 30a stipulates that:

a. The initial call shall be made at the beginning of the stop before the trooper approaches the stopped vehicle, unless the circumstances make prior notice unsafe or impractical, in which event the State trooper shall notify the communications center as soon as practicable. The State Police shall continue to require that, in calling in or

¹² These numbers reflect those recording failures not attributable to technical difficulties with audio or video recording devices.

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.

Methodology

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

Status

A sample of 45,993 electronic CAD records was assessed for existence of a "stop time." All records had the time of stop recorded as part of the CAD record. In addition, members of the monitoring team also reviewed 244 video tapes of motor vehicle stops to assess the time of the call in. Data indicate that 100 percent of all stops in were assigned an incident number; 99.9 percent list the primary trooper's badge number; 99.9 percent list the race and gender of the primary trooper; 99.9 percent list the driver's race and gender; 99.9 percent list a reason for the stop and a final disposition. The State is in compliance with this task. Of the 244 stop records reviewed by the monitoring team, four indicated that the MVR began after the trooper approached the vehicle. The majority of these were either motor vehicle accidents or motorist aids. (This constitutes an error rate of 1.6 percent).¹³

Phase I: In Compliance

Phase II: In Compliance

2.6.2 Compliance with Task 30b: Notice Prior to Search

Task 30b	1	2	3	4	5	6	7	8	9	10	11	12
13 Phase I												
(a) Phase II												

[REDACTED]

Task 30b stipulates that:

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

Methodology

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

Status

Of the 218 search events reported (and reviewed by video tape), all but 20 involved a search incidental to arrest.⁷ Of those 20, 14 were noted by supervisory review, yielding an error rate of 6 of 20, or 30.0 percent. This rate is nearly double that noted last reporting period, although still an improvement over earlier performance. Supervisory reviews of motor vehicle stop activity continue to note these failures in the field (although it continues to be clear that not all supervisors are aware of the operationalization of the requirement). Substantial work still remains to be done, obviously.

Compliance

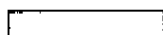
Phase I: In Compliance
Phase II: Not in Compliance

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

Task 30c	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

[illegible]

[illegible]



Task 31 stipulates that:

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

Methodology

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

Status

A MVSR form was completed accurately in five of the nine events that the monitoring team reviewed, that included a consent search request. None of the incidents involved a consent request that was denied. This constitutes a 88.9 percent compliance rate. In addition, the information required to be presented to the driver was so presented in eight of the nine cases. The monitors noted that State Police supervisory personnel (on administrative review) noted the unreported consent request, and issued a performance notice and referred the trooper to OPS for an investigation of the incident. The State Police apparently *did not* counsel, retrain or otherwise correct the trooper's supervisor, who approved the consent request via telecommunications, then approved the trooper's MVSR on the next day, failing to note that the MVSR did not include the consent request he had approved the previous day. This failure to correct improper line-level supervision is, in the monitors' opinion, the quintessential exemplar of the State's problems in achieving and maintaining compliance with the "call-in" requirements of the decree. Line-level supervisors in some instances and in some stations, particularly the Bridgeton Station, are effective in establishing a focused, timely and careful review of troopers' in-field activity; however, in other instances the review can best be characterized as perfunctory.

The four problematic consent search processes include the following:

1. One consent request and search was not reported as such on the trooper's MVSR (this failure was noted by supervisory review three months after the event);
2. One consent request and search was supported by an MVSR narrative that was materially different from the facts observable on the tape, and this discrepancy was not noted on supervisory review;
3. One consent request and search was made, but not called in to the Operational Dispatch Unit prior to the request and search, as required by the decree and State Police procedures (this failure was not noted by supervisory review); and
4. One consent request and search was supported by an MVSR narrative that was *sequentially different* from the facts observed on the supporting video tape, and this discrepancy was not noted on supervisory review.

Compliance for this task fell below compliance levels for the first time in the last five reports. The monitors have determined that, once compliance is achieved, two consecutive periods of poor performance is required prior to loss of compliance. The State is placed under warning for this task.

Compliance

Phase I: In Compliance
Phase II: In Compliance

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

Task 31a-c	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Tasks 31a-c stipulate that:

a. The State Police shall require that all "consent to search" forms include the following information :

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

c. The trooper shall sign and date the form and the report after each is fully completed.

Methodology

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

Status

Members of the monitoring team noted reporting or process problems with five of the nine consent searches. These include the following:

1. One consent request was not made in accordance with the decree and State Police procedures (this failure was noted by supervisory review);
2. One consent request and search was supported by an MVSR narrative that was materially different from the facts observable on the tape, and this discrepancy was not noted on supervisory review;
3. One consent request and search was made, but not called in to the Operational Dispatch Unit prior to the request and search, as required by the decree and State Police procedures (this failure was not noted by supervisory review); and
4. One consent request and search was supported by an MVSR narrative that was *sequentially different* from the facts observed on the supporting video tape, and this discrepancy was not noted on supervisory review.

Items 2-4 reflect problems with requirements b-3 of paragraph 31, and each of these problems is reflective of poor supervisory performance in ensuring compliance of road personnel with these aspects of the decree. Once compliance has been achieved in a given area, the monitors have determined that two consecutive periods of non-compliance will result in loss of compliance status. The State is place under warning for paragraph 31 activities.

Compliance

Phase I: In Compliance

Phase II: In Compliance

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

Task 32	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

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.

Methodology

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

Status

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

Of the 218 MVSRS reviewed which entailed non-consensual searches of vehicles, members of the monitoring team found problems with one. This search, which was designated as incidental to arrest, was actually conducted *before* the arrest was made. At the time of the search, no probable cause existed, and no arrest had been made. While the supervisory review of the event *did* note an improperly supported frisk during this stop, it *did not note the Constitutional violation*. An error rate of one of 218 events equals 0.05 percent, within the acceptable level of error. Again, however, the supervisory review process indicates some weakness.

Compliance

Phase I: In Compliance

Phase II: In Compliance

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

Task 33	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 33 stipulates that:

33. Drug-Detection Canines. A state trooper shall complete a report whenever, during a motor vehicle stop, a drug-detection canine is deployed. The report shall include the following information:

1. the date and location of the stop;
2. the names and identification numbers of all troopers who participated in the incident;
3. the driver's name, gender, race/ethnicity, and, if known, date of birth;
4. a description of the circumstances that prompted the canine to be deployed;
5. whether an alert occurred;
6. a description of the type and quantity of any contraband or other property seized; and
7. whether the incident was recorded using MVR equipment.

Methodology

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

Status

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

Members of the monitoring team monitored, by document review, all 15 reported drug detection canine deployments effected by the New Jersey State Police. Members of the monitoring team reviewed all 15 canine deployments by reviewing video tapes of the deployments to ensure that the reports accurately reflected the events depicted on the official reports. Members of the monitoring team found all of the canine deployments to be accurately reported, and canines to have been deployed in conformance with the requirements of procedures and the decree and the Constitution.

Compliance

Phase I: In Compliance

Phase II: In Compliance

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

Task 34a	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 34a stipulates that:

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

a. The State Police shall continue to operate all patrol vehicles engaged in law enforcement activities on the New Jersey Turnpike and the Atlantic City Expressway with MVR equipment. The State shall continue with its plans to install MVR equipment in all vehicles, both

marked and unmarked, used for patrols on all other limited access highways in New Jersey (including Interstate highways and the Garden state Parkway), and shall complete this installation within 12 months.

Methodology

Members of the monitoring team requested to view video tapes for 244 events known to have occurred during the current reporting period.

Status

Members of the monitoring team found evidence of video tape recordings for all events selected for review this period. The State remains in compliance with this task.

Compliance

Phase I: In Compliance
Phase II: In Compliance

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

Task 34b-c	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 34b-c stipulates that:

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

c. Except when MVR equipment unforeseeably does not function, all motor vehicle stops conducted by State Police vehicles with MVR equipment shall be recorded by these vehicles, using both the video and audio MVR functions. The recording shall begin no later than when a trooper first signals the vehicle to stop or arrives at the

scene of an ongoing motor vehicle stop begun by another law enforcement trooper; and the recording shall continue until the motor vehicle stop is completed and the stopped vehicle departs, or until the trooper's participation in the motor vehicle stop ends (the recording shall include requests for consent to search a vehicle, deployments of drug-detection canines, and vehicle searches). If a trooper operating a vehicle with MVR equipment actively participates in a motor vehicle stop and is aware that the motor vehicle stop was not recorded using the MVR equipment, the trooper shall notify the communications center of the reason the stop was not recorded, which the center shall record in a computerized information system.

Methodology

In addition to verifying the existence of a video tape in each patrol vehicle for each day of this reporting period (see above), members of the monitoring team pulled for review a sample of 258 post-stop law enforcement actions of interest to the decree. These included 258 events selected from New Jersey State Police databases, and 244 procedures selected by reviewing video tapes¹⁴.

Status

While policies have been implemented requiring video and audio recording of all consent-decree related traffic stops, not all stops are recorded in conformance with the decree. Members of the monitoring team noted that 98.4 percent of all video recordings were initiated "when first signaled to stop." In addition, 99.6 percent of the recordings were noted to "continue until completion" as required by the decree. Notice of completion and notice of action taken were recorded in 93 percent of the cases, but was captured on CAD information systems in 99.9 percent of the cases.¹⁵

A review of the 244 video tapes selected by the monitoring team indicates that the agency has resolved problems noted in earlier reports concerning "out of tape" issues and troopers patrolling with inoperative video units. The agency has, it appears, achieved general compliance with the requirements of the

¹⁴ All 244 events reviewed by video-tape were included in the 258 MVSRs reviewed.

¹⁵ Some actions are not recorded on in-car MVR, as they are made via portable radio away from the main recording microphone. These call-ins, however, are captured by CADS operators and entered into the State's CADS system.

decree. A problem, noted for the last few reporting periods, continues this period. This problem involves technical difficulties with audio recordings during motor vehicle stops. Of the 244 stops reviewed via video-tape this period, 29 exhibited some form of audio difficulty, and six exhibited some form of video difficulty. These numbers did however, indicate a significant improvement over last reporting period (which experienced 44 and 13 respective events). Troopers have begun activating their microphones during traffic stops at a much higher rate, with the monitoring team noting only six events (of 244 reviewed) in which activation was delayed for a reason other than technical difficulties. Most of these were the result of motor vehicle accidents, motorist aid, or rest-area walk-throughs that resulted, eventually, in law enforcement procedures.

Compliance

Phase I: In Compliance

Phase II: In Compliance

2.12 Compliance with Task 35: Supervisory Review of Trooper Reports

Task 35	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 35 stipulates that:

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

Methodology

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

Status

A review of all electronic records of motor vehicle stops, completed during the reporting period indicated that 100 percent of these were reviewed by supervisory personnel. The monitors assessed all electronic records for MVSRs, and determined that greater than 99 percent of all MVSRs received initial supervisory review within 14 days of the event reported in the MVSR.

A review of 258 hardcopy records of motor vehicle stop activity indicates all reports were reviewed. The monitors and supervisory personnel reviewed 120 of the same motor vehicle stops. The monitors noted 78 reporting, procedural or constitutional issues in 31 of these 120 reports. Supervisors, reviewing the same 120 incidents, missed 64 reporting, procedural or constitutional issues in these same 31 reports. A total of 32 motor vehicle stops were noted, in which procedural, reporting or constitutional errors were found by the monitors, but not found by State Police supervisors. This constitutes 31 of 120 supervisory reviewed events, or 25.8 percent. The State continues to be out of compliance with this task, although two significant phenomenon were noted this quarter. First, supervisory personnel continue to review a much higher **number** of motor vehicle stop tapes. Secondly, the number of supervisory reviews resulting in performance notices for positive trooper behavior has markedly increased, as well. In addition, the number of supervisory reviews resulting in performance notices for trooper behavior that contradicts the consent decree has markedly increased, with a total of 40 consent decree and 45 non-consent decree errors noted by supervisors this period. Unfortunately, however, in many instances, supervisory review has failed to note obvious errors that occurred in the field..

The monitors continue to note problems relative to supervisory review of video tapes. Three problematic frisks noted by the monitoring team this period. Supervisory personnel reviewed MVSRs and MVRs for all three of those events. They missed the problematic nature of the frisks 66 percent of the time, missing two of three errors committed by their subordinate personnel. Other indications of poor supervisory review processes include:

- Failing to note instances of reported searches of vehicles that do not appear to have been made;
- Failing to note incorrect reported race of drivers/passengers;
- Failing to note materially different fact sequences on MVSR reports than those observed on the supporting video tapes, often relating to important processes, such as consent searches, vehicle searches and arrests;
- Failing to note lack of supporting probable cause for a vehicle search at the time the search was conducted;
- Failing to note a request to exit a vehicle not based on heightened suspicion;
- Failing to note a missing consent search report, even though the reviewing supervisor had approved the consent search the previous day;
- Failing to note clear disparities between MVSR reports and supporting narratives;

- Completing review forms that indicate facts different from those visible on the tape, e.g., indicating MVR recording continued to completion, when, in fact the MVR tape ran out prior to completion; and
- Failing to note minor reporting discrepancies on MVSRs, e.g., call-in of stop data, supervisory presence at scene, etc.

In addition, although the State has activated the MAPPS functions, information to track, organize, and use the vast amount of MVSR and MVR documentation to improve on-the-road performance of troopers and supervisors has not yet been entered into the MAPPS system. Until these data are up-to-date, no effective method exists to allow supervisors and managers to look at a given trooper's decree-related performance factors when making decisions concerning remedial measures once behavior is observed contradictory to the requirements of the decree. This difficulty was highlighted last reporting period when a trooper was served with performance notices by two separate supervisors for the same violation, the second supervisor not being able to easily access the fact that another supervisor had already dealt with the incident. Given the large numbers of transfers of personnel (both at the trooper level and supervisory level), memory does not serve as a good tool to assess past history when determining how to deal with violations of the decree. This can lead to both under-response or over-response to a given transgression. Entering remedial information into MAPPS, for use at the line-supervisory level, is critical to the success of the supervisory review process; however, a lack of this capacity in no way contributed to the supervisory review errors noted above.

Compliance

Phase I: In Compliance
Phase II: Not in Compliance

2.13 Compliance with Task 36: Supervisory Review of MVR Tapes

Task 36	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 36 stipulates that:

36. The State shall adopt a protocol requiring that State Police supervisors review MVR tapes of motor vehicle stops on a random basis. The protocol shall establish the schedule for conducting random reviews and shall specify whether and in what manner the personnel

conducting the review shall prepare a written report on each randomized review of an MVR tape. Prior to implementation, the protocol shall be approved by the United States and the Independent Monitor.

Methodology

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

Status

Training for supervisory personnel regarding MVR review and a supervisory-management system for using MVR reviews as part of the MAPPS process has been delayed again. Training for supervisory personnel regarding revisions to the procedures noted above was completed in November, 2001. The State developed, and implemented in November, 2001, a formal policy requirement regarding MVR review processes for supervisory personnel, using a structured review process that, in the opinion of the monitoring team, has drastically improved the quality of supervisory review. OSPA provides advanced training to field supervisors regarding MVR/MVSR review protocols.

During on-site reviews at New Jersey State Police road stations, members of the monitoring team reviewed more than 1,000 supervisors' MVR review reports. The quality of these reports has improved substantially. All reviews assessed this reporting period were completed using the new Form 528, a form requiring a highly structured review process. This process is a vast improvement over earlier processes. Members of the monitoring team were able to compare 190 supervisors' reviews with actual video tapes (the same tapes reviewed by supervisors as part of their review process). Members of the monitoring team noted 31 reporting or procedural issues, in the 120 tapes both the monitoring team and supervisory personnel reviewed, that were missed by the supervisory cadre at the New Jersey State Police. This constitutes an overall error rate for supervisory review of 25.8 percent, down from 26.8 last period, and 36 percent the prior period, but far beyond the agreed upon five percent margin for error.

Indications of poor supervisory review processes include:

- Failing to note instances of reported searches of vehicles that do not appear to have been made;
- Failing to note incorrect reported race of drivers/passengers;
- Failing to note materially different fact sequences on MVSR reports than those observed on the supporting video tape, often relating to

important processes, such as consent searches, vehicle searches and arrests;

- Failing to note lack of supporting probable cause for a vehicle search at the time the search was conducted;
- Failing to note a request to exit a vehicle not based on heightened suspicion;
- Failing to note a missing consent search report, even though the reviewing supervisor had approved the consent search the previous day;
- Failing to note clear disparities between MVSR reports and supporting narratives;
- Completing review forms that indicate facts different from those visible on the tape, e.g., indicating MVR recording continued to completion, when, in fact the MVR tape ran out prior to completion; and
- Failing to note minor reporting discrepancies on MVSRs, e.g., call-in of stop data, supervisory presence at scene, etc.

Compliance

Phase I: In Compliance

Phase II: Not In Compliance

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

Task 37	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 37 stipulates that:

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

the State. Appropriate personnel shall evaluate all incidents reviewed to determine the need to implement any intervention for the involved trooper.

Methodology

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

Status

During the monitors' site visits for the ninth reporting period, the monitors noted one incident that should have been forwarded to OPS in response to the requirements of this task. This incident involved a trooper who failed to report a consent request and search. This failure was noted by supervisory review three months after the line supervisor reviewed and approved the trooper's MVSR. This was the same supervisor who had approved the consent request and search the day before he reviewed the trooper's MVSR of the event. The trooper's actions (failing to report the consent request and search) were referred to OPS. The sergeant's failure to adequately supervise, apparently, has not been addressed by the State.

Compliance

Phase I: In Compliance

Phase II: In Compliance

2.15 Compliance with Task 38: Periodic Reviews of Referral Decisions

Task 38	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 38 stipulates that:

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

Methodology

Personnel at the Office of the Attorney General (Office of State Police Affairs) and the New Jersey State Police are aware of the requirement to monitor referral decisions pursuant to paragraph 37 of this decree. Recently completed training for all supervisory personnel included a discussion of the requirement to "copy" to the Office of State Police Affairs any referrals to OPS by supervisory personnel.

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

Status

The incident noted above, in which a supervisor failed to note a subordinate's failure to report a consent search did not result in a referral to OPS. To date, the monitors are unaware of any OSPA or State Police response to this overt failure of the supervisory process.

Compliance

Phase I: In Compliance
Phase II: Not in Compliance

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

Task 39	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 39 stipulates that:

39. The State Police shall require supervisors of patrol squads that exclusively, or almost exclusively, engage in

**patrols on limited access highways to conduct
supervisory activities in the field on a routine basis.**

Methodology

Numerous changes in New Jersey State Police policies regarding this task were made in the fourth reporting period, and were fully implemented in the sixth reporting period. New Jersey State Police policies F-19 (MVR Equipment), F-7 (Radio Procedures), F-31 (Consent to Search) and F-55 (Patrol Procedures) were revised in October, 2001 to reflect changes in operational practices designed to better assess New Jersey State Police patrol actions relative to prohibiting race- or ethnicity-based decision making. For example, supervisory personnel now review motor vehicle stop recordings (MVSRs) of all motor vehicle stops involving consent search requests. Supervisors also are required to routinely monitor and review, using a new, highly structured "checklist" a larger number of "routine" MVSRs, and now are required to review all consent searches, uses of force, and canine deployments engaged in by their personnel. In addition, law enforcement personnel who have exhibited problematic on-road behavior in the past are selected for enhanced monitoring through review of a larger number of MVSRs on a quarterly (and in some cases even daily) basis. The position of "road sergeant" has been implemented, thus increasing substantially the level of direct supervision of road activities. Supervisors are now required to approve all consent searches, and, where practicable, to be present when consent searches are conducted. Training in these new procedures and policies has also been provided to all supervisory personnel and troopers involved in law enforcement activities. During this reporting period, additional revisions were made to SOPs F-7, F-31 and F-55. These changes were designed to improve performance on call-ins prior to search and consent search.

In addition, attorneys from the Office of State Police Affairs have been assigned to each of the State Police's five troops, for the purpose of serving as legal advisors to the troops. These attorneys also perform site visits to State Police road stations to obtain feedback from law enforcement personnel regarding training and remediation of errors in traffic stop procedures. OSPA also initiated in-field audits of all consent searches, uses of force and canine deployments, with remedial mentoring of State Police supervisors in instances in which problematic procedures are noted. OSPA has also modified, during this reporting period, the non-consensual search protocols, requiring enhanced supervisory presence at the scenes of such procedures, and also requiring supervisory approval of such procedures.

Status

The New Jersey State Police have recently appointed and deployed patrol sergeants to serve as "road supervisors;" however, these personnel were noted to be "on scene," in 56 of the 258 events (21.7 percent, up from 12.6 percent last period) reviewed by the members of the monitoring team (through MVR reviews at the road stations and via review of written documentation of motor vehicle stop incidents). This represents a substantial increase from 10.8 percent for the seventh period. The sixth reporting period's supervisory presence rate was three percent. Supervisors were present at 44.4 percent of all incidents involving consent search requests (up from 22.2 percent last period), and 40 percent of events involving a drug detector canine (up from 7.7 percent last period). The monitors are pleased that the level of supervisory activity on the road has apparently reattained levels established during the sixth and seventh reporting periods. Of the 32 events noted by the monitoring team as problematic this reporting period, eleven of those had New Jersey State Police supervisory personnel at the scene of the event.

The apparent trend observed by the monitors last reporting period, to not note and take corrective action with supervisors who fail to deal with performance issues that should have been noted during the on-site supervisory process or during the after-the-fact MVSR review, continues. During the ninth reporting period, the monitors observed at least 32 instances in which a supervisor had failed to note performance contradictory to the consent decree or to New Jersey State Police procedures, yet no evidence is available to support any corrective action on the part of the New Jersey State Police for these oversights. These 32 instances led to a failure to act on multiple violations of procedures or consent decree requirements on the part of supervisory personnel. The monitors would expect that these supervisors would be counseled, retrained or otherwise have their performance improved through documented means. The reader should note that six of these 32 separate violations of decree-related procedures involved Constitutional issues, e.g., one failure to report a consent request, two failures to articulate probable cause for searches, and search and three problematic frisks.

Supervision is **the critical factor** in making change within the New Jersey State Police. Adequate and, the monitors would argue, excellent training for supervisory personnel is an essential first step to achieving the goals of the consent decree. In this light, some supervisory personnel **have** noted violations of the decree, and have issued performance notices for these violations, representing improvements over past supervisory practices. However, in the monitors' assessment, these activities have fallen far short of the required level of noting greater than 94 percent of decree violations.

It is clear that the New Jersey State Police have improved substantially the level of supervision on the road. Rates of review are up. Notice of adverse performance is up (as well as notice of superior performance). The monitors believe that supervisory presence on the road has reached acceptable levels; however, as with the State's performance on tasks 27, 28, and 29a this reporting period, it is clear that improvements need to be made in *performance* in noting and remedying performance that falls outside the requirements of the consent decree.

Compliance:

Phase I: In Compliance

Phase II: Not In Compliance

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

Task 40	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 40 stipulates that:

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

Methodology

The ninth monitors' report marked a milestone for the MAPPS development process. During the ninth site visit, the New Jersey State Police demonstrated to the members of the monitoring team an operational version of the MAPPS information system. The monitors viewed the system components, and used live data to ensure that the MAPPS system contained all data elements outlined by the decree. In addition, members of the monitoring team, using live data, ensured that each system capability required by the decree was available and functional in the MAPPS information system. In all, the monitors performed 58 separate tests of MAPPS system functionality. Each of these tests is reported

below, in the analysis of tasks 41-51. In addition to the disaggregated systems tests, the monitors used MAPPS as it would be expected to be used by supervisory and management personnel in the day-to-day processes of managing the New Jersey State Police. The results of these process tests are discussed below, in the analysis of tasks 41-51.

MAPPS has been implemented as an operational system, and as implemented, has all of the individual system capabilities required by the decree. The live data in MAPPS, as of the monitors' ninth site visit, are not the full spectrum of system data anticipated for MAPPS, i.e., not all data elements envisioned for use by the system were currently being used as of the monitors' ninth site visit. For example, the State had not yet begun the process of completing annual and periodic performance reviews for New Jersey State Police road personnel. The management process for performance notices and commendations (a critical element for improved supervision) was still being completed manually, rather than using the MAPPS components provided for these processes.

In effect, while the State has made *substantial progress* in bringing a functional MAPPS system on-line, at the time of the monitors' site visit, the system was not being used to manage the New Jersey State Police. Thus, compliance status for the MAPPS components has not changed: the State is in Phase I compliance, having designed, programmed, tested and fielded the MAPPS system. It is not yet in day-to-day use, however, so Phase II compliance is pending. The monitors are aware of the intense effort exhibited by the State in bringing MAPPS on-line, and commends those who have so diligently labored in the "electronic trenches" for so long. Implementation of MAPPS, as a functioning system, has been no small feat.

Phase I: In Compliance
Phase II: Not In Compliance

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

Task 41	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 41 requires that:

41. The MAP shall consist of the following information:

- a. all items of information in connection with all motor vehicle stops that are required to be recorded in a written report, form, or log, or reported to the communications center, pursuant to ¶29 and the protocols listed in ¶29 of this Decree, except that duplicate information need not be entered, and information as to whether the incident was recorded with MVR equipment need not be entered if all patrol cars are equipped with MVR unless a patrol car was equipped with MVR equipment that was not functioning;
- b. information on civilian compliments and other indicia of positive performance; information on misconduct investigations; reports on use of force associated with motor vehicle stops; on-duty and off-duty criminal arrests and criminal charges; civil suits involving alleged misconduct by state troopers while on duty; civil suits in which a trooper is named as a party involving off-duty conduct that alleges racial bias, physical violence or threats of violence; and
- c. implementation of interventions; and training information including the name of the course, date started, date completed and training location for each member receiving training.

Methodology

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

Status

The monitors have identified 25 specific sets of data required by paragraph 41. Each of the 20 required primary elements, i.e., those not identified as being "narrative elements" which are allowed to be stored outside of MAPPS proper, was found to be functional in the MAPPS system reviewed by the monitors. In addition, the five non-primary requirements, identified as "narrative elements" were reasonably available through other systems. The monitors found the system to be capable of processing the required data in reasonable ways, and found the system to be reasonably user-friendly and usable. All items required by subparagraphs "b" and "c" of paragraph 41 were also included in the operational MAPPS in that the system contained sub-programs designed to handle these requirements. Use of these subsystems, e.g., performance appraisal, performance notices, tracking counselings and retraining, was pending during the monitors' visit.

Compliance:

Phase I: In Compliance
Phase II: Not In Compliance

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

Task 42	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 42 requires that:

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

Methodology

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

Status

Policies supporting this requirement were under development at the time of the monitoring team's site visit. Conversations with New Jersey State Police personnel indicate that they are aware of this requirement, and are preparing written policies to support trooper access to MAPPS information as required. Implementation of these policies is anticipated in January, 2004.

Compliance:

Phase I: In Compliance
Phase II: Not In Compliance

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

Task 43	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 43 requires that:

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

Methodology

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

Status

The primary data elements identified in paragraph 29 a (1-19) are manipulable by "count" and percentage, and can be reported by different time periods, as required by this paragraph. MAPPS contains the ability to access (in most cases through other available automated systems) the items identified in paragraph 29a (5a, 8a, 12a, 13a, 14a, 15a, and 17a). MAPPS has the capacity to retrieve and report information regarding misconduct investigations/allegations, civilian

compliments, civil suits, uses of force, post-stop interactions, criminal arrests and charges and implementation of interventions. Access to these elements is reasonably effective and efficient, in the opinion of the monitors. Management personnel have not yet begun to access the system on a day-to-day basis.

Compliance:

Phase I: In Compliance
Phase II: Not In Compliance

2.21 Compliance with Task 44: Common Control Numbers

Task 44	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 44 requires that:

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

Methodology

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

Status

The State has identified the "CAD incident number" as the common control number. Use of the CIN has been in effect since early in the consent decree process.

Compliance

Phase I: In Compliance
Phase II: In Compliance

2.22 Compliance with Task 45: Timely Access to MAPPS Data

Task 45	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 45 requires that:

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

Methodology

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

Status

Operational plans for inclusion of MAPPS information have been articulated in New Jersey State Police C-11 and supporting documentation. Implementation of these procedures is pending operational data such as performance notices, etc.

Compliance

Phase I: In Compliance
Phase II: Not In Compliance

2.23 Compliance with Task 46: Development of a MAPPS Plan

Task 46	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 46 requires that:

46. Within one hundred and eighty (180) days following entry of this Decree, the State shall develop a plan for designing and implementing the MAP

including the use of the MAP, a timetable for implementation, and a specification of the information contained in State records pre-dating the implementation of the MAP that can reasonably be incorporated in the MAP. Prior to effectuating the implementation plan, the plan shall be approved by the United States and the Independent Monitor. Within 180 days following the entry of this Decree, the State shall begin conducting the supervisory and management reviews required by ¶¶48-53.

Methodology

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

Status

With implementation of the MAPPS components this reporting period, the State has effectuated its MAPPS plan. Obviously, the State has not met the 180-day timeline, but the MAPPS as configured conforms to the plans approved by the United States and the Monitors.

Compliance

Phase I: In Compliance

Phase II: In Compliance

2.24 Compliance with Task 47: Supervisory and Management Reviews

Task 47	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 47 requires that:

47. Consistent with the requirements of ¶¶48-53 *infra*, the State shall develop a protocol specifying the manner in which supervisory and management reviews of individual state troopers, and State Police units and sub-units (e.g., troops, stations, and squads), shall be conducted, and the frequency of

such reviews. Prior to implementation, the protocol shall be approved by the United States and the Independent Monitor.

Methodology

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

Status

Operational plans for use of MAPPS information by supervisory and management personnel have been articulated in New Jersey State Police C-11 and supporting documentation. Implementation of these procedures is pending operational data such as performance notices, etc.

Compliance

Phase I: In Compliance
Phase II: Not In Compliance

2.25 Compliance with Task 48: Quarterly Reviews of MAPPS Data

Task 48	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 48 requires that:

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

Methodology

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

Status

Operational plans for use of MAPPS information by supervisory and management personnel have been articulated in New Jersey State Police C-11 and supporting documentation. Implementation of these procedures is pending data from

personnel, OPS, and other supporting subsystems, anticipated by January, 2004. The first use of MAPPS for quarterly reporting is *anticipated* by April, 2004.

Compliance

Phase I: In Compliance
Phase II: Not In Compliance

2.26 Compliance with Task 49: Reporting Capabilities of MAPPS

Task 49	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 49 requires that:

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

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

Methodology

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

Status

Operational plans for reporting of MAPPS information within the categories stipulated in this paragraph have been articulated in New Jersey State Police C-11 and supporting documentation. Implementation of these procedures is pending applicable of data from personnel and other supporting subsystems,

anticipated by January, 2004. The first use of MAPPS for reporting processes is *anticipated* by February, 2004.

Compliance

Phase I: In Compliance
Phase II: Not In Compliance

2.27 Compliance with Task 50: Comparisons Using Benchmark

Task 50	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 50 requires that:

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.

Methodology

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

Status

While the State is making progress on a conceptual outline to support development and integration of benchmark comparisons, no substantive work product has yet been submitted to the monitors.

Compliance

Phase I: Not In Compliance

Phase II: Not In Compliance

2.28 Compliance with Task 51: Analysis of Trends

Task 51	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 51 requires that:

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

Methodology

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

Status

Existing plans call for the analyses required by this paragraph to be conducted by the MAPPS "Risk Management Unit," within the Quality Assurance Bureau of the New Jersey State Police. As of yet, however, specific responsibilities and staffing are not clearly identified by the State.

Compliance

Phase I: Not In Compliance

Phase II: Not In Compliance

2.29 Compliance with Task 52: Supervisors to Implement Necessary Changes

Task 52	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 52 stipulates that:

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

Methodology

During the ninth reporting period, members of the monitoring team noted several instances of supervisory personnel issuing "performance notices" or other interventions for actions of division personnel inconsistent with policy or established practice. Evidence exists to support the fact that supervisory personnel are beginning to carefully review trooper activity and to issue performance notices or other "interventions" when inappropriate behavior occurs. The monitors continue to note substantial difficulties with the supervisory review process, with numerous instances surfacing which led the monitoring team to believe that not all supervisory reviews were being diligently conducted. The "knowable error rate" for supervisory review continues to rise, from 11.2 percent during the seventh period to 13.3 percent for the eighth period, to 26.6 percent for the ninth quarter. See sections 2.13 and 2.16, above, for additional comments relative to supervisor review.

Compliance

Phase I: In Compliance
Phase II: Not In Compliance

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

Task 53	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 53 stipulates that:

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

Methodology

The State has developed a system of OPS notification of more than two misconduct investigations in a two-year period, and protocols for and assessment of supervisory response to this section have been outlined in appropriate policies. The controlling policies, however, are extant in OPS Inter Office Communications, rather than SOPs. Training in this process has been designed and delivered. It is not yet operational.

Compliance

Phase I: In Compliance
Phase II: Not In Compliance

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

Task 54	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 54 stipulates that:

54. To assist in evaluating data reported from the MAP concerning State Police law enforcement on the New Jersey Turnpike, the State shall develop (for purposes of

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

Methodology

The State has completed the required traffic survey, and has released the document to the public.

Compliance

Phase I: In Compliance

Phase II: In Compliance

2.32 Compliance with Task 57: Troopers to Provide Name and Badge Number

Task 57	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 57 stipulates that:

57. The State Police shall require all state troopers to provide their name and identification number to any civilian who requests it.

Methodology

During the fourth reporting period, the New Jersey State Police received and appropriately investigated an allegation of failure to provide identification. The case was not sustained; however, the referral and investigation of the complaint indicates conformance to established policies regarding this task. During the ninth reporting period, no completed investigations for such allegations were noted.

Status

The State remains in compliance with this task based on previous performance.

Compliance

Phase I: In Compliance

Phase II: In Compliance

2.33 Compliance with Task 58: State to Inform Civilians re Complaints/Compliments

Task 58	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 58 stipulates that:

58. The State Police shall develop and implement an effective program to inform civilians that they may make complaints or provide other feedback regarding the performance of any state trooper. This program shall, at a minimum, include the development of informational materials (fact sheets and informational posters) describing the complaint process and the development and distribution of civilian complaint forms. The State Police shall make such materials available in English and Spanish.

Methodology

No changes in New Jersey State Police policies regarding this task were made in the last reporting period. During the first quarter, members of the monitoring

team reviewed relevant policies and approved implementation of these policies as written.

Status

The compliment/complaint forms developed by the State are reasonably designed to accomplish the purpose of Task 58, are available in English and Spanish, and have, apparently been printed in numbers large enough to have been distributed to road stations, carried in patrol vehicles and to have been made available at the entry vestibule to road stations. Informational materials were available at all road stations and headquarters buildings visited by the monitoring team during this visit. A member of the team fluent in Spanish has reviewed the Spanish language forms and informational materials, and found them to be an effective translation, portraying virtually the same concepts as the English version. In addition, two troopers were counseled during the fifth reporting period for failure to advise an arrestee of the complaint process after the arrestee complained about the treatment he had received during the arrest. This event was among the use of force incidents reviewed by the monitoring team for the fifth quarter.

During the ninth reporting period, the monitors reviewed one video-taped incident during which the drivers complained vocally about their treatment at the hands of the New Jersey State Police. This driver was provided complaint forms by New Jersey State Police personnel.

Compliance

Phase I: In Compliance
Phase II: In Compliance

2.34 Compliance with Task 59: Availability of Complaint/Compliment Forms

Task 59	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 59 stipulates that:

59. The State shall make complaint forms and informational materials available at State Police

headquarters, all State Police stations, and such other locations around New Jersey as it may determine from time to time. The State shall publicize the State Police mailing address, Internet address, and toll-free telephone number at state-operated rest stops located on limited access highways. The State Police also shall provide information on the Internet about the methods by which civilians may file a complaint. The State Police further shall require all state troopers to carry fact sheets and complaint forms in their vehicles at all times while on duty. The State Police shall require all troopers to inform civilians who object to a trooper's conduct that civilians have a right to make a complaint. The State Police shall prohibit state troopers from discouraging any civilian from making a complaint.

Methodology

No changes in New Jersey State Police policies regarding this task were made in the last reporting period. During the first quarter, members of the monitoring team reviewed relevant policies and approved implementation of these policies as written.

Status

Compliment and complaint forms and informational materials were available at all State Police facilities visited by the members of the monitoring team, and both English and Spanish forms were provided. Members of the monitoring team checked the State's rest areas/service areas, and noted that all checked this period had notice of compliment/complaint procedures posted. The web site conforms to the requirements of this task. Fact sheets and complaint forms were in all patrol vehicles inspected during this reporting period. During the ninth reporting period, complaint investigations continue to be completed that were generated through these forms.

Compliance

Phase I:	In Compliance
Phase II:	In Compliance

2.35 Compliance with Task 60: Community Outreach

Task 60	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 60 stipulates that:

60. The State Police shall develop a program of community outreach to inform the public about State Police functions and procedures, including motor vehicle stops, searches and seizures, and the methods for reporting civilian complaints or compliments regarding officers. This outreach program is not intended, and should not be construed, to require the State Police to disclose operational techniques to the public.

Methodology

The New Jersey State Police have modified their outreach programs to include provision of information related to the decree in their public meetings and organized interactions with various groups within the State. These meetings are often held in conjunction with local law enforcement agencies, and discuss topics of interest to the communities in attendance, as well as topics specifically related to the consent decree. Members of the monitoring team were unable to attend any of these meetings during their May site visit. The Division has also created the Community Affairs Bureau, tasked with establishing working relationships with the citizens of New Jersey.

Status

The community outreach process employed by the State Police continues to include provision of information related to the decree and discuss topics of interest to the communities in attendance. The schedule shows an active outreach on radio, through professional appearances and through community meetings. The State has implemented urban-initiatives in the Cities of Camden and Irvington, and continues to seek avenues for improving its community outreach process. Among the individual projects undertaken by the NJSP were Christmas and Thanksgiving food drives, the donations by individual troopers of toys, books, games and athletic equipment for the children. For many of the recipients this was the first time they had ever owned such items. This past summer the NJSP arranged for a swimming program for neighborhood children.

Unlike prior initiatives, the NJSP undertook a holistic approach to community policing and based upon the IMT observations they appear to be succeeding. A second initiative was started in September 2003 in the Northern New Jersey community of Irvington.

With respect to Consent Decree issues, the enforcement troopers are subject to the same SOPs and rules as roadway troopers. The nature of the stops in Camden are qualitatively different in that the stopped motorists are more likely to engage in evasive and eluding action. Notwithstanding these problems, in the majority of the cases reviewed by the IMT for this report the troopers complied with all the requirements of the Consent Decree.

Compliance

Phase I: In Compliance
Phase II: In Compliance

2.36 Compliance with Task 61: Receipt of Citizens' Complaints

Task 61	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 61 stipulates that:

61. Civilians may initiate a complaint or otherwise provide feedback regarding State Police performance either in person, by mail, by telephone (or TDD), or by facsimile transmission. The State Police shall accept and investigate anonymous complaints and complaints filed by civilians other than the alleged victim of misconduct. The State shall not require that a complaint be submitted in writing to initiate a misconduct investigation.

Methodology

Members of the Monitoring team, during the October 2003 site visit determined that SOP B-10 remains the official policy guideline for compliance with this requirement. Staff personnel of the Office of Professional Standards, in response to the monitoring team's request, produced a printout from the IA Pro System.

Status

In response to the Monitoring team's inquiry, the State advised that there were a total of 210 misconduct complaints during this reporting period. Further, during the relevant reporting period, there were nineteen anonymous complaints. A demonstration of the IA Pro system again produced the source of reportable incidents. Complaint source information determined the following: Civil Action, 5; Notice of Claim, 5; Mail, 16; Phone, 42; Walk-Ins, 22; Referrals from OSPA, 2; Self-Reports, 4; Compliment Complaint Forms, 3; External, 6; Fax, 21; Hotline, 29; and Internally-Generated, 55.

Compliance

Phase I: In Compliance
Phase II: In Compliance

2.37 Compliance with Task 62: Institution of a 24-hour Toll-Free Telephone Hotline

Task 62	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 62 stipulates that:

62. The State Police shall institute a 24-hour toll-free telephone hotline for civilians to call to make a complaint or compliment or otherwise provide feedback regarding State Police performance. The hotline shall be operated by the Professional Standards Bureau (hereinafter "PSB"). The State Police shall immediately connect or refer all civilians to this hotline who telephone a State Police station to file a complaint. The State Police shall publicize the hotline telephone number on informational materials, complaint forms, and "consent to search" forms. The State Police shall tape record all conversations on this hotline and shall notify all persons calling the hotline of the tape recording. The State Police shall develop a procedure to assure that callers are being treated with appropriate courtesy and respect, that complainants are not being discouraged from making complaints, and that all necessary information about

each complaint is being obtained. This procedure shall include regular reviews of the tape recordings.

Methodology

Members of the monitoring team during the October 2003 site visit determined that SOP B-10 continues to govern the requirements of this paragraph, as does the revised Internal Affairs Manual. The monitoring team determined that representatives of the Office of the State Police Affairs continue to monitor the Division's compliance with this requirement pursuant to paragraph 112 of the decree. The existence of the "Hotline" continues to appear on the New Jersey State Police website, as do the Compliment/Complaint forms and the "posters" that are affixed to various sites throughout the State. During the October 2003 site visit, members of the monitoring team listened to calls received on the RACAL lines. In all instances, the complaints continued to culminate in appropriate investigative inquiry and complainant disposition.

Status

Members of the monitoring team during the October 2003 site visit inspected an electronic log that captures relevant information on received RACAL calls. This was discussed during the previous site visit at which time the State committed to the production of such a log. This instrument replaces the hand-written log that had previously been used to memorialize the receipt, source and type of complaint. The electronic log shows the aggregated number of RACAL calls received during the period of April 1, 2003 and September 30, 2003 as 294. Further, members of the monitoring team reviewed the Office of Professional Standards "Review of Recorded Telephonic Complaints Form" that is used weekly to assess the quality of unit response to calls received on the RACAL line.

Compliance

Phase I: In Compliance

Phase II: In Compliance

2.38 Compliance with Task 63: PSB to Receive All Citizens' Complaints

Task 63	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 63 stipulates that:

63. The PSB shall be responsible for receiving all misconduct complaints. All complaints made at locations other than the PSB shall be forwarded to the PSB within a reasonably prompt period as specified by the State Police. The State Police shall assign and record a case number for each complaint. The OAG shall have access to all misconduct complaints received by PSB.

Methodology

The monitoring team determined that SOP B-10 continues to govern the Division's compliance with this requirement. The monitoring team requested and received copies of some of the "Reportable Incident Forms," (525) that were received and completed at State Police facilities other than OPS. A review of a sample of "Reportable Incident Forms" confirmed that the State is properly completing these forms and appropriately forwarding them to OPS for further disposition.

Status

A review of the relevant material determined that the State continues to meet the requirements of this task. OPS has, in all cases, processed appropriately reported incidents by assigning case numbers to forwarded complaints. OAG, pursuant to requirement 112 of the decree has unfettered access to OPS files and regularly reviews all completed investigations, administrative closings, performance incidents and RACAL calls.

Compliance

Phase I: In Compliance

Phase II: In Compliance

2.39 Compliance with Task 64: Relocation of Office of Professional Standards Offices

Task 64	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 64 stipulates that:

64. The State Police shall relocate PSB offices to buildings separate from any building occupied by other State Police personnel. The PSB shall publicize the locations of its offices.

Methodology

During the October 2003 site visit, the monitoring team reviewed the Freehold Facility Visitor Log and determined that ninety-seven people accessed that office during this reporting period.

Status

The Office of Professional Standards' new facility is properly posted on the New Jersey State Police website with its address, fax number and telephone number. It was determined again that the Freehold facility continues to be overwhelmingly used by sworn members of the Division. Of the ninety-seven visitors, as determined by a review of the log, eighty-three were sworn personnel and fourteen were non-sworn. Most of the fourteen were civilian employees or union attorneys.

Compliance

Phase I: In Compliance

Phase II: In Compliance

2.40 Compliance with Task 65: Referral to OAG of Specific Dismissed Charges

Task 65	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 65 stipulates that:

65. The State Police shall refer to the OAG and/or PSB for investigation of state trooper performance all incidents in which a civilian is charged by a state trooper with obstruction of official business, resisting arrest, assault on a state trooper, or disorderly conduct, where the prosecutor's office or a judge dismisses the charge

before or during trial and the dismissal is not part of the plea agreement.

Methodology

Members of the monitoring team during the October 2003 site visit determined that the September 6, 2002 correspondence from the Superintendent to the Director of the Office of State Police Affairs and the previously issued Attorney General's Directive continue to be the primary governing documents that memorialize the State's compliance with this requirement.

Status

The State remains in compliance with this paragraph, as there are no contemporaneous incidents to determine otherwise. A review of this reporting period determined that the Office of Professional Standards did not receive any referrals from the Division of Criminal Justice as defined in this requirement.

Compliance

Phase I: In Compliance

Phase II: In Compliance

2.41 Compliance with Task 66: Notice to Office of State Police Affairs of Pending Civil Actions

Task 66	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 66 stipulates that:

66. The State shall notify the OAG whenever a person files a civil claim against the State alleging misconduct by a state trooper or other employee of the State Police. The OAG shall notify the PSB of such civil claims.

Methodology

Methodology

During the October 2003 site visit, the monitoring team requested and received two "Reportable Incident Forms" that conclusively documented the State's continued compliance with this requirement. A review of the relevant material determined that the State received nine "Notices of Claim" during this reporting period.

Status

The State continues to remain in compliance with this requirement as evidenced by their production and review of nine "Reportable Incident Forms" and the abstract produced by the Attorney General's Office that oversees the "Department of Law," a major component of the "Department of Law and Public Safety." Documentation reviewed indicate that the notice of civil claim process continues to function within OPS and OAG. A further review determined that eighteen civil suits were filed during this reporting period, a significant number of which were preceded by "Notices of Claim" filed during earlier periods. During the ninth reporting period, three completed misconduct investigations were reviewed by the monitors that were generated as a result of these notices.

Compliance

Phase I: In Compliance
Phase II: In Compliance

2.42 Compliance with task 67: Notice of Criminal Involvement of Members

Task 67	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 67 stipulates that:

67. The State shall make reasonable efforts to implement a method by which it will be notified of a finding in criminal proceeding of a constitutional violation or misconduct by a state trooper.

Methodology

During the October 2003 site visit, the independent monitoring team examined an OPS form titled, "Intake and Adjudication Section, Adjudicated Charges Against Members of the New Jersey State Police." The form captured five incidences of misconduct findings that have entered the judicial system. Two were adjudicated and three are currently pending. All five of these incidences resulted in OPS investigations.

Status

The monitoring team, during the October 2003 site visit noted that the Attorney General's Directive which advises the county prosecutors to notify the State when a violation articulated in this requirement occurs, continues to be in effect

The monitoring team, during the October 2003 site visit inquired and was updated on developments relevant to statements regarding racial profiling made by a former member of the New Jersey State Police that resulted in an inquiry that is still on-going. Once that investigation is complete, members of the monitoring team will review the results of the investigation to ensure the process was conducted in compliance with the requirements of the consent decree.

Compliance

Phase I: In Compliance

Phase II: In Compliance

2.43 Compliance with Task 68: Notice of Adverse Involvement

Task 68	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 68 stipulates that:

68. The State Police shall require all state troopers promptly to notify the State Police of the following: the trooper is arrested or criminally charged for any conduct; the trooper is named as a party in any civil suit involving his or her conduct while on duty (or otherwise while acting in an official capacity); or the trooper is named as a party in any civil suit regarding off-duty conduct (while not acting in an official capacity) that alleges racial bias, physical violence, or threats of physical violence by the trooper. State troopers shall report this information

either directly to the PSB or to a supervisor who shall report the information to the PSB. The PSB shall notify the OAG of PSB's receipt of this information.

Methodology

During the October 2003 site visit, the independent monitoring team requested documentation supportive of the State's compliance with this requirement. The monitoring team reviewed an abstract produced by IA Pro and noted that the document captured appropriate entries relevant to the four self-report incidents of the types required in this paragraph

Status

The monitoring team determined that during this reporting period the State remains in compliance with the requirements of this paragraph.

Compliance

Phase I: In Compliance
Phase II: In Compliance

2.44 Compliance with Task 69: Duty to Report Misconduct

Task 69	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 69 stipulates that:

69. The State Police shall require state troopers to report, based on personal knowledge, any conduct by other troopers, involving civilians, that reasonably appears to constitute: (a) prohibited discrimination; (b) an unreasonable use of force or a threat of force; (c) an intentional constitutional violation; (d) an intentional failure to follow any of the documentation requirements of this Decree, or (e) an intentional provision of false information in a misconduct investigation or in any report, log, or transmittal of information to the

communications center. State troopers shall report such misconduct by fellow troopers either directly to the PSB or to a supervisor who shall report the allegation to the PSB. The PSB shall notify the OAG of PSB's receipt of this information.

Methodology

No changes in State Police policy regarding this task were noted by the monitoring team during the October 2003 site visit.

Status

Members of the monitoring team, during the October 2003 site visit, determined that of the misconduct cases completed and reviewed by the monitors during this reporting period, no complaints, of the type articulated in this task, were present. The State remains in compliance with this task based on past performance.

Compliance

Phase I: In Compliance

Phase II: In Compliance

2.45 Compliance with Task 70: Creation of the Office of Professional Standards

Task 70	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 70 stipulates that:

70. The State Police shall provide for a Professional Standards Bureau, the purpose of which shall be to protect the professional integrity of the Division of State Police and to fully, fairly and expeditiously investigate and resolve complaints and other misconduct investigations. The State shall provide the PSB sufficient staff, funds, and resources to perform the functions required by this Decree. The State shall encourage highly qualified candidates to become PSB investigators.

Methodology

During the October 2003 site visit, the monitoring team determined that OPS currently has an authorized strength of 72 personnel; 49 sworn and 12 civilians are currently filled. There are eight vacancies for sworn personnel and three for civilian. Members of the monitoring team were advised by representatives of the OPS that in June 2003 the "Management Review Unit," formerly a part of the OPS, was moved, and is now a part of the "Quality Assurance Bureau" in the Superintendent's Office. This involved three sworn and three civilian personnel. OPS personnel advised the monitoring team that while the unit suffered the loss of these personnel, five sworn personnel were added back to OPS, though these five positions constitute five of the eight vacant sworn positions. The monitoring team determined that for the period ending September 30, 2003 there were 79 closed cases more than forty-five days old and only one closed case over 120 days old, other than those cases assigned to the Office of State Police Affairs.

Status

Members of the independent monitoring team, during the October 2003 site visit reviewed a teletype dated June 17, 2003 that sufficiently substantiated the State's representation that they are actively pursuing the filling of these vacancies.

Compliance

Phase I: In Compliance

Phase II: In Compliance

2.46 Compliance with Task 71: Formal Eligibility Requirements for PSB

Task 71	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 71 stipulates that:

71. The Superintendent of the State Police shall establish formal eligibility criteria for the head of the PSB and for staff who supervise or conduct internal investigations. These criteria shall apply to the incumbent PSB head and investigative staff, and all candidates for these positions, and also shall be used to monitor the performance of persons serving in these positions. The criteria shall

address, *inter alia*, prior investigative experience and training, analytic and writing skills, interpersonal and communication skills, cultural and community sensitivity, commitment to police integrity, and previous performance as a law enforcement officer.

Methodology

During the October 2003 site visit, the monitoring team reviewed the eligibility criteria and determined that no changes or alterations have been made to the criteria since the last site visit.

Status

The monitoring team, during the October 2003 site visit determined that the OPS function continues to utilize the standard New Jersey State Police Form 334, "Performance Evaluation" as its principal instrument to assess its personnel. The unit continues to supplement this form with its own "OPS Investigator Performance Monitoring," to more specifically evaluate those personnel assigned to the OPS. Additionally, there are quarterly appraisals completed on all OPS personnel that are captured on a "Performance Notice" as part of that form's "Appraisal" assessment. The monitoring team determined that these documents continue to accurately identify the requisite skill sets for personnel assigned to OPS. In its examination of the most recent division-wide teletype solicitation, dated June 17, 2003, for personnel interested in OPS assignments, the members of the independent monitoring team found the solicitation appropriately articulates the criteria essential for assignment and selection criteria.

Phase I: In Compliance

Phase II: In Compliance

2.47 Compliance with Task 72: Execution of Training for Office of Professional Standards Staff

Task 72	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 72 stipulates:

72. The State shall ensure that the PSB head and staff that supervise or conduct internal investigations receive adequate training to enable them to carry out their

duties. The training shall continue to include the following: misconduct investigation techniques; interviewing skills; observation skills; report writing; criminal law and procedure; court procedures; rules of evidence; and disciplinary and administrative procedures.

Methodology

During the October 2003 site visit, members of the monitoring team reviewed the OPS general training plan and individual training sessions attended by OPS personnel for the months of April, May, June and September 2003. Members of the Office of Professional Standards continue to attend courses that are held locally and regionally that support enhancement of skill sets essential to the performance of their duties.

Status

The monitoring team determined during the October 2003 site visit that the State continues to recognize the importance of assuring that OPS personnel are properly trained in skill areas supportive of unit mission. During the ninth reporting period, all members of OPS received some form of training generally related to their tasks, but OPS personnel did not necessarily attend training specifically consistent with all types of training articulated in this requirement. Members of OPS continue to attend training at Sea Girt for specialized curriculum.

Compliance

Phase I: In Compliance
Phase II: In Compliance

2.48 Compliance with Task 73: Initiation of Misconduct Investigations

Task 73	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 73 stipulates that:

73. A misconduct investigation shall be initiated pursuant to any of the following:

- a. the making of a complaint (as defined in ¶16);
- b. a referral pursuant to ¶37 or ¶65;
- c. the filing of a civil suit by a civilian alleging any misconduct by a state trooper while on duty (or acting in an official capacity);
- d. the filing of a civil suit against a state trooper for off-duty conduct (while not acting in an official capacity) that alleges racial bias, physical violence, or threat of physical violence; and
- e. a criminal arrest of or filing of a criminal charge against a state trooper.

Methodology

During the October 2003 site visit, the monitoring team determined that the IA Pro system comprehensively produces reports that capture the number of "Reportable Incident Forms" and the information contained therein.

Status

During this reporting period, there were 210 cases opened as evidenced by the "Reportable Incident Forms." The sources of these cases were Compliment/Complaint, 3; External, 6; Fax, 21; Hotline, 29; Internal, 55; Mail, 16; Notice of Claim, 5; Civil Actions, 5; Telephone, 42; Self-Reported, 4; Walk-In, 22; OSPA referrals, 2. The Independent Monitoring Team reviewed 99 cases of the 106 completed this period. The State remains in compliance with this task.

Compliance

Phase I: In Compliance
Phase II: In Compliance

2.49 Compliance with Task 74: Responsibility for Conducting Internal Investigations

Task 74	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 74 stipulates that:

74. All misconduct investigations shall be conducted by the PSB or the OAG except as delegated to the chain-of-command supervisors. Assignment of misconduct investigations will be made as follows:

- a. The PSB or the OAG shall conduct misconduct investigations in the following circumstances:**
 - i. all complaints alleging a discriminatory motor vehicle stop; all complaints alleging an improper enforcement action or procedure in connection with or during the course of a motor vehicle stop; and all complaints alleging excessive force in connection with any motor vehicle stop;**
 - ii. all complaints relating to any motor vehicle stop where a State Police supervisor either was at the incident scene when the alleged misconduct occurred or was involved in planning the State Police action whose implementation led to the complaint;**
 - iii. any misconduct investigation undertaken pursuant to any event identified in subparagraphs (b) through (e) of ¶73; and**
 - iv. any other category of misconduct complaints or any individual misconduct complaint that the OAG and/or State Police determines should be investigated by PSB or OAG. The State Police may continue to assign misconduct investigations not undertaken by the OAG or PSB to the chain-of-command supervisors.**
- b. The PSB and the OAG shall review all misconduct complaints as they are received to determine whether they meet the criteria (set forth in subparagraph (a) above) for being investigated by the PSB, the OAG or being delegated to a chain-of-command supervisor. Nothing in this decree is intended to affect the allocation of misconduct investigations between the PSB and the OAG.**

Methodology

During the May 2003 site visit, the monitoring team determined that SOP B-10 continues to govern requisite procedures fundamental to compliance with the provisions of this paragraph.

Status

During the May 2003 site visit the independent monitoring team examined the "OPS Incident Classification" form and determined that it is appropriately used to assure that case assignment and allocation are properly assigned and consistent with the provisions of this requirement. Further, a review of closed cases for this reporting period indicated that all cases had been appropriately assigned for

investigation, and that no cases that should have been completed by OPS were assigned to chain-of-command for investigation.

Compliance

Phase I: In Compliance

Phase II: In Compliance

2.50 Compliance with Task 75: Prohibition of Conflict of Interest in Investigations

Task 75	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 75 stipulates that:

75. The State shall prohibit any state trooper who has a conflict of interest related to a pending misconduct investigation from participating in any way in the conduct or review of that investigation.

Methodology

Members of the monitoring team during the May 2003 site visit determined that all previous documents reviewed by the monitoring team remain properly incorporated into SOP B-10, III, E, (b) 8.

Status

The monitoring team determined that no conflicts of interest occurred during this reporting period. The monitoring period reviewed the OPS internal file titled, "Conflict of Interest" and concluded that the unit has a sufficient and adequate process to solicit and act upon conflict of interest matters as such pertain to those who might be engaged in the investigatory, management and review process. The monitors' review of closed investigations for this reporting period determined no conflicts of interest between investigative personnel and principals of the investigations.

Compliance

Phase I: In Compliance

Phase II: In Compliance

2.51 Compliance with Task 76: Prohibition of Group Interviews

Task 76	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 76 stipulates that:

76. All written or recorded interviews shall be maintained as part of the investigative file. The State shall not conduct group interviews and shall not accept a written statement from any state trooper in lieu of an interview.

Methodology

Members of the monitoring team, during the May 2003 site visit determined that the State, through regular reviews by the Office of State Police Affairs, continue to assess OPS compliance with this requirement. Members of the monitoring team reviewed 99 completed complaint investigations (of 106 completed this period) for evidence of group interviews or written statements from troopers in lieu of an interview.

Status

Members of the OPS receive annual training to reinforce the provisions of this requirement. The Office of State Police Affairs of the Office of the Attorney General regularly audit the OPS and found no circumstances violative of this requirement. No group interviews or written statements in lieu of an interview were found in any of the cases reviewed by the monitoring team. The State is judged to remain in compliance with this task.

Compliance

Phase I: In Compliance
Phase II: In Compliance

2.52 Compliance with Task 77: Alternative Locations for Interviews

Task 77	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 77 stipulates that:

77. The State shall arrange a convenient time and place, including by telephone (or TDD), to interview civilians for misconduct investigations. The State Police shall reasonably accommodate civilians' circumstances to facilitate the progress of an investigation. This may include holding an interview at a location other than a state office or at a time other than regular business hours.

Methodology

The Office of State Police Affairs continues to closely scrutinize the Division's compliance with this requirement. Members of the monitoring team reviewed 99 of the internal complaint investigations completed during this reporting period for evidence of implementation of this requirement.

Status

During the May 2003 site visit, members of the monitoring team reviewed an internal investigative report that clearly memorialized that a witness was interviewed at her residence. There is sufficient evidence in the case files reviewed this period to indicate that complainants and witnesses are interviewed at places of their convenience. The State is judged to remain in compliance with this Task.

Compliance

Phase I: In Compliance
Phase II: In Compliance

2.53 Compliance with Task 78: Investigation of Collateral Misconduct

Task 78	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 78 stipulates that:

78. In conducting misconduct investigations, the State shall assess the propriety of all state trooper conduct during the incident in which the alleged misconduct occurred. If during the course of an investigation the investigator has reason to believe that misconduct occurred other than that alleged, and that potential misconduct is one of the types identified in ¶69, the investigator also shall investigate the additional potential misconduct to its logical conclusion.

Methodology

No changes in New Jersey State Police policies regarding this task were made since the last site visit. The Office of State Police Affairs continues to closely scrutinize the Division's compliance with this requirement. Members of the monitoring team reviewed 99 of the 106 internal complaint investigations completed during this reporting period for evidence of Implementation of this requirement.

Status

During the May 2003 site visit, the monitoring team reviewed a "New Principal Allegation Form" which clearly documented that OPS had identified a collateral matter during the course of an investigation and had acted appropriately in its follow thru. Of the cases reviewed by the monitors this period, there were 37 instances that indicated a need to pursue collateral matters. Initiation of collateral misconduct investigations were undertaken in all of these instances. This constitutes an error rate of zero percent, well within the allowable margin of error of five percent. The State is judged to remain in compliance with this task.

Compliance

Phase I:	In Compliance
Phase II:	In Compliance

2.54 Compliance with Task 80: Revision of the "Internal Investigations Manual"

Task 80	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 80 stipulates that:

80. The State shall update its manual for conducting misconduct investigations to assure that it is consistent with the recommendations contained in the Final Report and the requirements of this Decree.

Methodology

During the October 2003 site visit, the monitoring team determined that a new iteration of the Internal Affairs Investigation Manual has been completed and is still pending the approval of the Superintendent.

Status

The current IA Manual and the supporting SOP B-10 remain the governing documents. During its next site visit, the monitoring team will review the newest iteration of the IA Manual to ensure that it continues to comport with the requirements of the decree. The State is judged to remain in compliance with this task.

Compliance

Phase I: In Compliance
Phase II: In Compliance

Compliance with Task 81: Preponderance of the Evidence Standard for Internal Investigations

Task 81	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 81 stipulates that:

81. The State shall make findings based on a "preponderance of the evidence" standard.

Methodology

Members of the monitoring team, during the October 2003 site visit determined that the Office of State Police Affairs continues to assess the Division's compliance with this requirement through its "Case Content Analysis Form." Established policy requires a preponderance of the evidence standard.

Status

The monitoring team reviewed 99 of the 106 cases completed by OPS for this reporting period. All but one were found to have used the preponderance of evidence standard in developing their findings. The State remains in compliance with this task.

Compliance

Phase I: In Compliance

Phase II: In Compliance

Compliance with Task 82: MVR Tape Review in Internal Investigations

Task 82	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 82 stipulates that:

82. If the incident that is the subject of the misconduct investigation was recorded on an MVR tape, that tape shall be reviewed as part of the misconduct investigation.

Methodology

During the October 2003 site visit, the monitoring team reviewed "Internal Investigation Reports" that had clear indications of the need to review the MVR tape associated with the investigation that was generated by the complaint.

Status

Members of the monitoring team reviewed 99 cases completed during this reporting period and found all cases that indicated a potential need to review an in-car MVR recording included an appropriate MVR tape review by the assigned OPS investigator. The State is judged to remain in compliance with this task

Compliance

Phase I: In Compliance

Phase II: In Compliance

2.57 Compliance with Task 83: State to Consider Circumstantial Evidence in Internal Investigations

Task 83	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 83 stipulates that:

83. In each misconduct investigation, the State shall consider circumstantial evidence, as appropriate, and make credibility determinations, if feasible. There shall be no automatic preference for a state trooper's statement over a civilian's statement. Similarly, there shall be no automatic judgment that there is insufficient information to make a credibility determination where the only or principal information about an incident is the conflicting statements of the involved trooper and civilian.

Methodology

The monitoring team, during the October 2003 site visit determined that SOP B-10 continues as the only vehicle that properly addresses this issue. A review of the Internal Affairs Investigation Manual determined that no specific reference to circumstantial evidence is made. While there was no specific IAB training this period, representatives of OPS indicate that issues relevant to "circumstantial evidence" will be conducted in conjunction with the training on the new "Internal Affairs Investigation Manual."

Status

The monitoring team, during its review of 99 of 106 cases completed during this reporting period, determined that conclusions continue to be in conformance with the requirements of the policies approved by the monitors and the Department of Justice.

Compliance

Phase I: In Compliance

Phase II: In Compliance

2.58 Compliance with Task 84: Required Case Dispositions in Internal Investigations

Task 84	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 84 stipulates that:

- 84. The State shall continue to resolve each allegation in a misconduct investigation by making one of the following dispositions:**
- a. "Substantiated," where a preponderance of the evidence shows that a state trooper violated State Police rules, regulations, protocols, standard operating procedures, directives or training;
 - b. "Unfounded," where a preponderance of the evidence shows that the alleged misconduct did not occur;
 - c. "Exonerated," where a preponderance of the evidence shows that the alleged conduct did occur but did not violate State Police rules, regulations, operating procedures, directives or training; and
 - d. "Insufficient evidence" (formerly "unsubstantiated"), where there is insufficient evidence to decide whether the alleged misconduct occurred.

Methodology

The monitoring team, during its October 2003 site visit determined that the State continues to use a variety of review processes to ensure compliance with the provisions of this requirement. Most notable is the "Case Content Analysis Instrument" which is completed by OSPA concurrent with its review of core

issues, or other specifically designated case files. Additionally, the State advises that the semi-annual IAB-specific training addresses this requirement.

Status

A review of completed cases for this reporting period indicated two dispositions other than those allowed by this paragraph. These two cases were closed "without further action," a disposition not allowable. An intensive review of these cases by the monitoring team, and discussion with OSPA personnel indicated that both were internally generated complaints that should not have been initiated as OPS investigations. The monitors are working with the parties to establish a protocol to avoid any similar errors in the future. The State is judged to remain in compliance with this task.

Compliance

Phase I: In Compliance
Phase II: In Compliance

2.59 Compliance with Task 85: No Closure upon Withdrawal of Complaint

Task 85	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 85 stipulates that:

85. The State shall not close any misconduct investigation without rendering one of the dispositions identified above. Withdrawal of a complaint or unavailability of the complainant or the victim of the alleged misconduct to make a statement shall not be a basis for closing an investigation without further attempt at investigation. The State shall investigate such matters to the extent reasonably possible to determine whether or not the allegations can be corroborated.

Methodology

During its October 2003 site visit, the monitoring team reviewed a case at the OPS facility in which an investigation was continued after withdrawal of the complaint. The review determined that the matter was properly pursued in the aftermath of the complaint withdrawal.

Status

The monitoring team, in its review of cases completed during this reporting period found 11 indications of withdrawn complaints or complainant unavailability. The Office of State Police Affairs continues to monitor the Division's compliance with this requirement through their "Case Content Analysis Form." As the monitors did not note any indications of a tendency to discontinue investigations upon withdrawal of a complaint or failure to cooperate with an investigative effort, the State is judged to remain in compliance with this requirement based on past performance.

Compliance

Phase I: In Compliance

Phase II: In Compliance

2.60 Compliance with Task 86: Development of a Final Investigative Report

Task 86	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 86 stipulates that:

86. At the conclusion of each misconduct investigation, the individual responsible for the investigation shall issue a report on the investigation, which shall be made a part of the investigation file. The report shall include a description of the alleged misconduct and any other misconduct issues identified during the course of the investigation; a summary and analysis of all relevant evidence gathered during the investigation; and findings and analysis supporting the findings.

Methodology

During the October 2003 site visit, the monitoring team determined that the State continues to use the Internal Affairs Investigation Manual as the policy guidance for this requirement. The revised Internal Investigation Manual has been approved by the Superintendent and is currently being printed for Division distribution. During the site visit period, the monitoring team reviewed 99 completed "Internal Investigation Reports," and determined 98 of them to be complete and in compliance with the provisions of the decree relevant to substance and quality.

Status

The monitoring team's review of completed misconduct investigations for this reporting period found all but one to comport with the requirements articulated in this requirement. That investigation included a final report that the monitors found virtually impossible to read and understand. The case was returned to OSPA. An error of one case from among the 99 reviewed cases constitutes 1.1 percent, within the allowable margin of error.

Compliance

Phase I: In Compliance

Phase II: In Compliance

2.61 Compliance with Task 87: State to Attempt to Complete Investigations within 45 Days

Task 87	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 87 stipulates that:

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

Methodology

The parties, with the concurrence of the monitors, have continued to function under the agreed upon 120-day timetable for completion of investigation of complaints made by citizens. The State advised that it is continuing to work

diligently to improve the completion cycle for investigations of complaints made by citizens and by virtue of a new State statute that has internally required a forty-five day completion cycle.

Status

During the eighth reporting period, the State achieved a critical milestone by clearing the existing backlog of cases to be investigated by OPS. This represented a major step toward establishing firm timelines for investigation of complaints of misconduct. This reporting period, the State continues to complete misconduct investigations within the revised 120-day period and has demonstrated notable progress toward completions in less than 120 days. Investigators are still functioning under an expectation that their investigative efforts are to be completed within forty-five days. The monitors determined through a review of cases completed during this reporting period that all but one were completed within the 120 day time period. The State remains in compliance with this task.

Compliance:

Phase I: In Compliance

Phase II: In Compliance

2.62 Compliance with Task 88: Imposition of Appropriate Discipline upon Sustained Complaint

Task 88	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 88 stipulates that:

88. The State Police shall discipline any state trooper who is the subject of a substantiated misconduct adjudication or disposition regarding: (a) prohibited discrimination; (b) an unreasonable use of force or a threat of force; (c) an intentional constitutional violation; (d) an intentional failure to follow any of the documentation requirements of this Decree, (e) an intentional provision of false information in a misconduct investigation or in any report, log, or transmittal of information to the communications center; or (f) a failure to comply with the requirement of ¶69 to report misconduct by another trooper.

Methodology

The monitoring team, during its October 2003 site visit, reviewed IA Pro generated abstracts of completed cases for sustained complaints and assessed the discipline imposed in these matters. Further, the monitoring team reviewed an internal "Office of Professional Standards Weekly Summary Report" that notes weekly and aggregated data relevant to disciplinary determinations made by the State.

Status

The monitoring team, during its examination of completed cases, reviewed copies of reprimands issued to troopers for matters completed during this reporting period. The monitoring team continues to observe a consistent pattern of imposing discipline consistent with investigative findings. The monitors noted 13 substantiated cases in those that they reviewed this reporting period. Discipline was determined and applied in each of these 13 cases.

Compliance

Phase I: In Compliance

Phase II: In Compliance

2.63 Compliance with Task 89: Imposition of Appropriate Discipline upon Finding of Guilt or Liability

Task 89	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 89 stipulates that:

89. The State Police shall initiate disciplinary proceedings against any state trooper who is found guilty or who enters a plea in a criminal case regarding on-duty conduct; any state trooper found civilly liable for misconduct of the type identified in ¶88 committed on duty or whose misconduct of the type identified in ¶88 is the basis for the State being found civilly liable; and any state trooper who is found by a judge in a criminal case to have committed an intentional constitutional violation. The State Police shall discipline any state

trooper who is determined to have committed the misconduct set forth in this paragraph.

Methodology

The monitoring team, during its October 2003 site visit, reviewed SOP B-10, III, G and determined that it comports with the provisions of this requirement. The monitoring team, as a result of a direct inquiry to the State, determined that no instances of this type occurred in this reporting period.

Status

There were no investigations of this nature completed during this reporting period. Accordingly, the monitors remain satisfied that the State continues to keep in place processes necessary to address such matters should they occur. Based on past performance, the State remains in compliance

Compliance

Phase I: In Compliance

Phase II: In Compliance

2.64 Compliance with Task 90: Imposition of Appropriate Discipline in Consultation with MAPPS

Task 90	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 90 stipulates that:

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.

Methodology

Members of the monitoring team during the October 2003 site visit determined that the State continues to address compliance with this requirement in SOP B-10, III, H as it pertains to Phase I compliance.

Status

The monitors, during the October 2003 site visit, noted that OPS, though meeting a considerable number of its functional MAPPS requirements, has still not operationalized the MAPPS- OPS interface. Until MAPPS is on-line Division-wide, members of the monitoring team will still be unable to assess the degree to which the State makes disciplinary decisions based, in part, on the past history of the troopers in question.

Because there is no tangible process that substantially verifies that the State is accessing historical information relevant to trooper conduct, and in the absence of a functioning MAPPS system, the State will remain out of Phase II compliance with this task.

Compliance

Phase I: In Compliance
Phase II: Not in Compliance

2.65 Compliance with Task 91: Tracking of Open Office of Professional Standards Cases

Task 91	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 91 stipulates that:

91. The PSB shall track all open misconduct investigations to ensure that investigations are completed in a timely fashion. Within one hundred twenty (120) days following entry of this Decree, the State shall develop a plan for designing and

implementing a computerized tracking system (including a timetable for implementation).

Methodology

The monitoring team, during the October site visit made several observations of the IA Pro software. The technology remains an important instrument in the daily operations of the OPS function and in the management of the cases the unit addresses. The monitoring team noted expanded uses and reliance on the IA Pro system.

Status

The monitoring team determined that the IA Pro system is now accessible at any facility that is part of the OPS function. It has the ability to identify various pieces of relevant information and to produce data relevant to the OPS function.

Compliance

Phase I: In Compliance

Phase II: In Compliance

2.66 Compliance with Task 92: Inform the Complainant upon Resolution of Investigations

Task 92	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 92 stipulates that:

92. After a misconduct complaint is finally resolved by the State Police, the State Police shall inform the complainant of the resolution in writing, including the investigation's significant dates, general allegations, and disposition, including whether discipline was imposed.

Methodology

Methodology

The monitoring team reviewed 99 of the 106 cases completed during this reporting period. Representatives of the Office of State Police Affairs, through a "Case Content Analysis Process, continue to similarly review all investigative files for compliance with provisions of this paragraph.

Status

Each case reviewed by the monitoring team in which a complainant was identified included required copies of disposition letters to the complainant containing the required, relevant information as outlined in the provisions of this paragraph. The State is judged to remain in compliance with this task.

Compliance

Phase I: In Compliance
Phase II: In Compliance

2.67 Training Assessment

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

Task 93	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 93 stipulates that:

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

Methodology

Members of the monitoring team spoke with academy staff responsible for this task, and requested and reviewed staffing and manpower allocation data for the Academy.

Status

Task 93 enumerates the areas of responsibility assigned to the Academy through the consent decree. This assessment is divided into four segments:

- Recruit training;
- Training for academy instructors;
- Evaluation of training; and
- Training issues related to MAPPS.

Each of these topics is discussed in some detail below.

Recruit Training

The Academy's pre-service unit and the Division's recruiting unit are working together to coordinate the start dates for new recruit classes. Class size is being held to 40-50 which has proven over time to be manageable for the available academy staff. Two classes will overlap allowing for combined instruction in some areas (e.g. physical training instruction) which decreases the staffing requirements. The evaluations conducted on some of the testing materials used with the 130th class reported on in the last site visit report have been submitted to the monitoring team as completion of the recruit training evaluation requirement. This submission, occurring during the monitoring team's site visit, has not been assessed by the monitoring team. This component of Task 93 will be assessed in the 10th monitoring report.

Several units of instruction have been revised in the past three years, but no complete evaluation of the program has occurred. Now that qualified staff are available to conduct such data-driven analyses, a complete evaluation to provide oversight to insure quality seems timely and important. Also, the availability of MAPPS data related to the performance of troopers who have graduated since the consent decree began will provide important information about how well the training has, or has not been implemented operationally. Plans call for these data to drive revisions to the recruit curriculum. A new lieutenant was assigned to the recruit training unit while the site visit was in progress.

The portion of the Academy manpower study related to pre-service (recruit training) has been completed and staffing is beginning to reflect the results of that study. Training for recruits continues to be provided in a timely and effective manner.

Training for Academy Instructors

The Academy is presently gathering and analyzing data to identify all the instructors who have been providing training in various specialized units and in Field Operations for many years. This effort is designed to standardize the formatting of lesson plans, to ensure the content quality of the training, and to verify the qualifications and training of the trainers. This is another example that incoming data are going to require a major effort to develop processes to manage the data, the follow-up that will be required based on that analysis, and the on-going oversight that is required to insure quality.

Training Evaluation

For the past three years, the in-service unit has been evaluating the five most frequently missed questions to determine if learning is occurring. This unit also identified participants who failed the testing and provided remedial training for them.

Recently, a trooper was assigned to the Academy who has extensive statistical and mathematical expertise. He completed a statistical analysis of testing for some blocks of recruit training, and discovered that the some students were missing questions because the questions were improperly worded or material used to teach was outdated. This led to the formation of an evaluation and compliance process to evaluate all testing conducted by the Academy. Documentation reviewed by the monitoring team does demonstrate that the Academy is currently evaluating all testing for the recruit curriculum, and is beginning to evaluate testing measures for other academy training.

The monitors were provided with documentation reflecting completion of the required training evaluations. These documents were provided during the monitors' site visits, and reflected a vastly improved level of thoroughness. The monitors were unable to complete the assessment of these documents prior to completion of IMR 9, and will revisit these documents for IMR 10.

Performance Implementation Evaluation

MAPPS has been implemented and performance data will now be available for analysis. Responsibility for these evaluations has been assigned to the Troop

level, with MAPPS envisioned as the tool by which the assessment will be completed. The trooper coach coordinator at the Academy has been assigned coordination duties for this task. Documents reflecting these evaluations were provided during the monitors' site visits, and reflected a vastly improved level of thoroughness. The monitors were unable to complete the assessment of these documents prior to completion of IMR 9, and will revisit these documents for IMR 10.

Compliance

Phase I: In Compliance

Phase II: Not In Compliance

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

Task 97	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 97 stipulates that:

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

Methodology

A member of the monitoring team spoke with academy staff responsible for this task, and reviewed documentation related to this task.

Status

Academy Training Staff

After the previous site visit the State was judged to be non-compliant with this task due to chronic understaffing and inadequacies in encouraging superior troopers to apply for academy staff positions. In the two previous academy recruiting efforts, eight troopers applied to the first request, and nine applied to the second.

According to documentation provided to the monitoring team, after the last site visit report, the Division did the following:

- Issued a teletype requesting applications for trainers;
- Had academy staff go out to a number of stations to promote the value of becoming an academy trainer;
- Received applications from twenty-nine troopers;
- Conducted a selection process was conducted on September 25th and 26th; and
- Chose thirteen full-time permanent academy staff from the pool of applicants. These included 10 troopers, two sergeants, and one lieutenant.

Post-Academy Staff

Academy staff mounted a specific recruiting effort for Academy instructors during the ninth reporting period. This consisted of Division-wide teletypes and recruiting visits to road stations and other units within the Division, and specific attention to encouraging "superior troopers" to apply for Academy instructional positions. The number of applicants for Academy instructional slots rose substantially.

Trooper Coach Staff

The recruiting process demonstrates that adequate numbers of troopers are applying for coaching positions. Currently, many of them have three or fewer years of experience. The monitors have expressed to OSPA a concern about the average tenure of trooper coach personnel, based on the monitors' observation—on the part of some younger personnel—of uncertainty regarding search and seizure processes and other actions related to the decree. The monitors have not drawn a direct link between tenure and this observations, however, and the State remains in compliance with this task.

Preference for future assignments is an encouragement offered to troopers to encourage them to apply to the coaching program. This process is memorialized in SOP F-12. The monitors have not audited documentation to date to determine if such preference was given to former coaches. The monitors will assess this process for IMR 10.

Compliance

Phase I: In Compliance
Phase II: In Compliance

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

Task 98	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 98 stipulates that:

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

Methodology

A member of the monitoring team spoke with academy staff responsible for this task, and audited trooper coach selection records.

Status

Academy Trainers

Selection criteria have been delineated and documentation demonstrates that the criteria are being met. Academy trainer records were monitored on the last site visit and will be monitored on the next site visit as this auditing function occurs on an annual basis. Documentation that appropriate academy staff are reviewing these files on at a weekly basis was provided to the monitors during this site visit.

Post-Academy Trainers

Documentation for these tasks was provided to the monitoring team during the site visit for IMR 9. These documents were provided during the monitors' site visit to the Academy, and reflected a vastly improved level of thoroughness. The monitors were unable to complete the assessment of these documents prior to completion of IMR 9, and will revisit these documents for IMR 10.

Trooper Coaches

Selection criteria have been delineated and documentation demonstrates that the criteria are being met. The monitoring team conducted the annual audit of the newly selected coaches' records during this site visit. Ten records from each of the three Troops (A, B, C) were chosen at random for a total of 30 selection records.

All records contained the required documentation:

- A curriculum vitae
- Oral board responses and scores
- Supervisory evaluations
- A meaningful review
- C-20 compliance

Some evaluation data for Troop B had been lost in transit from the troop to the Academy. Efforts to locate this material by the troop and the Academy were not successful, but documentation of the final evaluation score was available on another form. This information was placed in each coach folder with an explanation of why the data were missing.

The documentation of what occurred and the follow-up that transpired is the critical piece of oversight that the monitoring team needed to see to complete this audit. Though unforeseen events like this cannot be anticipated, the documentation of the event that occurred and the follow-up effort are critical to maintain an audit trail and to demonstrate that agency oversight is occurring. Well done.

The meaningful review process has been finalized, and this process has also been included in SOP F-12. Documentation, which preserves each trooper's privacy, is available in each folder.

Compliance

Academy Personnel	Post Academy	Trooper Coach Personnel
Phase I: In Compliance	In Compliance	In Compliance
Phase II: In Compliance	In Compliance	In Compliance

2.71 Compliance with Task 99: Training for Academy Instructors

Task 99	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 99 stipulates that:

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

Methodology

A member of the monitoring team spoke with academy staff responsible for implementing this task and reviewed the Academy personnel files for coaches.

Status

Academy Instructors

An audit of academy trainer files was conducted during the last site visit, and will be repeated on the next site visit, as this is an annual auditing function. Per documentation provided to the monitoring team, a new curriculum to qualify academy trainers is being designed. It is anticipated that this will include the following:

- The instructor training course;
- Firearms instructor training course;
- Training bureau orders; and
- Orientation to adult-based learning techniques.

As part of the oversight function to assure quality training, a review of the training provided to the trainers is certainly indicated.

Documentation related to the training cycle was provided to the monitoring team related to the assessment phase that led to the conclusion that these are the courses that are necessary for training the trainers. The assessment phase consisted of a managerial review of the requirements of this task, and identification of existing training products within the State Police organization that Academy command staff felt would fit the requirements.

Based on information collected from academy staff, as part of the new career development process at the Academy, some individualized staff development training will be occurring for staff as part of their personalized career development plans. The addition of their customized plan and the training they are receiving to meet the goals of that plan could be included in these records, and academy oversight auditing to demonstrate that this is occurring should happen on an annual basis to maintain compliance with task 97.

Post-Academy Instructors

The Academy is concluding a Division-wide survey to identify all the post-academy instructors who are providing training within the Division, but outside the Academy, in operational areas.

There are at least three categories to consider here:

- Troopers who are requested to come to the Academy to provide training on specialized topics;
- Troopers who have been providing training in operations and in specialty units who have previously not fallen under the Academy's oversight;
- Outside speakers (e.g. prosecutors) who are asked to provide training.

As assessment of these instructors' qualifications and the need for updated training relating to training skills and content expertise are yet to be determined. The State is currently compiling a list of troopers that fall into these three categories. The monitors will assess this process on the tenth site visit.

Trooper Coach

The monitoring team did not review the training documentation for the new trooper coaches, though the monitoring team was told by academy oversight

staff for this program, that all new coaches attended and passed the three-day training program. The monitors will assess this process on the 10th site visit.

As a result of the monitoring team's audit, four new issues emerged during this site visit.

New coaches received the coach training three months before they actually began coaching;

- The meaningful review of coach candidates occurs when they are selected and this can be 3-6 months before they are assigned a probationary trooper;
- A voluminous amount of paper documentation is accumulating at the in-service unit related to the coaching program.

These events occurred recently enough not to be subject to monitoring this period. The monitors will assess this process on the 10th site visit.

Compliance:

	<u>Academy Instructors</u>	<u>Post-Academy</u>	<u>Trooper Coaches</u>
Phase I:	In Compliance	In Compliance	In Compliance
Phase II:	In Compliance	In Compliance	In Compliance

2.72 Compliance with 100: Training in Cultural Diversity

Task 100	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 100 stipulates that:

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

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

Methodology

A member of the monitoring team reviewed documentation, spoke with academy staff responsible for implementing this task, and also spoke to staff from the Office of State Police Affairs who are responsible for oversight for all consent decree tasks.

Status

Cultural Awareness

This is a mandatory annual in-service training program that must be completed by December 31, 2003 in order to maintain compliance. During this site visit, the monitoring team was advised that the in-service staff and staff from the Office of State Police Affairs reviewed previous training on this topic and determined that awareness in the areas of persons with disabilities and those with differing sexual orientation had not been adequately addressed. The monitoring team had mentioned on previous visits that this topic had not been addressed in any depth.

A member of the in-service staff attended training that included material on these topics conducted by an outside vendor, which led to consideration of this vendor for development of the training. According to memoranda and documentation provided to the monitoring team after the site visit, a brief synopsis of the training was submitted to the Office of State Police Affairs by the vendor on September 9, 2003. A narrative section of this synopsis indicates that the vendor seems to have reviewed critiques from last year's cultural diversity training. The monitors advised the State of specific shortcomings in the documentation of the training cycle for this task in late October, 2003, prior to commencement of instruction on this topic. The monitors followed up this notice with a second site visit in December, 2003 to observe training for this task. During that site visit, the monitors observed irregularities in the testing/evaluation component for this task, directly related to the concerns expressed to the State concerning the documentation of the training cycle for this task. Based on concerns raised with the Academy commandant in December, the State took remedial steps to ensure that no further problems occurred. Documentation of these steps was provided to the monitoring team in mid-January, as this report was being finalized. The monitors will re-visit training for this task during the IMR 10 process.

Ethics/Integrity

Assessment

Based on information provided by the State, the in-service staff gathered data from the Office of Police Standards (Internal Affairs) information regarding the types of infractions that have been investigated in the past two years. An analysis led to the decision to conduct a class on ethical concerns:

- Ethical trends in time management within the New Jersey State Police;
- Domestic violence issues; and
- Reporting misconduct.

Documentation related to the needs assessment conducted for this task was presented to the monitoring team, and consisted of the two-year review of OPS cases to determine the major causes of OPS . These three topics were the most frequently found reasons for initiation of OPS cases.

This course focused on time management and domestic violence issues as they relate to ethical decision-making and ethical outcomes. A lesson plan was submitted for each training topic that included objectives, instructional methodology, references, training aids, length of course, and a copy of the PowerPoint presentation. An audit of the lesson plans demonstrates that the material covered meets the objectives. Group activities and scenarios require that the participants engage in critical thinking and creative problem-solving to resolve issues that are relevant to the participants because they are based upon actual incidents which have recently occurred within the Division. The lesson plans were presented in conformity with the Academy's lesson plan format and were complete and professional in appearance.

A four-hour instructional course (86 training sessions) is being conducted at four locations between October 29th and December 19th. No testing or evaluation data were provided to the monitoring team as this course is still in progress.

As part of its December site visit, a member of the monitoring team attended one of the Ethics training sessions. The session consisted of a thirty-minute session on time management—as opposed to the scheduled hour, and a thirty-minute session on domestic violence—as opposed the scheduled hour, and an (unobserved) session on reporting misconduct. The instructors were non-academy staff. The domestic violence training observed by the monitoring team appeared perfunctory, uninspired, and was replete with disavowing language such as "They want me to ask you these questions." Where specific policy

requirements related to domestic violence were identified, the instructor failed to link these requirements to specific New Jersey State Police SOPs. Discussion questions from the lesson plan, designed to illicit class participation, were dismissed by the instructor as "rhetorical questions," and no group participation occurred.

Based on the monitors' observations of the ethics training component, the State was advised of the specific concerns noted above. The Academy commandant took near-immediate remedial steps, and outlined those to the monitoring team. After a month-long review of the commandant's recommendations, documentation of this process was provided to the monitoring team in mid-January, as this report was being finalized.

The monitors will re-visit the State's remedial measures for IMR 10. Judging from the monitoring team's observation of ethics training, however, the State is in non-compliance with this training efforts for this task. This finding is pending a full review for IMR 10.

The monitors have informed the parties that once compliance is attained, two consecutive periods of non-compliance are required to lose compliance status. The monitors have expressed strong concerns over the lack of documentation for cultural awareness training, and will be working with the parties to develop protocols to ensure that poor documentation for training is rectified *before* the training is offered. The monitors have agreed to re-assess documentation for cultural awareness as part of its IMR 10 processes.

Serious concerns have been raised by the monitoring team's review of ethics training this period. The highly suspect deliver of the training observed in this topic this period should give rise to a renewed effort on the part of the Academy to meet its charge to "oversee and ensure the quality of all training of state troopers" as per paragraph 93. The State is considered under warning for its ethics components.

Compliance:

<u>Cultural Diversity</u>		<u>Ethics</u>
Phase I:	Pending	In compliance
Phase II:	Pending	In compliance

2.73 Compliance with Task 101: Recruit and In-Service Training on Fourth Amendment and Non-Discrimination Requirements

Task 101	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 101 stipulates that:

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

Methodology

A member of the monitoring team spoke with academy staff responsible for this task reviewed documentation, and attended the three-hour training on this topic which was in progress during this site visit

Status

Fourth Amendment In-Service Training

Assessment

The following data were used to determine the topics for this training:

- Recommendations from the training committee;
- A trend analysis and recommendations from the Office of Police Standards and the Quality Assurance Bureau;
- M.V. R. reviews;
- A search and seizure program focus group;
- Recommendations from the superintendent and the commandant.

An analysis of evaluation data, and motor vehicle stop data indicated that there were issues arising concerning when to search vehicles, and when to frisk. It

should be noted that approximately 500 troopers in patrol have graduated from the Academy since the consent decree began just over three years ago.

Development

The curriculum for this course was presented to the monitoring team for review prior to this site visit and it was approved.

Delivery

The course was delivered at the Academy in multiple sessions of approximately 40 participants per session. A member of the monitoring team attended the three-hour course developed for all personnel focusing on establishing reasonable suspicion and probable cause. This course was excellent and utilized the following training techniques:

- Brief lectures with accompanying PowerPoint visuals;
- The inclusion of relevant laws that set the standards for decision-making; and
- Storyline scenarios with excellent accompanying videos developed by the in-service unit to allow the participants to engage in critical thinking and decision-making related to when reasonable suspicion or probable cause was reached.

No documentation related to the actual number of sessions or the delivery schedule has been presented to the monitoring team as this course was still in session.

Evaluation

Participants were tested at the conclusion of the training. No testing documentation has been presented to the monitoring team, as the training was still in progress at the time of the site visit. The monitoring team will audit the Academy's audit documentation of the testing and evaluation on the next site visit.

Implementation

The State's implementation strategy was described to the monitoring team as follows: A comparative analysis will be conducted of the number of cases suppressed because of an improper search in the 12 months before this training with the number of cases suppressed in the 12 months following the completion of training to determine if a change has occurred. The monitoring team requests

a copy of this comparative analysis with findings when it becomes available in late 2004.

Fourth Amendment Recruit Training

Documentation was provided to the monitoring team regarding a statistical evaluation of the testing results for several pre-service unit exams. One question related to when to seize a weapon during a domestic violence incident. Based upon very preliminary data on young troopers being unsure when to search and frisk that was cited elsewhere in this report, the Academy might consider reviewing and evaluating this unit in the recruit curriculum.

On the previous site visit, an analysis of attendance revealed that a large number of personnel had not attended this training. Upon further investigation it was discovered that many of them were not on active duty, and only a small number remained unaccounted for. An oversight process was created and is now in operation. Documentation was provided to the monitoring team to demonstrate that the process has been implemented and is providing data necessary to insure oversight. By report, accountability related to this matter is now functional. At this date, the State is judged to remain in compliance with this task.

Compliance:	In-Service	Recruit
	Phase I: In Compliance	In Compliance
	Phase II: In Compliance	In Compliance

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

Task 102	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 102 stipulates that:

102. Before the next recruit class graduates from the State Police academy, the State Police shall adopt a protocol regarding its trooper coach program. The protocol shall address the criteria and method for selecting trooper coaches, the training provided to trooper coaches to perform their duties, the length of time that probationary troopers spend in the program, the assignment of probationary troopers to trooper

coaches, the substance of the training provided by trooper coaches, and the evaluation of probationary trooper performance by trooper coaches. Prior to implementation, the protocol shall be approved by the Independent Monitor and the United States.

Methodology

A member of the monitoring team spoke with academy staff responsible for implementing this task and audited documentation related to the coaching program.

Status

Two recruit classes, 131st and 132nd, graduated and the probationary troopers completed their coaching program prior to this site visit. No extensions were required by any of the probationary troopers. Two recruit classes graduated and completed the coaching program since the last site visit, and there were an adequate number of qualified coaches to assist each probationary trooper. Two more recruit classes will graduate two weeks after this site visit and coaches have been assigned.

The coaches from the 119th -123rd classes have three or fewer years of experience in the agency. As noted in task 101, an analysis of limited data reveals the possibility that younger troopers may be having more difficulty judging when searches and frisks should be conducted. An analysis of available data to determine if any of the newer coaches are having difficulties with this critical issue may be wise.

A member of the monitoring team audited 16 trooper coach files containing documentation of probationary troopers from the 131st and 132nd classes. All folders contained the required documentation. Two recruit classes, 133rd and 134th, will be graduating in late October and will complete the coaching program prior to the next site visit in May 2004. The monitoring team will audit the Academy's oversight audit of the coaching materials on the next site visit.

The State has developed a strong response to all the responsibilities listed in the consent decree for this task. As noted elsewhere in this report, the availability of performance data from the MAPPS system must be analyzed as part of the Academy's oversight function to determine if any issues or trends impacting this program are emerging.

Compliance:

Phase I: In Compliance

Phase II: In Compliance

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

Task 103	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 103 stipulates that:

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

Methodology

The monitoring team spoke with staff responsible for this task.

Status

The New Jersey State Police achieved compliance for this task in September 2000, and has maintained that compliance. Revisions to policy for consent decree related tasks are handled by notification of specific division personnel at the quarterly Training Committee meetings and through IOCs.

Though there has been no need to audit this task regularly after initial compliance was achieved, the introduction of a new SOP (C-25) and the revision of several others could require some type of training for various sectors of the organization. The monitors will revisit this topic for the tenth site visit.

Compliance

Phase I: In Compliance
Phase II: In Compliance

2.76 Compliance with 104: Systems Improvement Processes for Police Training

Task 104	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 104 stipulates that:

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

Methodology

A member of the monitoring team reviewed internal memoranda, training committee documentation, and spoke with academy staff responsible for implementing this task.

Status

During the last site visit a final draft of SOP C25 was completed and forwarded to the Independent Monitors and the Superintendent for review. The monitors' review required the addition of language defining the responsibility of Academy staff for auditing the training functions of the field operations personnel who are engaged in training and evaluation services as part of the regional training program, to include a process that would be followed if any deficiencies in performance were noted.

In the interim, between site visits the following has occurred:

- SOP C-25 was not signed by the Superintendent so phase I compliance was not achieved during or following the last site visit;
- The new Major responsible for training required that additional revisions occur to this very important policy so it still has not been approved; therefore this task did not come into phase I compliance during this site visit;
- A new academy commandant was assigned and chaired his first training committee meeting. This committee meets semi-monthly or at the direction of the Training Bureau Chief.
- A new lieutenant was assigned to supervise the in-service unit, and he was scheduled to come on board the week after the site visit. No overlap with the current in-service director was scheduled;
- The in-service unit is tasked with developing the In-Service Training, Evaluation and Oversight Program. Details for this program are contained in SOP C-25; and
- Regional training staff (operational personnel) who have been assigned training responsibilities in the bureaus and sections throughout the Division were tasked with many duties related to assessment, evaluation, documentation, and oversight as part of the Evaluation and Oversight Program.

The Academy's in-service unit has received the majority of the completed surveys distributed to the agency to complete the comprehensive organizational assessment of the basic training needs throughout the agency. The current level of staffing and the number of training responsibilities had not allowed time for an analysis of this data prior to this site visit. The acquisition and analyses of this information, and any other that the Academy deems necessary, is essential to design and develop a comprehensive process that is able "... to provide information and refer particular incidents to the Training Bureau to assist the Training Bureau in evaluating the effectiveness of training and to detect the need for new or further training." The manpower study data are being analyzed, but no manpower allocations had been made to the in-service unit at the time of this visit. The MAPPS system has been implemented, and will provide a means for the Academy to evaluate implementation of training in the field.

Many systems are being developed or accessed to acquire training data, and many operational personnel are being assigned training tasks in an effort to manage the training and oversight responsibilities. Field staff are now involved in consent decree related training tasks and duties.

Most of the data being forwarded to the Academy from the field are being directed to the commandant. It is not clear from the documentation provided to the monitoring team how these data will be managed once it arrives at the Academy. Nor is it clear how the Academy staff will supervise, evaluate, and provide oversight to field staff who are fulfilling training functions, nor what accountability measures have been developed if deficiencies occur.

The monitoring team will require documentation related to these issues prior to the next site visit. When the Academy is able to demonstrate its ability to audit and document the degree of operational implementation of training, the monitoring team will be able to determine phase II compliance.

Phase I: Not in compliance
Phase II: Not in compliance

2.77 Compliance with 105: Provision of Training for Supervisors

Task 105	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 105 stipulates that:

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

Methodology

A member of the monitoring team spoke with academy staff responsible for this task, and reviewed documentation submitted by the State.

Status

Sergeant's Basic Course

The basic 40-hour course that had been taught at the Academy prior to the start of the consent decree did not meet compliance standards. Several successive groups of academy staff worked on the revisions for this course, extended it to 80-hours, updated and expanded the topics taught, tried to integrate the topics taught into a coherent sequence, incorporated adult-based learning methodologies, and added a testing component to meet evaluation criteria. One year ago this course was deemed to meet "reasonable" standards of compliance.

Academy staff fully understand the value of following the training cycle and of conducting a comprehensive needs assessment focused specifically on the needs and responsibilities of the various ranks of supervisors to drive curriculum development. Currently this course addresses the needs of sergeants, staff sergeants, detective sergeants, patrol sergeants. The course reasonably meets the minimum requirements of the decree and the Academy's needs assessment process findings.

When the executive development unit at the Academy was formed in May 2003, oversight responsibility for this course was given to the staff in that unit. One team member was assigned primary responsibility for the oversight quality of this course. The executive development unit staff has completed the following activities for this course:

Assessment

When the multi-use survey was developed to do the needs assessment for the lieutenant's course, it was designed to capture data about sergeants, captains, majors, lieutenant colonels, and the colonel as well.

Assessment documentation was provided to the monitoring team related to the analysis of the needs assessment survey that identifies first line supervisory needs in three major categories:

- Technical skills;
- Human skills; and
- Conceptual skills

Assessment documentation and curriculum from external sources (e.g. the U.S. Drug Enforcement Agency, Philip Morris) contacted about their supervisory training practices were also provided to the monitoring team.

Through this assessment and the review of previous course critiques, and the inclusion of anecdotal data, four additional blocks of instruction were added to this course. They include:

- Mentoring;
- Media relations;
- Hazing;
- Focusing on Supervision—a block to impart the technical, human, and conceptual skills identified in the multi-task survey

Development

A revised course schedule was provided to the monitoring team that illustrated the revisions made to the course. Curriculum for the new blocks of training has been provided to the monitoring team and meets compliance standards.

Delivery

A total of 111 sergeants and acting sergeants were identified as needing to complete the basic supervisory training course. Sergeants' First Class (SFC) who were part of the training backlog also attended this course. The classes will be conducted between June and December 2003. A member of the monitoring team will be on-site in early December and will have the opportunity to audit some of this training. No documentation on delivery has been presented to the monitoring team as the course is still being conducted.

Evaluation

One session of this course was conducted from June 2-13, 2003 for 31 sergeants, detective sergeants, and personnel in acting sergeant's positions from various sections throughout the Division. A daily critique was completed by each participant in order to gather immediate feedback about the relevance of each block of instruction presented to them. This is a very important strategy since this course is ten days long, and critical feedback would be lost by waiting until the end of the course to obtain evaluative data. The critiques were provided to the monitoring team, along with an analysis (audit) of the findings. Twenty-four blocks of training were evaluated. On a scale of one to four, with four being the best, the lowest score on one block of training was 2.78. The highest score was 3.64. The remaining twenty-two blocks of training received scores ranging

between 3.0 and 3.64. No documentation relating to strategies for measuring implementation has been presented to the monitoring team.

With the implementation of MAPPS, which has just come on-line, the State will be receiving data that they will be able to analyze to determine to what degree training is being implemented in many supervisory areas. For IMR 10, the monitoring team requests documentation of the State's audit of these data and any necessary follow-up as a result of the analysis.

Sergeant First Class Course

Though the Basic Sergeants Course was judged to be in compliance for all sergeants, the executive development unit at the Academy, using assessment data from the multi-use survey on supervisory, management and leadership issues, is beginning to develop a course to more fully meet the needs of this group. This course is tentatively scheduled to be three days long and to be conducted from March-August 2004. The assessment is currently in progress and March 2004 is the anticipated launch date for this course.

Annual Supervisory/Leadership Training

Additionally the Academy provides annual leadership training to all ranks from trooper II to the colonel. This training is not due again until spring 2004. Based upon data identified in the multi-use assessment survey developed to conduct a needs assessment for the lieutenants' course, a number of needs in the areas of technical skills, human skills, and conceptual skills were identified for all ranks.

The analysis of MAPPS data will allow the Academy to determine to what degree implementation of training is occurring in the field. This will be a new task that Academy staff will be learning to conduct, so the time involved could not have been captured in the manpower study data. This could have a dramatic impact on two fronts:

- The staff time required to gather and analyze the data; and
- The follow-up required when the results of the analysis are known.

Also, academy staff may need staff development training to know how to work with the MAPPS system to obtain the specific data they need.

Compliance:

Phase I: In Compliance
Phase II: In Compliance

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

Task 106	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 106 stipulates that:

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

Methodology

A member of the monitoring team spoke with academy staff responsible for this task, and audited extensive documentation related to the assessment and development of training materials for the lieutenant's course. Though some promotions have occurred and others are pending they still fall within the six-month limit to receive training.

Status

The New Jersey State Police took a major step in addressing this task by forming an Executive Development Training Unit (EDTU) at the Academy just prior to the last site visit. Five personnel were assigned to this unit dedicated to developing training for sergeants and lieutenants, and for providing oversight for training provided by outside consultants or agencies for all the ranks above lieutenant.

Staff Development

It was apparent during the last site visit that this group needed some staff development training, especially in the areas of strategic planning, curriculum development, creative problem solving/critical thinking skills, and survey/test construction to launch them towards success with their effort. The agency responded by hiring an external consultant to provide some training and

mentoring to the group as they conducted the initial needs assessment related to the lieutenants training. Some members of the group also attended outside training.

Lieutenants' Course

Following is a description of the most professional and thorough assessment that the monitoring team has audited since the consent decree began. It certainly sets a standard for future efforts at the Academy.

A review of the current leadership and management literature was conducted by EDTU staff. Two members of the team, with help from the consultant and extensive research and self-education on their own, were able to design a multi-use assessment survey. This was a blind, stratified random sample needs assessment composed of 34 questions using a Likert-type response format, and a 35th question which was open-ended. Each question was designed to elicit information on various skill sets needed by a manager. The foresight used to design this instrument allows the data from this one survey to be used to develop training for several different classes.

The team worked with the field training officers and the field training liaisons to distribute the surveys, and described this collaboration as very cooperative. A total of 350 surveys were distributed to 100 civilians and 250 enlisted personnel of various ranks to capture data from a cross-section of the organization. The EDTU staff noted that the civilians were surprised and very appreciative of being recognized and included in the population surveyed.

A total of 328 completed surveys were returned demonstrating a 95% return rate, which is very high. In addition, a number of field interviews were conducted with station commanders and with troopers of various ranks to obtain anecdotal information, and shotgun e-mails and surveys were sent to specific personnel to gather needed information.

In addition, the team found organizations inside and outside the law enforcement community to identify benchmarks on best practices pertaining to mid-level management. In some cases a member of the team attended training; in others, phone calls and a review of curricula were conducted to obtain information. These organizations include:

- Johnson and Johnson;
- Merck;
- U.S. Marine Corps;
- Northwestern University School of Police Staff and Command;

- Northwestern University Executive Development Program;
- New Jersey State Association of Chiefs of Police;
- Penn State University POLEX Course;
- FBI Leadership and Management Seminar; and
- DEA Group Supervisors Course.

Based upon documentation provided to the monitoring team, this phase is judged to be in compliance.

With the data obtained, the EDTU staff developed a four-day, forty-hour course for lieutenants titled, "New Jersey State Police Mid-level Management and Leadership Course." The course is comprised of nine specific lesson plans, utilizes many self-assessment instruments, group activities, scenarios, and accompanying power point presentations. Based upon documentation provided to the monitoring team, this phase is judged to be in compliance.

The course is being delivered to 180 lieutenants in 6 class sessions and will be completed the second week in December. A member of the monitoring team attended one of the December training sessions to audit the quality of the delivery. The training was found to be first rate, and evolving at each iteration based on critiques and evaluations.

Each participant completes a 34 question test to measure the learning that has occurred. The questions are linked to the various instructional units and the learning objectives. The participants also complete a course critique at the end of each day of instruction that includes questions on the content and an evaluation of the instructor. Narrative commentary is also solicited. The audit of this phase of the course will occur after the completion of all six sessions. No strategies for measuring implementation have been presented to the monitoring team.

Captains' Course

The training for captains has been contracted to an outside vendor. Issues with the development and documentation phase for this training were noted in the last report. Currently, two major concerns still exist:

- The accurate utilization of the training cycle by the vendor;
- The development of an effective oversight process by the New Jersey State Police to insure the quality and the relevance of the course provided.

Academy staff has been assigned oversight responsibilities for this course. This means that they must ensure the quality of the course, and determine if the

vendor is following the training cycle required to meet compliance standards for consent decree tasks.

The monitoring team is Auditing the Academy in how it conducts oversight with the chosen vendor to assure that compliance standards are met. In the following narrative, when it is noted that the monitoring team has not received documentation, the reader should be aware that the monitoring team requests this documentation from the Academy. Academy staff state that they are providing the monitoring team with all the documentation they are receiving from the vendor. This would mean that the Academy cannot conduct its oversight and the monitors cannot determine compliance because documentation, to date, has been inadequate or non-existent. **In order to achieve compliance for this task, the documentation noted under each phase of the training cycle that follows must be provided to the Academy for review, and in turn to the monitors.**

Assessment

The initial assessment data to develop this program was minimal and a good deal of it was outdated. According to memoranda three focus groups were conducted by the vendor. The focus group questions appear to have been directed toward a five-part framework that was part of the findings of a previous vendor, rather than a new methodology to assess the current level of need. According to memoranda, assessment data compiled in 1999 by another vendor, was utilized by the current vendor as part of the needs assessment for this course. Since these data were gathered, more than 500 new troopers have joined the Division; New Jersey State Police staffing at all levels of supervision and command has changed considerably due to attrition and promotion, and the impact of three years of training have had an impact in areas such as ethics, supervision, leadership, cultural diversity, and Fourth Amendment rights.

Key weaknesses of the assessment process include:

- No assessment methodology documentation is presented;
- No data are given regarding the representation of the focus groups;
- No analysis of findings is presented;
- No data are presented to establish how the assessment was linked to the instructional design of this course;
- The documentation provided does not meet compliance standards for assessment.

Development

A course overview identifies, "The principal objective of the program is to prepare participants to address the complex issues and challenges they will confront as executives of police organizations in the 21st century." Two sessions of this course have been delivered. The agenda for the first gives a brief narrative description of each instructional block for each day. The agenda for the second session also provides a brief narrative description of each instructional block for each day. The second agenda includes some of the same topics though they are not presented in the same order, and also includes new instructional blocks.

Curricula vitae were provided for nine course instructors. The agenda for the first session of this course lists 13 instructors and the agenda for the second session lists 12 instructors. Of the nine curricula vitas:

- Two instructors never taught in either session;
- Two instructors taught in the first session only;
- Three of the instructors taught in the first and second sessions;
- One instructor taught only in the second session;
- Five instructors who taught in the second session have no c.v. on file.

The documentation provided to the monitoring team on this site visit is revised material used to train the second group of New Jersey State Police captains who attended this course. Extensive changes were made to the program (see the evaluation section below) based upon course critiques completed by participants who attended the first session, and based upon deficiencies noted in the presentation of the Capstone Projects by some participants in the first session.

An analysis of the documentation provided to the monitoring team on this site visit follows. Ten instructors are conducting this ten-day residential training. An analysis of the curriculum materials submitted by each instructor follows.

- Instructor One—this instructor introduces the course but does not conduct training
 - An article authored by the instructor;
- Instructor Two
 - Four broad (not measurable as stated) objectives;
 - Six training modules;
 - Case studies;
 - Articles;
- Instructor Three
 - Two case studies
- Instructor Four
 - No materials

- Instructor Five
 - One article
 - A bibliography
- Instructor Six
 - Overhead presentation
 - Four learning objectives (possibly measurable as stated)
- Instructor Seven
 - Two articles—one authored by the speaker
- Instructor Eight
 - An agenda
 - Two case studies
- Instructor Nine
 - Learning overview
 - An agenda
 - Recommended readings
 - A Xeroxed copy of an anthology of articles by many authors
 - Graphs and charts
- Instructor Ten
 - No materials

There is no uniformity evident in the materials provided. Two speakers provided general learning objectives, but no measurable learning objectives. Two speakers provided no documentation at all, so the monitoring team have no idea what their role in this course is or how those roles would be executed. One speaker included training module data that illustrate topics being taught. No training methodologies are included in the documentation, so the monitors have no idea if the training methods constitute lecture, group discussion, scenarios, videos, or other instructional methodologies. The documentation provided is not a curriculum and does not meet compliance standards.

Delivery

The program has been delivered twice. Members of the New Jersey State Police and other police agencies attended both sessions. The first training was conducted from April 27-May 9, 2003 and included some New Jersey State Police captains and lieutenants (the Academy course for lieutenants had not been developed at that time). Thirteen instructors are listed on the agenda for this training. The second training was conducted from September 28-October 10, 2003. Only captains attended the second training session. Both of the trainings occurred before the monitoring team reviewed the documentation noted above. Twelve instructors are listed on the agenda for this training and only six of these were instructors listed on the agenda for the first course. Six new instructors taught in the second session. The second course was a residential course

providing time in the evening for the participants to work on their projects together and to use the library.

Compliance for this phase cannot be determined because the oversight staff have not provided documentation to the monitoring team indicating that they conducted a course audit to evaluate how the course content fulfills the learning objectives (which have not been provided), instructor performance or delivery methodologies.

Evaluation

No testing data to measure the degree of learning that is occurring for any of the training modules have been presented to the monitoring team. A summary of findings and a numerical analysis of the course critiques were provided to the monitoring team. Eleven questions requiring a forced choice answer (Likert-type scale) and five open-ended questions were asked in the critique:

1. Overall, how satisfied were you with the course?
2. Would you suggest the course to others?
3. How satisfied were you with the subject matter?
4. How would you rate the quality of the instructors?
5. How satisfied were you with the way the days were organized?
6. Overall, how appropriate was the length of time spent on each topic?
7. Will the topics, materials, and ideas from this program help you in your position?
8. Do you think you will be able to use or implement concepts or ideas that you have learned from this program?
9. Considering the physical set-up of the classroom, how satisfied were you with the way the classroom was organized?
10. How useful was the following instructional methods
11. Was it helpful to have other agencies participate in the course?

The critiques were probably completed at the conclusion of the course since they are general in nature, and not specific to individual blocks of instruction. They are not useful from an instructional technology standpoint, and do not fill the need for a careful course evaluation.

An evaluation of each instructor was conducted using a sixteen-question survey instrument titled Instructor Evaluation. An analysis of the findings was conducted and presented in the aggregate and individually in a graph that compared the findings for all instructors. There is no indication if the critique was completed at

the end of the instruction provided by the instructor or at the end of the ten-day course.

A list of revisions made to the program based upon course critiques and instructor evaluations completed by the participants attending the first session of this course was provided to the monitoring team. These included:

- The program is now a residential program;
- Mentors have been assigned to assist the captains in residence;
- A block of training on budgeting and politics as it relates to initiating new projects has been added to the curriculum based upon the evaluations of the Capstone Projects presented by the first groups completing the training;
- Instruction on how to use the university library and resource materials has been added to the curriculum;
- The superintendent is choosing the topics for the Capstone Projects so that they are relevant and can be implemented if the projects are well designed;
- Captains must work in teams to develop the projects;
- Mandatory work nights have been instituted.

New Jersey State Police staff who have already received this training will obviously not benefit from the improvements made to the program.

At the completion of the two-week program, the captains return to work and have one-month to complete their Capstone Projects. This requires that the various team members working on each project, who have now returned to their duties, must develop a process for completing their assignment within the working environment while they also attend to their usual duties. One month after finishing the residential program, the captains return to Rutgers to present and defend their projects before a panel composed of New Jersey State Police command staff, including the superintendent, and staff from the Police Institute at Rutgers.

The monitoring team has been informed that the Capstone Projects are considered the means of evaluating learning in lieu of testing. If this is the case, then objective criteria to assess that learning has occurred based upon the inclusion of specific knowledge, skills, etc. in the projects is missing or has not been presented to the monitoring team. The monitoring team has not been provided any documentation related to the Capstone Projects. The evaluation phase for this task does not meet compliance standards.

The monitoring team has been informed by OSPA that the Attorney General and State Police leadership have reviewed the capstone projects and are exceptionally satisfied with the content of same. The monitors have not been provided with these projects, and thus are unable to make any independent determination of their value *viz a viz* the requirements of the consent decree.

Implementation

No data documenting implementation, or a plan of how to measure implementation have been submitted to the monitoring team for review. The implementation phase does not meet compliance standards. The monitoring team has not received a description of the oversight process that has been developed.

Based upon the analysis of documentation provided to the monitoring team, this course does not meet compliance standards and is judged to be out of compliance. To gain compliance, the Academy must provide proper documentation related to each phase of the training cycle to the monitoring team. Academy staff are aware of the type and the quality of documentation that must be obtained from the vendor to demonstrate compliance.

Majors, Lieutenant Colonels, Colonel

Assessment

Since the Division will not be contracting with a vendor to provide this training for a group of personnel, but will be sending individuals to already existing training, the assessment phase of the training cycle will be conducted in a slightly different manner. Obviously, such training institutions will not be undertaking a complete needs assessment for individual New Jersey State Police personnel who will be attending already established leadership courses.

The Academy commandant is about to begin a needs assessment to identify the training needs for the majors, lieutenant colonels and the colonel. Part of this assessment will be to identify the needs of each of the commanders, and the needs of the organization, and part of the assessment will be to identify outstanding leadership training venues throughout the country, both in the policing profession and in the academic and business communities, that have programs that will meet the individual and organizational needs related to the responsibilities of staff at these ranks.

The monitoring team requests a brief description of the final strategy for addressing training for the command staff prior to the next site visit. Promotion

lists and documentation related to the training received will be required for the next site visit.

Compliance:

Phase I: Not In Compliance

Phase II: Not In Compliance

1.79 Compliance with Task 107: Provision of Specialized Training

Task 107	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 107 stipulates that:

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

Methodology

The monitoring team spoke with academy staff responsible for developing and delivering this training.

Status

Previously, the parties agreed that Task 107 applied to law enforcement personnel who were returning to patrol from specialized assignments. The 40-hour course titled "Transitional Training" was used to address this task, and it addresses patrol-related and consent decree related topics.

This agreement was reached at a time when the State had no processes in place to assess, document, evaluate, or provide oversight for the universe of specialized assignments, related training needs, qualifications of instructors providing specialized training, testing to determine the degree of comprehension of the training, or tracking the implementation of the training operationally. That infrastructure is now being put into place and the availability of such information may reveal inadequacies in training for specialized assignments that impact, at a minimum, on job performance, officer safety or liability exposure.

At least four factors may impact on the need to revisit this agreement:

- The analysis of the basic training needs assessment completed by the in-service unit may identify new or additional specialized training needs;
- The identification and review of all training previously being presented outside the oversight function of the Academy may reveal a need for revisions to current training, the development of new trainings, or the consolidation of existing courses;
- The identification and assessment of the qualifications of those providing specialized training may generate needs for training certification;
- The performance data that will become available as MAPPS is implemented may reveal training concerns in specialty areas.

The considerations cited above for this task, which has been in compliance for quite some time, point out the importance for the agency and the Academy in considering how the availability of new information may impact on the various tasks that have been previously placed in compliance. The monitoring team requests oversight documentation related to these issues and the follow-up the required as data analyses become available.

Compliance

Phase I: In Compliance

Phase II: In Compliance

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

Task 108	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 108 stipulates that:

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

receiving training. The MAP will maintain current and historical training information.

Methodology

Members of the monitoring team spoke with academy staff responsible for implementing this task, and with staff utilizing the information now generated by ACTS.

Status

Previous Concerns

On the previous site visit, the monitoring team found that the data management unit was inadequately staffed, and unable to remain current with data entry. Based upon the fact that the data entry for training classes was not current and was falling behind (due to lack of qualified staff), the State was placed under warning for phase I compliance.

Follow up

A new commandant was assigned to the Academy just prior to this site visit. Job task information and manpower data have been gathered from the supervisor of this unit and are being analyzed. As with other units at the Academy, the clerical support for this unit was inadequate and is hopefully being addressed in the manpower study. These data will be used to restructure this unit and to explore the possibility of incorporating it into the research, planning, and evaluation unit that will be formed.

The staff for this unit will require some very specialized skills in the areas of assessment instruments, test construction, statistical analysis and evaluation, strategic planning etc. Staff development may be a major need, especially if staff with these skills are not currently available within the organization or the Academy.

The monitoring team also noted, as it has in all previous reports, that it would not be able to assess phase II compliance with this task until the MAPPS program was fully functional. The MAPPS program has just been implemented, and per New Jersey State Police personnel, it is scheduled to be fully functional by January 1, 2004. The monitoring team will audit the interface with MAPPS on the next site visit in order to determine phase II compliance for this task.

The State is in the assessment (assessing manpower data) and development (restructuring) phases for addressing the deficiencies cited in the last report. These are critical and necessary steps to resolving the issues. The State must be able to demonstrate that the strategies being implemented are in fact solving the deficiencies noted.

The State is beginning to address the issues cited in the last report, but has not yet demonstrated that the staffing issues and related data management issues have been resolved. Therefore, the State remains under warning for the next six months for phase I compliance, and continues to be non-compliant for phase II.

Compliance

Phase I: In Compliance
Phase II: Not In Compliance

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

Task 109	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 109 stipulates that:

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

Methodology

A member of the monitoring team spoke with academy personnel responsible for this task.

Status

All curricula and lesson plans developed by the Academy are maintained in a central repository at the Academy. All trooper coach training materials, curricula, and lesson plans are maintained in a central repository at the Academy. All post

academy training materials, curricula, and lesson plans developed by academy staff are maintained in a central repository at the Academy.

A major concern in the last report was that post-academy training materials, curricula, and lesson plans developed by units within the New Jersey State Police, but outside the Academy, were not maintained in a central repository at the Academy. Several steps have been taken to address this issue:

- An annual training calendar has been established and computerized and all New Jersey State Police training is being added to it;
- The In-service Bureau at the Academy is developing a review process for the lesson plans that are beginning to be submitted. This will include a review for quality content, documentation to illustrate compliance with the training cycle, and a review for bias in the content among other factors. The review process will include tracking on revisions that are requested prior to training to insure that only a quality product is delivered. A schedule for auditing training will be established after all training is identified and prioritized;
- A request form for training provided within the organization, but outside the Academy, must be submitted to the Academy for approval. No training can occur until academy approval is received and the training is included in the training calendar;
- All training materials used for training within the organization, but provided outside the Academy must be submitted for review and approval prior to scheduling training, and henceforth a copy will be kept at the central repository at the Academy;
- The training materials, curricula, and lesson plans being identified and reviewed will be maintained in the central repository and included in the ACTS program.
- These processes have been memorialized in SOP C-25.

A second issue in the last site visit report was that post-academy training materials, curricula, and lesson plans that troopers receive at external training attended by New Jersey State Police personnel have not been maintained in a central repository at the Academy. From documentation reviewed by the monitoring team, it appears that the Academy plans to request copies of the training materials received by the troopers attending such training in order to include them in the central repository. Certainly, any materials related to consent decree mandated training issues should be on file. If the Academy identifies such courses, a master list should be provided to the monitoring team for auditing purposes.

A third issue is the inability of the State to obtain curriculum materials from outside vendors who have a contract with the State to provide training to the New Jersey State Police (see tasks 100 and 106). The State has not resolved this issue. The monitoring team has submitted to the State a proposed training taxonomy to clarify any confusion regarding what is expected of outside vendors in following the training cycle when producing training materials and delivering training on consent decree related issues.

In the last site visit report it was noted that the In-Service Unit's requests for training information occurring inside the agency but previously outside the oversight scope of the Academy were not met with a comprehensive, or timely response from the organization. This was beginning to have an impact on the Academy's ability to obtain, review, and archive curricula in the central repository. The subsequent appointment and training of approximately forty administrative lieutenants in each section and bureau as field training liaisons, tasked with coordinating and completing this and other training requirements, should provide a more expeditious response to this problem.

The monitoring team's review of documentation from some units within the Division indicates that the process is working when it is used. One new issue, not noted in the last site visit report, is that members of the Division are providing training to outside law enforcement agencies, and it appears that this has not historically been coordinated through the Academy. If any of this training relates to consent decree issues, the Academy should certainly be providing an oversight function and archiving curricula in the central repository. Though the quality and the content of such trainings on other topics may be of concern to the Academy, they would fall outside the scope of the consent decree.

The State remains in compliance and is no longer under warning regarding this task. The monitoring team will audit the Academy's documentation of its oversight audit of this process at the next site visit to determine how well the process is working, and how the concerns cited above are resolved.

Compliance

Phase I:	In Compliance
Phase II:	In Compliance

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

Task 110	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 110 stipulates that:

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

Methodology

Members of the monitoring team have interviewed the majority of personnel assigned to the Office of State Police Affairs and have discussed with them their assigned duties, have seen samples of the work product they have created in developing the State's responses to the requirements of the decree, and have queried them regarding their understanding of their roles in developing the State's response to the decree.

Status

Based on the monitoring team's review of work product, and information obtained during the process of implementing the ninth site visit, it is clear to the members of the monitoring team that the State is in compliance with this task. Not all duties assigned to the Office of State Police Affairs have been completed as of the ninth site visit. For example, members of the Office of State Police

Affairs cannot audit the use of the MAPPS program until the program is actually being used by supervisors and managers as part of their day-to-day routines. The office does, however, provide coordination with the monitors and the Department of Justice, and the office is headed by an Assistant AG. The office routinely audits the process of managing misconduct investigations, and routinely audits performance on MVSR processes. These audits consist of on-site reviews, basically replicating those engaged in by the monitoring team, with samples of MVSR and MVR recordings reviewed by OSPA personnel. Problems are noted and remedial measures are recommended. Technical assistance and training is provided routinely by the office regarding these matters. The mechanism and duty assignments, however, exist to complete the duties of the office as soon as practicable, given the implementation schedule of the State's compliance efforts. During the ninth site visit, the monitors noted a first-time problem with the OSPA oversight process. Two OPS cases were closed this reporting period with final dispositions not allowed by the decree. These two cases have been returned to OSPA for further action; however, the office is encouraged to assess its OPS review function to ensure that, with the recent turnover of personnel at that unit, the decree requirements related to case dispositions is understood and followed by management personnel in that unit.

The seventh monitors' report stated "OSPA's audit process began in August, the last month for which electronic data were available to the monitoring team, thus, many of the problems noted by the monitoring team this period had not been "pre-audited" by OSPA. The monitors anticipate that a strong comparison between monitoring team assessments and OSPA assessments will be available next reporting period." For this reporting period, that has proven to be true, although to a lesser degree than in past periods. This reporting period, the monitors returned three OPS cases for failure to comply with the requirements of the consent decree. Three cases from among the 99 reviewed by the monitors constitutes an error rate of three percent, within the allowable margin of error of five percent.

Phase II compliance with this task is dependent upon implementation of the MAPPS.

Compliance

Phase I:	In Compliance
Phase II:	Unable to Monitor

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

Task 111	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 111 stipulates that:

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

Methodology

Members of the monitoring team have reviewed the Office of State Police Affairs procedure entitled "Procedure for Contacting Motorist Subjected to Motor Vehicle Stops" and have discussed the office's role in compliance with this task with office personnel.

Status

The office has developed and disseminated a procedure for compliance with this task, and has implemented its first audit of this process. Members of the monitoring team have reviewed the State's report in response to this task. A 100 percent sample of 749 motorists stopped by New Jersey State Police troopers in two target stations were identified, and letters were mailed to a sample of these individuals requesting that they contact the New Jersey State Police regarding their stops. The State continues to receive survey responses from these motorists. The audit process has resulted in multiple referrals to OPS during the last three reporting periods, based on information obtained through the internal audits. For the ninth reporting period, 217 responses to the contact letters have been received, with all but six of the respondents reporting that they were treated "courteously and professionally" by State Police personnel. Follow-up contacts with four of the six individuals who indicated that they were not treated "courteously and professionally" have been made. Three respondents complained about "demeanor," and one respondent complained about an

improper traffic stop. Complaint/Compliment forms were mailed to all four respondents.

Compliance

Phase I: In Compliance

Phase II: In Compliance

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

Task 112	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 112 stipulates that:

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

Methodology

Members of the monitoring team have reviewed audit reports for Office of State Police Affairs personnel who have conducted internal audits of the compliment/complaint hotline and audits of the telephone hotline.

Status

Documentation reviewed by members of the monitoring team reflect a proactive and effective internal audit of the misconduct investigation process. No issues were noted by OSPA audits requiring policy, training or operational changes in the internal investigations process. Enhancement of oversight, however, appears warranted. The monitors found two troubling investigations this reporting period that were not noted by OSPA. The ninth reporting period's OPSP audit was not

consistent with the findings of the monitoring team's review of completed internal investigations. OSPA's audit process includes post adjudication interviews of complainants, asking questions regarding the complainant's perception of the internal affairs investigation process. For the third time, the monitors have returned completed OPS cases, reviewed by OSPA, for failure to comply with specific requirements of the decree. These three cases were returned for:

- Failure to investigate collateral misconduct issues; and
- Failure to aggressively investigate allegations of misconduct.

An error rate of three of 99 cases constitute three percent, within the allowable margin of error for this task. Two cases were also identified that were closed with a finding other than one of the four allowed by the decree. Upon investigation by the monitors, these were found to be internally generated allegations that should not have been forwarded to OPS for investigation. The monitors are working with the State and Justice to identify protocols to ensure that future similar incidents to not occur. Nonetheless, these two cases made it past OSPA review without comment to the monitors.

Compliance

Phase I: In Compliance
Phase II: In Compliance

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

Task 113	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 113 stipulates that:

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

Methodology

Members of the monitoring team observed the personnel from the Office of State Police Affairs during the course of the site visit during the week of May 19th, 2003.

Status

Based on the team's observations, members of the Office of State Police Affairs have full and unrestricted access to all State Police staff, facilities and documents.

Compliance

Phase I: In Compliance
Phase II: In Compliance

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

Task 114	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 114 stipulates that:

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

information contained in the reports shall be consistent with the status of State Police record keeping systems, including the status of the MAP computer systems. Other than expressly provided herein, this paragraph is not intended, and should not be interpreted, to confer any additional rights to information collected pursuant to this Decree.

Methodology

The State has produced its latest "Semi-Annual Public Report of Aggregate Data," in response to this provision of the decree.

Status

Members of the monitoring team have reviewed the latest report entitled "Semi-Annual Public Report of Aggregate Data," prepared by the Office of State Police Affairs, and found it to be responsive to the requirements of the decree.

Compliance

Phase I: In Compliance
Phase II: In Compliance

2.87 Compliance with Task 115: Appointment of Independent Monitor

Task 115	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 115 stipulates that:

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

names of qualified persons submitted. The State shall bear all costs of the Monitor, subject to approval by the Court.

Methodology

Members of the monitoring team reviewed the order from United States District Court Judge Mary L. Cooper, appointing an independent monitoring team on March 30, 2000.

Status

The State is judged to remain in compliance with this task.

Compliance

Phase I: In Compliance

Phase II: In Compliance

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

Task 118	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 118 stipulates that:

118. The State shall provide the Monitor with full and unrestricted access to all State staff, facilities, and non-privileged documents (including databases) necessary to carry out the duties assigned to the Monitor by this Decree. In the event of an objection, the Court shall make the final determination regarding access. In any instance in which the State objects to access, it must establish that the access sought is not relevant to monitoring the implementation of the Consent Decree, or that the information requested is privileged and the interest underlying the privilege cannot be adequately addressed through the entry of a protective order. In any instance in which the State asserts that a document is privileged, it must provide the United States and the Monitor a log describing the document and the privilege asserted. Notwithstanding any claim of privilege, the

documents to which the Monitor shall be provided access include: (1) all State Police documents (or portions thereof) concerning compliance with the provisions of this Decree, other than a request for legal advice; and (2) all documents (or portions thereof) prepared by the Office of the Attorney General which contain factual records, factual compilations, or factual analysis concerning compliance with the provisions of this Decree. Other than as expressly provided herein, with respect to the Independent Monitor, this paragraph is not intended, and should not be interpreted to reflect a waiver of any privilege, including those recognized at common law or created by State statute, rule or regulation, which the State may assert against any person or entity other than the Independent Monitor.

Methodology

Members of the monitoring team were accorded full and unrestricted access while on-site with personnel from the New Jersey State Police and the Office of State Police Affairs. Some data requested during the fifth site visit regarding training and evaluation of training processes was either not provided in a timely manner or was provided in a manner that made access and comprehension difficult, causing the monitoring team to find the State not in compliance with some of the consent decree's training requirements. No similar problems have been noted since the sixth monitors' report.

Status

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

Compliance

Phase I:	In Compliance
Phase II:	In Compliance

2.89 Compliance with Task 120: State Police to Reopen Internal Investigations Determined to be Incomplete

Task 120	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 120 stipulates that:

120. Subject to the limitations set forth in this paragraph, the State Police shall reopen for further investigation any misconduct investigation the Monitor determines to be incomplete. The Monitor shall provide written instructions for completing the investigation. The Monitor shall exercise this authority so that any directive to reopen an investigation is given within a reasonable period following the investigation's conclusion. The Monitor may not exercise this authority concerning any misconduct investigation which has been adjudicated or otherwise disposed, and the disposition has been officially communicated to the trooper who is the subject of the investigation.

Methodology

Members of the monitoring team have reviewed a memorandum from the commander, Office Professional Standards to personnel within the office, requiring conformance with this task by members of the Office Professional Standards.

Status

The office is in Phase I compliance with this task. A total of 99 of 106 completed cases were reviewed this reporting period. Three cases were selected by the monitoring team for return. Five cases were returned during the seventh period, and two cases were returned during the eighth reporting period. The State agreed to "reopen" those cases that have not been communicated to the troopers or which have "collateral misconduct" allegations noted by the monitors that require investigation and that were not investigated in the original case. The monitors also expect the State to use these cases returned as learning tools, to avoid similar problems in the future. The monitors have provided the State with detailed analyses of these cases, and a discussion of the observed deficiencies. Phase II compliance was achieved by return to the monitors of the

five cases from the seventh period and the two cases from the eighth period, once the additional investigative processes had been completed. The monitors were satisfied with the additional actions taken on those cases. A similar process will be followed this reporting period for "returned" cases, and the results of these returns will be reported in the ninth monitors' report.

Compliance

Phase I: In Compliance

Phase II: In Compliance

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

Task 122	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 122 stipulates that:

122. Between ninety (90) and one hundred twenty (120) days following entry of this Consent Decree and every six 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.

Methodology

Members of the monitoring team have reviewed the State's submission "Progress/Status Summary of the Consent Decree," filed by the State in response to this task.

Status

The report submitted by the State, in the opinion of the monitor, complies with the requirements of this task.

Compliance

Phase I: In Compliance

Phase II: In Compliance

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

Task 123	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 123 stipulates that:

123. During the term of this Consent Decree, the State shall maintain all records documenting its compliance with the terms of this Consent Decree and all documents required by or developed under this Consent Decree. The State shall maintain all misconduct investigation files for at least ten years from the date of the Incident. The State Police shall maintain a troopers' training records and all personally-identifiable information about a trooper included in the MAP, during the trooper's employment with the State Police. Information necessary for aggregate statistical analysis shall be maintained indefinitely in the MAP for statistical purposes. MVR tapes shall be maintained for 90 days after the incidents recorded on a tape, except as follows: any MVR tape that records an incident that is the subject of a 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.

Methodology

Members of the monitoring team requested for review numerous documents, records, recordings and other information during the course of the team's site visit during October, 2003.

Status

All documents requested by the monitoring team have been provided in a timely and well-organized manner. All data reviewed by the monitors has been kept in a fashion that allows retention, retrieval and assessment.

Compliance

Phase I: In Compliance

Phase II: In Compliance

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

Task 124	1	2	3	4	5	6	7	8	9	10	11	12
Phase I												
Phase II												

Task 124 stipulates that:

124. During all times while the Court maintains jurisdiction over this action, the United States shall have access to any State staff, facilities and non-privileged documents (including databases) the United States deems necessary to evaluate compliance with this Consent Decree and, within a reasonable time following a request made to the State attorney, shall, unless an objection is raised by the State, be granted such access and receive copies of documents and databases requested by the United States. In the event of an objection, the Court shall make a final determination regarding access. In any instance in which the State objects to access, it must establish that the access sought is not relevant to monitoring the implementation of the Consent Decree, or that the information requested is privileged and the interest underlying the privilege cannot be adequately addressed through the entry of a protective order. In any instance in which the State asserts that a document is privileged, it must provide the United States and the Monitor a log describing the document and the privilege asserted. Notwithstanding any claim of privilege, the documents to which the United States shall be provided access include: (1) all State Police documents (or portions thereof) concerning compliance with the provisions of this Decree, other than

a request for legal advice; and (2) all documents (or portions thereof) prepared by the Office of the Attorney General which contain factual records, factual compilations, or factual analysis concerning compliance with the provisions of this Decree. Other than as expressly provided herein with respect to the United States, this paragraph is not intended, and should not be interpreted to reflect a waiver of any privilege, including those recognized at common law or created by State statute, rule or regulation, which the State may assert against any person or entity other than the United States.

Methodology

Members of the monitoring team discussed the level of access provided by the State with Department of Justice personnel assigned to this case.

Status

The State is in compliance with this task.

Compliance

Phase I:	In Compliance
Phase II:	In Compliance

3.0 Executive Summary

Efforts by the State of New Jersey to comply with the 124 tasks to which it agreed when it signed the consent decree continue to both bear fruit and to meet with some disappointments. The ninth reporting period identifies the salient factors related to compliance in six areas:

- On-Road performance;
- Training;
- Supervision;
- MAPPS development;
- Inspections, audit and quality control; and
- Citizens' complaints.

Each of these is discussed in some detail below.

On-Road Performance

The New Jersey State Police continue to make improvements in the protocols used to ensure on-road performance in processes related to the consent decree. The performance of road troopers continues to be reviewed by five levels of audit and quality control compliance processes: first-line supervision, a field operations supervisory review cadre, review by quality assurance bureau personnel, review by personnel at OSPA, and review by the monitors. These performance review and assessment processes have resulted in dramatic reductions of instances in which the State Police make errors that result in Constitutional infringements, e.g., illegal searches, improper consent requests, improper frisks, etc. During the ninth reporting period, the monitors noted four motor vehicle stops that involved a Constitutional question (two frisks that were improperly conducted or documented and two searches improperly conducted or reported). That number was reduced from ten in the fifth reporting period, 13 in the sixth reporting period and 14 in the seventh reporting period and seven in the eighth period. During the fifth reporting period, **91 percent** of all errors noted by the monitors included potential Constitutional violations. During the sixth reporting period, **65 percent** of all errors involved potential Constitutional violations. During the seventh reporting period, **42 percent** of all errors involved potential Constitutional violations. During the eighth period only **15 percent** involved Constitutional issues. This period, four of the 46 errors noted involved Constitutional issues, the lowest percentage of errors (**8.7 percent**) in five periods.

Troubling, however, is the fact that the monitors found **four problems** with consent search requests this period, although no problems were noted with canine deployments or use of force incidents this period. While the State has not yet reached full compliance with the consent decree in the area of on-road law enforcement procedures, the majority of errors being noted by the monitors are ***procedural***, not Constitutional. Overall error rates for on-road law enforcement activities this period rose, from 13 in the eighth period to 19 percent this period.

Training

Marked improvement in the staffing levels of the State Police Training Academy were noted this reporting period. In addition, a new commandant of the Academy has been appointed this reporting period, and the technical reporting arrangements for the Academy have been changed. The State has continued to provide required training (Fourth Amendment, ethics and cultural diversity) to pre-service (recruit) and in-service personnel. The Academy has developed and implemented a new staffing analysis process based on defined workload elements. The Academy has begun the process of development for internal (Academy-based) audit procedures for training delivered to the New Jersey State Police, and the monitors are beginning to observe adherence in most training development process to the five-step development cycle outlined for the State by the monitors in 2001.

Some problems persist, however. The process of managing external providers of training has created some significant hurdles for the training process this reporting period, with training being developed and delivered that does not meet the requirements stipulated by the parties for training development and delivery, and, further, fails to meet the high standards established by the Academy for its own training development processes. Further, the monitoring process has noted some problematic issues with the training delivery *process* in the areas of cultural awareness, ethics and executive development.

Supervision

Supervisory systems continue to be revised and fine tuned within the Division this reporting period. It is apparent that the State is conceptualizing and testing various methods of supervision of road-based troopers in an attempt to identify the method that will best provide quality oversight and mentoring for law enforcement personnel engaged in on-road activities governed by the consent decree. These supervisory processes are also designed to improve compliance with New Jersey State Police SOPs. To date, however, supervision remains the weak link in the compliance process. Supervisory review of in-field performance is finally improved to the point that it can be documented and measured, which,

in and of itself, is a major accomplishment. Unfortunately, these measurements indicate that road-level supervision is only 74 percent effective at this point, allowing reporting, procedural and Constitutional errors to slip through the supervisory review process. Of 120 motor vehicle stop incidents reviewed by supervisory personnel this reporting period, the monitors found supervisory errors (some significant) in 31 of those incidents. Supervisors missed law enforcement personnel failures in areas such as failures to note improperly conducted or documented searches, failing to note improperly reported consent searches, and failing to note procedural failures in on-road activities.

Supervision is the quintessential factor in improving on-the-road performance. Until the State begins to identify effective supervisory processes, to identify supervisors who are failing to perform to standards established by the Division, isolate the reasons for those failures, and take remedial action, compliance in New Jersey State Police field operations will be difficult to attain.

MAPPS Development

The State has finally implemented the MAPPS performance management system, making the system available to supervisory and management personnel at all levels of the organization. The system can be used to review trooper and supervisory performance, compare trooper performance to other members of the trooper's workgroup, and to compare performance across work groups. Work continues on establishing appropriate benchmark integration into the MAPPS system. Supporting SOPs and training for operation of MAPPS have been developed and approved by the monitors. While MAPPS is now truly "operational," it is not yet being used to manage the operations of the New Jersey State Police on a day-to-day basis. These management functions are coming on line incrementally, beginning in January, 2004 through April, 2004. The MAPPS system should allow much more flexible and focused management of compliance issues by the Division.

Inspections, Audit and Quality Control

The State continues an aggressive quality control program for Office of Professional Standards investigations and for Field Operations motor vehicle stop systems. Inspections and Audit personnel from Field Operations and the Office of State Police Affairs continue to review MVSR and MVR elements for conformance to the requirements of the consent decree. Instances of poor performance at the supervisory level do not always result in remedial action (see Supervision).

Citizens' Complaints

The Office of Professional Standards (OPS) continues to be a shining star in the State's efforts to attain compliance. This component of the State's change management strategy continues to be proven to be effective. The quality of OPS investigations remains strong, with the monitors approving more than 95 percent of OPS investigations reviewed this reporting period. Staffing, training, and oversight of the OPS function remains strong. With the advent of removal of the backlog of OPS investigations, achieved during the eighth reporting period, OPS has moved toward holding a 120-day timeline for all completed OPS investigations. The State continues to staff and manage its Office of Professional Standards with an eye toward ensuring quality investigations of internal and citizens' complaints. This includes audits of persons subjected to traffic stops and audits of completed OPS investigations.